



**Mary A. Francis**  
Corporate Secretary and Chief Governance Officer

March 31, 2022

**Via E-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov)**

Vanessa A. Countryman  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington DC 20549-1090

**Re: Proposed Rules – *Share Repurchase Disclosure Modernization* (File Reference No. S7-21-21) and *Rule 10b5-1 and Insider Trading* (File Reference No. S7-20-21)**

Chevron Corporation (“Chevron”, “the company” or “we”) appreciates the opportunity to provide comments to the U.S. Securities and Exchange Commission (the “Commission or “SEC”) regarding the proposed rules, *Share Repurchase Disclosure Modernization*, issued on December 15, 2021 (the “SRP Proposed Rule”), and *Rule 10b5-1 and Insider Trading*, originally issued on December 15, 2021 and reissued on January 13, 2022 (the “Rule 10b5-1 Proposed Rule” and, together with the SRP Proposed Rule, the “Proposed Rules”).

Chevron is one of the world’s leading integrated energy companies. Through its subsidiaries that conduct business worldwide, Chevron is involved in virtually every facet of the energy industry. As of December 31, 2021, Chevron had a market capitalization of approximately \$226 billion. Chevron’s common stock has been listed on the New York Stock Exchange for over 100 years.

We commend the Division of Corporation Finance for its continued efforts to modernize disclosure requirements relating to repurchases of an issuer’s equity securities, prevent abusive practices relating to trading arrangements, and enhance transparency surrounding insider transactions. We believe there is much in the Proposed Rules that would positively advance the Commission’s objective of addressing asymmetries that may exist among issuers and affiliated purchasers and investors regarding information about the issuer and its future prospects. However, for the reasons we discuss further in this letter, we are concerned that certain of the proposals in the Proposed Rules will not satisfy this objective and will result in a significant administrative and economic burden to issuers; hence, we urge the Commission to explore alternative means of achieving its stated goals.

Our comments on selected topics covered in the Proposed Rules are below.<sup>1</sup>

### **The SRP Proposed Rule**

Like many issuers, Chevron utilizes Exchange Act Rule 10b5-1 (“Rule 10b5-1”) trading plans to effect stock repurchases under its stock repurchase program as a key component of its capital allocation strategy to deliver returns to stockholders and to manage dilution in the context of new equity issuances.

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<sup>1</sup> Given that the Proposed Rules address overlapping issues and concerns, we address both proposed rules in this comment letter.

Repurchasing Chevron common stock through our stock repurchase program is one of four financial priorities we have communicated to our stockholders.<sup>2</sup>

Chevron's Board of Directors (the "Board") has authorized the company to engage in stock repurchase programs from time to time since 1997. The Board authorized a stock repurchase program in 2019, with a maximum dollar limit of \$25 billion and no set term limits. As of December 31, 2021, the company had purchased a total of 61.5 million shares for \$6.8 billion, resulting in \$18.2 billion remaining under the program. The company currently expects to repurchase \$1.25 billion of its common stock during the first quarter of 2022 and \$5-10 billion for full-year 2022. Each of the Rule 10b5-1 trading plans under our stock repurchase program requires brokers to comply with the Exchange Act Rule 10b-18 ("Rule 10b-18") safe harbor for issuer repurchases.

### *New Form SR, as Proposed*

While Chevron welcomes the opportunity to provide enhanced transparency regarding stock repurchases and trading plans to stakeholders, including investors, through more frequent disclosure, we believe the new disclosures set forth in the SRP Proposed Rule will not satisfy the SEC's stated concerns of insider manipulation or asymmetric information and will unduly and significantly burden issuers with new procedural and disclosure requirements. While the size and duration of our overall stock repurchase program is approved by our Board and our trading plans are approved by our Chief Financial Officer, daily share repurchases are executed by third-party brokers who evaluate market conditions and execute trades in furtherance of each trading plan's parameters. The Daily Form SR reporting contemplated by the SRP Proposed Rule would place a significant burden on Chevron's staff, and other issuers that regularly repurchase shares on a daily basis, to comply with the new daily reporting requirement and to conduct appropriate validation, given issuer liability for a Form SR filing, in order to ensure the daily reporting is accurate, within an extremely short timeframe.<sup>3</sup>

