June 17, 2022

Via electronic mail

INSTITUTE OF INTERNATIONAL FINANCE

Chairman Gary Gensler
U.S. Securities and Exchange Commission
100 F Steet, NE
Washington, DC 20549

RE: U.S. Securities and Exchange Commission Proposed Rule on "The Enhancement and Standardization of Climate-Related Disclosures for Investors" (File No. S7-10-22)

Dear Chair Gensler:

The Institute of International Finance (IIF) and its members welcome the opportunity to provide comments on the U.S. Securities and Exchange Commission's (SEC) proposed rule on "The Enhancement and Standardization of Climate-Related Disclosures for Investors" (hereafter 'proposed rule').[1] The IIF is the global association of the financial industry, with nearly 400 members from more than 60 countries, including commercial and investment banks, asset managers, insurance companies, ratings agencies, market infrastructure providers, and professional services firms. Informed by our member working group discussions, we were pleased to submit a response to the SEC's call for public comment on climate-related financial disclosures in June of 2021. In our 2021 response, we emphasized the need for a principles-based framework that is aligned with existing jurisdictional and voluntary climate-related initiatives, towards the shared objective of convergence on an international standard for climate-related disclosures.[2] The IIF has long advocated for improved disclosure frameworks and the importance of international alignment in this space.[3]

The IIF broadly welcomes the SEC's initiative under the proposed rule to introduce a benchmark standard for disclosure of climate-related information, with the aim of providing consistent, comparable, and reliable information that is relevant for investors' decision-making. The IIF supports mandatory requirements for disclosures of climate-related information by issuers, where financially material, to improve comparability and consistency of climate-related information and data in financial markets. Clear, comprehensive, and well-aligned requirements for climate-related disclosures serve investors and contribute to the reliability and robustness of data on climate-related risks, helping address well-known data gaps.

However, there are a number of significant challenges and concerns with aspects of the proposed rule that may warrant reconsideration by the SEC before the rule is finalized. These include definitions and expectations pertaining to assessment of materiality, the need to tailor

[1] SEC, File No. S7-10-22. "The Enhancement and Standardization of Climate-Related Disclosures for Investors."
[2] IIF, "IIF Responds to SEC Consultation on Climate Change Disclosures," (2021).
[3] IIF, "Integrity through Alignment: A 2022 Roadmap for Global Standards and Market-led Approaches in Sustainable Finance," 2022. IIF, "Building a Global ESG Disclosure Framework: A Path Forward," (2020).

certain financial statement metric disclosures, the level of prescriptiveness of certain requirements pertaining to governance and risk management, the scope of safe harbor provisions, and evolving expectations regarding disclosure of transition plans and scenario analysis (where practices are still at an early stage). As such, in the remainder of this letter, we propose modifications to certain aspects of the proposed rule, with the aim of supporting effective implementation by both corporates and financial institutions and enhancing the relevance of disclosed information for investors.

The IIF particularly welcomes the SEC's recognition of international efforts to develop standards for climate-related disclosures and appreciates the SEC's efforts to incorporate recommendations from the Task Force for Climate-Related Disclosures (TCFD), as well as its acknowledgement of the importance of the forthcoming International Sustainability Standards Board (ISSB) standards for climate-related disclosures. The SEC's reflection of these frameworks is an important step towards achieving greater global alignment in disclosure frameworks, which is a critical priority for the IIF membership.

We would like to emphasize, however, that the SEC's proposed mandating of certain TCFD provisions, which have thus far been considered voluntary requirements, may lead to a number of challenges. For example, the transposition of some of the TCFD's recommendations into legal requirements, especially in areas where practices are at an early stage of development, may raise legal risk for filers and result in inconsistent disclosures across jurisdictions.

Considering the current state of development of the ISSB standards, and anticipated steps to integrate these standards in other jurisdictions, we would strongly encourage the SEC to adopt a substituted compliance regime with regard to climate-related disclosures. Such an approach would be in line with existing international and U.S. precedent and would help alleviate concerns about international alignment, facilitating compliance and interoperability among different regimes.

The remainder of this letter focuses on key pillars of the proposed rule that are most salient to members of the global financial industry, as represented by the IIF. These pillars include:

1. Framework basis
2. Materiality
3. Financial statement metrics
4. Governance
5. Strategy
6. Risk management
7. Metrics and targets
8. Safe harbor
9. Implementation

We recognize that there are important relationships and interdependencies among these pillars, where policy choices made in one area may affect approaches taken in another set of proposed requirements. In this context, we would like to highlight three main issues for the SEC to consider given the early stage of industry practices, concerns about the usefulness of disclosures, and the evolving international landscape:

- The SEC should remove requirements pertaining to disclosure of financial statement metrics, currently proposed under Regulation S-X, and reallocate this information to the management discussion and analysis (MD&A) section of disclosure under Regulation S-K, to ensure that information provided is relevant to investors and does not impose undue compliance burdens.
- The SEC should streamline requirements around transition planning and scenario analysis disclosures and consider allowing these disclosures to be furnished, both to ensure consistency in the application of materiality and to reduce disincentives to further development of disclosures. The SEC could consider the work of market-based initiatives that are developing voluntary guidance on transition plan disclosures, building on the work of the TCFD.
- The SEC should only require Scope 3 emissions if material; as data and methodologies develop, Scope 3 emissions disclosure requirements could be extended to encompass registrants' targets and goals, subject to the same materiality requirements. Scope 3 emissions disclosures should be allowed to be furnished rather than filed to help ensure greater liability protection given persistent data gaps and ongoing limitations in measurement methodologies.

