

# Congress of the United States

Washington, DC 20515

December 15, 2022

The Honorable Gary Gensler  
Chairman  
Security Exchange Commission  
100 F St. NE  
Washington, DC 20549

Dear Chairman Gensler,

We write to express serious concerns regarding the SEC's proposed rule to enhance and standardize climate-related disclosures. The proposed rule will implement burdensome regulations on smaller companies and create additional entry level regulatory barriers for smaller companies attempting to become publicly traded. We believe this overreach is not only outside of the SEC's expertise, but also does not fall within the SEC's regulatory power.

The SEC's mission is to "protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation. The SEC strives to promote a market environment that is worthy of the public's trust."<sup>1</sup> The proposed rule fails to uphold your core mission. Instead, it would disproportionately impact industries essential to Americans well-being, such as: energy, agriculture, shipping, construction, and transportation to name a few. With inflation rates higher than ever, it's vital to help these industries, not increase regulatory burdens that will further strain them financially. The SEC has estimated this proposed rule would cost a publicly listed company \$420,000 to \$530,000 annually.<sup>2</sup>

Currently, without being required, four out of five companies listed on the S&P 500 already report Scope 1 and Scope 2 emissions.<sup>2</sup> This is in addition to the shrinking number of initial public offerings (IPO). As of July 2022, there were 80% fewer IPOs than the same time period a year prior.<sup>3</sup> By mandating companies to comply with this proposed rule, shareholder returns would be lower and fewer companies could go public.

Furthermore, this proposed rule expands the scope of the SEC to regulate climate. While developing its climate-risk structure, the SEC considered metrics on greenhouse gas emissions, climate-change financial impacts, and advancement towards climate-related goals. Expertise at the SEC is around financial rules, regulations, and disclosures, not climate and environment science. In *West Virginia v. EPA*<sup>4</sup>, the Supreme Court ruled that even the EPA does not possess the authority to create emissions caps, confirming the "major questions doctrine". Similarly, Congress has not granted the SEC authority to regulate corporate emissions, and this proposed rule recklessly expands the scope of the SEC beyond authority granted by Congress.

We have heard from many constituents that these regulations will create additional regulatory burdens and increase barriers to register as a publicly traded company. Given these concerns, we are seeking answers to the following questions:

- 1) Specifically, what law passed by Congress has granted the SEC such authority?
- 2) How does the proposed rule fit into the SEC's mission statement?

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<sup>1</sup> About the SEC. SEC. (2017, April 20). Retrieved from <https://www.sec.gov/about>

<sup>2</sup> Ting Shen for the Wall Street Journal. (2022, May 17). *Fight brews over cost of SEC Climate-change rules*. The Wall Street Journal. Retrieved from <https://www.wsj.com/articles/fight-brews-over-cost-of-sec-climate-change-rules-11652779802>

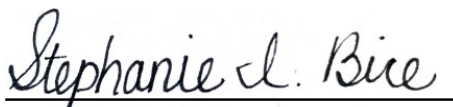
<sup>3</sup> Gura, D. (2022, July 6). *From blockbuster to bust: Behind the precipitous drop in ipos*. NPR. Retrieved from <https://www.npr.org/2022/07/06/1107833982/ipo-stock-blockbuster-to-bust-2022>

<sup>4</sup> *West Virginia v. Environmental Protection Agency* (Supreme Court of the United States June 30, 2022).


- 3) Why are these disclosures necessary or appropriate for investors?
- 4) What third party will be verifying reported emissions?
- 5) What previous factual evidence is there that proves a company's carbon footprint determines its success or failure when yielding returns to investors?

We ask that you provide answers to the questions by December 30, 2022.

Sincerely,



Stephanie Bice  
Member of Congress



Richard Hudson  
Member of Congress



Kat Cammack  
Member of Congress



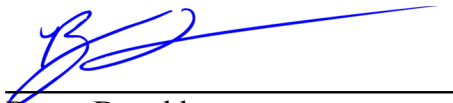
Ann Wagner  
Member of Congress



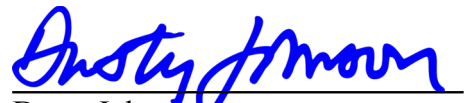
Guy Reschenthaler  
Member of Congress



William R. Timmons IV  
Member of Congress



Byron Donalds  
Member of Congress




Dusty Johnson  
Member of Congress



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Tracey Mann  
Member of Congress



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Carol D. Miller  
Member of Congress



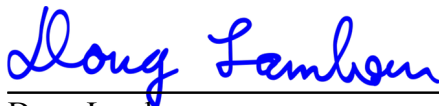
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Austin Scott  
Member of Congress



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Dan Newhouse  
Member of Congress



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Doug Lamborn  
Member of Congress



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Earl L. "Buddy" Carter  
Member of Congress



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August Pfluger  
Member of Congress



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Pete Stauber  
Member of Congress



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Mike Flood  
Member of Congress