Airlines for America®

We Connect the World

June 17, 2022

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

Re: Proposed Rules Regarding "The Enhancement and Standardization of Climate-Related Disclosures for Investors" (File Number S7-10-22)

Dear Ms. Countryman:

Airlines for America® (A4A)[1] and our members appreciate the opportunity to submit comments in response to the Securities and Exchange Commission's (SEC or Commission) proposed rules on *The Enhancement and Standardization of Climate-Related Disclosures for Investors* (File Number S7-10-22).

A4A and our members embrace our responsibility to address the climate crisis and view the SEC's effort to develop climate-related disclosure regulations as an important enabler of our commitment to decarbonize the commercial aviation sector. Accordingly, we fully support the SEC's intent to provide investors with "consistent, comparable, and decision-useful information for making their investment decisions" while also ensuring that there are "consistent and clear reporting obligations" for issuers.[2] While we are supportive of the SEC's objectives, in principle, we have significant concerns regarding the breadth of the proposed regulation and emphasize the need to ensure it conforms to the Commission's core mission and statutory authority.

It is in this spirit that we offer comments that both highlight our concerns and provide suggestions for refinements and/or clarifications that we believe will ensure the final rules serve these critical objectives.

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[1] A4A is the principal trade and service organization of the U.S. airline industry. A4A's members are: Alaska Air Group, Inc.; American Airlines Group, Inc.; Atlas Air Worldwide Holdings, Inc.; Delta Air Lines, Inc.; FedEx Corp.; Hawaiian Airlines; JetBlue Airways Corp.; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada, Inc. is an associate member. United Parcel Service Co. does not join these comments.

[2] SEC Proposed Rules: The Enhancement and Standardization of Climate-Related Disclosures for Investors, p. 7; SEC Proposes Rules to Enhance and Standardize Climate-Related Disclosures for Investors, SEC Press Release https://www.sec.gov/news/press-release/2022-46 (March 2022).

A4A MEMBERS HAVE A STRONG RECORD ON CLIMATE CHANGE ACTIONS AND DISCLOSURES

A4A and our members have long been and remain deeply committed to working to decarbonize the aviation sector. Since 2009, A4A and our members have been active participants in a global aviation coalition that committed to strong climate goals.[3] A4A significantly strengthened our climate commitments in March 2021, when we pledged to work across the aviation industry and with government leaders in a positive partnership to achieve net-zero carbon emissions by 2050 (2050 NZC Goal).[4] With every credible analysis showing that rapidly expanding the availability of cost-competitive Sustainable Aviation Fuel (SAF) is essential to reaching these objectives, A4A and our members have also pledged to work with the government and other stakeholders toward a rapid expansion of the production and deployment of commercially viable SAF in an effort to make 2 billion gallons of cost-competitive SAF available to U.S. aircraft operators in 2030. In September 2021, A4A and our members increased the ambition of this 2030 SAF Challenge Goal, upping the target by 50 percent to 3 billion gallons of cost-competitive SAF in 2030,[5] complementing and paralleling the Biden Administration's SAF Grand Challenge.

In addition to the focus on reducing carbon emissions, the airline industry is mindful of our greater stakeholder audience and their desire for additional information on environmental, social and governance (ESG) topics that matter to them. All A4A members provide detailed information on their corporate responsibility. They use a variety of recognized ESG reporting platforms and company-specific corporate social responsibility reports to provide information to investors and the broader public on an array of ESG issues. Furthermore, A4A and our members have worked directly with the Global Reporting Initiative (GRI) and the Sustainability Accounting Standards Board (SASB) to inform their ESG topic disclosures and improve the relevance and reliability of disclosure topics and metrics to the industry and stakeholders. Even with these frameworks and standards, investors are making more individual ESG information requests, increasingly referencing emerging ESG reporting platforms, which, in the face of limited SEC climate guidance have created competing and sometimes confusing requests and expectations. This has imposed a substantial burden on our membership. As a result, we generally welcome the SEC's efforts to help establish consensus regarding disclosure standards that meet investor needs.

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[3] These goals were to achieve a 1.5% annual average fuel efficiency improvement through 2020, Carbon Neutral Growth from 2020 and a 50% net reduction in CO_2 emissions in 2050 relative to 2005.

