



June 10, 2021

Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Public Input on Climate Change Disclosures

Dear Ms. Countryman,

We write in response to Commissioner Lee's March 15, 2021 public statement requesting input on climate change disclosures (the "Request").¹ The Asset Management Group of the Securities Industry and Financial Markets Association ("SIFMA AMG")² appreciates the opportunity to share our members' perspectives on some of the issues we believe are important for the Securities and Exchange Commission (the "SEC") to consider as it evaluates proposing climate change-related or similar disclosure rules.³ In an effort to avoid duplication and repetition, this letter addresses the main thematic points that will be important for facilitating the disclosure of consistent, clear, intelligible, comparable and accurate information on climate change that is useful to investors. Many of SIFMA AMG's

¹ See Then-Acting Chair Allison Herren Lee, *Public Input Welcomed on Climate Change Disclosures*, U.S. SECURITIES AND EXCHANGE COMMISSION (March 15, 2021), <https://www.sec.gov/news/public-statement/lee-climate-change-disclosures>.

² SIFMA AMG brings the asset management community together to provide views on U.S. and global policy and to create industry best practices. SIFMA AMG's members represent U.S. and global asset management firms whose combined assets under management exceed \$45 trillion. The clients of SIFMA AMG member firms include, among others, tens of millions of individual investors, registered investment companies, endowments, public and private pension funds, UCITS and private funds such as hedge funds and private equity funds. For more information, visit <http://www.sifma.org/amg>.

³ This letter is being submitted on behalf of SIFMA's Asset Management Group. SIFMA's broker-dealer and investment bank members are submitting a separate response. SIFMA AMG appreciates the assistance of Michael Littenberg, Alexander Simkin, and Dominique Rioux of Ropes & Gray LLP in the preparation of this response.

recommendations respond to more than one of the questions presented in the Request, which we have noted below.

SIFMA AMG welcomes the SEC's interest in facilitating the disclosure of useful information on climate change, and believes the SEC's participation in the ongoing global dialogue on this matter is critical to the efficient functioning of global capital markets. Creating enduring rules that meet investor needs but that are not unduly burdensome on registrants will require close coordination between the SEC and multiple domestic and international regulatory authorities, standard setters, and other stakeholders, as well as a careful balancing of potentially competing priorities. While it will take significant work, the SEC, and the United States, can and should be at the forefront of establishing climate-related disclosure rules and guidelines that strike this balance.⁴

We note that this letter focuses primarily on climate change-related disclosures. SIFMA AMG believes it is prudent for the SEC to focus its efforts on climate change-related disclosure before potentially addressing other ESG-related disclosures.⁵ Understanding how a company is analyzing and addressing climate-related risks and opportunities is material to investment and voting decisions for a large number of investors.

1. Disclosures should be expressly required when they are material. Disclosure requirements should take into account that the materiality of climate change varies among industries and companies within industries.⁶

SIFMA AMG recommends the SEC adopt a smart mix of mandatory disclosures of core metrics that apply across industries and principles-based climate disclosures, supplemented by additional industry-specific guidance. This approach will result in a balance of consistent, clear, intelligible, comparable and accurate material information across registrants and tailored, thoughtful registrant-specific disclosures, while

⁴ This letter focuses on climate change-related disclosures by corporate registrants, since that is the focus of the Request. If, in the future, the SEC considers broader climate-related disclosure requirements that would require disclosures by institutional investors, SIFMA AMG would encourage the SEC to seek our input, given the depth of knowledge and experience of our members in this area. Accordingly, the discussion of "registrants" in this letter is not intended to include registered investment companies. It also is not intended to include corporate and other issuers that do not have ongoing reporting obligations under the Securities Exchange Act of 1934, as amended.

⁵ SIFMA AMG also believes the establishment of consistent and comparable disclosure requirements for other ESG considerations is important, but recognizes that the SEC's request and resource constraints drive the need for the SEC to first focus on climate-related disclosures.

⁶ See Request Nos. 1 through 6.

reducing compliance costs for issuers and ensuring a flexible disclosure regime that can meet evolving circumstances.