We hope that you will find our comments useful and constructive. The IIF looks forward to continued engagement with the SEC on its climate-related risk disclosure framework. Should the SEC have any follow-up questions on this submission, please feel free to contact Sonja Gibbs ([redacted]) or Andres Portilla ([redacted]).

Sincerely,

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Institute of International Finance

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1. Framework Basis, International Alignment, and Equivalence/Substituted Compliance

The IIF appreciates that the SEC has based aspects of its proposed rule on the framework of the TCFD recommendations, with a focus on governance, strategy, risk, and metrics and targets.[4] The TCFD has proven to be a workable and widely accepted framework in climate-related disclosure; several jurisdictions have developed or are now in the process of developing disclosure guidelines and requirements that reflect aspects of the TCFD framework and recommendations. This is illustrated by the fact that the ISSB Exposure Draft IFRS S2 Climate-related Disclosures applies a similar framework to the TCFD.[5] As such, the SEC's use of the TCFD in the development of its proposed rule furthers a strong foundation for strengthening international alignment.

The IIF encourages the SEC to closely monitor developments from the ISSB and the development of its proposals on climate disclosure.[6] It is important that the SEC's final rule be as consistent as possible and interoperable with the ISSB in order to promote alignment around global disclosure requirements. This will enable comparability and greater usefulness of disclosures for investors. To achieve this goal, the SEC should **ensure that its final rule allows for enough flexibility for disclosures to evolve and maintain interoperability with emerging and evolving international standards.** In addition, given the contemporaneous development by the ISSB of an international baseline standard for climate-related disclosures, the IIF recommends that the SEC work to ensure consistency in the international and U.S. disclosure frameworks to benefit investors and financial regulators alike.

Many financial institutions have developed familiarity and experience with disclosure in line with the TCFD framework. The TCFD provides an important foundation for consistent disclosures but there are challenges with the introduction of a voluntary standard (which is intended to lead market practices) into the context of regulatory disclosure requirements – especially where industry practices to deliver disclosures are at an early stage. Accordingly, the SEC should recognize these challenges and allow financial institutions to continue to work on their development. We appreciate that a safe harbor has been proposed for various disclosures, but we believe that the safe harbors need to be expanded.

The SEC's plans to require disclosure from foreign private issuers in addition to U.S.-domiciled firms may pose challenges for globally active institutions, many of which are already subject to similar requirements in other jurisdictions.[7] Providing deference to comparable international

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[4] Question 3. "Should we model the Commission's climate-related disclosure framework in part on the framework recommended by the TCFD, as proposed? Would alignment with the TCFD help elicit climate-related disclosures that are consistent, comparable, and reliable for investors?..."

[5] IFRS, "IFRS S2 Climate-related Disclosures," (2022).

[6] Question 189. "…If we adopt an alternative reporting provision, should that provision be structured to encompass reports made pursuant to criteria developed by a global sustainability standards body, such as the ISSB?..."

[7] Question 183. "Should we adopt an alternative reporting provision that would permit a registrant that is a foreign private issuer and subject to the climate-related disclosure requirements of an alternative reporting regime that has been deemed by the Commission to be substantially similar to the requirements of proposed Subpart 1500 of Regulation S-K and Article 14 of Regulation SX to satisfy its disclosure obligations under those provisions by complying with the reporting requirements of the alternative reporting regime ("alternative reporting provision")?" See also questions 184-188.

disclosure regimes – through an outcomes-based substituted compliance system for foreign private issuers from jurisdictions that have comparable disclosure regimes, or an alternative reporting framework based on international standards – would help reduce the compliance burden of dual-listed foreign private issuers and avoid duplicative regulation, unnecessary operational complexity, and potential conflicts of law.

Any SEC substituted compliance regime should be streamlined and avoid creating a cumbersome process of line-by-line comparisons between the SEC climate disclosure regime and the climate disclosure rules of foreign jurisdictions. Such a cumbersome process wastes regulatory resources from the SEC and international authorities, presents an unnecessarily expensive burden for market participants, and does not further the SEC policy objective of ensuring a robust disclosure framework. Instead, SEC policy objectives can be far better accomplished with a broad degree of deference to foreign regimes so long as certain key pillars and policy goals are satisfied.

As such, the IIF strongly encourages the SEC to **consider implementing an equivalence and/or substituted compliance regime for climate-related disclosures from foreign private issuers from inception of the proposed rule**, in the instance that these disclosures meet core criteria based on international standards.[8] This will ensure that foreign private issuers who use the future ISSB framework, or frameworks mandated in other jurisdictions that may be deemed equivalent to the SEC's proposed rule, have clarity on exemptions from obligations to produce duplicative disclosures if they are materially comparable to (or exceed) the SEC's expectations.

In the case of core financial reporting standards, jurisdictions which apply one of the two dominant regimes (IFRS and U.S. GAAP) typically recognize the other set of standards as equivalent to enable foreign entities seeking to operate in their markets to do so more efficiently. Such an approach for climate-related disclosures would reflect the SEC's established approach of allowing foreign private issuers to list in the U.S. on the basis of financial statements produced under IFRS standards, without additional requirements to reconcile their IFRS accounts with U.S. GAAP. We would also encourage the SEC to **promote this concept as part of international discussions at the level of the ISSB**, as equivalence/substituted compliance mechanisms would significantly benefit U.S.-domiciled issuers that operate abroad and would support objectives of international alignment while increasing market efficiency.