[4] *See* https://www.airlines.org/news/major-u-s-airlines-commit-to-net-zero-carbon-emissions-by-2050/. On October 4, 2021, the International Air Transport Association and its member airlines followed suit by also committing to achieve net-zero carbon emissions by 2050. *See* https://www.iata.org/en/pressroom/2021-releases/2021-10-04-03/.

[5] *See* https://www.airlines.org/news/u-s-airlines-announce-3-billion-gallon-sustainable-aviation-fuel-production-goal/.

We view the establishment of clear, decision-useful climate-related disclosure rules as within the Commission's statutory authority and a potential enabler of environmental progress which, properly formulated, can support our industry's progress toward our climate commitments. To that end, A4A and our members provide the following observations regarding specific implementation challenges and other problematic aspects of the proposed rules, as well as our recommended solutions, for the SEC's consideration as it progresses toward the issuance of final rules on climate-related disclosures. Of greatest priority, and as further detailed below, our members urge the SEC to:

- Eliminate the proposed one percent threshold for disclosure of climate-related financial statement metrics – which is exceedingly low – and replace it with a materiality qualifier consistent with the SEC's current guidance and established definitions;
- Relocate the requirements to disclose climate-related financial statement metrics from Regulation S-X to Regulation S-K and permit registrants to provide any required disclosures of material climate-related financial impacts in narrative form;
- Require disclosures only for the most recently ended fiscal year as of the initial compliance date and eliminate any requirements to disclose data for other historical periods as of that date; and
- Allow disclosures of Scope 3 greenhouse gas (GHG) emissions to remain voluntary in the near term.

OVERARCHING CHALLENGES AND RECOMMENDATIONS

1. The SEC should lengthen the phase-in periods to allow adequate time to prepare for the new requirements.

The timelines for implementation of these new and expansive disclosure requirements are overly condensed and accelerated. Many A4A members are large accelerated filers, and will potentially be required to file disclosures in 2024 for the 2023 fiscal year. This is not enough time to set up the appropriate systems and controls. At a minimum, the SEC should significantly delay the implementation timeline for the more complex disclosure items, including those that require implementation of new technologies or controls (such as the governance, strategy and risk management disclosures, the financial statement metrics, and any GHG emissions disclosures).

Because the ultimate goal of these new requirements is to better inform investors, the SEC should not rush implementation in a manner that would lead to more confusion and less standardization, potentially undermining this goal. As an example, for recent major changes in accounting rules finalized by the Financial Accounting Standards Board (Lease Accounting and Revenue Recognition projects), registrants have been provided with timelines of at least 3-5 years in order to evaluate, comment on, prepare for, and implement such changes into the financial statements. We believe a proposal of this magnitude should provide for implementation on a similar timeframe. In addition, as discussed below all disclosure requirements should apply to only the most recently ended fiscal year as of the initial compliance date.

2. **The SEC should provide registrants with more extensive and meaningful protections from liability.**

A4A members appreciate the SEC's proposal to adopt a safe harbor from liability for Scope 3 emissions disclosures as well as the Commission's confirmation that the liability safe harbor protections of the Private Securities Litigation Reform Act (PSLRA) could be applicable to certain aspects of these disclosures. However, these protections do not go far enough in the current context of rapidly increasing climate-related litigation and legal risk. For example, the proposed rules do not identify the circumstances under which a company would be deemed to be acting in good faith and with a reasonable basis for purposes of the proposed Scope 3 safe harbor, which may mean that registrants would need to resolve these fact-based inquiries through costly litigation. In addition, compliance with the PSLRA safe harbor does not limit the Commission's ability to bring enforcement actions. Accordingly, A4A urges the SEC to consider further protections for registrants including: (1) permitting climate-related disclosures to be furnished rather than filed (or providing that they are not automatically incorporated into registration statements, similar to the approach with conflict minerals disclosures); (2) providing an express and expansive safe harbor beyond the PSLRA that is indefinite in term for all forward-looking climate disclosures (including forward-looking impacts, and transition plans, targets and scenario analysis); and (3) extending the proposed Scope 3 safe harbor to cover Scope 1 and Scope 2 emissions and providing further clarity on circumstances in which that safe harbor will protect registrants.

