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Chair Gary Gensler
U.S. Securities and Exchange Commission
100 F St NE
Washington D.C. 20549
Re: Public Input Welcomed on Climate Change Disclosures
Submitted via email: rule-comments@sec.gov

On behalf of millions of senior citizens represented by the 60 Plus Association, a significant proportion of which consider themselves “mainstream investors”, thank you for the opportunity to comment on Commissioner Lee’s March 15th request for public comment on climate change disclosure.

The **60 Plus Association** joined and wishes to highlight its support of the two respective sets of foundational comments provided by the **Competitive Enterprise Institute** (CEI) in response to questions raised.

Senior Citizens are an exploding proportion of the demographic associated with securities managed by retirement systems, life insurance companies, and themselves. All seniors, including the millions reliant on social security, and those who do not own security interests are impacted by the policy actions of the Securities and Exchange Commission which have effects throughout the multi-trillion-dollar economy. We appreciate the CEI establishing the significance of this perspective for all Americans regarding climate change disclosures.

60 Plus Comments:

60 Plus’ comments are responsive to Commissioner Lee’s invitation for comments on how the Commission can best regulate climate change disclosures generally. We believe two points are instrumental to meaningfully answering nearly all the 15 questions posed in the request.

Two background notes:

On July 30, 2018, former Chairman Clayton announced a Staff Roundtable on the Proxy Process associated with shareholder proposals and invited public comment on ideas for a potential rulemaking. The Sixty Plus Association organized comments from a number of

ordinary senior citizens, who among other observations, intuitively expressed the importance of all citizens in the proxy process and of being transparent and adequately represented by the dominant proxy advisory firms. Chairman Clayton highlighted the interest of ordinary citizens and focused an emphasis on such senior citizens who should be considered “mainstream” investors prior to and during an oversight hearing of the Senate Banking Committee December 10, 2019. He received criticism from certain Senators for a misplaced focus. The 60 Plus Association thanked him.

Secondly, **on February 3, 2002**, the 60 Plus Association responded formally pursuant to a proposed rule, *Amendments to Exemptions From Proxy Rules for Proxy Voting Advice*. Our comments focused on two aspects of the rulemaking that we believe are equally applicable to all the SEC’s existing and contemplated disclosure requirements, including those related to “climate change” and other “socially responsible goals”. Accordingly, we have attached a copy of that five-page comment for review and consideration. (Attachment: *Comments pursuant proposed rule, Amendments to Exemptions from Proxy Rules for Proxy Voting Advice, File number S7-22-19*)

In light of Chairman Gensler’s recent public statement of June 1, 2021 directing the staff to consider whether to recommend further regulatory action regarding proxy voting advice, we believe review of the comments are worthwhile. It is a straightforward presumption that such further staff consideration will involve generic disclosure issues beyond “codification” of the definition of solicitation and potentially extend to all SEC disclosure mandates presently associated and contemplated with Socially Responsible Investing, and Environmental, Social, and Governance objectives. (ESG)

[We note as well that OMB Control number 32 35 which is associated with the proxy amendment rule, and must be displayed by the final rule, has not, to the best of our understanding, received approval, and is not a validly assigned control number, thereby raising the specter of the inability to enforce the rule unless the Commission take further action].

Two Instrumental Points

- 1. Consider the growing and rapidly changing demographic of senior citizens as “mainstream investors” and a vested generational interest in the review, development, and changing environment of all SEC mandated disclosure requirements within whatever legislatively authorized and integrated context the SEC chooses.**

The climate change disclosures and the information provided impact seniors differently, and disproportionately to seniors with a shorter life span and different quality of life needs about changing material risks, uncertainties, impacts, and opportunities. The concepts of materiality and fiduciary responsibilities play differently for investors who are seniors. What roles the SEC is authorized by Congress to undertake in mandating voluntary or required ESG disclosures

should explicitly recognize the different generational stakes seniors have from younger people in addressing the information needs of seniors and protecting the integrity of the marketplace for securities.

As 60 Plus observed previously re the proxy advisory comments, (See attached comments), the value of information disclosed and made available is perceived and evaluated differently as a result of generational differences. All the SEC disclosure mandates, including those related to ESG objectives should be keenly mindful of the distinctions in the rapidly changing technological environment within we now find ourselves.

2. The Paperwork Reduction Act (PRA) is applicable to nearly all SEC disclosure mandates, required or voluntary. (44USC3501 *et seq.*)

Since 1942 the SEC has been within the scope of the Federal Reports Act, and its successor statutes the 1980 Paperwork Reduction Act, the 1986 Paperwork Reduction Act, and the 1995 Paperwork Reduction Act¹.

The 1995 the PRA addressed the Supreme Court case in *Dole v. United Steelworkers* 494 U.S.26 (1990) and amended the statutory definition of “collections of information”, to clarify and specifically include *...the disclosure to third parties or the public of facts or opinions by or for an agency.* (44USC3502).

The purposes of the PRA include minimizing the burden and maximizing the utility of federally sponsored “collections of information” within the scope of the Act’s statutory scheme. To that end, statutory definitions are provided in Section 3502 for the terms ‘agency’; ‘burden’, ‘collection of information’; ‘Director’; ‘independent regulatory agency’ ‘information resources’ ‘information resources management’; ‘information system’; ‘information technology’; ‘person’; ‘practical utility’; ‘public information’; ‘recordkeeping requirements’; and ‘penalty’.

The statutory scheme establishes a government-wide structure, processes to enable the management of information resources management which engage the public as an information resource, and procedural protections for the public embodied in the Public Protection section 44 USC 35 which begins “Notwithstanding any provision of law... and inhibits collections of information which are illegally promulgated under the terms of the Act and do not display a validly assigned control number.

Independent agencies such as the SEC are to follow the law, justify their collections of information specifically contained in rules or outside notice and comment rulemaking, (such as

¹ Robert Coakley, A Board of Director of the 60 Plus Association contributed and is a signer of these comments. He was involved in the legislative deliberations and enactment of the 1980, 1986, and 1995 Paperwork Reduction Acts during the Carter, Reagan, and Clinton Administrations. He is familiar with the Act’s statutory scheme and provisions as well as the corresponding regulation at 5CFR Part 1320.

guidance documents which effectively sponsor voluntary or involuntary collections of information), and subject their justifications for public comment and Executive Office approval. Should they disagree with a disapproval they may vote to override. This is the mechanism that Congress established first in 1980 to ensure the independent integrity of independent regulatory bodies.

In reviewing its present integrated disclosure system, including its disclosure mandates for existing and contemplated climate change disclosure mandates, the SEC could take the occasion to evaluate the extent to which it presently follows the law consistent with the information resource management encouragements, requirements and procedural protections of the Paperwork Reduction Act.

The 60 Plus Association, for reasons given above, believes it makes common sense to do so in making any framework assessment for SEC mandated climate change disclosures.

It is worth noting the PRA requires 3 year “Sunset” reviews of federally sponsored collections of information. When Congress last considered this comprehensive Sunset requirement in 1995 the legislation explicitly included disclosure requirements and passed without a single dissent on roll call votes in both bodies.

Thank you for the opportunity to comment.

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The 60 Plus Association is a 29-year-old nonpartisan organization working for death tax repeal, saving Social Security and Medicare, affordable prescription drugs, lowering energy costs and other issues featuring a less government, less taxes approach as well as a strict adherence to the Constitution. 60 Plus calls on support from over 5 million activists. 60 Plus has been called, “an increasingly influential senior citizen’s group,” and recognized as the conservative alternative to the AARP.

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