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US Securities and Exchange Commission
Acting Chair, Allison Herren Lee

Public Input on Climate Change Disclosures

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## Introduction from SEC public enquiry

In light of demand for climate change information and questions about whether current disclosures adequately inform investors, public input is requested from investors, registrants, and other market participants on climate change disclosure.

Public input on the Commission's disclosure rules and guidance as they apply to climate change disclosures, and whether and how they should be modified, can include comments on existing disclosure requirements in Regulation S-K and Regulation S-X (or, for foreign private issuers, Form 20-F), potential new Commission disclosure requirements, and potential new disclosure frameworks that the Commission might adopt or incorporate in its disclosure rules. In addition to the questions set forth below, comments generally as to how the Commission can best regulate climate change disclosures are welcomed.

The public enquiry is open from 15 March 2021 for 90 days.

## Questions for Consideration

1. How can the Commission best regulate, monitor, review, and guide climate change disclosures in order to provide more consistent, comparable, and reliable information for investors while also providing greater clarity to registrants as to what is expected of them? Where and how should such disclosures be provided? Should any such disclosures be included in annual reports, other periodic filings, or otherwise be furnished?

   The Commission could best regulate, monitor, review and guide climate change disclosure by planning in phases towards the mandatory adoption of Task Force on Climate-Related Financial Disclosures (TCFD) reporting for listed companies. For private companies, the Commission could require a sustainability disclosure emphasising the transitional and physical climate risks in a format similar to the section of the current Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A).

   The Commission would collaborate with TCFD and provide training on TCFD reporting to listed companies and private companies of except offerings. For listed companies, Climate Change disclosures should be added in annual financial reports, interim management reports, investor presentations and financial products information.

2. What information related to climate risks can be quantified and measured? How are markets currently using quantified information? Are there specific metrics on which all registrants should report (such as, for example, scopes 1, 2, and 3 greenhouse gas emissions, and greenhouse gas reduction goals)? What quantified and measured information or metrics should be disclosed because it may be material to an investment or voting decision? Should disclosures be tiered or scaled based on the size and/or type of registrant)? If so, how? Should disclosures be phased in

over time? If so, how? How are markets evaluating and pricing externalities of contributions to climate change? Do climate change related impacts affect the cost of capital, and if so, how and in what ways? How have registrants or investors analyzed risks and costs associated with climate change? What are registrants doing internally to evaluate or project climate scenarios, and what information from or about such internal evaluations should be disclosed to investors to inform investment and voting decisions? How does the absence or presence of robust carbon markets impact firms' analysis of the risks and costs associated with climate change?

Climate risk information can be quantified and measured when climate risk is screened from the physical and transitional risk angles and a climate change mitigation and adaptation perspective. Companies' key performance indicators (KPIs) affected by climate risk that can be measured and disclosed are for example decreased revenues, write-offs, increased production costs, litigation costs, increased operating costs, increased capital expenditure, insurance expenditure, R&D expenditure for new technologies, costs to adopt new practices. These KPIs demonstrate business models' resilience and the share of risk due to climate change, enabling better-informed investment and voting decisions.

According to each industry, companies should measure and disclose their Scopes 1, 2 and 3 GHGs emissions. The Scopes can be material to an industry but not to others. All listed companies should be able to disclose the GHGs Scopes 1, 2 and 3 emissions, with a plan of action on the most relevant ones that can affect the company's KPI due to climate risk.

3. What are the advantages and disadvantages of permitting investors, registrants, and other industry participants to develop disclosure standards mutually agreed by them? Should those standards satisfy minimum disclosure requirements established by the Commission? How should such a system work? What minimum disclosure requirements should the Commission establish if it were to allow industry-led disclosure standards? What level of granularity should be used to define industries (e.g., two-digit SIC, four-digit SIC, etc.)?

   The advantages could be obtaining standardised reporting, largely adoptable standards and easiness of use, as well as unified climate action. The disadvantages could be a long progress on agreement on the disclosure standards, creating too permissive standards, and difficulty in appointing overarching controlling supervision of the standards.