3. **The SEC should build in additional flexibility on the placement and timing of registrants' climate-related disclosures.**

The SEC should also provide registrants with additional flexibility on how and where to disclose climate-related information. As the SEC recognized, registrants may find it particularly difficult to complete their GHG emissions calculations for the most recently completed fiscal year in time to be included in annual 10-K reports.[6] For example, utility data (given that invoices are often 1-3 months delayed or missing altogether) would be difficult to obtain in a timely manner even within the first quarter of the year, and likely could not be captured completely or accurately in time for the 10-K. The SEC appears to acknowledge that the timelines in the proposal are not sufficiently long. For instance, the proposed rules provide that a registrant may use a reasonable estimate of its GHG emissions for the fourth fiscal

[6] SEC Proposed Rule: The Enhancement and Standardization of Climate-Related Disclosures for Investors, p. 198.

quarter if actual data is not reasonably available and – in that circumstance – requiring the registrant to promptly disclose in a subsequent submission any material difference between the estimate and the actual GHG emissions. The SEC should instead provide sufficient time for registrants to disclose GHG emissions data that is accurate and complete, rather than require estimates that could misinform investors in the short to near term.

To address these challenges and simplify reporting pursuant to the rules, A4A members recommend that the SEC provide registrants with the flexibility to submit GHG emissions disclosures separately from annual 10-K reports, and further specify that climate-related disclosures are due no earlier than 120 days after fiscal year-end. If the SEC decides to require that registrants place climate-related disclosures including GHG emissions disclosures within 10-K reports, A4A requests that the SEC require registrants to report only material GHG emissions data that is reasonably available in time for inclusion and allow registrants to update this data in their 10-K reports the following year. In either scenario, A4A reiterates that climate-related disclosures, including disclosures of GHG emissions, should be furnished rather than filed with the SEC.

Relatedly, in the context of mergers and acquisitions, the SEC should expressly permit registrants to delay climate-related disclosures of information associated with a newly acquired business that was not previously subject to climate disclosure requirements. The SEC provided such accommodation for registrants in the Commission's final conflict minerals rule,[7] and this approach would be consistent with the SEC's rules on performing assessments of internal controls over financial reporting for acquired businesses.[8]

4. **The proposed definitions of "climate-related risks" and "transition risks" are so broad as to be unworkable, and at a minimum should not extend to registrants' full value chains.**

The proposed rules would define "climate-related risks" and "transition risks" expansively to include the actual and potential impacts to a registrant's consolidated

[7] "[T]he final rule allows issuers that obtain control over a company that manufactures or contracts for the manufacturing of products with necessary conflict minerals that previously had not been obligated to provide a specialized disclosure report for those minerals to delay reporting on the acquired company's products until the end of the first reporting calendar year that begins no sooner than eight months after the effective date of the acquisition." "We note that a shorter period, such as requiring an issuer to report with respect to the products manufactured by or for the acquired entity during the first fiscal year beginning after the fiscal year in which the acquisition is consummated, may leave an issuer that acquires a company late in the year with an insufficient amount of time to establish systems to gather and report on the conflict minerals information." SEC Issuing Release for Final Rule: Conflict Minerals, 23, 106-107 (November 2012).

[8] Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports, SEC Frequently Asked Questions, FAQ #3 (September 24, 2007).

financial statements, business operations, or *value chains*.[9] Because these terms are used throughout the proposed rules in nearly every category of the disclosure requirements, the definitions would effectively insert value chain considerations into all dimensions of registrants' climate disclosures. In addition to compounding compliance costs for registrants, this approach would result in disclosures that are overly detailed and risk obscuring the more central information on risks and opportunities that investors demand. The SEC should, at a minimum, narrow these definitions to exclude registrants' full value chain and focus more squarely on material climate-related risks and transition risks that impact registrants' consolidated financial statements and business operations. We also recommend that the SEC provide further guidance on when a financial impact is "climate related", as discussed in Section 7 below.

CLIMATE-RELATED FINANCIAL STATEMENT METRICS

5. **The proposed one percent threshold for climate-related financial statement disclosures is inconsistent with the SEC's broader guidance on materiality and should be brought into conformity with the materiality standard.**

Under the proposed rules, disclosure of financial impact metrics would not be required if the sum of the absolute values of all the impacts on the line item totaled less than one percent of the total line item for the relevant fiscal year.[10] Likewise, disclosure of expenditure metrics — specifically, the aggregate amount of expenditure expensed or the aggregate amount of capitalized costs — would not be required if the amount was less than one percent of the total expenditure expensed or total capitalized costs incurred for the relevant fiscal year.[11]

A one percent threshold, particularly on a line-item basis, would be inconsistent with the SEC's broader guidance on materiality, and would require disclosure of immaterial climate-related impacts in many instances. As a result, investors may be left with a disproportionately climate-heavy view of the overall financial impacts for the registrant, even if those climate impacts are immaterial. Rather than specify a quantitative threshold for such disclosures, the SEC should adopt a more general qualifier that such impacts must be disclosed only where the registrant determines they are material to the registrant, in line with existing definitions and SEC guidance on materiality.[12]

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[9] SEC Proposed Rule: The Enhancement and Standardization of Climate-Related Disclosures for Investors, p. 56-57.

