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June 11, 2021

VIA ELECTRONIC SUBMISSION: rule-comments@sec.gov

The Honorable Gary Gensler
Chair
U.S. Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549

Re: SEC Request for Comment on Climate Change Disclosure

Dear Chair Gensler:

Nareit appreciates the opportunity to submit these comments responding to the Securities and Exchange Commission's (SEC or Commission) Request for Comment on Climate Change Disclosure (the RFI).[1] Nareit and its members welcome this occasion to participate in the SEC's process to address disclosures related to climate change impacts and commends the SEC's commitment to this important subject. Nareit and its members have long understood the critical importance of communicating accurate and material business and financial information to real estate investment trust (REIT) investors, and Nareit has previously submitted several comments supporting proposals developed by the SEC pursuant to its Disclosure Effectiveness initiative.[2]

Nareit serves as the worldwide representative voice for REITs[3] and publicly traded real estate companies with an interest in U.S. income-producing real estate. Nareit's members are REITs and other publicly traded real

[1] Allison H. Lee, Public Statement, Public Input Welcomed on Climate Change Disclosures (March 15, 2021) available at https://www.sec.gov/news/public-statement/lee-climate-change-disclosures.

[2] See, Nareit comment on SEC Concept Release on Business and Financial Disclosure Required by Regulation S-K; 17 CFR Parts 210, 229, 230, 232, 239, 240 and 249; Release Nos. 33-10064, 34-77599; File No. S7-06-16; RIN 3235-AL78 (July 21, 2016) available at https://www.sec.gov/comments/s7-06-16/s70616-268.pdf; Nareit comment on SEC Proposed Rule on Disclosure Update and Simplification; 17 CFR Parts 210, 229, 230, 239, 240, 249, and 274; Release No. 33-10110, 34-78310; IC-32175; File No. S7-15-16; RIN 3235-AL82 (Oct. 28, 2016) available at https://www.sec.gov/comments/s7-15-16/s71516-39.pdf; Nareit comment on Financial Disclosures About Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant's Securities Release; No. 33-10526; 34-83701; File No. S7-19-18 (Nov. 29, 2018) available at https://www.sec.gov/comments/s7-19-18/s71918-4705884-176625.pdf; Nareit comment on Amendments to Financial Disclosures about Acquired and Disposed Businesses, Release No. 34-85765, File No: S7-05-19 (July 29, 2019) available at https://www.sec.gov/comments/s7-05-19/s70519-5879059-188747.pdf; Nareit comment on Modernization of Regulation S-K Items 101, 103, and 105, File No. S7-11-19 (Oct. 22, 2019) available at https://www.sec.gov/comments/s7-11-19/s71119-6323150-194592.pdf; Nareit comment on SEC Proposed Rule on Management's Discussion and Analysis, Selected Financial Data, and Supplementary Financial Information, File No. S7-01-20 (April 28, 2020) available at https://www.sec.gov/comments/s7-01-20/s70120-7130283-216132.pdf.

[3] Through the properties they own, finance and operate, REITs help provide the essential real estate we need to live, work, and play. U.S. REITs own approximately $3.5 trillion in gross assets, with public U.S. REITs accounting for $2.5 trillion in gross assets. Stock-exchange listed REITs had an equity market capitalization of nearly $1.25 trillion as of Dec. 31, 2020. In addition, more than 145 million Americans live in households that benefit from ownership of REIT stocks through stocks, their 401(k) retirement plans and other investment funds.

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estate companies throughout the world that own, operate, and finance income-producing real estate, as well as those firms and individuals who advise, study, and service those businesses.

Many REITs have long records of documented leadership roles on sustainability matters.[4] Several listed REITs were among Fortune 100 pioneers in releasing comprehensive sustainability data and information to the public in the form of annual sustainability reports, or by periodic website updates.[5] Nareit estimates that nearly all of the largest U.S. equity REITs (by market cap) and more than three-quarters of listed REITs with smaller capitalization now publicly report ESG data in some form.[6] In a recent Nareit survey, 76% of responding REITs reported that they currently integrate identified ESG risks and opportunities into their business strategy and financial planning.[7] REITs are also in the forefront of promoting sustainable building models and technology. Today, more than 2,100 REIT-owned buildings (covering approximately 627 million square feet) have been LEED or Energy Star certified, or have qualified under other commercial real estate "green" rating programs.[8] REIT-owned properties are often at the forefront of sustainable building innovations.[9]

Nareit Perspective on the Proposal

To address the many important questions raised in the RFI, Nareit drew on the extensive expertise of its REIT corporate membership by convening meetings of Nareit's Corporate Governance, Best Financial Practices, and Real Estate Sustainability Councils to elicit their perspectives on the matters raised in the RFI most relevant to REITs. These Nareit member groups include REIT general counsels, CFOs and other financial and accounting experts, sustainability leaders, and other experienced REIT professionals. Although the views of Nareit members on some topics varied, there was overwhelming agreement on key foundational points underlying our comments, which are summarized below:

- Nareit strongly believes that materiality, as evaluated through the eyes of a "reasonable investor" under the prevailing Supreme Court[10] standard, should continue to be the guidepost of the SEC's disclosure

