NATIONAL TAXPAYERS UNION

June 13, 2022

Comments on SEC proposed rule:
The Enhancement and Standardization of Climate-Related Disclosures for Investors
File Number S7-10-22

The Honorable Chair Gary Gensler
U.S. Securities Exchange Commission
100 F Street NE
Washington, DC 20549

The Honorable Vanessa A. Countryman,
Secretary, Securities and Exchange Commission,
100 F Street NE,
Washington, DC 20549

Dear Chair Gensler and Secretary Countryman:

National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, appreciates the opportunity to provide comments on the Securities and Exchange Commission's (SEC) proposed rule amendments that would require a domestic or foreign registrant to include certain climate-related information in its registration statements and periodic reports. There are numerous issues and concerns that NTU wishes to point out as the SEC considers this rule.

Authority

The Securities Exchange Act of 1934 does not grant the SEC the authority to require the information in this rule and the SEC is relying on a Supreme Court ruling, *TSC Industries v. Northway, Inc.*, that dictated information is material if there is a substantial likelihood that a reasonable shareholder would consider it important. However, the SEC has not demonstrated that a substantial amount of investors are utilizing climate related information when selecting their investments. The Clean Air Act of 1970, assigns climate-disclosure regulation to the Environmental Protection Agency (EPA), and not to the SEC.[1]

Unsubstantiated cost/benefits

By the SEC's own estimates, this ruling will cost businesses at least $10.2 billion to comply.[2] Based on that estimate, the new rule would cost smaller companies $420,000 and larger organizations up to $640,000 to capture and report the climate related information annually.[3] Further, the SEC incorrectly assumes that companies already have the internal personnel to support compliance and its estimates do not include the costs associated with hiring additional employees or implementing new internal processes. Most businesses who are subject to these new requirements will certainly have additional costs associated with hiring or contracting out to collect and report the new data. The SEC's own words show that the proposed changes would create significant government burdens with unclear benefits: "In many cases, however, we are unable to reliably quantify these potential benefits and costs."[4] Despite this admission that the benefits and total costs cannot be accurately measured, the SEC is moving forward with the rule.

Business impact

This additional cost to business operations will no doubt yield increased costs of goods and services across all sectors during a time when inflation is at a 40 year high. These new reporting requirements will have a harmful impact on small businesses across America who are still struggling to recover from the disruption caused by the COVID-19 pandemic and increased costs associated with supply shortages and ever increasing inflation. According to a study released by the Federal Reserve Board, the COVID-19 pandemic caused a 25-30 percent increase in small businesses closures relative to what is expected in a normal year. [5] This equates to more than 200,000 additional businesses closed permanently during the COVID-19 pandemic. Ongoing challenges to the nation's economic recovery posed by inflation, supply chain constraints, high gas prices, and labor shortages, do not suggest businesses can sustain the additional burden this rule demands of them.

It is NTU's belief that the SEC should abandon this rule. If the SEC is determined to continue with the rule we ask that you consider the following:

1. The SEC should clearly define its authority to promulgate these rules;
2. The SEC should gain an accurate understanding of the actual cost impacts to businesses, including the increased costs associated with hiring additional personnel to support compliance and reporting. It should also examine the increased costs associated with the Scope 3 emissions which will have a higher cost for compliance; and
3. The SEC should accurately demonstrate the amount of investors basing their decisions off of climate related information and how investors at large stand to benefit.

Thank you for your consideration of these comments. Please do not hesitate to reach out should you have any questions or if there is any way NTU can be of service.

Sincerely,

Alex Milliken
Policy and Government Affairs Manager

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[1] Congressional Research Service. (n.d.). Clean Air Act: A summary of the ACT and its major requirements. Retrieved June 9, 2022, from https://sgp.fas.org/crs/misc/RL30853.pdf

[2] Eaglesham, Jean, and Paul Kiernan. "Fight Brews over Cost of SEC Climate-Change Rules." *The Wall Street Journal*, Dow Jones & Company, 17 May 2022, https://www.wsj.com/articles/fight-brews-over-cost-of-sec-climate-change-rules-11652779802.

[3]Page 373. “Conformed to Federal Register Version - Sec.gov.” The Enhancement and Standardization of Climate-Related Disclosures for Investors, Securities and Exchange Commission, 21 Mar. 2022, https://www.sec.gov/rules/proposed/2022/33-11042.pdf.

[4] Page 333. “Conformed to Federal Register Version - Sec.gov.” The Enhancement and Standardization of Climate-Related Disclosures for Investors, Securities and Exchange Commission, 21 Mar. 2022, https://www.sec.gov/rules/proposed/2022/33-11042.pdf.

[5]Crane, L., Decker, R., Flaaen, A., Hamins-Puertolas, A., &; Kurz, C. (n.d.). Finance and economics discussion series divisions of-federal reserve. Retrieved June 9, 2022, from https://www.federalreserve.gov/econres/feds/files/2020089r1pap.pdf