[10] *Id.* at 452-53.

[11] *Id.*

[12] For example, as summarized in Staff Accounting Bulletin 99 (SAB 99), the Commission and other authoritative bodies have issued quantitative materiality guidance with thresholds ranging from one to ten percent for a variety of disclosures. However, compared to the other scenarios where a one percent threshold has been used (e.g., excise taxes recorded in revenue, notional amounts of option contract and related party transactions), there is much less precision in quantifying these climate-related impacts and

Relatedly, we note that the proposed rules do not include a reference to materiality for the requirement to disclose whether the estimates and assumptions used to produce the consolidated financial statements were impacted by exposures to risks and uncertainties associated with climate-related events and activities. Again here, without a materiality qualifier, registrants would be required to disclose even immaterial impacts on estimates and assumptions of little value to investors. The SEC should clarify that registrants need only disclose impacts on financial estimates and assumptions used to produce the consolidated financial statements where such impacts are material.

6. **Any requirements to disclose information on climate-related financial impacts should be placed within Regulation S-K rather than Regulation S-X, and registrants should be permitted to disclose such impacts in narrative form.**

The SEC is proposing to require as part of Regulation S-X the inclusion of certain climate-related financial statement metrics and related disclosures in a note to a company's audited financial statements. The financial statement metrics would be comprised of disaggregated climate-related impacts on existing financial statement line items and be subject to audit by an independent registered public accounting firm. Additionally, the financial statement metrics would come within the scope of a company's internal control over financial reporting (ICFR).[13]

We strongly recommend that any disclosures of climate-related financial statement metrics fall solely under Regulation S-K. Much of the information to be disclosed pursuant to these provisions is subject to significant estimates, assumptions, and/or judgment on the part of preparers, and can often be interpreted differently across companies, making the information extremely difficult and costly to consistently produce and compare. For example, the impacts of any climate-related events and the dollar amounts associated with them cannot be objectively and accurately quantified—or even meaningfully or objectively differentiated from other events that may happen simultaneously or in conjunction with certain weather events (*e.g.*, a disruption caused by a technology outage either within or outside of an airline's control, combined with a weather event occurring on the same day). Any such estimations will be inherently subjective and necessarily require making broad assumptions rendering such disclosures of little or no value to investors.

Because of this, integrating climate-related events and transition activities under Regulation S-X and subjecting these disclosures to audit and ICFR controls would

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expenditures. In our view, therefore, a threshold as low as one percent would be nearly unprecedented. SAB 99 further emphasized that quantitative thresholds are only a starting point, and that registrants must generally consider both quantitative and qualitative factors in assessing materiality.

[13] SEC Proposed Rule: The Enhancement and Standardization of Climate-Related Disclosures for Investors, p. 144.

not be feasible or practical at this juncture. Doing so would require the development and implementation of objective rules, tools, policies, procedures, and processes in order to capture, define, evaluate, quantify and assess the internal controls surrounding these events. This effort would be lengthy and very costly, given the breadth of this topic, which reaches across many other departments within registrants' organizations that may not have historically been involved in such activities.

A4A members accordingly believe that requiring disclosures of the specified quantitative metrics as part of Regulation S-X would be unworkable at this time and such requirements should be removed from the SEC's proposal. The SEC should, at a minimum, relocate these requirements to Regulation S-K and allow registrants to address the disclosure requirements in a narrative form. A4A further suggests that such narrative disclosures could fit well within the Management's Discussion and Analysis section of 10-K reports, which is intended to provide an overview of the company's current financial condition and management's future projections, as well as to help potential investors understand the company's financial fundamentals through the eyes of management. Any such disclosures, wherever located, should be moderated by the existing and longstanding concept of materiality, and should not be subject to the proposed one percent threshold (as set forth in greater detail in Section 5 above).