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[4] See, Nareit, Leader in the Light Awards available at https://www.reit.com/nareit/industry-awards/leader-light-award.
[5] Gia Vosilla, Jon Behrendt and Melissa Hanson, State of the Industry: Sustainability Reporting in the REIT Sector – 2016 Update (2016) available at https://www.usgbc.org/resources/state-industry-sustainability-reporting-reit-sector-%E2%80%93-2016-update.
[6] See, Nareit, REIT ESG Dashboard available at https://www.reit.com/investing/reits-sustainability/reit-esg-dashboard.
[7] See, Nareit, REIT ESG Dashboard, supra note 6 (finding that 92% of REITs with an equity market capitalization greater than $10 billion, 93% of REITs $5 billion - $10 billion, and 71% of REITs less than $5 billion engage in ESG reporting).
[8] See, Nareit, REIT ESG Dashboard, supra note 6; other green certifications include BOMA 360 and BREEAM USA.
[9] See, e.g., Salesforce Tower in San Francisco, which is owned by Boston Properties, a publicly traded REIT, is LEED Platinum certified and won first place in the Sustainable Building category for the 2018 International Edition of the CEMEX Building Awards. See, https://www.businesswire.com/news/home/20181023005277/en/Boston-Properties-Earns-Top-ESG-Rating-and-Executes-Sustainable-Development-Strategy-at-Salesforce-Tower; and the Empire State Building, owned by a publicly traded REIT, Empire State Realty Trust, which is the largest commercial real estate user of fully renewable energy and was awarded the highest awards for sustainability performance by GRESB and Green Star in 2021. See, Sarah Kaplan, The Washington Post, Climate Solutions, The Empire State Building and its Related Buildings are Now Powered by Wind (Feb. 3, 2021) available at https://www.washingtonpost.com/climate-solutions/2021/02/03/climate-empire-state-wind/ and PR Newswire, The Empire State Building to Celebrate 90 Years (Apr. 29, 2021) available at https://www.prnewswire.com/news-releases/the-empire-state-building-to-celebrate-90-years-301280789.html.
[10] TSC Industries, Inc. v. Northway, Inc., 426 U.S. 438, 449 (1976).

regime and that reform efforts should focus on the best ways to ensure disclosure of company-specific material information to investors;

- Nareit strongly favors a “principles-based” approach to SEC disclosure and believes this approach is best suited to address the need for consistent and relevant information to stakeholders in the constantly evolving business environment in which REITs and other businesses operate; we do not believe that the SEC should generally depart from this approach with respect to climate change disclosures; and,

- Nareit believes that REITs should only be required to report climate change information and data arising from operations under their direct and immediate control, and that commercial real estate tenants and supply chain contractors should, in turn, be responsible for disclosures of data arising from their own business operations.

Nareit’s Comments

Although REITs and publicly traded real estate companies share many features with other reporting companies, they also exhibit important differences, some of which are highly relevant to any discussion about the disclosure of material climate change information to the SEC. We preface our comments below with a brief introduction to certain important features of REITs before addressing those questions posed in the RFI that are most relevant to REITs. Additionally, considering the additional costs and challenges of a new climate change disclosure regime, we suggest that the SEC consider scaled disclosure requirements for smaller reporting companies.

Our comment below is organized as follows:

- Background on REITs

- Nareit Endorses Principles-Based Disclosure to Address Climate Change Matters

- Distinct Features of REITs and Other Commercial Real Estate Companies: REITs Should Only be Required to Report Data Arising from Operations Under their Direct Control

- REIT Perspective on Liability for Climate Change Disclosure: Any Information Mandated by the SEC Should be Furnished and Not Filed

- REIT Perspective on Data Assurance, Verification and Control Issues: Nareit Supports Flexible Assurance Rules and Believes that Additional Issuer Control Requirements are Unnecessary

- Management’s Perspective: Nareit Supports Integration of Management Perspective on Climate Disclosure within Existing MD&A Framework

- REIT Perspective on Voluntary Frameworks: Nareit Supports a Continuing Role for Voluntary, Sustainability Reporting

Background on REITs

Before turning to the issues posed by the RFI, we believe that some background on the evolution of today's growing and diverse REIT community and the history of the laws establishing REITs is useful. Importantly, as discussed below, the legal framework governing U.S. REITs requires that REITs operate their real estate businesses independently of the businesses of their tenants, which is particularly relevant to climate change reporting. We also highlight the great diversity of business models within the REIT industry, which we believe can best be accommodated by principles-based disclosure rules.

History of REITs

REITs were established by Congress in 1960 to provide individual investors access to investments in income-producing real estate and mortgages.[11] Today, more than 145 million Americans live in households that own REITs directly or indirectly.[12] REITs are invested in every part of the country in every type of real estate and nearly the entire headline real estate sector of the public equity market is comprised of REITs. As a result, REITs own $3.5 trillion in real estate assets, of which $2.5 trillion is owned by public REITs. In 2016, in recognition of the unique attributes of the public real estate sector, Standard & Poor's (S&P) and MSCI created a top-line real estate sector in their Global Industry Classification Standard, known as GICS, of which virtually all sector constituents are REITs.[13]

Equity and Mortgage REITs

There are two types of REITs, generally referred to as equity REITs and mortgage REITs (mREITs), though a few REITs use the investment strategies of both equity REITs and mREITs. Equity REITs own and operate "bricks and mortar" real estate, such as apartments, cell towers, data centers, office buildings, shopping malls, and other properties. mREITs are companies that finance residential and commercial real estate through a variety of financial activities, including originating or directly financing mortgage loans; purchasing or otherwise acquiring mortgage loans in the secondary market; creating, purchasing interests in and managing mortgage-related securitization vehicles; and acquiring and holding residential and commercial mortgage-backed securities.

[11] The 1960 law establishing REITs (Internal Revenue Code sections 856, 857 and 858) was enacted as an amendment to the Cigar Excise Tax Extension, section 10(a) of Public Law No. 86-779, 74 Stat. 998, 1003-1008 (Sept. 14, 1960).
[12] See, Nareit, 145 Million Americans Own REIT Stocks available at https://www.reit.com/data-research/research/nareit-research/145-million-americans-own-reit-stocks.
[13] See, Nareit, GICS Classification of Real Estate available at https://www.reit.com/investing/investor-resources/gics-classification-real-estate.

While the majority of public REITs are listed on either the NYSE or the NASDAQ, public non-listed REITs (PNLRs), which are largely equity REITs, are public reporting companies that conduct offerings registered with the SEC but do not have a class of securities listed for trading on any major securities exchange. Nareit's comments below address many issues related to climate change disclosures relevant to both equity and mREITs, whether listed or non-listed, but the discussion of issues relating to REITs as owners of tenant-occupied buildings pertains only to equity REITs.

