AMERICAN ENTERPRISE INSTITUTE

Comment to the Securities and Exchange Commission

Proposed Rule: "Enhanced Disclosures by Certain Investment Advisers and Investment Companies About Environmental, Social, and Governance Investment Practices"

Benjamin Zycher
Senior Fellow, American Enterprise Institute

August 15, 2022

Securities and Exchange Commission
File No. S7–17–22
RIN 3235–AM96

Submitted through the Securities and Exchange Commission Portal:
https://www.sec.gov/cgi-bin/ruling-comments

This comment is submitted to the Securities and Exchange Commission on the proposed rule "Enhanced Disclosures by Certain Investment Advisers and Investment Companies About Environmental, Social, and Governance Investment Practices."[1] It is organized as follows:

Summary
I. The Example of Blackrock.
II. The Pursuit of ESG Definitional "Consistency" Will Harm Investors.
III. Observations on ESG Investing As An Artificial Constraint.
IV. Market Competition As the Proper Source of the Relevant Definitions.
V. The Proposed Greenhouse Gas Disclosure Requirement Is Sophistry.
VI. Conclusions.

[1] The proposed rule is at https://www.sec.gov/rules/proposed/2022/33-11068.pdf.

The American Enterprise Institute (AEI) is a nonpartisan, nonprofit, 501(c)(3) educational organization and does not take institutional positions on any issues. The views expressed in this testimony are those of the author.

Summary

Because "Environmental, Social, and Governance" (ESG) investment choices (or practices) by their very nature are political, there can be no uniform definition of ESG investment that is not arbitrary. Accordingly, the SEC quest for "a consistent, comparable, and decision-useful regulatory framework for ESG advisory services and investment companies to inform and protect investors" will prove futile, and inexorably will evolve into a system in which a few advisory firms will emerge as the dominant providers of the relevant definitions and measurements, an outcome similar to the current duopoly characterizing the market for proxy advisory services. Such a top-down system of uniformity cannot increase the amount and quality of information available to investors because by its very nature it must exhibit arbitrary choices among alternative definitions and approaches. To the extent that investors are interested in ESG issues and investment options, it would be far more efficient to allow market competition to offer a multitude of such definitions, allowing investors to choose among them, a process that would drive market outcomes toward efficiency on the basis of choices made by the marginal investors. The proposed requirement for GHG emissions disclosure for funds is particularly egregious, as it would be a requirement for data far more speculative than the SEC seems to recognize, and is directed at emissions data that do not address the actual future climate phenomena that are far more fundamental. This proposed rule should not be finalized in its current form.

I. The Example of Blackrock

While acknowledging formally its fiduciary responsibility to "promote long-term value" for those whose assets it is managing, Blackrock — the largest asset manager in the world — announced in the form of a public letter two years ago from its CEO Larry Fink to corporate managements that henceforth "Sustainability [will serve] as Blackrock's New Standard for Investing."[2] Blackrock more recently has retreated from that stance,[3] an unsurprising evolution in that nowhere in the various materials previously issued by Blackrock in support of the ESG investment mission was there to be found an actual definition of "sustainability." Instead, Blackrock informed us that

> Sustainability in the investment context means understanding and incorporating environmental, social and governance (ESG) factors into investment analysis and decision-making.

That "definition" is worse than useless, as it quite obviously allows the Blackrock decisionmakers to impose their own political and policy preferences ("ESG factors") upon the business decisions of the firms in which Blackrock is invested heavily, while shunting aside the obvious conflicts and tradeoffs among the myriad ESG objectives that can be imagined.[4] As an

---

[2] See the letter at https://www.blackrock.com/us/individual/larry-fink-ceo-letter. The "sustainability" stance is at https://www.blackrock.com/us/individual/blackrock-client-letter.

[3] See https://www.ft.com/content/48084b34-888a-48ff-8ff3-226f4e87af30.

