June 17, 2022

Via Electronic Mail

Ms. Vanessa A. Countryman, Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: Comment Submission on Securities and Exchange Commission Proposed Rule, File Number S7-10-22: The Enhancement and Standardization of Climate-Related Disclosures for Investors

Alphabet, Autodesk, Dropbox, eBay, Hewlett Packard Enterprise, HP Inc., Intel, Meta, PayPal, and Workday, are providing comments to the Securities and Exchange Commission (SEC) regarding proposed rule "The Enhancement and Standardization of Climate-Related Disclosures for Investors", File Number S7-10-22, issued by the SEC on March 21, 2022.[1] We are advanced technology companies, with demonstrated commitments around climate action, and who already regularly report on environmental performance. We believe that it is critically important to share our perspectives based on established experience with climate-related disclosures, in hopes of helping the SEC develop a final rule that delivers meaningful climate change disclosures and provides investors with useful and comparable information about corporate climate change impacts.

Commitment to Climate Action and Reporting

Climate change is an urgent global challenge that demands collective action and collective progress towards addressing global warming and building a prosperous, resilient zero-carbon economy. We are committed to taking bold steps to address climate change within our operations, supply chain, products, technology and public engagement. We believe that climate disclosures are a critical component of tracking companies' efforts to achieve stated climate goals and to assess progress towards addressing global warming and building a prosperous, resilient zero-carbon economy.

Collectively, today we purchase more than 31,500 gigawatt-hours of clean energy and many of us are members of the UN Race to Zero and America is All In campaigns, while each company has science-aligned climate goals. The impact of these efforts is substantial, considering our role as job creators with more than 533,000 employees (as each of our last fiscal year ends).

We support regular and consistent reporting of climate-related matters to complement the significant actions we each are taking to address climate change. We each already voluntarily report our Scope 1, 2, and 3 greenhouse gas ("GHG") emissions footprints, recognizing that Scope 3 involves a significant level of estimation, relies heavily on third party data, and is a nascent, fast-evolving category. We believe that it is critical to regularly measure and report on our progress towards our climate goals and to share updates with investors and other stakeholders.

We welcome the SEC's leadership on climate action and we are supportive of the SEC's efforts to establish required climate-related disclosures. Investors need consistent, comparable, and reliable information on the material risks and impacts of climate-related events and transition activities on a registrant's consolidated financial position. Investors are also asking for transparent and useful

---

[1] The Enhancement and Standardization of Climate-Related Disclosures for Investors, Release No. 33-11042; 34-94478 (March 21, 2022) (published in Federal Register on April 11, 2022, 87 Fed. Reg. 21334) (to be codified at 17 C.F.R. pts. 210, 229, 232, 239, 249).

information around registrants' impact on climate change, such as emissions footprints and companies' abilities and efforts to reduce their carbon footprint. Such disclosures are effective when they provide investors and other stakeholders with useful information that informs decision making, in a manner that enables comparability across companies, and that balances the benefits with the operational costs to provide such information.

We believe that high-quality climate-related disclosures should adhere to several core principles:

- **Enable investor decision making** - Appropriately crafted climate disclosure rules should provide consistent and comparable information focused on decision usefulness to investors. Provisions that do not advance that goal should not be adopted.

- **Grounded in the long-standing definition of materiality** - The SEC's traditional approach to disclosure requirements – calling for information that a reasonable investor would consider important in making investing and voting decisions or that alters the "total mix of information" about a company – provides the most appropriate framework on which to build climate disclosure rules.

- **Avoid discouraging good climate practice** - Aspirational climate targets by businesses are needed to tackle climate change. Transparent disclosure requirements should not disincentivize companies from undertaking activities that advance strong climate outcomes, such as the adoption of a transition plan and the use of scenario analysis. The burden and liability of disclosure should not disincentivize companies from undertaking such activities.

As companies who are climate-disclosure leaders, who strongly support enhancing consistent, comparable, and meaningful climate-related disclosures and who desire to see a robust and durable final disclosure framework emerge from the SEC's proposed rulemaking, we suggest the SEC consider certain modifications to the Proposed Rule. The following represents our top priority recommendations along with a summary of the related concerns; the Appendix to this letter includes detailed information regarding these recommendations.