REIT Legal Framework

Congress' primary objective in authorizing the use of REITs was to provide a means "whereby small investors can secure advantages normally available only to those with larger resources,"[14] in connection with real estate investment. To effectuate this goal, Congress created a legal framework intended to promote longer term real estate investment and ensure that REIT income is distributed annually to shareholders. This operating framework is delineated within the Internal Revenue Code (the Code) by numerous rules, restrictions and limitations under which REITs are required to operate, many of which are designed to ensure that REITs confine their activities to the business of real estate as a landlord or lender. Critically, to qualify as a REIT and to maintain that status for purposes of U.S. corporate income tax, an entity must distribute at least 90% of its ordinary income each year[15] and annually satisfy rigorous asset and income tests that require that:

- at least 75% of the value of a REIT's total assets must be represented by real estate assets, cash and cash items and government securities (so-called "qualifying assets")[16]; and,

- no less than 75% of a REIT's income must be derived from such qualifying assets.[17]

This underlying tax framework[18] ensures that the operations of a REIT are wholly distinct from the operations of their tenants' businesses. For example, if a REIT owns more than 10% of the stock of a tenant, payments from that tenant to the REIT generally do not qualify as "good income" under the REIT tests.[19] Moreover, if a REIT owns more than 10% of the voting shares or value of any non-REIT corporation (including a tenant), it must be held within a "taxable REIT subsidiary," the securities of which may not represent more than 20% of the assets of the REIT.[20]

The structure of the REIT sector today reflects the practical implications of these rules. REITs may lease warehouses to a delivery service such as FedEx, but a REIT's operations may not include more than a small

[14] H.R. Rep. No. 2020, 86th Cong., 2d Sess. 3 (1960), reprinted in 1960-2 C.B. 820.
[15] 26 U.S.C. § 857(a).
[16] 26 U.S.C. § 856(c)(4).
[17] 26 U.S.C. § 856(c)(3).
[18] REITs must also be considered a corporation for tax purposes and have more than 100 shareholders, with no five or fewer individuals owning more than 50% of its stock.
[19] 26 U.S.C. § 856(d)(2)(B).
[20] 26 U.S.C. § 856(c)(4)(B)(iv)(II) and (III); 26 U.S.C. § 856(c)(4)(B)(ii); 26 U.S.C. § 856(i).

amount of a non-real estate logistics business. An office REIT's lease to a national accounting firm does not mean that the REIT is providing accounting services. And, a data center REIT's lease of space to tenants such as financial institutions, social media companies, and e-commerce companies so that the tenants can house their own computers does not make the data center REIT in the banking, social media, or e-commerce businesses. Further, nursing home and lodging REITs may not operate these facilities; rather, under special provisions of the Code, they must lease them to an "eligible independent contractor" (EIK).[21] REITs that own parking garages typically lease these operations to a third-party operator.[22] REITs owning farmland similarly lease substantially all operations to tenants, typically under master lease agreements.[23] Triple net lease (triple-net) REITs typically lease properties to a single tenant, which assumes the responsibility not only for all operating expenses, but also real estate taxes.

The REIT Sector is Diverse

The U.S. REIT industry today includes a vibrant range of companies engaged in real estate ownership, operation or financing that support nearly all sectors of the economy. While there is great diversity within the industry, the REIT rules as described above remain true to their original purpose: a REIT must primarily invest in and derive income from real estate, requiring REITs to confine their businesses to real estate activities.

Equity REITs invest in the majority of real estate property types, which are categorized into 13 property sectors[24], including data centers, healthcare/medical facilities, industrial and logistics, infrastructure (mainly cell towers), lodging/resorts, office buildings, residential including apartment buildings, retail, self-storage, and timberland. Most REITs focus on a particular property type, but some so-called diversified REITs hold multiple types of properties in their portfolios. There are also, as mentioned above, specialty REITs that own other property types.

The REIT industry (and other commercial real estate rental businesses) is a distinct economic sector, because commercial real estate mostly serves as an input into the production of other goods and services. In fact, most commercial real estate rents are treated as intermediate inputs in the U.S. national accounts.[25] Thus, there is generally far more diversity or heterogeneity of business models in the REIT sector of the economy than there

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[21] 26 U.S.C. 856(d)(9).
[22] PLR 202013006 & PLR 202013007.
[23] See, e.g., Farmland Partners Inc., prospectus supplement filed with the SEC on May 14, 2021 (333- 254834) ("We have leased, and intend to continue to lease, substantially all of our properties under leases with terms ranging from one to five years. In addition, the terms of the leases with our tenants generally provide that we are responsible for major maintenance, insurance and taxes (which are generally reimbursed to us by our tenants), while our tenants are responsible for minor maintenance, water usage and all of the additional input costs related to the farming operations on the property, such as seed, fertilizer, labor and fuel.") available at https://www.sec.gov/Archives/edgar/data/1591670/000110465921066934/tm2110707-4_s3.htm.
[24] See, Nareit, REIT Sectors website available at https://www.reit.com/what-reit/reit-sectors.
[25] See, U.S. Department of Commerce, Bureau of Economic Analysis, What are Intermediate Inputs available at https://www.bea.gov/help/faq/185.

is in other stock market sectors. In a very real sense, commercial real estate and REITs house the activity of the economy and thus have as broad a range of property types and business models as the economy.

Nareit Endorses Principles-based Disclosure Rules

(Questions 1 and 2)

As stated previously, Nareit strongly favors a "principles-based" approach to SEC disclosure because it is best suited to address information needs of the constantly evolving business environment in which REITs and other businesses operate. Principles-based disclosure rules also accommodate the reality that "one size does not fit all" especially within the REIT industry, which encompasses a range of business models. We applaud the Commission's long-standing commitment to a principles-based, registrant-specific approach to disclosure, which allows registrants to tailor disclosure to their particular circumstances and avoid the costs and burdens arising from a more prescriptive approach.[26] In considering possible disclosure requirements related to climate change, we urge the Commission to adhere to a principles-based approach that is grounded in traditional standards of materiality.