We believe the new Form SR's significant burden on issuers and brokers would not provide any commensurate benefit to the majority of investors. As an illustration, the average number of shares we repurchased each day in the fourth quarter of 2021 was 105,014—immaterial considering Chevron's average daily trading volume. Most investors, particularly retail investors, are not equipped to make any productive use of the flood of individually immaterial disclosures that would otherwise be required on the proposed Form SR. Rather, any benefits that might accrue from such daily reporting would be captured by a small number of professional market participants who have the resources and incentive to process and interpret vast amounts of data on a daily basis. Unlike retail investors, sophisticated market participants, including software agents (e.g., bots) and hedge funds, could use Form SR disclosures to reverse-engineer an issuer's Rule 10b5-1 trading plan parameters and/or the broker's own proprietary trading strategies when effecting open market purchases on behalf of an issuer, in an effort to develop an algorithmic trading program seeking to "front-run" issuer repurchases, thereby increasing the issuer's costs to the detriment of stockholders and potentially discouraging issuers from entering into Rule 10b5-1 trading plans altogether.

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<sup>2</sup> See Chevron 2022 Investor Presentation (January 31, 2022) at slide 14, <https://chevroncorp.gcs-web.com/static-files/71883748-1388-4f50-ab4a-69128f30e68c>.

<sup>3</sup> The timeline for submitting Forms SR under the SRP Proposed Rule compounds the burden placed on issuers based on the West Coast, including Chevron, which would be subject not only to next-day reporting but also an unreasonably early deadline on that day, given the time difference. This is in contrast to the requirements under Form 4, which provides for a two-business day filing deadline for insider transactions, which are significantly less frequent than those which would be reported under Form SR, and gives issuers until 10 p.m. Eastern Time to file.

The daily reporting required by new Form SR, if adopted, would also quickly inform sophisticated market participants when issuers and/or brokers cease repurchasing shares, leading the market participants to perhaps assume that the issuer is pivoting to alternate uses of capital (e.g., M&A activities) or has determined that its shares are overvalued. To avoid these implications, in some instances, issuers may be compelled to continue to repurchase shares for Form SR reporting purposes only, despite such action being determined to be a suboptimal corporate strategy. For the foregoing reasons, we believe that Form SR, if adopted, will publicly disclose issuer trading strategies at a level of detail that is not required of any other type of investor, lead to information asymmetries between types of investors and chill legitimate trading activity, all to the detriment of smaller institutional and retail stockholders, those whom the Commission intends to protect with this rulemaking.

### *Suggested Enhanced Disclosure*

We understand the goals of the SRP Proposed Rule are to provide investors with useful information, to prevent or identify insider manipulation of share repurchases, and to negate any information asymmetries. We respectfully submit that the objectives of the SRP Proposed Rule may be achieved in a manner much less burdensome to issuers if the Commission instead pursues enhanced disclosure under an amended Item 703 of Regulation S-K on a quarterly basis.

For most issuers with ongoing stock repurchase programs, repurchases are significant in terms of stock volume only in the aggregate on a quarterly basis. With this in mind, we believe that expanded quarterly data and disclosures on repurchases may be presented in Form 10-Q and Form 10-K through implementation of relatively straightforward amendments to Item 703 of Regulation S-K. This would provide meaningful information to investors and avoid the unintended effect of potentially allowing sophisticated firms to reverse-engineer the strategies of Rule 10b5-1 trading plans.