Recommendations for Adjustments to Proposed Rule on Climate-Related Disclosures

Financial Statement Metrics

- **Remove the 1% bright-line requirement** - The proposed 1% bright-line requirement for disclosure represents a departure from well understood concepts of materiality. Requiring disclosure of information using a set threshold will result in voluminous disclosures that are not material to a registrant's financial position, reducing the overall utility of the information, and go beyond what investors have been seeking. We recommend instead basing disclosure requirements on the existing definition of materiality.

- **Narrow the scope and clarify the definition of transition activities** - The broad scope of activities that could qualify as transition activities in the Proposed Rule, combined with the fact that such activities are often integrated into a registrant's "normal" business strategies, make the identification and measurement of these activities challenging, and will result in inconsistent application by registrants and the reduced comparability of disclosures. Refinement and clarification of what should be included in transition activities will enhance disclosure accuracy and enable comparability across companies.

- **Require disclosure based on discrete, material climate-related events and transition activities** - Registrants vary in their income statement presentation and line items and generally do not consistently track and measure impacts across all climate-related events and transition activities in the manner the disclosure requirements would require. Further, some of the items required for disclosure are not maintained in books and records, for example, "lost revenues" or "incremental expenses". Such items require significant judgment to estimate and measure. As a result, disclosure of these activities will result in non-comparable information across industries and registrants. By focusing on discrete climate-related events or transition activities that are material as opposed to the notion of financial statement line items, the disclosure would align with how companies internally identify and measure these impacts and would provide investors with more meaningful information.

- **Move disclosure requirements to MD&A -** Item 303, Management's Discussion and Analysis ("MD&A"), requires disclosure of known trends or uncertainties that have had or are reasonably likely to have a material impact on the registrant's continuing operations, disclosure of unusual or infrequent events or transactions that materially affected the amount of reported income, and known material events and uncertainties that are reasonably likely to cause the financial information not to be indicative of future operating results or financial condition. Because the nature of the proposed disclosures is consistent with the objectives of MD&A, the SEC should require registrants to disclose climate-related impacts that materially affect the issuer's financial condition and results of operations in MD&A.

GHG Emissions Metrics Disclosures

- **Require information to be included in a separate report provided at least 180 days after a registrant's fiscal year-end -** Preparing GHG emissions data requires solicitation and aggregation of data from many third parties, which takes substantial time to receive, validate, third-party assure, and prepare for disclosure. Because of this dependency on third-party data sources, it is not possible for companies to disclose GHG emissions data with the same reporting timeline as Form 10-K, absent significant estimation which is likely to make the information less useful and subject to revision. To address this issue, registrants should provide GHG emissions metric information in a separate report, provided at least 180 days after a registrant's fiscal year end.

- **Require limited assurance -** Costs increase with the level of assurance. Requiring reasonable assurance may be particularly burdensome relative to the incremental reliability of disclosure and investor confidence in such disclosure. Many of us currently obtain limited assurance, which is the most common form of assurance provided for ESG, including climate-related disclosures, in the current voluntary reporting landscape; and we have not received requests or feedback from investors asking for a higher level of assurance on emissions than is currently provided through limited assurance. In addition, other disclosure frameworks are not yet moving in the direction of requiring reasonable assurance.

- **Strengthen safe harbor for Scope 3 and allow all GHG information to be "furnished" -** Scope 3 relies heavily on estimates, assumptions, and third party information, and involves methodologies, processes and industry practices for measuring and reporting that are evolving and have yet to mature. It is important not to subject companies to undue liability. We recommend strengthening the safe harbor proposed for Scope 3 disclosures by modeling it after the safe harbor for forward-looking information in the Private Securities Litigation Reform Act. In addition, we recommend allowing all GHG emissions information to be "furnished" to the SEC for purposes of liability under the Exchange Act and so that it is not automatically incorporated by reference into registration statements filed under the Securities Act.

- **Allow for the organizational boundaries outlined in the GHG Protocol -** The proposal creates a new method of establishing organizational boundaries not currently outlined in the Greenhouse Gas Protocol ("GHGP"). Registrants will have to reevaluate current boundaries used for reporting GHG emissions data, including the baseline year already established for many publicly stated goals and commitments. The SEC should adopt the approach recommended in the GHGP that allows a company to choose between either the operational control or financial control criteria, rather than prescribing one approach that may be incongruent with many registrants' past practices for calculating and reporting emissions.

Materiality regarding climate-related risks

- **Remove prescriptive requirement to assess the materiality of climate-related risks over the short-, medium-, and long-term** - Given the uncertainty around many climate developments including the wide range of potential outcomes and variability outside the registrant's control, the introduction of the time horizon concept may lead to voluminous and unnecessarily speculative disclosure that is not decision-useful to investors.