If the SEC proceeds to require disclosures of the specified quantitative metrics (as proposed), the final rules should clarify that such disclosures are only required where the relevant impacts can be reasonably determined to be *primarily* or *entirely* driven by physical or transition risks/activities, are material to the business, and are *reasonably estimable*.

7. **The rules should provide registrants with clearer guidance on how to determine when financial impacts are "climate-related."**

As a more general matter, and irrespective of whether requirements to disclose climate-related impacts are placed in Regulation S-X or Regulation S-K or are quantitative or qualitative in nature, the proposed rules should provide significantly more clarity to registrants regarding the meaning of climate-related impacts. The proposed rules require registrants to consider the financial impact of severe weather events and other natural conditions, but provide no guidance on how registrants are to determine whether these events are climate-related. For example, how will registrants determine if an extreme weather event is climate or climate-change related? Is there a baseline of severity or frequency of such events that we benchmark against to determine inclusion? Could an individual or investor determine that every single weather event is indeed climate-related? Similarly, with respect to the proposed rules' reference to transition activities and forward-looking impacts, registrants need more robust guidance as to how to distinguish and estimate the impacts of shifts in items such as consumer preferences due to concerns over climate. As currently proposed, this portion of the rules is subject to significant ambiguity that would impact compliance achievability.

DISCLOSURE OF GREENHOUSE GAS EMISSIONS (GHG) DATA

8. **Disclosures of Scope 3 GHG emissions should remain voluntary in the near term.**

The SEC has proposed to require registrants to disclose Scope 3 GHG emissions when the registrant has an emissions goal that includes Scope 3 emissions or if they are otherwise material to the company. A4A members do not oppose Scope 3 emissions reporting in principle. In fact, many airline members report on Scope 3 emissions today and the industry is continually investing in more robust reporting in this area.

However, there are a myriad of significant practical difficulties that the SEC itself recognizes in the Proposing Release that compromise the accuracy, reliability, timely availability, and usefulness of Scope 3 emissions (as broadly defined under the proposed rule) disclosures at this time, particularly as these emissions are generated throughout the reporting company's value chain and are outside the reporting company's control. Scope 3 emissions can be difficult to measure precisely and generally require companies to rely on third parties for data (when available at all), make numerous assumptions, and choose from still evolving and competing methodologies. In addition, because aspects of Scope 3 emissions depend on how a product or raw material is used or produced, the ability of companies to track the use and production of materials upstream and downstream is limited in today's multi-faceted global markets. It would therefore be premature to make Scope 3 emissions reporting mandatory and instead the SEC should allow companies to continue to disclose Scope 3 emissions voluntarily as each company determines is appropriate. This approach is consistent with the GHG Protocol (which the SEC proposal draws from), which, "allows companies flexibility in choosing which, **if any**, Scope 3 activities to include in their inventory when the company defines its operational boundaries."[14] This language illustrates that Scope 3 emissions quantification is not required as per the GHG Protocol but is rather voluntary at the discretion of the organization. To the extent the SEC nonetheless mandates Scope 3 emissions disclosures, companies should be permitted to limit disclosures to those that are deemed material in the judgment of the company and that do not require unreasonable effort. In this context, we emphasize that registrants need stronger and more extensive safe harbor protections for all disclosures, as set forth in Section 2 above.

[14] GHG Protocol, Corporate Value Chain (Scope 3) Accounting and Reporting Standard, p. 61, available at https://ghgprotocol.org/sites/default/files/standards/Corporate-Value-Chain-Accounting-Reporing-Standard_041613_2.pdf.

9. **The rules should provide registrants with the flexibility to set their organizational boundaries for GHG emissions disclosure purposes using the "equity or control" approach (or similar established accounting methodology).**

The proposed rules generally require registrants to set organizational and operational boundaries for the purposes of identifying the sources that will be included in the accounting of GHG emissions disclosures. Established accounting methodologies such as the GHG Protocol allow companies to apply one of two organizational boundaries – following either the equity or control approach. Within the control approach, companies can define whether they use operational or financial control. The SEC, however, does not adopt the GHG Protocol's "equity or control" approach. Instead, the proposed rules would require registrants to apply GAAP accounting principles and use "the same scope of entities, operations, assets, and other holdings within its business organization as those included in, and based upon the same set of accounting principles applicable to, its consolidated financial statements" when calculating Scope 1, 2, and (if required) Scope 3 emissions.