2. Materiality

The term "materiality" is used throughout the proposed rule but appears to be defined differently in certain respects. For instance, some aspects of the proposal apply irrespective of materiality, and many of the proposals are conditioned on a materiality definition. Elsewhere

[8] This is similar, for instance, to the proposed exemption offered to Canadian Multijurisdictional Disclosure System (MJDS) filers.

in the proposed rule, the proposed requirements for calculating and presenting financial impacts are on a line-by-line basis with a 1% threshold.[9]

It is unclear that the application of a 1% or other numeric threshold would indeed provide material information from an investor perspective.[10] Some IIF members have expressed concern that a numeric threshold could lead to a voluminous amount of disclosed information which may not be relevant to core risk exposures related to climate change, and as such be counterproductive to investment decision-making by mixing material and nonmaterial information. Additionally, it is unlikely that the average investor would consider a 1% change in a metric to be information that would fundamentally impact an investment decision. Disclosure of qualitative information is also considered relevant by investors; we believe such disclosures can more effectively communicate high level material issues to investors than a 'line-by-line' basis. Recognizing these multiple issues, the IIF and its members propose our preferred approach, outlined in Section 3 of this letter, **that the provisions regarding financial statement metric disclosures should be revised, which would eliminate the need for the SEC to specify a numeric threshold for disclosure.**

Furthermore, this 1% threshold does not align with legal precedents for materiality set by the Supreme Court of the United States nor is it in line with the generally accepted indicative level of 5% often used in the contexts of financial statements.[11] Because similar requirements do not currently exist under U.S. GAAP, proposed Article 14 of Regulation S-X would present significant interpretative issues, including what represents the baseline for the analysis and how different expenditures should be treated. Given the level of interpretation that would be required, we expect outcomes would not be comparable across issuers. It would also likely result in disclosure of large amounts of extremely granular data that is unlikely to add value to the users of financial statements and further complicate analysis. Further, taking an approach of a 1% per line-item threshold would not be consistent with or indicative of how issuers monitor or manage climate risk and would require highly granular analysis which may not be feasible considering current issues of data quality and availability.

Similarly, the introduction of a 'de facto' assumption of materiality could create unintended disincentives for institutions seeking to provide robust disclosures in emerging areas (e.g., transition plans, scenario analysis). As such, the IIF would encourage the SEC to **clarify where and how registrants should expect to make judgements regarding the materiality of different climate-related risks and opportunities, and how these considerations should be communicated to the market.** In doing so, the SEC should **reflect existing materiality precedents in U.S. financial regulation**, while also considering the potential implications of its

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[9] Question 66. "The proposed financial impact metrics would not require disclosure if the absolute value of the total impact is less than one percent of the total line item for the relevant fiscal year. Is the proposed threshold appropriate?..."

[10] Question 68. "Instead of including a quantitative threshold, as proposed, should we require disaggregated disclosure of any impact of climate-related risks on a particular line item of the registrant's consolidated financial statements? Alternatively, should we just use a materiality standard?"

[11] *TSC Industries, Inc. v. Northway, Inc.*, 426 U. S. 438 (1976) holds that a fact is material "if there is a substantial likelihood that a reasonable shareholder would consider it important" in making an investment decision, or if it "would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available" to the shareholder.

approach to disclosure from an international alignment perspective. Given the contemporaneous development by the ISSB of an international baseline standard for climate-related disclosures, the IIF recommends that the SEC be cognizant of the relationship between its approach to materiality and the approach proposed by the ISSB, from the perspective of alignment and potential interoperability. Materiality should remain in line with the Supreme Court definition, which allows an entity specific determination of materiality that requires professional judgment and allows flexibility in application. To the extent possible, efforts to support interoperability between the international and U.S. definitions of materiality would benefit financial institutions, financial regulators, and most importantly, investors.

3. Financial Statement Disclosure (Comments Pertaining to Section II.F)

Under the SEC's proposed rule, registrants would be required to include climate-related financial statement metrics in a note to financial statements. The IIF is concerned, however, that this element of the proposed rule is not operable and will not result in useful information for investors.[12] Given a lack of development in relevant methodologies and the likelihood of a range of definitions of "severe weather events" and "transition activities," financial institutions are not able to fulfill this requirement with a high degree of accuracy. Financial institutions may also not be able to disaggregate the financial impact of climate risk on financial statement line items in any meaningful way given the number of assumptions required and variables involved. More significantly, the SEC's proposed additions to Regulation S-X requirements would not necessarily yield meaningful, useful information; rather, such an approach could lead to a high volume of disclosure of non-comparable data, which would then necessitate significant effort by investors to assess and compare disclosures.

The SEC acknowledges that "[t]he proposed financial statement metrics disclosures would involve estimation uncertainties that are driven by the application of judgments and assumptions, similar to other financial statement disclosures." A key difference, however, between climate-related risk disclosure and other financial statement disclosure is the novelty around calculation methodologies for climate-related risk and significant data gaps. While elements of financial statement reporting include estimates and assumptions, those are applied in the context of detailed accounting guidance under GAAP, whereas climate-related risk calculations contain a far greater level of subjective judgement calls for which there is no standardized guidance to result in comparable and useful disclosures.