General

- **Provide sufficient time for companies to prepare for compliance** - As proposed, registrants will need to enhance or implement new policies, processes, controls, and system solutions in order to comply with the rule, which will take time to establish and implement. Registrants who are large accelerated filers should be provided with at least two years to prepare for the required disclosures within the proposal (i.e., if the rule is adopted in fall 2022, and the registrant has a December 31st fiscal year-end, the compliance date for the proposed disclosures in annual reports other than the Scope 3[2] disclosure would be fiscal year 2025, filed in 2026). By adopting our recommendations above for the financial statement metrics and timing requirement for GHG emissions disclosures, an appropriate compliance timeline for a large accelerated filer would be at least one year between adoption of the final rule and the beginning of the first reporting period for which the rule applies.

- **Allow for disclosure to be provided beginning with the first fiscal year for which the rules are effective** - This will be the first time registrants are identifying, measuring and disclosing the proposed financial statement data metrics and most will not have the historical data maintained in such a way that they could apply these new concepts and definitions without significant challenges. Additionally, while some registrants already voluntarily report GHG emissions information, they will have to conform previously disclosed GHG emissions information to the final rule. Proving eligibility under existing rules[3] to omit information that is unknown or not available[4] is a high hurdle and a significant challenge for registrants during an already compressed adoption period, raising risk of error. We believe the reporting challenges created by requiring disclosure of information that may not have previously been tracked would likely outweigh the benefit of any historical disclosure provided to investors. As such, the SEC should

---

[2] Consistent with the current proposal, registrants subject to the proposed Scope 3 disclosure requirements would have one additional year to comply with those disclosure requirements.
[3] Securities Act Rule 409 (17 C.F.R. § 230.409) and Exchange Act Rule 12b-21 (17 C.F.R. § 240.12b-21).
[4] Under existing rules, this would require a registrant to demonstrate that it does not have the information necessary to prepare historical disclosures and that after reasonable effort, it is unable to obtain that information by providing "a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person[s] within whose knowledge the information rests and stating the result of a request made to such person[s] for the information." See Securities Act Rule 409 (17 C.F.R. § 230.409) and Exchange Act Rule 12b-21 (17 C.F.R. § 240.12b-21).

allow for disclosure to be provided beginning with the first fiscal year for which the rules are effective and not for historical fiscal years included in a registrant's filing.

Conclusion

Thank you for the opportunity to provide our collective thoughts on the proposal. Climate change is an urgent global challenge, and we are committed to taking strong action to address it. Climate disclosures are an essential component of our strategy, and we welcome the SEC's leadership in this area. We desire to see a robust and durable final disclosure framework emerge from the SEC's proposed rulemaking, and we are pleased to provide suggestions for the SEC to consider.

Respectfully submitted:

Alphabet, Inc.
Autodesk, Inc.
Dropbox, Inc.
eBay Inc.
Hewlett Packard Enterprise
HP Inc.
Intel Corporation
Meta Platforms, Inc.
PayPal Holdings, Inc.
Workday, Inc.

Appendix

(1) Financial Statement Metrics

We support the SEC's objective to increase the consistency and comparability of climate-related disclosures - specifically, those disclosures related to the impacts of climate-related events and transition activities on a registrant's consolidated financial position[5]. However, we do not believe that the climate-related financial statement disclosures as proposed will achieve this objective. We make the following specific recommendations that we believe will help the SEC better meet its objectives whilst improving the operability of the proposed disclosures by registrants.

Remove the 1% bright-line requirement

We believe it is critical to apply a consistent definition of materiality that is well-understood and grounded in the Supreme Court precedent across SEC disclosure requirements, including financial statements. While we acknowledge that the SEC currently uses a 1% threshold in other contexts for disclosure of certain items[6], these requirements are not similar and should not be used as a basis for the proposed 1% bright-line standard. While these disclosures may provide additional transparency into the impact of climate-related events or activities on information reported in the financial statements, such disclosures would not be relevant to investors when making investment or voting decisions given their relative significance to the overall financial position of the registrant. Additionally, we believe that including immaterial disclosures in registrants' financial statements can be confusing and distracting to those disclosures that are material and most relevant to investors.