The SEC's proposed approach would mean that registrants that have been reporting their GHG emissions for many years would be required to alter their accounting practices as well as revise prior year disclosures (if multiple years of historical disclosures are required at the proposed rules' initial compliance date). This would not only be an unnecessary and burdensome task but would also mean that GHG emissions data allocated to certain scopes would potentially be re-categorized, introducing complexity and confusion for investors. Further, as acknowledged within the proposed rules,[15] the GHG Protocol is widely used by companies to set climate targets and metrics. By requiring boundaries for GHG emissions disclosures to align with GAAP, rather than the company's choice of permitted boundary under the GHG Protocol, companies that have set GHG emissions reduction targets based on certain GHG Protocol boundaries may effectively be required to report emissions data that is inconsistent with their targets, leading to significant investor confusion. It would not be feasible, as a practical matter, for companies that have gone through the lengthy process of developing, vetting, and validating science-based targets under the GHG Protocol to develop new goals based on the boundaries articulated in the SEC's proposed rule. Therefore, we strongly recommend that the SEC allow registrants the flexibility to elect their approach to boundary-setting under the GHG Protocol (or similar established accounting methodology), provided that they disclose the election and the rationale underlying it.

10. **The SEC should not mandate disclosures of GHG emissions for historical periods beyond the most recently ended fiscal year at the initial compliance date.**

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[15] SEC Proposed Rule: The Enhancement and Standardization of Climate-Related Disclosures for Investors, pp. 34, 173.

The SEC is proposing to phase-in the GHG emissions disclosure requirements for registrants according to their filer status, and to provide an additional phase-in period for Scope 3 emissions disclosures.[16] The proposed rules would also require registrants to disclose GHG emissions data for the registrant's most recently completed fiscal year and for the historical fiscal years included in the registrant's consolidated financial statements in the applicable filing, to the extent such historical GHG emissions data is reasonably available.[17]

While A4A members appreciate the SEC's attempt to provide registrants with a degree of flexibility with respect to this requirement, it is not sufficiently clear what "reasonably available" means in the context of GHG emissions data. An obligation to disclose GHG data (particularly if Scope 3 is included) for historical periods beyond the most recently ended fiscal year would be especially challenging during the initial reporting years. Rather than burden companies with either gathering and disclosing data for historical periods or struggling to analyze and confirm whether the data is reasonably available, the SEC should require GHG emissions metrics only for the most recently completed fiscal year at the initial compliance date. The SEC could then reasonably require disclosure of historical data on a tiered basis (*e.g.*, in compliance year two, require data for the most recently completed fiscal year and the preceding year; in compliance year three, require data for the most recently completed fiscal year and the two preceding years, etc.).[18]

11. **The SEC should streamline and simplify the GHG emissions disclosure requirements so that they are subject to the SEC's existing concept of materiality.**

The proposed rules include requirements to disclose certain GHG emissions on a disaggregated (*i.e.*, by each of the seven covered greenhouse gases) and aggregated basis (as CO2 equivalent).[19] Given that industries focus their GHG reporting on the subset of GHGs that are most significant for the industry and therefore important to investors (*e.g.*, for aviation the emissions attributable to the combustion of jet fuel and gasoline/diesel used for ground support equipment), it is not clear that the disaggregated reporting of all seven gases would enhance investors' understanding of the climate related risks facing registrants. Further, such requirements may be burdensome for registrants to calculate, as it would require tracking down activity data and emission factors for activities where the impact may be de minimis. On

[16] *Id.* at 45.

[17] *Id.* at 112-13; 183.

[18] We also note that as proposed, disclosures of the specified climate-related financial statement metrics would be required for the registrant's most recently completed fiscal year, and for the historical fiscal year(s) included in the consolidated financial statements in the filing. This poses the same challenges as those highlighted above with respect to GHG emissions data, and the SEC similarly should not mandate any such disclosures for historical periods beyond the most recently ended fiscal year (at least during the initial compliance years).

[19] SEC Proposed Rule: The Enhancement and Standardization of Climate-Related Disclosures for Investors, p. 151.

page 193 of the Proposing Release, the EPA is cited as a potential reference for such emission factors. However, the EPA's Emission Factors for Greenhouse Gas Inventories currently only includes three of the seven covered gases, highlighting the gap in a consolidated source for these relevant emission factors.