Given the SEC's acknowledgement of "estimation uncertainties that are driven by the application of judgements and assumptions," the IIF recommends that **climate-related financial statement impacts be required not under Regulation S-X in a financial statement, but only under Regulation S-K in the management discussion and analysis (MD&A) section as part of a**

[12] Question 1. "Should we add a new subpart to Regulation S-K and a new article to Regulation S-X that would require a registrant to disclose certain climate-related information, as proposed? Would including the climate-related disclosure in Regulation S-K and Regulation S-X facilitate the presentation of climate information as part of a registrant's regular business reporting? Should we instead place the climate-related disclosure requirements in a new regulation or report? Are there certain proposed provisions, such as GHG emissions disclosure requirements, that would be more appropriate under Regulation S-X than Regulation S-K?"

narrative discussion of risks at a more aggregated level – a far better fit given the implicit judgement calls and subjectivity included in forward-looking climate risk estimates.[13]

In addition to this change, the IIF would encourage the SEC to **clarify the expectations and delineation of disclosures relevant to financial impacts from climate change**. The IIF perceives that the SEC is asking for information relevant to financial impacts under different parts of the proposed rule – for instance, under Regulation S-K, a narrative discussion is required of "the actual or potential negative impacts of climate-related conditions and events on a registrant's consolidated financial statements" while under Regulation S-X, disclosure of the impact on financial statements of "severe weather events and other natural conditions and transition activities" would be required. IIF members note that there is a lack of clarity around these key terms such as "severe weather events."[14] Given a lack of clarity on this definition, registrants are likely to lack consistency in their interpretations. For instance, while one registrant may interpret flooding as a climate-related event, another registrant may interpret it as a natural weather pattern unrelated to climate risk. The most effective way to resolve this challenge is for the SEC to clarify that disclosure of financial impacts should be considered solely under Regulation S-K.

Given the lack of standardization in definitions, constantly evolving climate science, and data gaps, the SEC should **provide greater safe harbor protections** for these difficult judgement calls and estimations.

4. Governance (Comments Pertaining to Section II.D)

The IIF supports the SEC's inclusion of certain TCFD recommendations pertaining to governance in its proposed rule. Given the importance of climate risk management, these issues should be elevated to firms' highest levels of governance. We support the requirement that companies clearly disclose where governance of this issue sits at the board and management levels. That is not an unusual requirement – companies are already required to disclose, generally, how their boards manage risk – and can help investors understand the company's approach to governance.

However, IIF members are concerned that some of the SEC's governance provisions surpass expectations set out by the TCFD, and go beyond current practices, in a way that could potentially be countervailing to the objective of yielding relevant information for investors.[15] A board, for instance, needs to have the flexibility to determine its own appropriate composition, taking into consideration the size of the board, key lines of business, key risks, and the diversity,

[13] Question 5. "Should we require a registrant to present the climate-related disclosure in an appropriately captioned, separate part of the registration statement or annual report, as proposed? Should this disclosure instead be presented as part of the registrant's MD&A?"

[14] Question 63. "Is it clear which climate-related events would be covered by 'severe weather events and other natural conditions'? If not, should we provide additional guidance or examples about what events would be covered? Should we clarify that what is considered 'severe weather' in one region may differ from another region? For example, high levels of rainfall may be considered 'severe weather' in a typically arid region."

[15] Question 34. "Should we require a registrant to describe, as applicable, the board's oversight of climate-elated risks, as proposed? Should the required disclosure include whether any board member has expertise in climate-related risks and, if so, a description of the nature of the expertise, as proposed? Should we also require a registrant to identify the board members or board committee responsible for the oversight of climate-related risks, as proposed?"

expertise, and tenure of board members. The ultimate goal of governance disclosures should be for investors to gain an understanding of how and why the registrant has chosen a particular governance structure.

In particular, proposed requirements regarding specification of board members, management positions, or committees responsible for overseeing climate-related risks could potentially impede the goal of incorporating climate risk considerations into all decisions by assigning focus to certain individuals instead of the entire board or management team.[16] The same goes for proposed disclosure of board members' climate-related risk expertise. By assigning climate-related risk considerations to only some board members or management positions, other members could potentially be less involved or engaged on climate-related topics or responsibilities, which could create disincentives to deepen awareness and expertise. Additionally, board members and managers may be reluctant to be listed as "experts" or responsible for overseeing climate-related risks due to increased liability concerns. Furthermore, the SEC's proposed requirement for climate board expertise is above and beyond existing SEC requirements for directors of an audit committee, with respect to financial statement expertise.