[4] See https://www.sec.gov/comments/4-725/4725-4827804-177047.pdf, https://www.aei.org/wp-content/uploads/2022/06/Zycher-comment-SEC-climate-risk-disclosures-file-S7-10-22-RIN-3235-AM87-6-17-2022.pdf, and https://www.realclearmarkets.com/articles/2019/07/18/using_the_money_of_investors_to_promote_the_theory_of_warming_103826.html.

example, "environmental" climate policies by their very nature must increase energy costs, an outcome inconsistent with the "social" goal of expanded employment opportunity.[5]

It is inevitable that an attempt to pursue both "long-term value" objectives with political motivations produces inconsistency, an outcome that became increasingly obvious in the Blackrock ESG stance. It is obvious that Blackrock came to understand, narrowly, the adverse implications for investor returns attendant upon the ESG diversion, and more generally the adverse implications of the definitional impossibility of ESG investing. At the narrow level, the imposition of an *ex ante* constraint on investment choices — avoidance of investments in the fossil fuels sector is the obvious manifestation — cannot be consistent with value maximization. At the general level, pursuit of a single objective — value maximization — is straightforward as the goal of investment choices, however complex in terms of implementation in an investment environment characterized by significant uncertainty. But ESG investing by its nature pursues multiple goals, and conflicts and inconsistencies cannot be avoided.

Given these realities, it was not surprising that Blackrock agreed to political deals to avoid those very same ESG mandates in its own operations while striving to impose them on others. Blackrock received last December a demand from Boston Trust Walden and Mercy Investment Services that it align its shareholder votes with its statements on climate matters.[6] The demand was later withdrawn, and The Interfaith Center on Corporate Responsibility, a co-sponsor of the resolution, issued a press release confirming that the withdrawal was the direct result of Blackrock's

> new position and the implications for votes on shareholder resolutions in the 2020 proxy season. This lead *(sic)* to an agreement to continue a dialogue including a summer discussion focusing on 2020 votes on climate and an opportunity to provide feedback to the company. Based on our agreement, we withdrew the shareholder resolution for this year. We are hopeful that Blackrock's voting and engagements will be an effective catalyst stimulating positive company changes on climate. Clearly investors and clients globally will be closely monitoring BlackRock's proxy voting performance on climate to ensure their statements are translated into action.[7]

Mercy Investment Services confirmed the same arrangement: It withdrew its demands to Blackrock as a result of the more concrete commitments the open letter referenced above, to be imposed upon the firms controlled by Blackrock.[8]

Such conflicts were due to the blatant inconsistency between the pursuit of ESG "factors" simultaneously with "long-term value" for shareholders. "Sustainability" is a term ubiquitous in

---

[5] See, e.g., https://www.aei.org/wp-content/uploads/2019/04/RPT-The-Green-New-Deal-5.5x8.5-FINAL.pdf.
[6] See https://www.bloomberg.com/news/articles/2019-12-13/blackrock-vanguard-face-shareholder-rebuke-over-climate-votes#xj4y7vzkg.
[7] See https://www.iccr.org/statement-withdrawal-resolution-blackrock-proxy-voting-climate-change.
[8] See https://www.mercyinvestmentservices.org/article-details.aspx?article=8064.

the public discussion of environmental issues, but which allows for no easy definition.[9] It is that definitional absence that guaranteed that Blackrock's pursuit of "sustainable" investment strategies inexorably would become wholly *ad hoc*: Blackrock had made a commitment that in its actively managed portfolios Blackrock will divest holdings of firms that generate "more than 25 percent of their revenues from thermal coal production," and will initiate "new ESG-oriented investment products, as well as those that [do not include] fossil fuels."[10]

Precisely how does the "sustainability" goal imply those imperatives? Blackrock did not explain that; but the implicit attack on fossil fuels and "climate risk" is quite fashionable.[11] Perhaps it is more important to note that the previous Blackrock ESG approach to investing was deeply problematic in terms of its own business model. Blackrock's central business is index investing, with 194 such funds out of a total of 258.[12] This is not surprising, as index investing derives from the efficient markets hypothesis: The market price of an asset reflects all available information, so that it is difficult at best consistently to do better than the market average return in the absence of inside information.[13] It is easy, however, for an investor to drive down investment expenses by investing in index funds requiring little management, with a resulting long-term net return higher than that for funds managed actively.[14]

Accordingly, it is reasonable to hypothesize that the previous Blackrock sustainability/ESG mission was more than only an attempt to change the management objectives of the businesses in which it is invested. It implies clearly an obvious change in its own investment behavior, because Blackrock obviously cannot divest specific firms included in given index funds defined by third parties. So a central corollary of ESG investing: a shift away from index investing toward active fund management. Do managers of funds pursuing ESG objectives believe that they can achieve returns systematically higher than the market?