Given this gap, we recommend the SEC eliminate the requirement for registrants to disclose GHG emissions on a disaggregated basis for each type of greenhouse gas that is included in the proposed definition of greenhouse gases. If the SEC proceeds with any requirement to disaggregate GHG emissions data, the SEC should limit the constituent GHGs that the registrant determines are material to the registrant's business.

12. The SEC should ensure that, in practice, the rules provide registrants with the flexibility to obtain assurance of GHG emissions disclosures from non-accounting firms.

Under the proposed rules, accelerated filers and large accelerated filers will be required to obtain assurance of their Scope 1 and Scope 2 emissions from an independent "GHG emissions attestation provider."[20] The provider must be "an expert in GHG emissions by virtue of having significant experience in measuring, analyzing, reporting, or attesting to GHG emissions" and must report/attest in accordance with certain publicly available accounting standards.[21]

While the SEC appears to have intended to allow the use of, for example, qualified environmental engineering firms that have traditionally provided GHG emissions verification, the repeated references to accounting standards throughout the proposed rules seem to strongly favor accounting firms. Shifting verification and assurance to accounting firms would likely increase costs dramatically for registrants (one A4A member observed a price differential of 10x when comparing the costs of accounting firms to the costs of environmental firms). This would also harm the businesses currently engaged in these practices while requesting that firms focused on financial accounting be required to audit areas outside of their realm of expertise.

A4A members suggest that the SEC clarify within the final rule that the minimum standards for acceptable assurance expressly permit attestation by non-accounting firms, in addition to accounting firms. For instance, the SEC should consider identifying guidelines and criteria (such as those of the International Organization for Standardization or American National Standards Institute) that govern assurance outside of the financial context. In response to the SEC's request for comment (question 143 on page 236 of the proposing release) on whether GHG emissions disclosure requirements should be located within Regulation S-X instead

[20] *Id.* at 215, 225.
[21] *Id.* at 475.

of S-K (as proposed), A4A members also urge the SEC to maintain any requirements to provide GHG emissions disclosure within Regulation S-K. This would further ensure that registrants are not obligated to use publicly registered independent auditing firms to obtain assurance.

13. The SEC should clarify that registrants are permitted to disclose both net and gross GHG emissions and to otherwise contextualize these emissions.

The SEC proposes to require registrants to disclose, where applicable, the role that carbon offsets or RECs play in the company's climate-related business strategy.[22] In the context of the GHG emissions disclosure requirements, the proposed rules would also require emissions data to be disclosed in gross terms, excluding the benefits of any use of carbon offsets.[23] While the proposed rules would impose certain additional requirements relating to GHG emissions (*e.g.*, to the extent material, the use of any third-party data regardless of scope, gaps in data, changes to methodology),[24] the rules do not explicitly allow registrants to provide other information relating to GHG emissions calculations that may be needed to further contextualize the disclosures.

Aviation is widely recognized as a hard-to-abate sector. While the sector is committed to advancing ambitious climate goals to realize emissions reductions (*e.g.*, improved aircraft and aircraft engines, more efficient air traffic management systems, and – most importantly – SAF usage), aviation anticipates the need to access out-of-sector measures, such as offsets, to reduce net emissions in the near-term and mid-term. And unlike most other industries, certain categories of Scope 1 emissions for the aviation industry are subject to factors not fully within the control of our member airlines. For example, the air traffic management system is managed by the government and greatly influences airlines' efficiency; noise regulations can limit airlines' ability to improve the efficiency of certain procedures; and original equipment manufacturers determine the fuel efficiency of aircraft and engines. These factors can significantly influence the magnitude of our members' Scope 1 emissions and their ability to reduce them.

The SEC should provide registrants with the flexibility to disclose GHG emissions data in gross (excluding offsets) and net (including offsets) terms to ensure offsets may still be counted towards achievement of climate goals and targets. The rules should further allow registrants to include any and all contextualizing information that they deem appropriate to best inform investors on the nature and significance of these emissions.

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[22] *Id.* at 77-79.

[23] *Id.* at 152.

[24] *Id.* at 198-200.

14. The rules should expressly recognize that registrants may use, where relevant, any U.S. government-developed GHG accounting methodologies or standards.

