Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington DC, 20549-1090

June 17, 2022

Re: The Enhancement and Standardization of Climate-Related Disclosures for Investors; File No. S7-10-22

Dear Ms. Countryman

Consumer Reports (CR) appreciates the opportunity to comment on the Security and Exchange Commission's (SEC) Proposed Rule, The Enhancement and Standardization of Climate Related Disclosure for Investors. Consumer Reports strongly supports the proposed rule, but believes it could be strengthened to include more stringent Scope 3 emission reporting requirements.

Founded in 1936, CR is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and corporate practices that are beneficial for consumers. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the United States.

To ensure that consumers remain in the driver's seat and have control over their financial well being, it is critical that they know whether the financial institutions they hold accounts with, manage daily transactions, and invest with, are committed to accounting for their climate impacts and transparently share their climate impact and plan to reduce emissions.

The growing consensus among financial regulators that climate change poses a major risk to the stability of the U.S. financial system highlights the need for these regulations.[1] The proposed rule will provide consumers with critical, comparable, and credible information about companies' greenhouse gas (GHG) emissions, and about companies' financial risk as a result of climate change. Such information is not only important for consumers who are making investment decisions, or who have retirement plans such as a 401K, a pension or an IRA, but also for

[1] U.S. Commodity Futures Trading Commission, *Managing Climate Risk in the U.S. Financial System.* Available at: https://www.cftc.gov/sites/default/files/2020-09/9-9-20%20Report%20of%20the%20Subcommittee%20on%20Climate-Related%20Market%20Risk%20-%20Managing%20Climate%20Risk%20in%20the%20U.S.%20Financial%20System%20for%20posting.pdf

consumers making purchasing decisions based on a company's climate commitments. This information is also increasingly important to consumers with traditional savings and checking accounts. In order to be able to make more informed and sustainable investment decisions, these consumers have the right to know a company's climate impacts, and its vulnerability to climate change.

I. <u>The climate disclosures required by the proposed rule will provide needed transparency to consumers about public companies' greenhouse gas emissions and climate risk.</u>

The proposed rule is timely and consistent with the SEC's authority to promulgate regulations that are "necessary and in the public interest or for the protection of investors."[2] As outlined in a report produced by the bipartisan Financial Stability Oversight Council, climate change is an emerging threat to the stability of the U.S. financial system.[3] As described in the report, climate change will increase natural disasters that will in turn result in damaged property, lost income, and "disruption to business activity that threaten to alter how assets such as real estate are valued."[4] At the same time, a transition to a low carbon fuel economy could impact the value of companies' carbon-intensive stocks and assets.[5] For this reason, it is in the public interest, and for the protection of investors that companies are obligated to disclose their climate related risks, and their contributions to climate change.

Currently, companies' climate related disclosures are voluntary, non-standardized, and submitted inconsistently. Because disclosure is voluntary, firms self-determine which climate risks are material, and provide only vague, boilerplate disclosures related to climate impacts and climate risks. Under this system, firms have the flexibility to only disclose information that backs up environmental claims and climate goals, and to omit data that highlights any shortcomings in achieving these goals.[6] Although many companies have made bold commitments to take meaningful action against climate change, these pledges are often ambiguous and do little to truly reduce GHG emissions.[7] Ultimately this system means that consumers lack sufficient information to know whether companies' claims about climate resilience, and about climate commitments are true.

The proposed rule will help to address these issues by creating mandatory climate disclosures that will provide investors with consistent, comparable, reliable, and therefore decision-useful information. For this reason Consumer Reports strongly supports the proposed rule, but urges the SEC to strengthen the rule further by requiring disclosure of Scope 3 emissions.

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[2] See, e.g., Section 7 of the Securities Act [15 U.S.C. 77g] and Sections 12, 13, and 15 of the Exchange Act [15 U.S.C. 78l, 78m, and 78o].
[3] U.S. Commodity Futures Trading Commission, *Managing Climate Risk in the U.S. Financial System.* Available at:
[4] Alan Rappeport and Christopher Flavelle, *U.S. Warns Climate Poses 'Emerging Threat' to Financial System,* The New York Times (November 4, 2021). Available at: https://www.nytimes.com/2021/10/21/us/politics/climate-change-cost-us.html
[5] U.S. Commodity Futures Trading Commission, *Managing Climate Risk in the U.S. Financial System.*
[6] https://climatedisclosurelab.duke.edu/wp-content/uploads/2020/10/Climate-Risk-Disclosures-and-Practices.pdf
[7] https://climatedisclosurelab.duke.edu/wp-content/uploads/2020/10/Climate-Risk-Disclosures-and-Practices.pdf