II. The Pursuit of ESG Definitional "Consistency" Will Harm Investors

Because there can be no rigorous definition of "ESG" investing, due to the obvious conflicts among multiple objectives, any such operational definition adopted in pursuit of "consistency" and "comparability" cannot be achieved if multiple entities are involved in efforts to produce such definitions. That is the experience with the proxy advisory process, and the SEC effort in its proposed rule to achieve "consistency" and "comparability" will yield the same outcome.

---

[9] It sometimes is defined as a response to the finite quantitative nature of such "depletable' natural resources as fossil fuels. The usual conclusion that such depletable natural resources in fact will be depleted is not correct. See https://www.aei.org/wp-content/uploads/2016/06/World-Oil-Prices.pdf.

[10] See https://www.blackrock.com/us/individual/literature/investor-education/sustainability-faqs-northamerica.pdf and https://www.blackrock.com/us/individual/investment-ideas/sustainable-investing.

[11] See https://www.blackrock.com/us/individual/larry-fink-ceo-letter.

[12] See https://www.blackrock.com/ch/individual/en/products/product-list#type=all&style=All&view=perfNav&pageSize=25&pageNumber=1&sortColumn=fundName&sortDirection=asc&search=index.

[13] See https://www.econlib.org/library/Enc/EfficientCapitalMarkets.html.

[14] See https://www.amazon.com/Random-Walk-Down-Wall-Street/dp/0393330338.

In 2003, the SEC promulgated a regulation[15] that has engendered effects unintended and adverse. It has resulted in an empowerment of two firms as among the most powerful arbiters of corporate governance in America. Those firms, Institutional Shareholder Services (ISS) and Glass Lewis (GL), account for 97 percent of the market for proxy advisory (PA) services.[16] But the voting recommendations flowing from the PA services have been shaped by incentives very different from enhancing value for the shareholders and future pensioners who participate in the funds. There are two problems. The first is that recommendations frequently lack an objective foundation.[17] The second problem is that recommendations by ISS and GL are frequently driven by "environmental, social, and governance" (ESG) investing, a concept coined in 2005.[18] ESG substitutes an amorphous range of political goals in place of maximizing the funds' economic value, that is, the wealth and pension benefits of current investors. Precisely because political goals are political, they are shaped by conflicting value judgments, policy interests, and other such objectives about which there is strong disagreement. There is no obviously "correct" set of investments that satisfy the political demands of the myriad shareholders interested in how the funds allocate their capital. ISS and GL serve as conduits for the spread of ESG political and ideological values, and the SEC has unwittingly increased the width and breadth of those conduits throughout the U.S. economy.

It is not irrelevant to observe that ISS has developed an obvious conflict of interest. It sells consulting services to corporations, advising them on how to get favorable proxy recommendations from that very same ISS.[19] That a fund or company would feel powerful pressures to purchase consulting services from the same firm that passes judgment on its proxies is obvious. This is a classic conflict of the sort regulators have dealt with for bond-ratings agencies, accounting/consulting firms, and investment research/banking firms. Why not for proxy advisors?

III. Observations on ESG Investing As An Artificial Constraint

Advocates of ESG investing argue that such "socially responsible" investment choices do not have to come at the expense of lower returns. That argument is deeply dubious. By definition, the imposition of an artificial investment constraint — reduced or no investment in fossil fuels — cannot yield a systematic return higher than a set of options without such constraints. That truism is clear in the evidence; consider, for example, the effects of divestment from fossil-fuel producers. University of Chicago Law School emeritus professor Daniel R. Fischel found in a study[20] that:

> [Of the] 10 major industry sectors in the U.S. equity markets, energy has the lowest correlation with all others, followed by utilities — meaning that companies in these sectors provide the largest potential diversification benefit

[15] See https://www.sec.gov/rules/final/33-8188.htm.

[16] Because of subsequent staff interventions, the 2003 regulation evolved from a simple requirement that investment funds provide transparency involving potential conflicts into an SEC policy that was interpreted to mean effectively that funds must vote on all proxy issues.

[17] See https://www.mercatus.org/publication/how-fix-our-broken-proxy-advisory-system and https://www.gsb.stanford.edu/sites/gsb/files/publication-pdf/cgri-closer-look-31-proxy-firms-voting-recommendations.pdf.