A bright-line standard (regardless of threshold) applied to separate financial statement line items impacts of the climate-related events and transition activities will likely result in non-comparable information across both a registrant's year-to-year disclosures and disclosures across registrants. This is due to the variability in financial statement line items against which the 1% threshold would be measured and the related disaggregation across industries and registrants, even if similarly situated. We recommend that the SEC remove the 1% bright-line standard from the proposal and instead base such disclosure requirements on the existing definition of materiality.

Narrow the scope and clarify the definition of transition activities

In order to increase the consistency and comparability of information as it relates to the proposed financial statement metrics, registrants must be able to consistently define, identify, and measure the impacts of and expenditures on climate-related events and transition activities. However, in order to meet the SEC's objectives, registrants need more clarity regarding scope and definition of climate-related activities, specifically with respect to transition activities. As proposed, these definitions are extremely broad, lack clear definition and examples, and will result in inconsistent application by registrants.

For example, under the proposal's definitions, it is unclear how a company would determine whether a shift towards more energy efficient hyperscale data centers is considered a transition activity, and if so, what portion of expenditures or impact to its financial position and results of operations related to that shift would be included in measurement and disclosure. The shift to hyperscale computing in general, combined with significant innovation in server energy efficiency and greater server virtualization have helped enable global data center energy consumption to remain essentially flat even as compute output

---

[5] 87 Fed. Reg. 21334, 21345.
[6] 87 Fed. Reg. 21334, 21366 n.347.

grew 550% during the same time period.[7] With industry advancements in data center technology, determining whether and what portion of expenditures a company makes, and the related impact of reduced electricity consumption constitutes a transition activity is unclear. Similar challenges arise when differentiating whether, and if so, what portion of such costs and impacts qualify as transition activities as opposed to normal operations and regular business decisions to migrate toward more efficient technology given the impact to a company's results of operations.

The broad scope of activities that could qualify as transition activities combined with the fact that such activities are often integrated into a registrant's "normal" business strategies make the identification and measurement of these activities challenging. As such, we recommend that the SEC narrow the scope of and provide clear definitions and examples of climate-related events and activities, specifically transition activities, to enable registrants to consistently identify and measure the impacts to its financial statements. By being able to consistently identify and measure the impacts of transition activities, registrants' will be able to provide investors with decision-useful information around the impact to their operations and financial position from their targeted efforts around climate change and the work towards their goals.

Require disclosure based on discrete, material climate-related events and transition activities

For purposes of determining whether the 1% threshold has been exceeded under the proposal, a registrant would be required to aggregate the absolute value of the positive and negative impacts of climate-related events or transition activities by each financial statement line item, and also by aggregate amount of expenditures expensed and capitalized costs. Even with sufficiently clear definitions and examples of climate-related events and transition activities, this requirement is not operable as registrants vary in their income statement presentation and line items and generally do not consistently track and measure impacts and expenditures across all climate-related events and transition activities as the disclosure could require. Further, some of the items required for disclosure are not maintained in books and records, for example "lost revenues" or "incremental expenses". Such items require significant judgment to estimate and measure. Using the example discussed above related to a transition to more energy efficient data centers, the proposal would require registrants to determine what increases or decreases to revenue and costs are directly attributable to that specific transition activity versus various other factors, including other transition activities. Revenues and costs are not tracked based on these activities; the impacts would be determined based on analysis of these activities, requiring significant judgment and estimation, possibly based on past activities which may or may not be indicative of what the impact of the activity or lack of an activity would have been. As a result, disclosure of these activities will result in non-comparable information across industries and registrants. By focusing on discrete climate-related events or transition activities that are material as opposed to the notion of financial statement line items, the disclosure would align with how companies internally identify and measure these impacts and would provide investors with more meaningful information.

We recommend that the SEC require disclosure of discrete, material climate-related events and transition activities, rather than the notion of financial statement line items. Aligning the disclosure with how companies identify and measure these impacts will provide disclosures that are more consistent across all reporting companies regardless of differences among financial statement line items, would reflect actual impacts for each year covered by the financial statements, and would align with the risks, goals, and strategies companies would disclose under proposed Regulation S-K Item 1502. As a result, investors would be able to evaluate from a financial statement perspective how companies are addressing the risks and progressing on the targets and strategies they disclose and the impacts as a result. By focusing on

---

[7] Eric Masanet et al., *Recalibrating global data center energy-use estimates*, Science. (Feb. 28, 2020), https://www.science.org/doi/10.1126/science.aba3758.

discrete climate-related events or transition activities that are material as opposed to the notion of financial statement line items, the disclosure would align with how companies internally identify and measure these impacts.