The Commission's recent adoption of a new requirement for registrants to disclose their human capital resources provides a useful model that could be applied to climate change disclosure. In the adopting release for those rules, the Commission considered more prescriptive measures but concluded that a principles-based requirement would likely lead to more meaningful information being provided to investors. In particular, the Commission noted that:

> … [W]e did not include more prescriptive requirements because we recognize that the exact measures and objectives included in human capital management disclosure may evolve over time and may depend, and vary significantly, based on factors such as the industry, the various regions or jurisdictions in which the registrant operates, the general strategic posture of the registrant, including whether and the extent to which the registrant is vertically integrated, as well as the then current macro-economic and other conditions that affect human capital resources, such as national or global health matters.[27]

Nareit believes that many of these considerations are equally relevant to climate change disclosure. Like human capital, we believe that climate change metrics generally will evolve over time. Moreover, we believe that differences across geographies, industries, and within different sectors of the real estate industry demand flexibility in the disclosure requirements that allows registrants to focus on the information that is most relevant to their businesses and to adapt their disclosures as circumstances change over time.[28]

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[26] SEC Release No. 33–10825, Modernization of Regulation S-K Items 101, 103, and 105 (Aug. 26, 2020) available at https://www.sec.gov/rules/final/2020/33-10825.pdf.
[27] Id. at 50.
[28] SEC Release No. 33-10064, Concept Release on Business and Financial Disclosure Required by Regulation S-K (April 13, 2016), at 42 available at https://www.sec.gov/rules/concept/2016/33-10064.pdf.

By contrast, prescriptive disclosure requirements are not readily adaptable to changing circumstances and may quickly become outdated or immaterial to the companies that are required to disclose them. Companies – and ultimately their investors – bear the cost of generating and maintaining such disclosures, regardless of whether investors find the information useful.[29] While they can be effective in limited circumstance, the one-size-fits-all nature of prescriptive mandates has the potential to result in disclosure that is irrelevant or immaterial to many registrants. When considering prescriptive disclosure requirements related to climate change, the SEC should balance the costs of and other barriers to collecting data against the perceived value of the information.

Nareit recognizes, however, that some stakeholders, and some members of the Commission, have expressed support for mandatory climate change metrics that would provide consistency and comparability of disclosure across companies and industries. If the Commission concludes that these objectives justify a departure from principles-based rules, we suggest that any such exceptions be limited. For example, requiring companies to disclose a limited number of prescriptive metrics that are commonly reported within an industry could address investor interest in comparability, while reducing the risk that some companies would be required to generate and disclose data that is not material to their investors. With respect to REITs and other publicly traded real estate companies, such commonly reported metrics could include data on energy consumption and Greenhouse Gas (GHG) emissions that can be precisely measured, quantified, and expressed through well-accepted metrics, and which arise from direct and immediate operations of buildings the registrant manages and controls on a day-to-day basis.[30] We elaborate on this in the section below.

We encourage the SEC to consider the most commonly reported, industry-specific metrics as an indication of the information that is important to investors and would provide a useful measure for comparison. We believe that drawing on industry practice would be appropriate because many REITs provide climate-related disclosures in response to engagement with their investors. Moreover, any new mandatory climate change metrics proposed by the SEC should be limited to historical measures, rather than projections. As discussed in greater detail below, depending on the metrics involved, it is not clear that all companies would have a reasonable basis for calculating such projections, particularly as climate science continues to evolve. Requiring disclosure of prescribed, forward-looking metrics under those circumstances would run contrary to the Commission policy on projections.[31] Finally, as elaborated in the section below, we believe that REITs should only be required to report data arising from operations taking place under their direct and immediate control.

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[29] For example, most REITs are required to file Schedule III (as defined by Regulation S-X rule 5-04(c)). As we have noted in a previous comment letter to the Commission, many REITs devote considerable time and resources to Schedule III preparation, which requires copious details about individual properties, such as original purchase price, cumulative capital improvements, the year acquired or developed and accumulated depreciation and amortization. Moreover, some Nareit members report that their investor feedback does not support the value to investors of the incremental detail currently required by Schedule III. See, Nareit comment on SEC Concept Release on Business and Financial Disclosure Required by Regulation S-K, supra note 2.
[30] Although this will vary among companies, for many REITs, these will generally include Scope 1 and Scope 2 emissions, as defined by the GHG Protocol Corporate Accounting and Reporting Standard (GHG Protocol); See, World Resources Institute, infra note 40 and accompanying text.
[31] See, Item 10(b) of Regulation S-K.

The REIT Sector: REITs Should Only be Required to Report Data Arising from Operations They Directly Control

(Questions 2, 4)

The RFI asks about "the advantages and disadvantages of establishing different climate change reporting standards for different industries."[32] Nareit members agree that industry distinctions are important factors to take into account when assessing climate change impacts on public companies. REITs and other public real estate companies are no exception. We believe that any climate change reporting regime must account for industry differences.

Equity REITs in particular, which comprise more than 95% of the U.S. REIT sector, are businesses engaged in owning and leasing real estate to third-party tenants, some of which are publicly traded companies in their own right. In considering climate change reporting, it is important not to confuse the business operations of REIT building owners with those of their tenants. It is also important to recognize that REITs and other commercial landlords generally have very little ability to control or direct tenant business activities, including tenant activities related to resource consumption and GHG emissions.

The laws in most U.S. jurisdictions affirm the independence of REITs and other commercial landlords from their tenants' businesses, reflecting the reality that the relationship between a commercial landlord and a commercial tenant is not one of a "principal and agent", but rather of independent business counterparties. Additionally, as described above, the tax rules applicable to REITs effectively prohibit REITs from engaging in business activities distinct from real estate, including those of their tenants. Certain of these tax rules, including rules applicable to lodging facilities and certain healthcare-related facilities, impose specific limitations requiring a demonstration that the tenant operations are managed by "eligible independent contractors" or under similar arms-length arrangements.[33]

In the context of considering a path forward on climate change disclosure, we believe it is important that the Commission take notice of long-standing real property leasing practices in the U.S. Today, types of U.S. commercial leases vary widely on a continuum, ranging from a simple net lease, which generally requires a tenant to pay a limited amount of the operating expenses associated with its tenancy, to a so-called triple-net lease, which requires the tenant to pay all of the operating expenses associated with its tenancy.[34] A significant number of REITs have some triple net-leased properties in their portfolios, and roughly 25 REITs hold only triple net-leased properties. Notably, almost all REIT commercial leases require tenants to pay utilities, tax, and

[32] RFI, supra note 1, question group 4.
[33] See, 26 U.S.C. 856(d)(9), supra note 21.
[34] See, Mary Hall, Single vs. Double vs. Triple Net Leases: What's the Difference?, Investopedia (Jan. 1, 2021) available at https://www.investopedia.com/ask/answers/040115/what-are-differences-between-single-double-and-triplenet-leases.asp.

insurance expenses.[35] For these reasons, commercial real estate property owners generally have very limited visibility into their tenants' GHG emissions and resource use otherwise.