The proposed rules properly refrain from adopting or mandating the use of any particular GHG accounting methodology, while using concepts and terminology from the widely-used GHG Protocol. A4A generally agrees with the SEC's approach, in part because our members also use the Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation (GREET) accounting methodology. GREET is an example of a specific, robust, science-based framework developed by the U.S. government that can be used for calculating emissions reductions associated with SAF. While we believe it is important to establish a single "yardstick" for assessing the carbon intensity of SAF to provide certainty in the SAF marketplace, we also agree that mandating the use of a specific GHG accounting methodology for purposes of SEC reporting would likely be premature. For example, given the SEC's emphasis on the GHG Protocol, registrants may face risk if they opt to use an alternative accounting methodology. Accordingly, the SEC should include an express recognition in the final rules that registrants may use U.S. government-developed GHG accounting standards to estimate GHG emissions where they determine appropriate, provided that the use of such standards is disclosed, along with any material assumptions underlying those estimates.

GOVERNANCE, STRATEGY AND RISK MANAGEMENT

15. The SEC should revise the rules to reflect a principles-based approach, rather than a prescriptive approach, with respect to disclosures of risk management strategies.

The proposed rules set forth detailed new requirements for registrants to disclose their internal processes for identifying and responding to climate-related risks, including how registrants determine whether these risks are material, their relative significance compared to other risks, and how registrants determine whether and how to mitigate such risks. The highly prescriptive and detailed nature of these requirements, which departs from SEC disclosure requirements with respect to other risk categories, may inadvertently trigger disclosures of sensitive and strategic information. With respect to disclosure of risk management strategies in particular, the SEC should adopt a principles-based approach that allows registrants more control over disclosures of potentially sensitive commercial or competitive information.

16. The governance-related disclosures in the proposed rules are overly prescriptive, and the SEC should provide greater flexibility as well as more guidance relating to disclosures on climate oversight.

As a whole, the governance-related disclosures in the proposed rules are overly prescriptive and may not account for the various ways in which registrants structure their governance functions. Notably, the proposed rules would require registrants to disclose whether any board member has climate expertise, as well as to identify the board members or board committee responsible for the oversight of climate-related risks.[25] Imposing an obligation to disclose the climate expertise of board members will create de facto expectations that board members have such expertise. But companies need to consider many different areas of expertise and experience in selecting board candidates, and it may not be feasible or appropriate to single out climate expertise specifically. Moreover, board members typically have access to specialized expertise in any area at any time depending on their needs and the issues facing the company. Any such disclosures identifying individuals as having climate expertise or responsibility for climate at a minimum should not impose any additional duties, obligations, or liabilities on the individual, and the SEC should adopt a safe harbor for this circumstance, similar to that afforded to audit committee financial experts.

17. The proposed rules should allow, but not require, disclosures regarding the use of scenario analysis and other emerging analytical tools.

The field of assessing and mitigating climate risk through the use of emerging analytical tools, such as scenario analysis is nascent and evolving. Forward-looking and/or qualitative information generated by these tools generally does not lend itself to measurement with a high degree of certainty or accuracy. Climate scenario analyses on the effects of climate change, for example, are typically derived from models that incorporate subjective assumptions about future events, parameters and data choices. It is important to recognize that these models have significant limitations and their outputs are highly sensitive to assumptions and parameters. Few registrants currently have the technical expertise necessary to provide disclosures based on these models. While consistent and standardized assumptions may settle over time, more technical work to develop and implement some of these tools is needed before they are incorporated into formal disclosures. The SEC's proposal to require registrants using these tools to disclose "the financial impacts on the registrant's business strategy under each scenario" with both "qualitative and quantitative information," in particular, would not be informative to investors and may result in confusing or misleading disclosures. Therefore, we strongly recommend that any mandatory climate scenario disclosure not require disclosure of projected financial impacts at this juncture.

Further, the SEC's proposal to require such disclosures only for registrants that elect to use these tools would have a disproportionate impact on early adopters and disincentivize companies currently considering them. Many A4A members are already using or beginning to explore the use of scenario analysis as well as other tools, such as transition planning, target setting, and internal carbon pricing. Rather than penalize early adopters of these tools, the SEC should encourage registrants to explore their complexities without the concern of triggering new disclosure

[25] *Id.* at 344.

obligations that would not result in decision-useful disclosures but would potentially divulge competitively sensitive information, which may stymie this type of innovative activity.

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A4A and our members appreciate the SEC's consideration of these comments, and we welcome the opportunity to engage further with the Commission on this important initiative.

Regards,

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