[18] See https://www.forbes.com/sites/georgkell/2018/07/11/the-remarkable-rise-of-esg/#1e1719201695.

[19] See https://pubsonline.informs.org/doi/abs/10.1287/mnsc.2016.2652.

[20] See http://divestmentfacts.com/pdf/Fischel_Report.pdf.

> to investors, and that divestment would reduce returns substantially.
>
> In particular, Professor Fischel's study tracks the performance of two hypothetical investment portfolios over a 50-year period: one that included energy-related stocks, and another that did not. The portfolio which included energy stocks generated average annual returns 0.7 percentage points greater than the portfolio that excluded them on an absolute basis and 0.5 percentage points per year higher on a risk adjusted basis. In other words, the "divested" portfolio lost roughly 50-70 basis points each and every year over the prior 50-years. Professor Fischel's study also found that ongoing management fees are likely to be as much as three times higher for a portfolio divested of fossil fuel stocks.[21]

There has been extensive research on the question of the returns of ESG portfolios vs. broad index portfolios. For example, Adler and Kirtzman concluded in the Journal of Portfolio Management that "the cost of socially responsible investing is substantial for even moderately skilled investors."[22] A comparison published by the research firm MSCI found that $100 invested in the MSCI KLD 400 Social Index, a popular ESG index, grew to $338.08 for the 15 years ending Nov. 30, 2018. By comparison, $100 invested in the MSCI USA Investable Market Index, comprising approximately 3,000 stocks across all market capitalizations (a proxy for the entire U.S. market), grew to $369.84 – or 9.4% more.[23]

The danger of ESG investing is evident. Trustees of public-pension plans, for example, explicitly have ignored the advice of financial advisors that the plans themselves have hired in order to adopt ESG policies that reduce returns for millions of investors. In May 2017, for example, some members of the board of the $25 billion San Francisco Employees Retirement System (SFERS) proposed divesting its portfolio of holdings of the 200 largest fossil fuel companies that comprise the Carbon Underground 200 stocks.[24] The board then asked its general investment consultant, NEPC, to analyze the consequences of such a divestment. SFERS staff examined NEPC's work and stated:

> Retirement staff concurs with NEPC's conclusion that divestment from Carbon Underground 200 fossil fuel companies will materially reduce the potential risk-adjusted returns from the SFERS public markets portfolio.

Accordingly, the staff recommended against divestment.

In 2016, the California Public Employees Retirement System (CalPERS), the largest public-pension system in the U.S. with about 2 million members, similarly examined whether to continue a policy of blacklisting tobacco companies. Its financial advisor, Wilshire Associates, estimated that the policy had cost the system's members $3 billion.[25] In the end, the CalPERS

---

[21] See https://www.compasslexecon.com/compass-lexecon-releases-fischel-study-on-effect-of-fossil-fuel-divestment-proposals-on-university-endowments/.

[22] See http://jpm.iijournals.com/content/35/1/52.

[23] See https://www.msci.com/documents/10199/904492e6-527e-4d64-9904-c710bf1533c6.

[24] See https://mysfers.org/wp-content/uploads/08092017-board-meeting-07-fossil-fuel-A.pdf.

[25] See https://www.ft.com/content/e87a9b3c-0708-11e6-9b51-0fb5e65703ce.

board decided not merely to retain the ban on tobacco stocks but to broaden it.[26]

And so it is not surprising that ESG investing by public pension funds has yielded penalties for investment returns. (In many cases, it is taxpayers who would have to finance the unfunded pension liabilities of the funds.) A study by James Copland of the Manhattan Institute and David Larcker and Bryan Tayan of Stanford University found "a negative relationship between share value and public pension funds' social-issue shareholder-proposal activism — which is much more likely to be supported by proxy advisory firms than by the median shareholder."[27] As an important example, for the 10-year period examined, the annual average return for CalPERS was 5.6%, while the Vanguard Balanced Index Fund, with holdings roughly divided three-fifths stocks and two-fifths bonds and cash, earned 7.8%.[28] The more recent analyses of returns to ESG investing report mixed findings.[29] One obvious reason for this is the ESG bias toward technology companies, which have earned high returns in recent years.[30] For the five-year period ending August 12, 2022, total returns for the NASDAQ index, the S&P 500 index, and the Dow 30 index are, respectively, 100.02 percent, 70.43 percent, and 51.36 percent.[31]