U.S. commercial real property leasing practices have been in place for many decades and over that period have been affirmed by judicial opinions far and wide. Consequently, under most real property leases in place today, commercial real estate landlords[36] generally have no legal right to receive relevant emissions and resource consumption or use data arising from a tenant's business or other operations at the leased property.[37] And, should a given lease require a tenant to provide data to a landlord, there are very practical difficulties with enforcing such a requirement to ensure timely delivery of accurate data. Judicial redress in such circumstances is likely to be expensive and unlikely to be quick.

Notwithstanding these obstacles, some REITs endeavor to collect tenant data and a few report this data for some buildings in their portfolios in their sustainability reports. However, Nareit's members believe that as the SEC considers a climate change disclosure regime, landlords should only be required to report on data arising from operations under their direct and immediate control. Tenants that are public companies should, in turn, be responsible for disclosure of data arising from their own business operations. Given the nature of the marketplace, longstanding commercial leasing practices and legal impediments, we do not believe it is appropriate to require building owners to report information to the SEC arising from the business operations of tenants.

We note that some have suggested that so-called green leases, which are commercial leases modified in certain ways to align tenant and landlord interests for energy-efficient and green building improvements, might alter this calculus. Although not appropriate to all circumstances, green leases can facilitate constructive collaborative relationships between landlords and tenants and, depending on their terms, they may facilitate landlord-tenant cost-sharing for energy-efficient building modifications, such as LED lighting upgrades and renewable energy installations.[38] Some green leases require tenants to report certain energy and resource use to landlords, though this varies considerably among property owners, diverse tenants and the requirements of local jurisdictions. Many Nareit member REITs have entered into green leases with certain tenants and are justifiably proud of their green lease tenant collaborations. Several Nareit member REITs have been recognized for their green leasing by the Institute for Market Transformation (IMT), the U.S. Department of

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[35] The Fundamental Income Net Lease Real Estate Index, includes 25 REITs, owning more than 26,300 properties across all 50 states leased to tenants operating in a variety of industries available at https://netleaseetf.com/about.

[36] References herein to commercial landlords include REIT owners of multifamily buildings. Multifamily building owners similarly do not generally have visibility into and/or control over tenant resource use, although lease provisions vary among multifamily properties. Moreover, privacy and other local laws in most jurisdictions limit multifamily owners' ability to obtain resource use data from residential tenants.

[37] See, e.g., Corriere v. Lucky Stores, Inc., No. D036543, 2002 WL 844818 (Cal. Ct. App. May 3, 2002); Saada v. King of Prussia, Assocs., 888 F.2d 1382 (3d Cir. 1989).

[38] See, The Building Owners and Managers Association (BOMA), Green Lease Guide (2018) available at https://www.boma.org/GreenLeaseGuide.

Energy's (DOE) Better Buildings Alliance, and others for these practices.[39] However, many tenants are not willing to enter into such leases.

Notwithstanding the very limited existence of green leases today, the fundamental fact is that commercial real estate tenants remain responsible for conducting their own businesses, including their stewardship of scarce resources and GHG emissions; and tenants should remain responsible for reporting on relevant data arising from their business operations, including data arising from their use of the real estate which they lease. We also note that because commercial real estate leases are, for most REIT sectors, of long duration (typically ranging from five to 40 years, depending on sector), it is not at all possible to quickly transition a typical commercial property portfolio to green leasing, even if the landlord is committed to doing so.

Commercial Tenant GHG Emissions Should Not be Presumed to be Material to REITs

Nareit believes that if required to report resource data, REITs should only be required to report GHG emissions, and similar data, related to operations that they directly control. While this may vary from company to company, for many REITs, these will generally include Scope 1 and Scope 2 emissions, as defined by the GHG Protocol Corporate Accounting and Reporting Standard (GHG Protocol), which are emissions arising directly and indirectly from operations that they control.[40]

For most REITs, tenant emissions are Scope 3 emissions under the GHG Protocol, because they are the result of activities and conduct of a third party. As noted in a recent report published by one federal regulator, the measurement of Scope 3 emissions is still evolving for most industry sectors.[41] For this reason, few investors are currently requiring companies in all industry sectors to report Scope 3 emissions.[42] While there is currently no generally accepted definition of Scope 3 GHG emissions for the real estate sector, Scope 3 emissions may typically, but not invariably, include emissions arising from tenant operations outside the building owner's control (among other unrelated outputs, such as business travel). Although a few building owners have attempted to report Scope 3 emissions for some properties in their portfolios in standalone reports, Nareit does

[39] 10 REITs attained Gold status as Green Lease Leaders in the national program sponsored by the U.S. Department of Energy's Better Buildings Alliance and the Institute for Market Transformation. The Green Lease Leaders is a national program which sets standards for what constitutes a green lease and recognizes cross-sector landlords and tenants for creating and implementing those leases. See, Green Lease Leaders available at https://www.greenleaseleaders.com/recipients-2020/.
[40] World Resources Institute, The Greenhouse Gas Protocol (2020) available at https://ghgprotocol.org/sites/default/files/standards/ghg-protocol-revised.pdf. Although the GHG Protocol defines Scope 1 emissions as direct GHG emissions occurring from sources that are "owned or controlled" by the company, and Scope 2 emissions as arising from purchased electricity, heat, steam or cooling consumed by the company, generated elsewhere, as discussed above, Nareit believes that REITs should only be required to report data arising from operations that they directly control. The GHG Protocol recognizes that financial control does not confer operational control for all industries and in all circumstances. Some REIT owners, that purchase energy and provide it for submetered tenants, report energy consumption as Scope 2 emissions. However, In the absence of such financial control many REITs have limited ability to obtain energy consumption data of tenants that occupy substantial portions of the properties that they own.
[41] U.S. Commodity Futures Trading Commission, Managing Climate Risk in the U.S. Financial System (Sept. 9, 2020) at 62 ("There is no agreed standard for financed emissions and little consistency or comparability to date, but a wide range of methodologies are being developed.") available at https://www.cftc.gov/PressRoom/PressReleases/8234-20.
[42] See, e.g., Blackrock, Climate risk and the transition to a low-carbon economy (February 2021).

not believe that tenant GHG emissions should be presumed to be material to the business of the REIT building owner. With respect to the SEC disclosure regime, Nareit suggests that sufficient flexibility should be incorporated into future guidance and/or rules to permit each REIT building owner to make the determination of whether Scope 3 tenant GHG emissions are material to its particular business.