### **Rule 10b5-1 Proposed Rule**

At Chevron, since 1990, certain employees, including executive officers, receive a portion of their compensation in the form of stock options, stock appreciation rights, restricted stock, restricted stock units, other share-based awards (including performance shares) and/or non-stock awards through our Long-Term Incentive Plan (“LTIP”), the objective of which is to encourage performance that drives stockholder value over the long-term. LTIP equity grants comprised approximately 78 percent of our Chief Executive Officer’s compensation in 2021, and approximately 66 percent of the compensation of our other named executive officers. Similarly, we design our non-employee directors’ compensation program to link rewards to business results and stockholder returns. In 2021, 60 percent of the compensation of our non-employee directors was paid in the form of restricted stock units that vest approximately one year after the date of grant.

In the ordinary course, certain of our employees (including our executive officers) enter into trading plans to sell Chevron common stock underlying these equity grants in accordance with the Rule 10b5-1 safe harbor. To prevent abuse or the appearance of abuse, Chevron’s governance practices require several safeguards, including among others, that: (i) all of these Rule 10b5-1 trading plans have a minimum 90-day cooling-off period following execution (essentially from trading window period to trading window period), (ii) an option tranche may be committed only to a single trading plan, and (iii) modification or termination of trading plans are only allowed in extraordinary circumstances.

### *Good Faith*

Each Chevron insider who enters into a Rule 10b5-1 trading plan represents at the time of execution that he or she established the Rule 10b5-1 plan in good faith at a time when that person was unaware of any material non-public information (“MNPI”). We support the Commission’s proposal to expand the good faith provision as set forth in the Rule 10b5-1 Proposed Rule. However, we recognize that operations are unpredictable, and issuers, such as Chevron, may request that insiders modify or terminate their trading plans in advance of unexpected events, such as M&A transactions, in order to prevent any appearance of insider trading. While Chevron only permits modification or termination of trading plans in extraordinary circumstances, we request that the final rules adopted by the SEC with respect to Rule 10b5-1 trading plans clarify that the good faith certification in connection with a trading plan not be rendered null if the plan is modified or terminated prior to its execution.

### *Enhanced Disclosures*

The Rule 10b5-1 Proposed Rule would require an issuer to disclose in tabular format in a Form 10-K any option grants made within 14 days of the release of MNPI. We believe such disclosure requirements are unnecessary and could lead to potentially misleading disclosures. It is common for large issuers to adhere to consistent option grant practices at specific times throughout the year. The tabular disclosure required by the Rule 10b5-1 Proposed Rule would therefore present correlations that suggest “spring-loading” or “bullet-dodging,” regardless of when the timing of option grants had been determined (which may have been long before the issuer was in possession of MNPI). Rather than being useful to investors, this new information would fail to reflect an issuer’s option grant policies and may lead to inaccurate interpretations. Moreover, as noted above, the timing of insider’s transactions, as disclosed in Exchange Act Section 16 reports, can be compared to company press releases, periodic reports, and share repurchases disclosed under Item 703 and/or proposed Form SR, which would enable both the markets and regulators to quickly identify any concerning transactions associated with potential “spring-loading” and “bullet-dodging.”

### *Cooling-Off Periods*

Chevron believes that the 30-day and 120-day cooling-off periods set forth in the Rule 10b5-1 Proposed Rule are excessively lengthy and unnecessary to achieve the Commission’s goal of preventing insiders from trading on the basis of MNPI.

If adopted, we believe the 30-day cooling-off period will discourage issuers’ efforts to deliver returns to stockholders in compliance with Rule 10b-18. Many issuers, including Chevron, enter into successive Rule 10b5-1 trading plans as part of a long-term capital allocation strategy. In Chevron’s case, each plan sets forth parameters for repurchases during a distinct period (e.g., per quarter) and is managed by a different or rotating broker to mitigate risk of underperformance. If adopted, the 30-day cooling-off period will make use of Rule 10b5-1 trading plans more difficult by requiring multiple 30-day cooling-off periods throughout the year, including in the case of routine amendments to existing trading plans, which will deter issuers from entering into trading plans with brokers, which may lead to market volatility and abuse. We respectfully request that the Commission not impose a mandatory 30-day cooling-off period for issuers to allow issuers the flexibility to pursue the business advantages and important benefits to stockholders that motivate issuers to implement these plans.