   The standards should satisfy minimum disclosure requirements established by the Commission. These could be categorised as physical or transitional risks with related metrics, such as the GHG emissions Scopes and a minimum set of business KPIs identified as being affected by climate risks. The level of granularity should be 4-digit SIC as it would guide more effective disclosures.

4. What are the advantages and disadvantages of establishing different climate change reporting standards for different industries, such as the financial sector, oil and gas, transportation, etc.? How should any such industry-focused standards be developed and implemented?

   The disadvantages of having different sector-specific standards could be linked to aggregation processes prepared by investment researchers, fund managers and owners. Overall, the financial markets would have to build the knowledge in operating different reporting standards for different sectors, that might not in the capacity of all public markets participants. The advantage would be that sector-specific material information won't be lost in a broad reporting framework that can't accommodate each sector's specific disclosures needs.

5. What are the advantages and disadvantages of rules that incorporate or draw on existing frameworks, such as, for example, those developed by the Task Force on Climate-Related Financial Disclosures (TCFD), the Sustainability Accounting Standards Board (SASB), and the

Climate Disclosure Standards Board (CDSB)?[7] Are there any specific frameworks that the Commission should consider? If so, which frameworks and why?

Existing frameworks are widely used by companies and are developed in consultation with stakeholders and reviewed by those. The Task Force on Climate-Related Financial Disclosures (TCFD) are mandatory in the UK for premium companies from January 2021 and will be applied to other issuers in phases. The regulator, Financial Conduct Authority (FCA), and the UK government have conducted a similar enquiry and concluded that the TCFD is a comprehensive tool for climate risk disclosures for the public markets. SEC could engage with FCA on their findings and learn from the FCA analysis and conclusions.

6. How should any disclosure requirements be updated, improved, augmented, or otherwise changed over time? Should the Commission itself carry out these tasks, or should it adopt or identify criteria for identifying other organization(s) to do so? If the latter, what organization(s) should be responsible for doing so, and what role should the Commission play in governance or funding? Should the Commission designate a climate or ESG disclosure standard setter? If so, what should the characteristics of such a standard setter be? Is there an existing climate disclosure standard setter that the Commission should consider?

   Understandably, the Commission might not be able to create specialised teams for all concerning matters related to public markets. In this regard, a recommendation would be to mandate the Value Reporting Foundation, which is the merge of SASB and IIRC. SASB is an American organisation and IIRC is European, hence their merger creating a broader reach. The mandate should be on a limited period, rotating with other setters every few years.

7. What is the best approach for requiring climate-related disclosures? For example, should any such disclosures be incorporated into existing rules such as Regulation S-K or Regulation S-X, or should a new regulation devoted entirely to climate risks, opportunities, and impacts be promulgated? Should any such disclosures be filed with or furnished to the Commission?

   The best approach would be to incorporate climate disclosures requirements into existing rules. This would emphasise to listed companies that climate risk is an integrated part of the financial sector and not a separate corporate social responsibility task. Such disclosures should be filed with or furnished to the Commission as integrated among the filling forms delivered as part of the requirements for S-K and S-X regulations.

8. How, if at all, should registrants disclose their internal governance and oversight of climate-related issues? For example, what are the advantages and disadvantages of requiring disclosure concerning the connection between executive or employee compensation and climate change risks and impacts?

   The advantage of requiring disclosure concerning the connection between executive compensation and climate change risks and impacts would be an increased responsibility taken upon this new type of risk at the highest level within an organisation. This could drive the integration and management of climate risks and opportunities.

9. What are the advantages and disadvantages of developing a single set of global standards applicable to companies around the world, including registrants under the Commission's rules, versus multiple standard setters and standards? If there were to be a single standard setter and set of standards, which one should it be? What are the advantages and disadvantages of establishing a minimum global set of standards as a baseline that individual jurisdictions could

build on versus a comprehensive set of standards? If there are multiple standard setters, how can standards be aligned to enhance comparability and reliability? What should be the interaction between any global standard and Commission requirements? If the Commission were to endorse or incorporate a global standard, what are the advantages and disadvantages of having mandatory compliance?