REIT Perspective on Liability for Climate Change Disclosure: Any Information Mandated by the SEC Should be Furnished and not Filed

(Questions 1, 7)

Nareit notes that the SEC's existing disclosure requirements for risk factors and MD&A currently require companies to disclose material information about the risks and impact of climate change to their business within their SEC filings.[43] Many REITs currently do so. A number of companies include additional ESG information in their annual meeting proxy statements filed with the SEC. A great many companies, including, as noted above, the majority of large equity REITs, currently publish additional detailed sustainability reports on their public websites.[44] Information published in these sustainability reports is of interest to various stakeholders, but not all of that information is material to the business.

Nareit believes that material information should continue to be filed with the SEC under its existing disclosure requirements. However, if the Commission is contemplating any additional, more expansive requirements to provide climate change disclosure, we believe that it should permit companies to furnish, not file, such information with the SEC.

As noted above, currently more than 70% of REITs indicated in a recent survey that they report some ESG and climate change metrics in a variety of formats, though most commonly in the form of standalone reports or on their corporate websites. Nareit's members believe that there is considerable value in this reporting to investors and stakeholders, alike. However, this information is qualitatively different in its nature and purpose from the information required to be disclosed in SEC registration statements and reports.

This voluntary reporting often includes responses to third-party sustainability disclosure frameworks, which request a range of information and are constantly expanding and evolving. As acknowledged by some framework sponsors, much of the information identified by third-party frameworks is not necessarily information that is material under the securities laws.[45] There is also considerable variation among framework sponsors in defining materiality. One framework sponsor noted, "[a] wide range of disclosure frameworks and standards have adopted an array of proprietary definitions of materiality focused on different users, subject matters, and

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[43] SEC Release No. 33-9106, Commission Guidance Regarding Disclosure Related to Climate Change (Feb. 2, 2010) available at https://www.sec.gov/rules/interp/2010/33-9106.pdf.
[44] Nareit, REIT ESG Dashboard, supra note 6.
[45] See, e.g., SASB, Comment Responding to RFI (May 19, 2021) at 8, note 52 ("SASB's definition of financial materiality is intended to guide SASB's standard-setting process and not to supplant the legal concept of materiality used by a company to guide its disclosure processes.") available at https://www.sec.gov/comments/climate-disclosure/cll12-8815762-238031.pdf.

objectives."[46] Moreover, as third-party frameworks and investor demands change over time, companies need to adapt their approaches to sustainability reporting, resulting in differences in the information disclosed from year to year. Nareit has long supported voluntary sustainability reporting in the real estate industry[47], and we believe that the value of this reporting would not necessarily be improved if such disclosure is filed with the SEC.

We note that some public companies, including a large equity REIT[48], currently voluntarily furnish their annual standalone sustainability reports to the SEC, as an exhibit to Form 8-K Item 7.01. Reports furnished in this manner are subject to the general anti-fraud liability of Exchange Act Section 10(b) and Rule 10b-5 and state anti-fraud laws. However, if the SEC were to require companies to file, rather than furnish, more expansive climate-related disclosure, companies would be subject to liability under Section 18 of the Exchange Act, which creates a private right of action for any "false or misleading" statements related to disclosures. Additionally, climate change information that is included within or incorporated by reference into a registration statement filed with the SEC would be subject to strict liability under Section 11.

We believe the general anti-fraud liability of Exchange Act Section 10(b) and Rule 10b-5 provides the appropriate level of investor protection for this type of information, rather than the heightened liability associated with information that is filed with the SEC. We also believe that requiring companies to file, not furnish, climate change disclosure that is outside the scope of existing rules would likely discourage companies from continuing to provide the robust disclosures to investors and stakeholders that they provide voluntarily today, which would ill-serve investors. Nareit members also expressed concerns that the potential cost of filing such information, including costs arising from additional liability exposure, would be considerable.

Accordingly, we suggest that if the SEC pursues a path of requiring companies to report more expansive climate change disclosure to the SEC, such information should be furnished and not filed. Otherwise, issuer liability concerns could diminish the quality and value of such reporting. Climate change disclosures that are not required under existing SEC rules related to risk factors and MD&A could be furnished under item 7.01, under a new Item within Form 8-K, or in a stand-alone report. Furthermore, in light of the demanding information-gathering and presentation requirements of periodic reports, we strongly suggest that the filing deadlines for a separate climate change report should be off-cycle and should not correspond to a company's filing deadlines for periodic reports or the annual meeting proxy statement, to provide companies with sufficient time to prepare and submit the required information.[49] Additionally, we agree with the suggestion of others that

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[46] Janine Guillot and Jeffrey Hales, SASB, Materiality: The Word that Launched a Thousand Debates, Harvard Law School Forum on Corporate Governance (May 14, 2021) available at https://corpgov.law.harvard.edu/2021/05/14/materiality-the-word-that-launched-a-thousand-debates/.
[47] See, e.g., Nareit, Guide to ESG Reporting Frameworks (2019) available at https://www.reit.com/sites/default/files/media/PDFs/Research/Nareit_Guide_to%20ESG_Reporting_2_21_19.pdf.
[48] See, e.g., Vornado Realty Trust, 2020 Environmental, Social, & Governance Report available at https://www.sec.gov/Archives/edgar/data/899689/000089968921000020/esgpressrelease.htm; Vornado Realty Trust, 2019 Environmental, Social, & Governance Report available at https://www.sec.gov/Archives/edgar/data/899689/000089968920000020/vnoesgreport-sec.htm.
[49] We note, for example, that Form SD must be filed no later than May 31, regardless of a company's fiscal year end.

the SEC should consider affirming the application of the Private Securities Litigation Reform Act (PSLRA) to such furnished information, or otherwise providing a safe harbor from private plaintiff liability.[50]

REIT Perspective on Data Assurance, and Verification and Control Issues: Nareit Supports Flexible Assurance Rules and Believes that Additional Issuer Control Requirements are Unnecessary

(Questions 2, 10, 11)

As noted above, the REIT sector is highly focused on climate change issues and currently reports on a range of different metrics, formats and frameworks, owing to diversity within the REIT sector. Similarly, while all REITs endeavor to report accurate information about climate change and related matters, there is currently no consensus within the REIT sector regarding third party verification practices. Nareit members believe that verification and control procedures serve to protect investors and the reporting companies themselves. However, we also believe that this is another area where “one size” does not “fit all.”

