**Comments of Project 21 on the Notice of Proposed Rulemaking, "The Enhancement and Standardization of Climate-Related Disclosures for Investors"**
**Securities and Exchange Commission**
**(87 Fed. Reg. 21,334, April 11, 2022)**
**Submitted June 17, 2022**

Project 21 is an initiative of the National Center for Public Policy Research that promotes the views of black Americans whose entrepreneurial spirit, dedication to family and commitment to individual responsibility have not traditionally been echoed by the nation's civil rights establishment. We are the nation's largest black conservative think-tank, and weigh in on a wide range of issues in pursuit of our core principles. This includes efforts to encourage black business ownership, gateway jobs, upward mobility and economic self-sufficiency. To that end, our flagship publication – its "Blueprint for a Better Deal for Black America" – includes a chapter entitled, "Rescinding Regulations That Harm Minorities" that warns against precisely the kinds of rules like the one that the Securities and Exchange Commission (SEC) now proposes.[1]

Project 21 has joined the Competitive Enterprise Institute and other free-market organizations in coalition comments detailing the serious flaws in the proposed rule. Most significantly, we concur that SEC has no statutory authority whatsoever to promulgate a comprehensive climate change rule and that a business' direct and indirect greenhouse gas emissions do not represent a material risk as that term is understood by the accounting profession. We also agree that the costs of this massive paperwork exercise are not justified by any benefits and would serve to make annual reports and other filings less useful to the investing public by mandating highly inflated characterizations of climate risks.

With regard to compliance costs, we would like to focus these comments on our concerns that the proposed rule may disproportionately burden black-owned businesses and jobs.

The Biden administration has made environmental justice a core component of its agenda. Unfortunately, it only looks at one side of the equation – potentially disproportionate impacts from pollution or greenhouse gas emissions on minority and low-income communities. This is problematic enough, as overstated environmental concerns discourage job-creating businesses from locating near such communities.

But, even worse, the administration studiously ignores the very real and disproportionate impacts from environmental *policies* on those who can least afford their costs.[2] Such is the case with the White House's proposed rule on climate-related disclosures.

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[1] Project 21, Blueprint for a Better Deal for Black America, June 13, 2022.
[2] Project 21, What Environmental Justice Means for Black America, May 22, 2022.

The proposed rule will, for the first time, require regulated companies to report their greenhouse gas emissions. This includes, in certain cases, those from their suppliers and customers. These companies will be incentivized to avoid anything that would make their financial statements look bad. This would harm black-owned businesses – including vendors of regulated entities.

Nowhere in the 493-page proposed rule does SEC discuss potential impacts on minority-owned businesses. These businesses differ from others primarily because they are generally smaller in size and thus less able to absorb the costs created by the proposed rule.

The Small Business Administration (SBA) has documented the disproportionate burden of regulatory costs on small businesses – including environmental compliance costs that are four times higher per employee than that for larger companies.[3] The Brookings Institution further finds that average revenues for black businesses were $1.0 million dollars annually versus $6.5 million for all other businesses.[4]

Current Census Bureau data reports that black people comprise approximately 14.2% of the U.S population. Yet black businesses only comprise 2.2% of the nation's 5.7 million firms with more than one employee. The proposed SEC rule would likely worsen this disparity.

The last thing current and aspiring black entrepreneurs need is more red tape. Many are already struggling to comply with existing requirements.

Under the proposed rule, it's logical to surmise that publicly traded companies would be disinclined to use black-owned vendors that lack the ability to pay for third-party validation that their carbon footprint is sufficiently small. The same dilemma would apply to those unable to afford the costs of "going green" by making the required changes to their energy use or other practices.

These and other adverse outcomes are unacknowledged by the agency.

Recent history should serve as a warning.

Disparities inherent in the COVID-related Paycheck Protection Program (PPP) discriminated against smaller and disproportionately minority-owned businesses. According to the August 2020 Federal Reserve Bank of New York study, 41% of black businesses permanently closed during the pandemic. This represented the most of any racial or ethnic group.[5] Black-owned businesses were five times less likely to receive PPP funding compared to white-owned businesses according to a survey by a Coalition of Federal Reserve Banks.[6] For those who did

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[3] Small Business Administration, The Impact of Regulatory Costs On Small Firms, September 2010.
[4] Brookings Institution, To Expand The Economy, Invest In Black Businesses, December 2020.
[5] Federal Reserve Bank of New York, Double Jeopardy: COVID-19's Health And Wealth Effects in Black Communities, August 2020.
[6] Federal Reserve Banks, Small Business Credit Survey, 2021.

receive funding, 79% of white-owned firms received all the PPP funding requested while only 43% of black-owned received their requested amount.

There are other instances of climate change-related policies disproportionately burdening minority communities.

Energy poverty is most pervasive in states that are aggressively pursuing climate measures. In California, these policies have resulted in lower homeownership rates, higher energy bills and unaffordable small business expenses among black residents.[7] California's natural gas bans are disrupting black and Latino restaurants and other small businesses while contributing to energy poverty.[8] The bans have ignited a backlash from California's most prominent black and Latino leaders, who complain the prohibitions represent a form of regressive tax on them.

These and other climate change policies have a proven detrimental impact on black economic development. The proposed Biden rule would exacerbate these disparities. This is why the rule should be withdrawn.

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[7] Next 10, Designing Electricity Rates For An Equitable Energy Transition, February 2021.
[8] Environmental Progress, California in Danger: How the Dream is Dying and How We Can Save It, February 2018; Forbes, California Natural Gas Bans Are Drawing Fire From Black And Latino Leaders , December 2020.