Move disclosure requirements to MD&A

In addition, we recommend moving the proposed financial statement metrics disclosure requirements from Regulation S-X to Regulation S-K, as part of MD&A. Item 303, Management's Discussion and Analysis ("MD&A"), requires disclosure of known trends or uncertainties that have had or are reasonably likely to have a material impact on the registrant's continuing operations, disclosure of unusual or infrequent events or transactions that materially affected the amount of reported income, and known material events and uncertainties that are reasonably likely to cause the financial information not to be indicative of future operating results or financial condition. In addition, by adopting recommendations to remove any bright-line standards for disclosure, narrowing and clarifying its definitions of climate-related activities, and focusing on discrete climate-related events and transition activities, we believe that the nature of such disclosure is consistent with MD&A's existing required disclosure of climate-related impacts that materially affect the issuer's financial condition and results of operations. While MD&A is not subject to internal controls over financial reporting ("ICFR"), such disclosures included in an SEC filing require rigorous disclosure controls and procedures and we believe such disclosure meets the reliability needs of investors around this topic.

(2) GHG Emissions Metrics Disclosures

Require information to be included in a separate report provided at least 180 days after a registrant's fiscal year-end

The timing for filing a Form 10-K is currently incompatible with the timing for collecting and disclosing GHG emissions. Preparing GHG emissions data requires solicitation and aggregation of data from many third parties, for all Scopes. After soliciting and obtaining the data, companies need to process the data, complete quality checks, perform emissions calculations, prepare disclosures, and obtain third-party assurance. For many companies this process takes no less than five months. With the proposed timeline, companies would likely have to estimate Scopes 1, 2 and 3 emissions for inclusion in Form 10-K. While Scope 3 presents the greatest challenge given the level of supplier-specific data necessary to accurately estimate Scope 3, companies would almost always also have to estimate Scope 1 and 2 for at least the fourth fiscal quarter for inclusion of such information in Form 10-K. Some of these challenges would likely continue to be present even if systems are designed, implemented, and further streamlined to reduce or eliminate the current manual processes and cascading effects of needing to obtain data from third-party suppliers to capture and report this information. As such, we believe GHG emissions information as proposed would be extremely challenging to report by the due date of Form 10-K.

We appreciate that the proposal includes a provision permitting a registrant to use a reasonable estimate of its GHG emissions for its fourth fiscal quarter and a delayed compliance date for the proposed Scope 3 disclosure requirement. However, for the reasons discussed above, the proposed timeline would likely result in material differences between the estimate used and the actual GHG emissions, resulting in restated filings, which is not beneficial to investors and erodes trust in the disclosures. The recommended approach to allow for GHG emissions information to be separately provided at a later date would reduce estimation uncertainty thereby improving the quality of the GHG emissions information disclosed. We believe GHG emissions information included in a separate report due at a later date would better fulfill investors' needs for high-quality information, rather than over emphasizing the timing of the disclosure that results from including it in Form 10-K.

Additionally, the proposal would require registrants to engage a third-party to review Scopes 1 and 2 emissions calculations and prepare an attestation report. That attestation report covering Scopes 1 and 2 emissions disclosure at a limited assurance level—and at a reasonable assurance level as of the fourth fiscal year of filing—must be filed with the Form 10-K. For financial statement audits, in many instances assurance providers perform procedures prior to year-end on interim balances, reducing the scope of work at year-end, and yet the assurance procedures at year-end often still take four weeks or more. With longer periods to obtain and prepare emissions data after year-end, plus often a lack of interim data, and the timeline for third-party providers to complete assurance procedures, obtaining assurance on the required timeline is untenable.

Require limited assurance

We recommend that the SEC remove its proposed requirement of a transition from "limited assurance" to "reasonable assurance." Many of us currently obtain limited assurance, which is the most common form of assurance provided for ESG, including climate-related disclosures, in the current voluntary reporting landscape. Because costs increase with the level of assurance, requiring reasonable assurance may be particularly burdensome relative to the incremental reliability of disclosure and investor confidence in such disclosure. We have not received requests or feedback from investors asking for a higher level of assurance on emissions than is currently provided through limited assurance. In addition, other disclosure frameworks are not yet moving in that direction. While the EU's Corporate Sustainability Reporting Directive proposal that, if adopted, would initially require companies in the European Union to obtain limited assurance on reported sustainability information, the transition towards reasonable assurance in the future is optional.