A Range of Current Verification Practices

REITs currently engage a variety of professionals to provide third-party assurance or attest to the accuracy of certain data related to climate change, which REITs publish in their standalone sustainability reports, on their websites and, when appropriate, in their SEC filings. At present, there is no dominant practice in the REIT sector for verifying climate change data and no consensus on the scope or methodology for such assurance, or the breadth of data that should be subject to such assurance. This diversity of practitioners and practices tracks national trends among all corporate issuers.[51]

Some REITs rely on PCAOB registered auditors to provide "reasonable assurance" that certain reported ESG data are free from material misstatements due to error or fraud or more limited assurance. Others currently employ specialized environmental or climate change assurance providers, some of which certify data pursuant to their own proprietary sustainability or green standards. Others look to third party assurance to certify data against ESG benchmark standards, such as the Global Reporting Initiative (GRI), GHG Protocol, the Task Force on Climate-related Disclosures (TCFD), or SASB. Some other REITs rely on third party verification of certain non-financial data to measure progress against their own corporate sustainability goals and KPIs and/or to benchmark the progress of their peer group.

Because this is an evolving area and the range of current practices for third party verification is broad, Nareit suggests that as it moves forward, the SEC should provide issuers with the flexibility to select assurance practices that meet the needs of their businesses and also provide sufficient lead time for REITs and other issuers to incorporate third-party assurance, or other verification processes, into their reporting.

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[50] See, SASB, May 19, 2021 Comment, supra note 45.
[51] CAQ, The Role of Auditors in Company-Prepared ESG Information: A Deeper Dive on Assurance (Mar. 2021) available at https://www.thecaq.org/wp-content/uploads/2021/03/caq_rota-esg-a-deeper-dive-on-assurance_2021-03.pdf.

Coordination of Financial and Non-Financial Reporting

Nareit members note that the reporting cycles for SEC periodic financial reports do not coordinate well with the reporting of some climate disclosure data. Frequently, calendar year energy and water data are not available until early in the subsequent year, and then must be assured or otherwise verified. Some issuers, including a few REITs, currently report some of this data with a one-year lag in their 10-Ks, i.e., their Form 10-K filing for the fiscal year ended Dec. 31, 2020 includes some energy and water consumption data for the fiscal year ended Dec. 31, 2019. Such discrepancies between financial reporting periods and the availability of climate change resource data are among the reasons that many Nareit members now report such data in standalone reports.

Scenario Analysis and Measurement Uncertainty

Some information related to the effects of climate change on business is forward-looking and/or qualitative and does not lend itself to measurement with a high degree of certainty or accuracy. Climate scenario analyses on the effects of climate change, for example, are typically derived from models that incorporate subjective assumptions about future events, parameters and data choices. There are several proprietary models owned by accounting firms and other commercial vendors being marketed, each featuring unique methodologies, and some are focused on real estate.[52] We understand that a few REITs are currently exploring these models.[53] Nareit members also recognize that these scenario models have important limitations, because they are sensitive to key assumptions and parameters.

Nareit members have expressed a range of concerns about possible future rules requiring that REITs (and other issuers) report such model-derived information to the SEC, including that such forward-looking information could be confusing and/or misleading to investors and how this information could be reliably developed and verified across sectors and companies at large. REIT members also express concern about the considerable expense associated with employing private firms to conduct scenario modeling and question whether the benefit of reporting the results of these hypothetical models outweighs the considerable cost of doing so for all issuers, regardless of scale of operations and market cap.

As noted above, Nareit believes that any new mandatory climate change metrics proposed by the SEC should be limited to historical measures.[54] Nareit members do not believe that REITs, or other issuers, should be required to include such speculative analysis in their SEC periodic reports. A principles-based, flexible regime should permit a variety of practices, tailored to the specifics of individual issuers. As these models evolve, some REITs and other issuers, likely to be led by larger reporting companies, may choose to report scenario

[52] See, e.g., MSCI Real Estate Climate Value-at-Risk (Climate VaR) available at https://www.msci.com/our-solutions/real-estate-investing/real-estate-climate-solutions; GRESB Climate Risk Portal available at https://gresb.com/climate-risk-platform/.
[53] See, Charles Keenan, Nareit, REITs Assess the Potential Fiscal Impacts of Climate Change (July 24, 2019) available at https://www.reit.com/news/reit-magazine/july-august-2019/reits-assess-potential-fiscal-impacts-climate-change.
[54] See, supra, discussion on p. 8.

analysis for a variety of reasons particular to their businesses and portfolios. Accordingly, Nareit suggests that it would be helpful for the SEC to remove any ambiguity regarding the application of the liability safe harbor protections of the Private Securities Litigation Reform Act (PSLRA) to information derived from these models by affirming its application in this context.

Internal Controls and Officer Certifications

The RFI asks if the Commission should consider additional requirements with respect to issuer internal control over climate change reporting, and/or "consider requiring a certification by the CEO, CFO, or other corporate officer relating to climate disclosures." Nareit and its members do not believe that such additional requirements are necessary, or that they would enhance disclosure of climate change information.

Nareit members believe that the SEC's current rules relating to controls and procedures are sufficiently broad to include climate change disclosure. Companies must maintain disclosure controls and procedures, as well as internal controls over financial reporting, and management must evaluate their effectiveness.[55] Additionally, the CEO and CFO must provide quarterly certifications related to their obligations for maintaining effective internal controls.[56] The existing rules would require companies to modify their controls and procedures, as necessary, to ensure that information required under any new climate change disclosure rules is accumulated and communicated to the company's management, including the CEO and CFO, as appropriate to allow timely decisions regarding the required disclosure.[57] Nareit respectfully suggests that additional requirements would be redundant and likely to give rise to investor confusion.

