London 16th of June 2022

Hon. Gary Gensler, Chair
Securities and Exchange Commission
100 F St, NE
Washington, DC 20549

Comments on proposed rule, file no. S7-10-22, The Enhancement and Standardization of Climate-Related Disclosures for Investors

Dear Chair Gensler,

Many thanks for the opportunity given by your agency to comment on the above proposed rule.

The Sustainability Board Report Ltd (TSBR) is an independent not-for-profit project. We aim to showcase different dimensions of sustainable business leadership and corporate governance. By drawing out best practice, our reports also help individual leaders, organisations and investors to understand the changing landscape of environmental, social and governance (ESG) preparedness, consciousness and competence.

Our findings and research are based on proprietary methodologies. Before drawing conclusions, we take academic papers and thought leadership into account. We aim to combine theoretic concepts with actionable recommendations on business level.

TSBR releases an annual report[1] on ESG preparedness of corporate Board of Directors (BoD) of the world's largest 100 publicly listed companies. In 2020[2] we found that only 17% of directors on relevant sustainability committees are ESG competent.

Feedback over the last years from many executive and non-executive board members and advisors has confirmed our findings. There is generally a very low level of hard ESG competence on BoD.

Since 2021 however, BoD are increasingly conscious of ESG matters. This is attained primarily via engagement and dialogue with auditors, consultancies, law firms, board assessors, or short webinars and (virtual) roundtables provided by think tanks and other knowledge organisations. That has also resulted in the lines between consciousness (awareness and knowledge of issues) and competence (capacity to act on issues) becoming increasingly blurred.

[1] https://www.boardreport.org/the-sustainability-board-report-2021
[2] https://www.boardreport.org/reports-research

We like to point out the importance of corporate boards to become more ESG prepared. That includes personal competence building of board directors who are tasked with oversight of ESG and sustainability issues, strategy, and disclosure.

Please find below a few comments pertaining to specific questions of board oversight and director's capacity. Our comments are directly responding to your questions 34-36 and 38-40 of your proposed rule.

Please feel free to contact us in case you have further questions.

Best regards,

Frederik Otto
Founder & Business Advisor
The Sustainability Board Report

Request for Comment, Excerpts 34 – 36, 38 – 40

34. *Should we require a registrant to describe, as applicable, the board's oversight of climate related risks, as proposed? Should the required disclosure include whether any board member has expertise in climate-related risks and, if so, a description of the nature of the expertise, as proposed? Should we also require a registrant to identify the board members or board committee responsible for the oversight of climate-related risks, as proposed? Do our current rules, which require a registrant to provide the business experience of its board members, elicit adequate disclosure about a board member's or executive officer's expertise relevant to the oversight of climate-related risks?*

    TSBR Comment: The registrant should describe the board's oversight of climate related risk, particularly whether a dedicated committee, a shared committee, or no committee is tasked with the oversight. If no committee is tasked with oversight, the registrant should make clear that such oversight is either a) not applicable and why, or b) the purview outside of the board and who is responsible. Additionally, the committee charter should clearly stipulate the oversight function and note the material issues relevant for climate disclosure (using, for example, the Sustainability Accounting Standards Board (SASB) standards). The disclosure should also require the composition of the respective committee or board, including information about the directors tasked with the oversight, and a description of the directors' competence pertaining to environmental and social governance (ESG). TSBR uses a checklist that can be further narrowed or adjusted for the purpose of climate related disclosures:

    A director can be considered ESG competent if any of the points below are true:

1. Active executive or board experience with regards to sustainability strategy or governance (1)
2. Board member of a business material (under SASB) non-profit organisation, foundation, charity, or fellowship of an international campaign body (2)
3. Formal ESG/sustainability certification/accreditation or published paper/research/book or report in the area, or teaching capacity (3)

Footnotes:
(1) For example: Published interviews with individuals expressing details about their' business' approach to ESG/sustainability, or e.g. published speeches or strategy
(2) For example: WEF (most common), UN Global Compact, CECP, WBCSD, think tanks with sustainability focus such as Aspen Institute, Salzburg Global Seminar, etc.
(3) For example: GCB.D, IDP-C, Harvard Corporate Governance Forum publication, author of a relevant book

35. Should we require a registrant to disclose the processes and frequency by which the board or board committee discusses climate-related risks, as proposed?

TSBR Comment: Yes. Boards often only meet 4 times a year. However, the average board director spends around 30 days per year on board service (including preparation etc.). Given the importance of the issues at hand, it is important to ensure that enough time is allocated to climate related disclosure and oversight in addition to other fiduciary topics.

36. Should we require a registrant to disclose whether and how the board or board committee considers climate-related risks as part of its business strategy, risk management, and financial oversight, as proposed? Would the proposed disclosure raise competitive harm concerns? If so, how could we address those concerns while requiring additional information for investors about how a registrant's board oversees climate-related risks?

TSBR Comment: It is important to understand how the registrant splits accountability of climate-risk disclosure. The preparation of reports and materials usually falls within the responsibility of ESG or sustainability experts within the business, when applicable. The highest knowledge authority is often the Head of ESG or Chief Sustainability Officer (CSO). Reporting lines need to be disclosed as this function does not always report to the executive committee but rather, to the publication relations, public affairs, or other departments that have insufficient competence to oversee climate related disclosure. Further, the knowledge owner(s) who is/are accountable for the finalisation of reports and filing material need to be disclosed. The board should sign-off the final climate related disclosure, after external /auditors have vetted the accuracy of the filing. They should also challenge the CEO or executive committee whilst the knowledge owner (such as CSO) is present. This can be facilitated by the CSO being a permanent member of the executive committee. We generally encourage as much disclosure as possible because climate issues tie in with business strategy. This creates best practice that other market participants can use to align their businesses and incentivises a race to the top (i.e. excellence). Ensuring good disclosure therefore creates competitive advantage.

38. Should we require a registrant to describe, as applicable, management's role in assessing and managing climate-related risks, as proposed? Should the required disclosure include whether certain management positions or committees are responsible for assessing and managing climate-related risks and, if so, the identity of such positions or committees, and the relevant expertise of the position holders or members in such detail as necessary to fully describe the nature of the expertise, as proposed? Should we require a registrant to identify the executive officer(s) occupying such position(s)? Or do our current rules, which require a registrant to provide the business experience of its executive officers, elicit adequate disclosure about management's expertise relevant to the oversight of climate-related risks?

TSBR Comment: Please see our comments under 34. and 36.

39. Should we require a registrant to describe the processes by which the management positions or committees responsible for climate-related risks are informed about and monitor climate-related risks, as proposed? Should we also require a registrant to disclose whether and how frequently such positions or committees report to the board or a committee of the board on climate-related risks, as proposed?

TSBR Comment: Please see our comments under 36. We would not recommend reporting on frequency of reporting but rather on completeness of the disclosure.

40. Should we specifically require a registrant to disclose any connection between executive remuneration and the achievement of climate-related targets and goals? Is there a need for such a requirement in addition to the executive compensation disclosure required by 17 CFR 229.402(b)?

TSBR Comment: Best practice of remuneration linked to ESG targets is currently still nascent and closely related to the business context and industry of the registrant. We would recommend including a climate-related component to executive compensation without being prescriptive on the details. We further suggest later creating a standalone comprehensive reporting requirement regarding this matter.