Strengthen safe harbor for Scope 3 and allow all GHG information to be "furnished"

The proposed safe harbor provision for Scope 3 disclosures should be strengthened, as the calculation and disclosure of Scope 3 emissions relies heavily on estimates, assumptions, and third-party information, and involves methodologies, processes and industry practices for measuring and reporting that are evolving and have yet to mature. For a safe harbor to provide meaningful protection, it should be modeled after the safe harbor for forward-looking information in the Private Securities Litigation Reform Act[8]. Using this approach, liability protection to private parties would be provided as long as the emissions data is labeled as such, and the company includes meaningful cautionary language putting investors on notice as to the estimations, reliance on third parties for information and other factors that could cause the data to be inaccurate. As with the safe harbor for forward-looking information, such a safe harbor would require companies to identify the issues that could cause Scope 3 GHG emissions information to be inaccurate, thus putting investors on notice about these important limitations. In light of the complexities involved in preparing GHG emissions information, this approach would present an appropriate balancing of the need for disclosure with the nascency of the process and data behind such disclosures.

In addition to strengthening the proposed safe harbor for Scope 3 disclosures, we believe allowing all GHG emissions information required by the proposal to be deemed to be "furnished", rather than filed, for purposes of liability under the Exchange Act such that it is not automatically incorporated by reference into registration statements filed under the Securities Act, would be appropriate in light of the complexities involved in preparing this information, and the continuously evolving nature of GHG emissions data measurement.

Allow for the organizational boundaries outlined in the GHG Protocol

---

[8] Securities Act of 1933, 15 U.S.C. §§ 77a, 77z; Securities and Exchange Act of 1934, 15 U.S.C. §§ 78a, 78u–5.

We support that the SEC in basing its proposed GHG emissions disclosure requirement primarily on the GHGP's concept of scopes and related methodology and agree that doing so reduces the compliance burden of the disclosures, especially for those registrants like ourselves that are already disclosing or estimating their GHG emissions pursuant to the GHGP.

However, the proposed requirement that the scope of consolidation and reporting of GHG emissions data be consistent with that of financial data would not mitigate the compliance burden as it would require registrants who have been following the GHGP to significantly revise their reporting. For example, many registrants currently estimate GHG emissions based on organizational boundaries set in accordance with the GHG Protocol, which permits companies to use an operational control approach. Under the operational control approach, a company does not account for GHG emissions from operations in which it owns an interest but has no control over its operating policies and procedures. Similarly, a company can have joint financial control over an operation, but not operational control. In such cases, the company would need to look at the contractual arrangements to determine whether any one of the partners has the authority to introduce and implement its operating policies at the operation and thus has the responsibility to report emissions under operational control. If the operation itself introduces and implements its own operating policies, the partners with joint financial control over the operation will not report any emissions under operational control. It should be emphasized that having operational control does not mean that a company necessarily has authority to make all decisions concerning an operation. In contrast, under the proposed rules, a registrant would be required to account for its share of emissions based on percentage ownership of all equity method investees in addition to accounting for all emissions from entities it consolidates[9].

Given the SEC has based its proposed GHG emissions disclosure requirement primarily on the GHGP, we believe the SEC should also adopt the approach recommended in the GHGP that allows a company to choose between either the operational control or financial control criteria, as opposed to prescribing one approach that may be incongruent with many registrants' past practices for calculating and reporting emissions, thus increasing timing complexities and potentially reducing the ability to compare data over time. Investors who are familiar with the GHGP are currently using GHG information voluntarily disclosed under these approaches alongside required financial reporting of registrants and thus using this approach would not cause confusion. Irrespective of the boundary approach used by a registrant, we believe that registrants should be required to disclose the approach adopted, similar to a significant accounting policy.

(3) Materiality regarding climate-related risks

Remove prescriptive requirement to assess the materiality of climate-related risks over the short-, medium-, and long-term

We support the SEC's alignment of its proposal with the Task Force on Climate-Related Financial Disclosures ("TCFD") framework and agree such alignment should reduce the burden on issuers and increase the consistency and comparability of climate disclosures[10]. Furthermore, we see value in this kind of assessment of climate risks. However, it is essential that SEC reporting requirements on

---

[9] *See* Financial Accounting Standards Board ("FASB"), Accounting Standards Update ("ASC") Consolidation (Topic 810), No. 2015-02 (Feb. 2015), https://asc.fasb.org/imageRoot/92/63493892.pdf; FASB, ASC Investments–Equity Method and Joint Ventures (Topic 323), No. 2016-07 (Mar. 2016), https://asc.fasb.org/imageRoot/13/78141113.pdf.