A. Core Metrics Disclosures⁷

As noted above, SIFMA AMG believes all registrants should be required to disclose a core set of key climate-related metrics. These metrics should include the following:

- Greenhouse gas (“GHG”) emissions, broken down by Scopes 1 and 2;⁸ and
- Carbon footprint and/or weighted average carbon intensity.⁹

SIFMA AMG encourages the SEC to clearly define boundaries for emissions tracking and ownership for any key core metrics that it requires to be disclosed. This information is important to investors because it will enable them to better measure, monitor, and de-escalate climate-related risk for the registrants in their portfolio.¹⁰ At present, without standard core metrics, investors must use imprecise qualitative assessments and ballpark estimates for assessing registrants’ climate-related risks. It also is important for investors to have accurate and reliable data to be able to have meaningful conversations with registrants pertaining to climate risks and opportunities. In addition, the foregoing metrics are necessary to enable investors to meet numerous domestic and international regulatory and commercial risk management-related requirements. Investors are increasingly being compelled to monitor and evaluate sustainability risk, in addition to more traditional risk measurements like liquidity risk.

⁷ See Request Nos. 1 and 2.

⁸ SIFMA AMG hopes that, over time, some categories of scope 3 emissions may also be required as part of a core set of climate-related metrics, as is discussed later in section 2(B).

⁹ We propose that registrants be permitted to disclose weighted average carbon intensity either instead of or in addition to carbon footprint because carbon footprint may not be applicable as a metric to all registrants, such as publicly traded asset managers. The Task Force on Climate-related Financial Disclosure’s (“TCFD”) formula for carbon footprint allocates GHG emissions on an equity ownership basis and utilizes market capitalization as an input. Publicly traded asset managers would not be able to include their fixed income assets under management in their disclosures under this definition.

¹⁰ SIFMA AMG recognizes that many registrants are already voluntarily disclosing more climate-related information than the key core metrics recommended in this section. SIFMA AMG’s proposal should not be construed to suggest that registrants should cease providing the climate-related information that they are already sharing. To the contrary, SIFMA AMG hopes that, outside of their SEC filings, registrants will provide additional climate-related metrics, and expects that this will be possible for an increasing number of registrants to do over time.

As the SEC is aware, other jurisdictions are moving toward requiring public companies to disclose climate-related metrics. In order to ease the burden on foreign registrants and thus any adverse impact on investment returns, the SEC should proactively identify other jurisdictions that require registrants to disclose substantively equivalent metrics to those adopted by the SEC and allow disclosures under those alternative regimes to satisfy a foreign registrant's disclosure obligations under SEC rules. The SEC has taken a similar approach with respect to resource extraction payment disclosures.¹¹

B. Principles-Based Disclosures¹²

In addition to core metrics disclosures, registrants should be required to make principles-based climate disclosures. We advocate an approach analogous to that recently taken by the SEC with respect to human capital disclosures.¹³ Although other parts of the SEC's existing principles-based disclosure regime currently require registrants to disclose material climate-related information, a principles-based disclosure requirement specific to climate is needed to ensure that registrants adequately and thoughtfully address climate matters in their disclosures and do not default to a "check the box" approach of merely disclosing required metrics and boilerplate risk factors. This principles-based component should expressly require disclosures relating to climate-related risk to the extent such disclosures would be material to an understating of a registrant's business. SIFMA AMG recommends that the SEC's principles-based disclosures conceptually align with the four pillars of the TCFD: governance, strategy, risk management, and metrics and targets.¹⁴

A principles-based component to any climate disclosure rules also is of critical importance because, to be effective, the rules must have flexibility built in. Investor views on what climate-related information is material are evolving and are likely to continue to do so for the foreseeable future. In addition, beyond key core metrics, material climate-related information varies by industry and even among companies within the same industry. Rule-making in this subject area must take these considerations into account to

¹¹ See Disclosure of Payments by Resource Extraction Issuers, Exchange Act Release No. 34-90679, 86 Fed. Reg. 4662 (Dec. 16, 2020) (codified at 17 C.F.R. §§ 240, 249b), <https://www.sec.gov/rules/final/2020/34-90679.pdf> and Order Recognizing the Resource Extraction Payment Disclosure Requirements of the European Union, the United Kingdom, Norway, and Canada as Alternative Reporting Regimes that Satisfy the Transparency Objectives of Section 13(q) under the Securities Exchange Act of 1934 (Dec. 16, 2020), <https://www.sec.gov/rules/other/2020/34-90680.pdf>.

¹² See Request Nos. 1 and 5.

¹³ Regulation S-K, Item 101(c)(2)(ii).