The IIF therefore recommends that the SEC **remove the requirement to disclose board members and management positions who lead firm climate-related risk oversight, and the requirement to disclose who holds relevant "expertise."** Furthermore, we would encourage the SEC to **amend regulation S-K to add an explicit discussion of climate governance at the board and management levels as part of existing requirements related to how boards broadly manage risks as an alternative**. This way, registrants could instead be required to disclose generally how the board of directors and management team is equipped to oversee the climate risks the company faces. If this suggestion is not accepted, however, the SEC should consider granting a liability safe harbor to board members and management team members that are considered to have climate risk expertise similar to the safe harbor arrangements that were introduced as part of the recent SEC proposal on cyber risks.[17]

Similarly, requiring disclosure of the frequency of board or committee discussion of climate-related risk risks elevating form over substance and potentially placing undue emphasis on climate-related risks relative to others that may be more material to the business.[18] We are concerned this disclosure requirement treats climate risk as a "check the box" item when many registrants may be better served discussing climate risk less frequently but in more depth. We similarly recommend **eliminating this requirement in favor of a more principles-based disclosure requirement.**

[16] Question 38. "Should the required disclosure include whether certain management positions or committees are responsible for assessing and managing climate-related risks and, if so, the identity of such positions or committees, and the relevant expertise of the position holders or members in such detail as necessary to fully describe the nature of the expertise, as proposed?"
[17] SEC, "Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure."
[18] Question 35. "Should we require a registrant to disclose the processes and frequency by which the board or board committee discusses climate-related risks, as proposed?"

5. Strategy, Business Model, and Outlook (Comments Pertaining to Section II.C)

Scenario Analysis[19]

The IIF considers scenario analysis a valuable tool for financial institutions to understand their exposures to climate-related risks and has conducted in-depth analysis of current scenario analysis practices by financial institutions and supervisors, including a survey of 20 global financial institutions.[20] Industry stakeholders currently conduct scenario analysis for a variety of purposes, including for internal risk management, to inform strategic decision-making, or as part of regulator driven exercises. At present, scenario analysis practices within the financial sector, from both an industry and regulatory perspective, are nascent and evolving. As this analysis is typically part of internal processes and ongoing regulatory dialogues and supervisory expectations, with potentially confidential and proprietary information, and based on projections of unpredictable future physical and transition risks, we do not believe all scenario analysis exercises are necessarily appropriate for public disclosure.

Due to the subjective structure of scenarios and design choices, which are informed by a range of factors including business models and key markets, it is difficult to see how scenario analysis exercises will have sufficient comparability to be considered useful; since divergence challenges comparability, qualitative information should be prioritized over highly granular data. It should be noted that as firms are developing capacities to undertake scenario analysis at present, there may be significant divergences in results due to the use of different models, approaches, and data; furthermore, there are divergences in how the results are used by firms for internal purposes, for instance, to inform strategic decisions.

Climate risk assessment and in particular, scenario analysis, are still in development – a fact acknowledged by financial services regulators.[21] The proposed rule requires a great deal of granularity (e.g., scenarios considered, parameters, assumptions, analytical choices), which will not necessarily enhance usefulness for investors; instead, it is likely to add an analysis burden. Additionally, many filers face challenges including data limitations due to availability and quality of data. Furthermore, the current state of climate risk assessment does not necessarily lend itself to translating potential risks into impacts on strategy, business model, and outlook.

The level of disclosure the SEC suggests requiring for scenario analysis exercises is also inappropriate due to the nature of potentially sensitive, proprietary information included in forecasted future performance, business plans, capital planning, risk models, and more. This information should remain confidential between financial institutions and their prudential regulators. We would encourage the SEC to **specify that registrants should only be expected to disclose scenario analyses that have been developed in the context of voluntary disclosure**

[19] Question 30. "Should we require a registrant to disclose analytical tools, such as scenario analysis, that it uses to assess the impact of climate-related risks on its business and consolidated financial statements, and to support the resilience of its strategy and business model, as proposed?..."
[20] IIF, "Navigating Climate Headwinds: Reference Approaches for Scenario-based Climate Risk Measurement by Banks and Supervisors," (2021).
[21] Lael Brainard, Federal Reserve. "Building Climate Scenario Analysis on the Foundations of Economic Research." October 7, 2021.

efforts, including TCFD reporting, and clarify that internal analysis containing potentially sensitive information is exempt from this requirement.

Given the range of scenario analysis exercises conducted by financial institutions, we encourage the SEC to **prioritize disclosure of qualitative information rather than quantitative details as part of the MD&A under Regulation S-K,** following the TCFD's framework as a model. The requirement for such disclosures should be limited to **instances where climate change has been determined to present a material risk to the business** and limited to information such as the scenarios an issuer is using and qualitative discussion that allows an investor to understand how the issuer is using scenario analysis. Detailed disclosure on inputs and outputs would not be appropriate.

The IIF is also concerned that since the proposed rule requires the disclosure of scenario analysis "if used," it would disincentivize issuers from developing scenario analysis methods. This would potentially inhibit the development of climate-risk related tools. Some IIF members believe allowing for scenario analysis to be **"furnished" rather than "filed"** would help address this concern.

Further, **greater clarity is needed to understand whether scenario analysis produced at subsidiary or country level for another regulator needs to be disclosed in SEC financial statements** – or if it even can be disclosed given confidential supervisory information requirements.

The IIF also encourages **further collaboration between the SEC and other U.S. financial regulators – and among international authorities –** on policy around scenario analysis to ensure a coordinated approach.

The SEC should also **strengthen proposed safe harbor assurances** for scenario analysis disclosures given their limitations.[22] This would enable registrants to meet stakeholder expectations while also allowing practices to evolve further without a risk of potential liability regarding such disclosures in certain contexts.