[10] 87 Fed. Reg. 21334, 21346.

climate-related disclosures adhere to existing standards of materiality grounded in the Supreme Court precedent and not introduce concepts that may be inconsistent with how that term has been traditionally defined, applied, and interpreted by both preparers and investors. The proposal, unlike the standard MD&A materiality determination, requires short-, medium-, and long-term assessments of materiality regarding climate-related risks.

While we recognize this time horizon is consistent with TCFD, and acknowledge that the concept of time horizon may be relevant to a registrant's assessment of the materiality of a matter and whether or not the impact is reasonably likely[11], this proposed requirement is in tension with traditional notions of materiality: materiality determinations should be made in relation to the time period that is significant to the financial condition, results of operations and prospects of the disclosing company, as opposed to prescribed time periods. Given the uncertainty around many climate developments, including the wide range of potential outcomes and variability outside the registrant's control, the introduction of the time horizon concept may lead to voluminous and unnecessarily speculative disclosure that is not decision-useful to an investor. Furthermore, even under the existing Supreme Court precedent, materiality determinations can be challenging to implement consistently and are subject to significant judgment. The proposal's requirement to make separate assessments of materiality over each of the stated time horizons will introduce greater uncertainty and inconsistency in practice. As such, we recommend removing this prescriptive requirement to assess the materiality of climate-related risks over the short-, medium-, and long-term.

(4) General

Provide sufficient time for companies to prepare for compliance

As proposed, registrants will need to enhance or implement new policies, processes, controls, and system solutions in order to comply with the rule, which will take time to establish and implement. Whenever the SEC adopts its final rule, it should provide sufficient time to comply. As proposed, registrants who are large accelerated filers should be provided with at least two years to prepare for the required disclosures within the proposal (i.e., if the rule is adopted in fall 2022, and that the registrant has a December 31st fiscal year-end, the compliance date for the proposed disclosures in annual reports other than the Scope 3 disclosure would be fiscal year 2025, filed in 2026). Consistent with the current proposal, Registrants subject to the proposed Scope 3 disclosure requirements would have one additional year to comply with those disclosure requirements. By adopting our recommendations above for the financial statement metrics and timing requirement for GHG emissions disclosures (provided on a separate timeline from financial reporting timeline for Form 10-K) discussed above, an appropriate compliance timeline for a large accelerated filer would be at least one year between adoption of the final rule and the beginning of the first reporting period for which the rule applies.

Allow for disclosure to be provided beginning with the first fiscal year for which the rules are effective

The proposal requires reporting historical information. To comply, this would mean registrants would have to apply new concepts and definitions to their past information. Yet, this will be the first time registrants are identifying, measuring and disclosing the proposed financial statement data metrics and most will not have the historical data. Additionally, while some registrants already voluntarily report GHG emissions information, they will have to conform previously disclosed GHG emissions information to the final rule. Proving eligibility under existing rules to omit information that is unknown or not available would require a registrant to demonstrate that it does not have the information necessary to

---

[11] SEC, Commission Guidance Regarding Disclosure Related to Climate Change, at 17 (Feb. 8, 2010), https://www.sec.gov/rules/interp/2010/33-9106.pdf.

prepare historical disclosures and that after reasonable effort, it is unable to obtain that information. This involves providing "a statement either showing that unreasonable effort or expense would be involved, or indicating the absence of any affiliation with the person[s] within whose knowledge the information rests and stating the result of a request made to such person[s] for the information."[12]. Justifying this exclusion is a high hurdle and a significant burden on registrants during an already compressed adoption period. In addition, the reporting challenges created by requiring disclosure of information that may not have previously been tracked would likely outweigh the benefit of any historical disclosure provided to investors and we believe that a cost-benefit analysis would justify prospective adoption. As such, the SEC should allow for disclosure to be provided beginning with the first fiscal year for which the rules are effective and not for historical fiscal years included in a registrant's filing

[12] *See* Securities Act Rule 409 (17 C.F.R. § 230.409) and Exchange Act Rule 12b-21 (17 C.F.R. § 240.12b-21).