Similarly, if adopted, we believe the 120-day cooling-off period will significantly disincentivize the use of Rule 10b5-1 trading plans by directors and officers. Chevron has adopted a policy that requires its insiders to wait 90 days after entering into a Rule 10b5-1 plan before trading, which is, in our view,

sufficiently long to cleanse any quarter-to-quarter financial reporting or other corporate knowledge and ensures that plans can be entered and made effective only in a window following a quarterly public financial disclosure. Chevron has enforced this policy since 2004, and it has shown to be an adequate safeguard against fraudulent or abusive conduct. A 120-day cooling-off period, if adopted, will prevent diligent insiders—who take every opportunity to guard against insider trading—from accessing a significant portion of their compensation. Such action may result in issuers revising their compensation practices to focus on cash rather than at-risk equity grants, which will dissolve the desired link between at-risk pay and stock performance. We respectfully request that the Commission consider implementing a 90-day cooling-off period for insiders, which will remove the chilling effect of an overly long cooling-off period while achieving the Commission’s goals.

### *Prohibition against Overlapping Plans*

The Rule 10b5-1 Proposed Rule, if adopted, would prohibit “overlapping Rule 10b5-1 trading arrangements for open market trades in the same class of securities.” We agree with the Commission that the affirmative defense against insider trading should not apply in circumstances in which corporate insiders enter into multiple plans that run simultaneously, then selectively cancel plans on the basis of MNPI. We request that, in its final rules, the Commission provide additional guidance as to the precise meaning of “overlapping plans.”

Specifically, we request that the Commission clarify that entering into more than one plan at one point in time would not constitute “overlapping,” as long as the plans do not cover the same period. It is common for issuers and insiders to enter into several Rule 10b5-1 trading plans at the beginning of the year, or at a single point in time, arranging for one plan to cover different periods of time (e.g., per month, per quarter, per six-month period). Given that the effective periods of issuer and insider trading plans under such an approach are sequential rather than simultaneous, insiders and issuers cannot selectively choose which plan to apply at any given point in time while canceling or terminating undesirable plans. A clarification in this regard would avoid ambiguity and assure issuers and insiders that utilize this strategy that their Rule 10b5-1 trading arrangements are not prohibited under the Rule 10b5-1 Proposed Rule. It would also enable insiders to implement a strategy, if desired, of ensuring continuous coverage under Rule 10b5-1 trading plans, without requiring a gap to restart the clock on a new cooling-off period before the next trading plan trades could be executed. We urge the Commission to strengthen the requirements to access the Rule 10b5-1 affirmative defense to insider trading without deterring the legitimate adoption of Rule 10b5-1 trading plans and damaging the value and benefits of at-risk compensation to issuers and insiders.

### **Issues Relevant to the Proposed Rules**

#### *Plans Executed Prior to the Effective Date of Adoption of any Rules*

We also urge the Commission to specifically allow those trading plans executed prior to effectiveness of any new rules to remain in place without need for amendment or termination. Any new rules that would require pre-existing plans to be amended or terminated for failure to meet the requirements of the final rules would impose a significant financial burden on companies and insiders, without providing any significant benefit to investors. In addition, any retroactive application of the Proposed Rules, if adopted, would unfairly force issuers and insiders to cancel trades under pre-existing trading arrangements that were duly entered into when such issuers and insiders were not in possession of MNPI. To ensure the Proposed Rules do not impact legitimate trading arrangements, we urge the Commission to not retroactively apply the Proposed Rules, if adopted, and allow these plans to go into effect according to their original terms.

**Conclusion**

We hope our comments are helpful to the Commission in determining next steps for these proposed rules. If you have any questions on the content of this letter, please contact me at (925) 842-1000.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Francis", is centered on a light gray, textured rectangular background.

Mary A. Francis  
Corporate Secretary and Chief Governance Officer

cc: The Honorable Gary Gensler, Chair  
The Honorable Hester M. Peirce, Commissioner  
The Honorable Allison Herren Lee, Commissioner  
The Honorable Caroline A. Crenshaw, Commissioner