Carbon Offsets[23]

The SEC's proposed rule would require registrants to disclose the role that carbon offsets or renewable energy credits play in their business strategy. The IIF notes that multiple industry initiatives are underway to help develop and streamline the carbon offsets space. Standards, such as those developed by the Integrity Council for the Voluntary Carbon Market, are intended to set a foundation for the market's supply side. Other market initiatives such as the Glasgow Financial Alliance for Net Zero are working to develop guidance regarding practices for considering offsets in the context of business strategies, particularly with respect to net zero

[22] Question 31. "Would the PSLRA forward-looking statement safe harbors provide adequate protection for the proposed scenario analysis disclosure? Should we instead adopt a separate safe harbor for scenario analysis disclosure? If so, what disclosures should such a safe harbor cover that would not be covered by the PSLRA safe harbors and what should the conditions be for such a safe harbor?"
[23] Question 24. "If a registrant has used carbon offsets or RECs, should we require the registrant to disclose the role that the offsets or RECs play in its overall strategy to reduce its net carbon emissions, as proposed?"

alignment. The IIF recommends that the SEC **consider the work of these initiatives and others as they progress and accordingly set out a framework for disclosure of offset information**.

6. Risk Management (Comments Pertaining to Section II.E)

General Risk Management

The IIF considers climate risk to be a risk driver, impacting all Major Risk Categories (MRCs). As a transverse risk, IIF members are actively increasing integration of climate-related considerations into their management of the MRCs and overall Enterprise Risk Management Frameworks.

However, IIF members express concern that proposed disclosures on risk management present challenges, and could require disclosure of proprietary information, such as risk identification methods. While the overall framework for assessment of physical (acute and chronic) and transition risk is consistent with that advanced by the TCFD, greater clarity as to SEC expectations will be necessary to understand what boundaries are to be applied. Specifically, the application of the definition to a "registrant's business operations or the operations of those with whom it does business" requires greater clarity. It is not clear whether this scope of application would require the disclosure of material physical climate-related risks for significant third-party vendors, counterparties, or clients. Nor does the scope of application appear to acknowledge the complexity and challenges surrounding assessment of transition risks, including the variety of potential transition pathways and multiple time horizons. While we recognize that it may be appropriate to request high level qualitative disclosure of climate risks that may impact registrants' businesses, the IIF requests clearer boundaries around what to disclose and again suggests adhering to materiality guidelines as currently defined by the U.S. Supreme Court.

For these reasons, it would be beneficial for the SEC to **provide greater clarity regarding expectations of disclosures of risk exposures,** including definitions of upstream and downstream activities (noted as part of the definition of "value-chain") for financial institutions, as the examples provided on page 60 of the SEC's proposed rule are applicable for companies involved in real estate or manufacturing.[24]

The IIF has specific concerns regarding the level of detail recommended for disclosures of physical risks. For instance, the proposed physical risk disclosure requirements will require registrants to produce and disclose large amounts of potentially immaterial information (e.g., detailed locational data for property subject to hazards), and that is unlikely to be meaningful to investors. This is particularly challenging where risk exposures may originate at earlier points in the value chain (i.e., from the actions or decisions of investees) as it has proven difficult to date to obtain detailed information from many investees and other counterparties.

Finally, the IIF believes that the prescriptive prominence the SEC is placing on climate-related risks relative to other issues that may be of equal or greater importance to a particular registrant

[24] Question 17. "…Should we define "value chain" to mean the upstream and downstream activities related to a registrant's operations, as proposed? Are there any upstream or downstream activities included in the proposed definition of value chain that we should exclude or revise? Are there any upstream or downstream activities that we should add to the definition of value chain?..."

may make it challenging for investors to understand what information is actually important to them from a materiality perspective.

Transition Plans[25]

The SEC proposes disclosure requirements for those registrants which have set out transition plans and goals. While transition plans may be used for risk management purposes, they are fundamentally a part of a financial institution's business strategy. It is important that the SEC's rules appropriately treat transition plans as dynamic strategic plans rather than purely part of risk management frameworks and reflect in its disclosure requirements for transition plans the fact that these plans are dynamic, subject to change, and may depend on estimates or assumptions which may or may not prove to be accurate over the longer term.

The IIF supports the SEC's extension of safe harbor to transition plan statements; given their forward-looking nature, flexibility is warranted. More clarity is also needed around the scope of this proposed requirement to ensure the resulting disclosure is useful for investors. IIF recommends **clarifying that the proposed disclosure requirement applies to transition plans that have been developed to address material risk exposures or are expected to have a material impact on the financial performance of the registrant and have been adopted by the board**.

IIF members expressed concern that this requirement could have the unintended effect of disincentivizing issuers from developing transition plans. Transition plans are a new part of financial institutions' climate toolkits, and even with safe harbor for forward-looking statements, mandating disclosure at an early juncture may have a chilling effect on the further development of institutions' transition planning. Given these concerns, we believe a **phase-in approach** may be appropriate, whereby more time is allowed for firms to gain experience with developing transition plans before they are required to disclose them. Some members have also suggested that allowing transition plans to be **"furnished" rather than "filed"** would help reduce disincentives due to liability concerns and provide more information for investors.

7. Metrics and Targets (Comments Pertaining to II.G)

The IIF supports the SEC's proposed adoption of the metrics and targets reflected in the TCFD recommendations. Aspects of the TCFD's recommendations – which include a revised framework of cross-industry climate-related metrics, as well as the introduction of the concept of transition plans – represent a significant development; technical approaches and methodologies in this area, while developing rapidly, are still in their nascent stages. This has implications for the level of preparedness and capabilities of preparers to disclose metrics with a high degree of granularity and confidence, particularly where available data is lacking in quality, coverage, or reliability.