¹⁴ This is not to say that the SEC should necessarily adopt the same metrics and targets endorsed by the TCFD, but rather that it should align with the broad concepts of the four pillars.

ensure that investors receive useful registrant-specific information. Of course, a partially principles-based approach would not preclude the SEC from in the future requiring the disclosure of additional climate-related metrics or other more granular qualitative disclosures.

C. Supplemental Guidance¹⁵

Principles-based climate disclosure rules are important to ensure thoughtful disclosure practices. However, that alone may not be sufficient, since broad-based climate disclosure rules will be insufficiently nuanced to account for each industry's unique climate-risk profile.

To ensure meaningful industry-specific disclosures that meet investor needs, guidance also is required. Accordingly, SIFMA AMG advocates addressing industry-specific disclosures through guidance that builds upon the recommended principles-based component to climate-related disclosure discussed above in this letter. This would not be a novel approach for the SEC to take. The SEC recognized the important role played by interpretive guidance with respect to climate risk disclosures back in 2010.¹⁶

In many cases, guidance needs to be tailored by industry. For example, disclosures about the climate-related impacts to a registrant's supply chain may provide important insight into the climate change-related risk for certain registrants, such as those that manufacture physical products, while that information might be completely or nearly irrelevant for other registrants, such as those in financial services.

It is important for industry-specific guidance to be informed through consultation with industry members, including volunteer industry experts from corporations, asset managers and other financial institutions, and other relevant third-parties. These persons will have the appropriate technical expertise to assist the SEC in framing guidance that is both meaningful and useful. Other frameworks and standards have recognized the importance of involving preparers and users of data in their development processes. For example, this approach has been followed by both the Sustainability Accounting Standards Board ("SASB") and the TCFD.

SIFMA AMG recognizes that it may be impractical for the SEC to create detailed industry-specific guidance across several or more industries, given the time, resources and deep industry expertise that is required to do so. In addition, industry-specific disclosures are likely to continue to significantly evolve at a pace that may limit the effectiveness of regulatory guidance as an approach. In lieu of developing its

¹⁵ See Request Nos. 1, 3, 4, 5, and 6.

¹⁶ See Commission Guidance Regarding Disclosure Related to Climate Change, Release Nos. 33-9106; 34-61469, 75 Fed. Reg. 6290 (Feb. 8, 2010), <https://www.sec.gov/rules/interp/2010/33-9106.pdf>.

own guidance, an alternative approach that SIFMA AMG supports is for the SEC to recognize as guidance third-party standards and frameworks that meet criteria to be set by the SEC. As disclosures of these standards and frameworks move toward greater alignment, this may best serve the demands of both investors and registrants.

Five standard setters currently are working together to try to create a comprehensive climate-related reporting system: CDP, the Climate Disclosure Standards Board, Global Reporting Initiative, the International Integrated Reporting Council and SASB.¹⁷ The SEC should engage with this “group of five” to assess how it can best be integrated into the SEC’s climate disclosure guidance process.

SIFMA AMG is not suggesting the SEC cede its role of providing disclosure guidance to the market. But closely working with standard setters that meet rigorous criteria established by the SEC will enable the SEC to focus its scarce resources on areas not appropriately covered by third-party guidance or areas where the SEC feels a different approach to disclosure is merited.

2. Climate-related disclosure rules and guidance adopted by the SEC also should take the following important principles into account:

A. Quantitative disclosures should be required to be accompanied by relevant information on methodologies and assumptions, and other relevant contextual information.¹⁸

In many cases, there will be differences in the methodologies and assumptions underlying quantitative disclosures made by registrants.¹⁹ At present, registrants that disclose climate-related metrics (typically outside of SEC filings) use many different methodologies. Although requiring registrants to disclose specific core key metrics will mitigate these differences, it will not eliminate them.

When a registrant provides climate-related metrics—whether because they are required, provided as part of its principles-based disclosure, or voluntarily provided—the rules adopted by the SEC should require

¹⁷ See *Statement of Intent to Work Together Towards Comprehensive Corporate Reporting*, IMPACT MANAGEMENT PROJECT (September 2020), <https://29kjwb3armds2g3gi4lq2sx1-wpengine.netdna-ssl.com/wp-content/uploads/Statement-of-Intent-to-Work-Together-Towards-Comprehensive-Corporate-Reporting.pdf>.

¹⁸ See Request Nos. 1, 2, and 13.