IV. Market Competition As the Proper Source of the Relevant Definitions

The proposed rule has as a central goal a requirement that

> additional specific disclosure requirements regarding ESG strategies to investors in fund registration statements, the management discussion of fund performance in fund annual reports, and adviser brochures. We believe that these disclosures would promote consistent, comparable, reliable — and therefore decision-useful — information for investors. These changes also would allow investors to identify funds more readily and advisers that do or do not consider ESG factors, differentiate how they consider ESG factors, and help inform their analysis of whether they should invest. To address exaggerated claims about ESG strategies, we are proposing minimum disclosure requirements for any fund that markets itself as an ESG-Focused Fund, and requiring streamlined disclosure for Integration Funds that consider ESG factors as one of many factors in investment selections. … We believe that these requirements would provide improved transparency and decision-useful information to investors assisting them in making an informed choice based on their preferences for ESG investing.[32]

The premise that "these disclosures would promote consistent, comparable, reliable — and

---

[26] See https://www.calpers.ca.gov/page/newsroom/calpers-news/2016/votes-expand-tobacco-investment-ban.
[27] See https://www.manhattan-institute.org/html/proxy-advisory-firms-empirical-evidence-and-case-reform-11253.html.
[28] See https://www.calpers.ca.gov/page/newsroom/calpers-news/2018/preliminary-fiscal-year-investment-returns.
[29] See, e.g., https://hbr.org/2022/03/an-inconvenient-truth-about-esg-investing, https://www.stern.nyu.edu/sites/default/files/assets/documents/NYU-RAM_ESG-Paper_2021%20Rev_0.pdf, and https://kenaninstitute.unc.edu/kenan-insight/does-esg-investing-generate-higher-returns/.
[30] See, e.g., https://www.ft.com/content/ea295d51-d5c2-4916-8c63-017c352ea577.
[31] Underling index values not deflated. See https://finance.yahoo.com/quote/%5EGSPC?p=%5EGSPC.
[32] See the proposed rule at pp. 20-21.

therefore decision-useful — information for investors" is deeply dubious, precisely because ESG is not defined. What is an "ESG strategy?" Because the variability across such "strategies" pursued by different firms, or perhaps a given firm over time, potentially is vast, it is not clear what "decision-useful" information would increase in availability for investors. Is the mere presence of the term "ESG" sufficient to trigger the disclosure requirements? How would such requirements be applied to a firm or fund avoiding use of the term "ESG," perhaps substituting instead various synonyms that are certain to emerge from this process? Even if a consistent set of relevant types of information could be defined and even quantified, how would one know whether that information actually improves the "decision-useful" information available to investors?

The central problem with a top-down "disclosure" requirement imposed by regulation is that it is difficult for regulators to know what information it is about which investors actually care, even apart from the problem that regulators may not have effective incentives to discover the answer to that question, on an ongoing basis. A bottom-up approach instead — allowing market competition to drive firms and funds to supply the information demanded by investors — is far more likely to succeed in terms of that informational goal. Firms and funds competing for investment capital have powerful incentives to preserve their long-term credibility; misleading investors is likely over time to increase a given firm's cost of capital.[33] Note also that only the behavior of marginal investors in terms of shifting capital investment toward firms displaying greater candor is necessary for such market forces to lead toward an equilibrium in terms of capital allocation that rewards honesty. The implicit assumption in the proposed rule that all investors must have "decision-useful" information in order to achieve market efficiency is not correct.

V. The Proposed Greenhouse Gas Disclosure Requirement Is Sophistry

The proposed regulation introduces

> a requirement for ESG-Focused Funds that consider environmental factors. Specifically, we are proposing to require disclosure of two greenhouse gas ("GHG") emissions metrics for the portfolio in such funds' annual reports. We believe the proposed information would provide quantitative metrics related to climate for investors focused on climate risk while also providing verifiable data from which to evaluate environmental claims. This information also would benefit those investors that have made net zero or similar commitments by helping them determine whether a particular investment is consistent with the commitment they have made. Disclosure of GHG metrics could better prevent exaggerated claims in this space by providing consistent, comparable, and reliable data that investors can use when reviewing funds that market themselves as focusing on climate factors in their investment processes. With access to GHG metrics, fund investors and market participants could review the relative carbon footprints and carbon intensity of ESG-Focused Funds against comparable funds and determine whether a fund's climate or sustainability disclosures align with its actual GHG metrics.[34]

[33] See https://www.jstor.org/stable/1833028.