[25] Question 46. "If a registrant has adopted a transition plan, should we require the registrant to describe the plan, including the relevant metrics and targets used to identify and manage physical and transition risks, as proposed? Would this proposed disclosure requirement raise any competitive harm concerns and, if so, how can we mitigate such concerns? Would any of the proposed 113 disclosure requirements for a registrant's transition plan act as a disincentive to the adoption of such a plan by the registrant?" Also see questions 47-51.

GHG Emissions Disclosures

The IIF supports the required disclosure of Scope 1 and Scope 2 greenhouse gas emissions and recognizes the utility of requiring attestation reports for Scope 1 and Scope 2 emissions. However, we would recommend that given calculation challenges, **limited assurance be extended past Fiscal Years 2 and 3 and replace reasonable assurance requirements.**[26]

Additionally, Scope 3 emissions disclosures would also be required under the proposed rule if those emissions are material or if the issuer has set a GHG reduction target or goal that includes Scope 3 emissions. Given the significant challenges around methodology and data, including data availability, double counting, scoping and organizational barriers, it is extremely difficult for financial institutions to calculate Scope 3 emissions with a high degree of confidence. Currently, Scope 3 emissions calculations rely on a varied set of methodologies with different scopes. While there has been progress towards convergence of methodological approaches, there is not yet industry-wide agreement on calculation methodologies that encompass firms' entire portfolios.[27] Recognizing challenges pertaining to data and the current state of methodologies, we recommend the SEC only **require Scope 3 emissions if material; as data and methodologies develop, Scope 3 emissions disclosure requirements could be extended to encompass registrants' targets and goals, subject to the same materiality requirements.**[28] This will foster an environment where more organizations can work on improving the calculation and disclosure of Scope 3 emissions and would also encourage the gradual buildup of an ecosystem of data, independent reviewers, and climate modeling providers to support companies as they implement these changes. Over time, the landscape of available methodologies will be further developed and enable more robust quantification of Scope 3 emissions. The IIF encourages the SEC to **recognize the boundaries of existing calculation methodologies and reflect these limitations in its requirements.**

The SEC should **provide more clarity in instances where Scope 3 targets and goals are set at the consolidated parent level and not at the subsidiary level** and the subsidiary is in scope for separate disclosures under this proposal. The IIF would recommend the SEC provide further guidance for these instances. Registrants would benefit from the addition of illustrative examples setting out methodologies and calculation of financed emissions where the allocation of the emissions data is required at the subsidiary level; however, data may only be available at the consolidated level of a counterparty and not at the legal entity level.

Even once established calculation methodologies are in place for Scope 3 emissions, additional liability should be granted given the ongoing development in this space. The IIF appreciates that the SEC plans to provide a safe harbor[29] for Scope 3 emissions disclosures; in order to more fully address registrants' concerns, however, **we could encourage the SEC to**

[26] Question 135. "Should we require accelerated filers and large accelerated filers to obtain an attestation report covering their Scope 1 and Scope 2 emissions disclosure, as proposed?"

[27] Some members have suggested that the Partnership for Carbon Accounting Financials should be considered a leading approach for Scope 3 emissions calculations.

[28] Question 98. "Should we require a registrant to disclose its Scope 3 emissions for the fiscal year if material, as proposed?"

[29] Question 133. "Should we provide a safe harbor for Scope 3 emissions disclosure, as proposed? Is the scope of the proposed safe harbor clear and appropriate?"

extend safe harbor and provide an alternative pathway for disclosure, such as "furnishing" rather than "filing" Scope 3 disclosures.[30] An additional layer of liability protection is appropriate given the difficulty of completing Scope 3 emissions disclosures with the developing data and methodological landscape. It would also allow the SEC to address timing issues with reporting Scope 3 emissions data by providing for separate disclosure with an appropriate time lag as discussed later in our response. We also suggest that the **safe harbor be extended to other climate-related disclosures (e.g., Scope 2 emissions) that rely on third party data,** as these present the same considerations and liability concerns as Scope 3 emissions data. We believe that this change will help enable an environment where companies will not be discouraged from disclosing internal estimates of Scope 3 emissions, and while comparability across organizations will not be possible, market participants will be able to measure directional change, which we believe should be the current objective of Scope 3 disclosure.

Additionally, the safe harbor proposed by the SEC should be modified in light of the volume of data and number of different sources from which registrants may need to obtain information in order to comply with the SEC's proposed disclosure requirements. Rather than requiring that registrants have a "reasonable basis" to believe that the Scope 3 disclosure is accurate, which would require some registrants to conduct due diligence on thousands of counterparties at least annually, **the safe harbor should apply unless the registrant has actual knowledge that the third-party information it is using in connection with its Scope 3 disclosures is erroneous.**

For Scope 1, 2, and 3 emissions, registrants will be required to disclose their emissions in the aggregate and disaggregated by constituent gas.[31] The IIF agrees that aggregate emissions should be disclosed but believes disclosure of disaggregated emissions, which goes further than the TCFD recommendations, would pose an unnecessary compliance burden and would not result in relevant information for investors. Instead, **disclosure on an aggregated basis should serve as the baseline.** If a specific gas is material to the operations of a specific issuer, **that gas only should be disclosed on a disaggregated basis and all other gases should be disclosed in the aggregate.**

8. Safe Harbor

The IIF appreciates that the SEC's proposed rule would include safe harbor provisions covering Scope 3 emissions, transition plans, and scenario analysis disclosures. Given the difficulty of calculating Scope 3 emissions and the reliance on forward-looking information for transition planning and scenario analysis, a robust safe harbor would give registrants the ability to disclose this important information to the best of their ability with protections from liability.