¹⁹ The SEC may wish to mandate the methodology for some disclosures. For instance, SIFMA AMG recommends that, for Scope 1 and 2 greenhouse gas emissions, the SEC require that firms use the same formula used by the Environmental Protection Agency to calculate these metrics.

the registrant to describe the underlying methodologies and assumptions in sufficient detail for an investor to understand and evaluate the metrics. For example, an explanation of key assumptions that underpin scenario-based metrics is critical for an investor to understand and evaluate those metrics. Quantitative metrics also should be required to be accompanied by explanatory information that provides sufficient context on why the metrics are meaningful and relevant to the registrant and its investors, similar to the brief narrative that often accompanies non-GAAP measures disclosed by registrants in SEC filings, unless the meaningfulness and relevance of the metric is commonly understood. In addition, for carbon-intensive sectors, it is important for institutional investors to have access to underlying data and elements on a more granular level than for other sectors, to be able to run their own analyses in areas that may be disputed or calculated differently. Therefore, for these sectors, registrants should be required to publish underlying data and elements.

For these purposes, quantitative disclosures should include not only numerical information, but also qualitative statements based on quantitative assessments by the registrant. For example, registrants that make Net Zero commitments should be required to describe the assumptions underlying their targets and how the targets will be achieved.

SIFMA AMG recognizes the difficulties registrants will face in providing information concerning the methodologies, assumptions and data underlying climate-related metrics. Therefore, to accommodate earlier disclosure of this information, as later discussed, SIFMA AMG is supportive of appropriate phase-ins and safe harbors from liability until reporting processes mature.

B. To ensure investor access to important climate-related disclosures at the earliest possible date, disclosure requirements should be phased in over time and there should be safe harbors for the estimates and data that is either inherently unreliable or that registrants do not control.²⁰

New climate disclosure rules need to take into account the difficulties of calculating metrics that are dependent on data from third-parties, as well as the difficulties in data collection and reliability more generally. As a result of these challenges, many registrants have consciously made the decision not to provide any climate-related disclosures in their SEC filings, other than boilerplate risk factor disclosures.

SIFMA AMG recognizes the difficulties registrants face in obtaining third-party data. For some metrics, registrants require data from private company and foreign company counterparties, which may be difficult

²⁰ See Request Nos. 1, 2, 7, and 14.

to obtain. Although third-party data providers can help address these gaps, at present, there are significant gaps in their coverage capabilities of both historical and forward-looking metrics and across a number of jurisdictions.

A reasonable phase-in period for portions of the rules adopted by the SEC is appropriate to take into account the challenges of gathering third-party data. Depending upon the metrics that are required to be disclosed by the rules adopted by the SEC, a multi-stage phase-in may be appropriate.

If the SEC were to require the disclosures of the specific key core metrics described earlier in this letter, SIFMA AMG proposes a one year phase-in for data over which a registrant has control. This would include Scope 1 and 2 greenhouse gas emissions metrics, carbon footprint, and weighted average carbon intensity.

SIFMA AMG is supportive of a longer phase-in period for metrics that require data outside the registrant's control, such as Scope 3 GHG emissions metrics (if these were required). Given the ongoing evolution of Scope 3 metrics, for instance, SIFMA AMG suggests that the SEC assess the marketplace's progress on this metric in two years. If the SEC adopts rules that require disclosure of Scope 3 GHG emissions as part of an initial rule-making, it should set a phase-in date for particular Scope 3 emissions disclosures following that assessment. However, SIFMA AMG hopes that eventually registrants will be able to report on all Scope 3 categories that are material. To facilitate earlier disclosure, it is appropriate for Scope 3 GHG emissions disclosures to be protected by a safe harbor, as described later in this section.

SIFMA AMG recognizes the difficulty of applying a look-back to any requirement to disclose historical metrics, as this data would be at a minimum burdensome and in many cases impossible to collect. Therefore, SIFMA AMG is supportive of a rule only requiring metrics to be disclosed for historical periods following the adoption of the rule. That said, if registrants already have been collecting data that corresponds generally with the subject of the SEC's mandatory key core metrics disclosure requirements, it is useful to investors for that information to be furnished via the SEC's disclosure regime. Accordingly, the SEC should consider safe harbors from enforcement to encourage publication of that information.