[34] See the proposed rule at pp. 21-22.

The key language in that passage is the assertion that "the proposed information would provide quantitative metrics related to climate for investors focused on climate risk while also providing verifiable data from which to evaluate environmental claims." No, it will not. After all, a given investor interested in the GHG emissions associated with a given fund presumably is actually interested in the prospective climate impacts of those emissions. The impact of the GHG emissions of any given firm (or group of firms in a fund) is effectively equal to zero. Even for the U.S. economy as a whole, a net-zero emissions, if achieved immediately and enforced strictly, would reduce global temperatures in the year 2100 by 0.137 degrees C, using the EPA climate model.[35] The effects of anthropogenic climate change for any given fund are a function of well-mixed global concentrations of GHG in the atmosphere. Even at a global level, the uncertainties and scientific controversies are formidable, and the possible impacts of aggregate GHG emissions and concentrations at a regional or sectoral or firm-specific level would be deeply speculative. More centrally, an investor comparing the effects of relative GHG emissions across firms or funds will be comparing speculative numbers all of which would be very close to zero.

It seems obvious that the GHG disclosure requirement in this proposed rule must be made consistent with that in the previous proposed rule on disclosure of "climate risks." Accordingly, the question of the "risks" posed investors by a given fund's GHG emissions is incoherent; the fund's GHG emissions pose no such "risks" at all because the future climate effects of those emissions are effectively zero. This is true even for such firms as the large integrated fossil-fuel producers "responsible" for GHG emissions vastly greater than average.[36] Precisely because fund-specific GHG emissions create no climate impacts in isolation, and therefore create no "risks," information about the given fund's GHG emissions, whether at the Scope 1, Scope 2, or Scope 3 level, is not material in terms of the purported climate "risks" confronting investors, who might be interested in the climate change question writ large, and therefore the attendant purported impact upon a given firm or industry, but that has nothing to do with the given fund's emissions.

The scope 3 reporting requirement as delineated in the previous proposed rule is particularly problematic. First, a supplier to a given firm presumably is a supplier to many firms; how are the supplier's GHG emissions to be allocated among its various customers? That the possibility of double or multiple counting of a given firm's "Scope 3" emissions is both obvious and very far from a trivial concern. That the supplier's customers themselves in many cases are suppliers to others is a truism that illustrates the enormous complexity of this proposed requirement. The reporting requirements as envisioned in the proposed rule are unlikely to prove feasible, and *a fortiori* for funds aggregating the emissions "data" for many firms.

The central problem with the proposed disclosure requirement for GHG emissions illustrates the larger set of problems inherent in this proposed rule on ESG imperatives: What is measurable is unlikely to be what is relevant to investors. The proposed rule simply shunts this problem aside.

---

[35] See https://magicc.org/.

[36] Such "responsibility" is a deeply problematic concept, in that the production of fossil fuels and agricultural products and cement and the myriad other goods and services yielding GHG emissions is driven by the demands of the users of such products. Why are they not "responsible" for anthropogenic climate change?

VI. Conclusions

Because "Environmental, Social, and Governance" (ESG) investment choices (or practices) by their very nature are political, there can be no uniform definition of ESG investment that is not arbitrary. Accordingly, the SEC quest for "a consistent, comparable, and decision-useful regulatory framework for ESG advisory services and investment companies to inform and protect investors" will prove futile, and inexorably will evolve into a system in which a few advisory firms will emerge as the dominant providers of the relevant definitions and measurements, an outcome similar to the current duopoly characterizing the market for proxy advisory services. Such a top-down system of uniformity cannot increase the amount and quality of information available to investors because by its very nature it must exhibit arbitrary choices among alternative definitions and approaches. To the extent that investors are interested in ESG issues and investment options, it would be far more efficient to allow market competition to offer a multitude of such definitions, allowing investors to choose among them, a process that would drive market outcomes toward efficiency on the basis of choices made by the marginal investors. The proposed requirement for GHG emissions disclosure for funds is particularly egregious, as it would be a requirement for data far more speculative than the SEC seems to recognize, and is directed at emissions data that do not address the actual future climate phenomena that are far more fundamental. This proposed rule should not be finalized in its current form.