II. The proposed rule should require companies to disclose Scope 3 emissions.

The proposed rule should strengthen Scope 3 emissions disclosure requirements for all large companies and financial institutions.[8] Scope 3 emissions, which include emissions from transportation and distribution often make up the majority of a company's total GHG emissions.[9] For some fossil fuel producers, nearly all GHG emissions may be Scope 3 emissions.[10] For other companies, such as Amazon and others that rely heavily on warehouses, Scope 3 emissions are those that will have a disproportionate impact on low income communities and communities of color. As a Consumer Reports investigation recently highlighted, lack of reporting requirements for company's mobile source pollutants, such as heavy duty vehicles, allows for expansion into already overburdened neighborhoods with little to no consideration for the impact of this expansion on local communities.[11] Consumers and investors have the right, and need to know a company's Scope 3 emissions. Without these disclosures a company's climate risk, and a company's contribution to climate change will not be fully understood.

Currently, the proposed rule makes Scope 1 and 2 emission disclosures mandatory for all companies, but requires disclosure of Scope 3 emissions, "only if those emissions are material, or if the registrant has set a GHG emissions reduction target or goal that includes Scope 3 emissions."[12] The "materiality standard" requires disclosure if "there is a substantial likelihood that a reasonable investor would consider them important when making a decision."[13] The rule provides no guidelines beyond the materiality standard, giving companies broad latitude to determine whether or not their Scope 3 emissions are "material."[14] In short, companies decide for themselves whether investors will believe Scope 3 emissions are "material." Any disagreement as to this determination on the part of investors or shareholders will have to be adjudicated on a case-by-case basis in court.[15] The proposed rule also provides a "safe harbor" for companies by shielding them from liability for mis-reporting Scope 3 emissions. This proposal will likely result in inconsistent, non-standardized, and non-transparent disclosures of Scope 3 emissions. By

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[8] Scope 1 emissions are direct GHG emissions that occur from sources owned or controlled by the company. Scope 2 emissions are those emissions primarily resulting from the generation of electricity purchased and consumed by the company. Scope 3 emissions are all other indirect emissions not accounted for in Scope 2 emissions. 87 F.R. 21344

[9] Environmental Protection Agency, *Scope 3 Inventory Guidance.* Available at: https://www.epa.gov/climateleadership/scope-3-inventory-guidance

[10] Ian Palmer, T*he Concept of Scope 3 Greenhouse Gas Emissions, And How to Measure Them for Carbon Management By Fossil Energy and Other Companies*, Forbes (March 27, 2022). Available at: https://www.forbes.com/sites/ianpalmer/2022/03/27/the-concept-of-scope-3-greenhouse-gas-emissions-and-how-to-measure-them-for-carbon-management-by-fossil-energy-and-other-companies-part-2/?sh=7f9122c76e5b

[11] Kaveh Waddell, *When Amazon Expands, These Communities Pay the Price,* Consumer Reports (December 9, 2021). Available at: https://www.consumerreports.org/corporate-accountability/when-amazon-expands-these-communities-pay-the-price-a2554249208/

[12] 87 F.R. 21377.

[13] id.

[14] 87 F.R. 21378

[15] Center for American Progress, *The SEC's Scope 3 Climate Emissions Rule Should not Be Based on Materiality."* (February 18, 2022). Available at: https://www.americanprogress.org/article/the-secs-scope-3-climate-emissions-rule-should-not-be-based-on-materiality/

relying on the materiality standard the rule provides too much leeway for companies to avoid, or omit important data related to Scope 3 emissions. By further requiring Scope 3 disclosures from companies that set GHG emission goals, but not requiring disclosure from all other companies, the proposed rule runs the risk of (1) disincentivizing companies from setting these goals and (2) allowing companies that have made no commitments to mitigating their emissions avoid disclosure. To prevent these outcomes, the SEC should articulate a clear, concrete, and specific Scope 3 reporting standards, similar to those required for Scope 1 and Scope 2 emissions. As with Scope 1 and 2 these standards should be applied to all large companies and financial institutions.

Thank you for the opportunity to comment on this important rule.

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