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[30] Question 100. "Should Scope 3 emissions disclosure be voluntary? Should we require Scope 3 emissions disclosure in stages, e.g., requiring qualitative disclosure of a registrant's significant categories of upstream and downstream activities that generate Scope 3 emissions upon effectiveness of the proposed rules, and requiring quantitative disclosure of a registrant's Scope 3 emissions at a later date…"

[31] Question 94. "Should we require a registrant to disclose its GHG emissions both in the aggregate, per scope, and on a disaggregated basis for each type of greenhouse gas that is included in the Commission's proposed definition of "greenhouse gases," as proposed?..."

The IIF supports the inclusion in the proposed rule of a "provision similar to 17 CFR 229.305(d) that would apply the [Private Securities Litigation Reform Act] PSLRA forward-looking statement safe harbor to forward-looking statements made in response to specified climate-related disclosure items" in order to ensure strong safe harbor provisions for statements made on scenario analysis and climate-related goals.[32]

However, in order for financial institutions to feel confident that they will be protected from liability when disclosing projections from newly developed tools, the IIF recommends the following changes to the SEC's safe harbor provisions, which have been mentioned in previous sections of this letter and are summarized for convenience below:

- Extension of a safe harbor to estimates of climate-related financial impacts and forward-looking climate risks under Regulation S-K;
- Enhanced safe harbor for scenario analysis;
- Enhanced safe harbor for transition plans;
- Enhanced safe harbor for Scope 3 emissions or an automatic safe harbor unless the registrant has actual knowledge that the third-party information it is using in connection with its Scope 3 disclosures is erroneous;
- Safe harbor for Scope 2 emissions based on third party data.

9. Implementation timeline/process

The IIF appreciates that the SEC has set out detailed information on the proposed compliance timeline for its final rule, which would require large accelerated filers to have internal controls in place beginning in fiscal year 2023 for disclosure in 2024. We recognize that there is a great deal of urgency to improve climate risk disclosures. However, the IIF notes that there are significant challenges with this timeframe; if the SEC finalizes the proposed rule by the end of 2022, issuers would then only have a few weeks to build out the capabilities needed to comply with the rule, which may not be possible.[33]

Further, IIF members that currently voluntarily disclose sustainability-related metrics have identified significant challenges with the feasibility of publishing sustainability-related and climate-related financial information at the same time as the publication of their financial statements. Due to the complexity of delivering sustainability and climate-related analyses, it often takes longer for financial institutions to produce non-financial disclosures compared to disclosures of purely financial information due to data scope and complexity. For instance, banks need to close their balance sheet positions as a starting point for calculating financed emissions, and then match those positions with a wide variety of non-financial Environmental, Social, and Governance data that may also lag. Thus, in certain instances, these types of information cannot be gathered and/or published at the same time. Some IIF members have suggested a staggered approach to climate reporting, through the introduction of a reporting

[32] Question 32. "Should we adopt a provision similar to 17 CFR 229.305(d) that would apply the PSLRA forward-looking statement safe harbor to forward-looking statements made in response to specified climate-related disclosure items, such as proposed Item 1502 and Item 1505 (concerning targets and goals) of Regulation S-K?..."
[33] Question 197. "Should we provide different compliance dates for large accelerated filers, accelerated filers, non-accelerated filers, or SRCs, as proposed? Should any of the proposed compliance dates in the table above be earlier or later?..."

lag of up to two quarters for climate-related financial information. Since climate-related risks and opportunities will take longer to manifest as resulting emissions in comparison to the impacts of other financial disclosures, we do not believe this approach would significantly impact the relevance or timeliness of disclosures.

Additionally, the IIF is concerned that the SEC's proposal to require historical financial statement metric data going back three years will not be feasible for financial institutions, given a lack in data infrastructure and methodology and the novelty of these tools.[34] We encourage the SEC to **require data disclosure only on a future and phased in basis**. For instance, in the first year that the SEC's final rule is in effect, registrants should disclose information for the current fiscal year. In the second year, disclosure should be required for the current and previous fiscal year. Beginning with the third year, disclosure should be required for the current and two previous years.

The IIF encourages the SEC to consider how the timeline for its rule finalization will overlap with the ISSB's standard finalization. It would be valuable for the SEC to clarify at what point, and through what mechanisms, its final rule would be amended over time to reflect or otherwise reference aspects of the ISSB IFRS S2 standards as they are developed.

[34] Question 55. "The proposed rules would require disclosure for the registrant's most recently completed fiscal year and for the corresponding historical fiscal years included in the registrant's consolidated financial statements in the filing. Should disclosure of the climate-related financial statement metrics be required for the fiscal years presented in the registrant's financial statements, as proposed? Instead, should we require the financial statement metrics to be calculated only for the most recently completed fiscal year presented in the relevant filing? Would requiring historical disclosure provide important or material information to investors, such as information allowing them to analyze trends? Are there other approaches we should consider?"