The advantage would be standardisation on climate disclosures in a global context needing to deliver effectiveness in understanding climate risk and decarbonisation trajectories. The framework that seems to have a global reach and trusted by some governments (the UK, Japan) is the TCFD. The Commission should review the TCFD recommendations on disclosures and become a supporter of the TCFD, hence participating in the further development of the current TCFD that is a solid method to report and communicate climate disclosures.

10. How should disclosures under any such standards be enforced or assessed? For example, what are the advantages and disadvantages of making disclosures subject to audit or another form of assurance? If there is an audit or assurance process or requirement, what organization(s) should perform such tasks? What relationship should the Commission or other existing bodies have to such tasks? What assurance framework should the Commission consider requiring or permitting?

The climate-related disclosures should be assessed for reasonable or limited assurance. ISAE 3000 is the standard for non-financial quality assurance. ISAE 3410 is for GHG Statements quality assurance. As per question 7, the climate disclosures should be filed with the Commission after being assessed for quality assurance. Organisations that perform such audits are KPMG and others and the relation of the Commission with them should be neutral. The auditing organisations undertake quality assurance on companies' reports according to the International Standard on Assurance Engagements (ISAE).

11. Should the Commission consider other measures to ensure the reliability of climate-related disclosures? Should the Commission, for example, consider whether management's annual report on internal control over financial reporting and related requirements should be updated to ensure sufficient analysis of controls around climate reporting? Should the Commission consider requiring a certification by the CEO, CFO, or other corporate officer relating to climate disclosures?

Yes, the Commission should consider updating the management's annual report on financial reporting and related requirements to ensure sufficient analysis of controls around climate reporting.

12. What are the advantages and disadvantages of a "comply or explain" framework for climate change that would permit registrants to either comply with, or if they do not comply, explain why they have not complied with the disclosure rules? How should this work? Should "comply or explain" apply to all climate change disclosures or just select ones, and why?

A "comply or explain" approach has the advantages of a progressive implementation, learning from best practices and a more natural implementation and readiness for compliance by companies over time. The disadvantages are that many companies might be opting to explain rather than comply in the first years of the framework. Since climate change is an urgent matter, this might not be a suitable type of approach.

13. How should the Commission craft rules that elicit meaningful discussion of the registrant's views on its climate-related risks and opportunities? What are the advantages and disadvantages of requiring disclosed metrics to be accompanied with a sustainability disclosure and analysis section similar to the current Management's Discussion and Analysis of Financial Condition and Results of Operations?

    If the disclosed metrics are in line with the implementation of the TCFD, then an analysis section similar to the MD&A would be covered in the TCFD, hence not necessary to be submitted separately as a sustainability disclosure section similar to the one of the MD&A. Depending on the type of climate discloses required by the Commission, the climate reporting may need or not a sustainability disclosure section similar to the current MD&A.

14. What climate-related information is available with respect to private companies, and how should the Commission's rules address private companies' climate disclosures, such as through exempt offerings, or its oversight of certain investment advisers and funds?

    Private companies same as listed companies should understand their physical and transitional climate risk. Private companies should be required to report their Scopes 1, 2, 3 of GHGs emissions annually that could be disclosed in exempt offerings. Based on the TCFD, private companies could have a minimal assessment and disclosures requirement of transitional and physical risks in a similar format to the sustainability section of the MD&A.

15. In addition to climate-related disclosure, the staff is evaluating a range of disclosure issues under the heading of environmental, social, and governance, or ESG, matters. Should climate-related requirements be one component of a broader ESG disclosure framework? How should the Commission craft climate-related disclosure requirements that would complement a broader ESG disclosure standard? How do climate-related disclosure issues relate to the broader spectrum of ESG disclosure issues?

    Climate requirements should be disclosed separately under the TCFD, while the results of the TCFD analysis and disclosure could be incorporated in an overall ESG framework. Some comprehensive ESG frameworks are those such as GRI, or SASB/Value Reporting Foundation for sector-specific. Other overall sustainability and ESG methods are available and companies should be able to choose any of the widely used frameworks, or other sector-specific frameworks. Providers are putting efforts to align the disclosures and analysis created using different standards. For impact investment, climate disclosures resulted from TCFD could be incorporated in the Sustainable Development Goals (SDGs) analysis and others such as the B Corporation.