To encourage robust principles-based disclosures (*i.e.*, those disclosures other than mandatory key core metrics), SIFMA AMG is supportive of a safe harbor from enforcement that encourages registrants to provide the data they have, or the estimates they are calculating, without penalizing them for unreliable data, unavailability of data and other factors outside their control. However, this safe harbor only should cover the estimate itself, and not the qualitative explanation that accompanies the estimate. In other words, a registrant should be held to existing anti-fraud standards when describing its disclosure methodologies and assumptions, but it is reasonable for the registrant to not be held liable for data errors that are outside of its control. SIFMA AMG also supports a safe harbor from enforcement for a registrant's reliance on information or data outside of its control.

The SEC also should strengthen the safe harbor from liability to private parties, by publishing guidance specific to climate-related projections included in SEC filings. This information is of importance to investment and stewardship decisions. However, SIFMA AMG recognizes registrant concerns about being able to craft sufficient meaningful cautionary language to comply with the existing forward-looking statement safe harbor.

Many climate disclosures will be based on models that have not been well tested. To encourage robust disclosure, the SEC should account for that limitation in the climate disclosure rules it adopts. To this end, SIFMA AMG proposes that the SEC implement safe harbors from disclosure and liability as described herein. The continuing need for these safe harbors should be assessed after 3 years, by which time modeling capabilities and registrant disclosure processes hopefully will have matured.

3. There is a need for global coordination and consistency.²¹

For climate-related reporting to be useful to investors, the information must be comparable. For the information to be comparable, it must be globally consistent. At a minimum, this means that terms (e.g., “emissions,” and “renewable energy”) must be defined consistently across jurisdictions. A consistent approach also will mitigate the potential for investor confusion and decrease compliance costs for registrants that are subject to other disclosure regimes, both of which are to investors’ benefit.

In furtherance of consistency, the SEC should leverage the experience and know-how of the TCFD. Other countries have begun to structure their disclosure regimes based on the TCFD framework. Taking the TCFD into account in SEC climate-related disclosure requirements and guidance will decrease registrant compliance costs and enhance their ability to attract capital from foreign institutional investors. Regardless of whether the SEC ultimately incorporates any of the existing standards and frameworks into its climate disclosure rules or guidance, we commend the SEC’s continued engagement with the International Organization of Securities Commissions and the International Financial Reporting Standards Foundation to help shape these emerging standards, and – at a minimum – ensure that rulemaking and standard-setting outside of the United States does not create untenable inconsistencies with U.S. requirements.

The desire for consistent terminology and reporting frameworks across multiple jurisdictions, of course, does not mean that the SEC should simply adopt existing standards currently utilized by jurisdictions that purport to be further along in the standard-setting process, particularly when practical experience has illustrated problems with certain approaches. The SEC should rely on its own economic research, work done by international counterparts, and input from climate change experts, and should deviate from

²¹ See Request Nos. 5 and 9.

existing standards, frameworks and regulatory approaches where it finds that an alternative approach would yield superior results. But using existing frameworks as a reference point will allow the SEC to take advantage of years of research on climate risk disclosure.

4. External assurance of data should be required after a transition period.²²

SIFMA AMG ultimately would like to see climate-related data externally assured, since this will ensure that the climate-related data on which investors are basing voting and investment decisions is reliable. However, SIFMA AMG recognizes that disclosures, registrant processes and procedures and assurance provider procedures and expertise all need to evolve before this is practical. Therefore, SIFMA AMG is supportive of a phase-in period before assurance would be required. We encourage the SEC to revisit this issue after two years, to evaluate the professional capacity of appropriate accounting, engineering, consulting and other competent professional services firms to assure such disclosures at that time. Of course, registrants should seek to comply with their disclosure obligations, including metrics calculations, in good faith and the lack of third-party assurance should not be used as a basis to disclose wholly unsubstantiated metrics.

²² See Request Nos. 1 and 10.

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SIFMA AMG appreciates the SEC's efforts to be thoughtful about its approach to climate change disclosures. Our members sincerely appreciate the opportunity to provide these suggestions and your consideration of these views. SIFMA AMG supports the SEC's efforts to create a meaningful and useful framework for climate change-related disclosures, and we believe that the recommendations outlined in this letter will help the SEC achieve its goals. We welcome the opportunity to discuss these views with the SEC staff. Please feel free to reach out to Tim Cameron at TCameron@sifma.org or 202-962-7447 or Lindsey Keljo at LKeljo@sifma.org or 202-962-7312 with any questions.

Sincerely,



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cc: The Honorable Gary Gensler, Chair
The Honorable Allison Herren Lee, Commissioner
The Honorable Hester M. Peirce, Commissioner
The Honorable Elad L. Roisman, Commissioner
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