Phase-in and Scaled Disclosure

Because there is currently no consensus regarding third party verification practices in the REIT industry, Nareit believes that any future SEC guidance or rules regarding such practices must permit REITs and other issuers sufficient time to bring their companies into compliance. Moreover, because of the considerable expense that can be associated with some third-party verification, smaller public companies, including smaller REITs, which are currently less advanced in climate change reporting will require even more lead time. We suggest that the SEC consider taking into account these differences as it moves forward.

[55] See, Exchange Act Rule 13a-15.
[56] 15 U.S.C. § 7262 and Exchange Act Rule 13a-14.
[57] See, Exchange Act Rule 13a-14, supra note 56.

Management's Perspective: Nareit Supports Integration of Management Perspective on Climate Disclosure within Existing MD&A Framework

(Question 13)

The RFI requests input on the advantages and disadvantages of requiring companies to provide a sustainability disclosure and analysis similar to the current MD&A requirement in Item 303 of Regulation S-K, a so-called SD&A.[58] Rather than creating a new requirement for discussion and analysis of sustainability matters, Nareit suggests that the SEC should, instead, provide additional guidance about how companies should incorporate sustainability trends and uncertainties into their MD&A disclosures, to the extent those trends and uncertainties are material to investors.

In this respect, we note that in its 2010 guidance on climate change disclosure, the Commission identified MD&A as one of the non-financial statement disclosure rules that may require disclosure related to climate change.[59] Two SEC Commissioners, however, recently expressed concern that many companies are not disclosing financial risks of climate change in their SEC filings, even though SEC rules, including MD&A, require it.[60] To address this concern about gaps in reporting, Nareit supports additional guidance from the SEC, perhaps in the form of an instruction to Item 303, that would clarify how the MD&A rules apply to such risks and trends and confirm that the traditional materiality analysis applies throughout MD&A.

We see several disadvantages to a separate "SD&A". First, a separate "SD&A" could result in unnecessary duplication of disclosure provided in MD&A, to the extent that those matters have a material impact on financial performance. Moreover, segregating a company's discussion and analysis of sustainability matters from MD&A disclosure could suggest that trends, events and uncertainties arising from climate change and other sustainability matters do not affect the company's financial performance, or that sustainability disclosures should be governed by a different materiality standard. Such segregation and variation in assessing materiality would create confusion for reporting companies and investors alike. By contrast, integration of material sustainability matters into the broader MD&A disclosure allows companies to provide appropriate context and promotes greater transparency about the material risks and impact of climate change on the company's financial results.

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[58] See, RFI, supra note 1, question 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?").
[59] SEC Release No. 33-9106, supra note 43.
[60] Commissioners Allison H. Lee and Caroline A. Crenshaw, Joint Statement on Amendments to Regulation S-K: Management's Discussion and Analysis, Selected Financial Data, and Supplementary Financial Information, (Nov. 19, 2020) available at https://www.sec.gov/news/public-statement/lee-crenshaw-statement-amendments-regulation-s-k#_ftnref17.

REIT Perspective on Voluntary Climate Change Frameworks
(Questions 5,6,15)

REITs See Value in a Variety of Voluntary Frameworks

Today, many REITs report data relevant to climate change issues and related matters pursuant to a variety of well-known voluntary frameworks. Similar to recent observations by Commissioner Peirce[61], Nareit survey data do not indicate that any particular framework is consistently favored by Nareit REIT members, perhaps reflecting the diversity of business and leasing models in the REIT industry. In 2020, more than 70% of the largest REITs by market cap reported some ESG data pursuant to the voluntary disclosure and guidance frameworks published by Global Real Estate Sustainability Benchmark (GRESB), CDP, and GRI. But we are aware of many REITs that report according to the SASB, TCFD and other frameworks.[62] In short, Nareit members find value in aspects of several of these frameworks, but there is currently no clear "leader" and many REITs report according to more than one framework pursuant to information requests from investors.[63]

SEC Adoption of a Third-Party Framework Raises Due Process Issues

The RFI requests comment on the "advantages and disadvantages of possible future rules that incorporate or draw on existing frameworks, such as, for example, those developed by the TCFD, SASB, and the Climate Disclosure Standards Board (CDSB). While it may be appropriate for the SEC to draw from existing third-party frameworks as it moves forward, wholesale adoption of any third-party framework into a new SEC disclosure regime raises a host of substantive, procedural and due process questions. If one or more of these frameworks were to be "incorporated" into SEC disclosure requirements, effectively making them if not mandatory, then at least encouraged, we believe that the SEC should take steps to ensure that there is transparency into the processes underlying standard-setting, procedural safeguards to ensure fairness, rules regarding conflicts of interest and continuing oversight into their operations.

Some have pointed to the SEC's delegation of financial accounting standards development to the Financial Accounting Standards Board (FASB), which is governed by an independent board, the Financial Accounting Foundation (FAF), as a model that the SEC might look to for addressing climate change disclosure standards. As an initial matter, we note that the SEC has never wavered in asserting that it has important oversight responsibilities over FASB, "[a]s required under the securities laws, including the Sarbanes-Oxley Act…[to] monitor the FASB's procedures, qualifications, capabilities, activities, and results, as well as the FAF's and

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[61] SEC Commissioner Hester Peirce, Speech, Lucy's Human: Remarks at Virtual Roundtable on The Role of Asset Management in ESG Investing Hosted by Harvard Law School and the Program on International Financial Systems (Sept. 17, 2020) available at https://www.sec.gov/news/speech/peirce-lucys-human-091720.
[62] See, Nareit REIT ESG Dashboard, supra note 6.
[63] See, Nareit REIT ESG Dashboard, supra note 6 (finding that 92% of REITs with an equity market capitalization greater than $10 billion, 93% of REITs $5 billion - $10 billion, and 71% of REITs less than $5 billion engage in ESG reporting).

FASB's ongoing compliance with the expectations and views expressed in this policy statement."[64] We would expect that if the SEC moves toward recognition of any third-party standard setter for sustainability or climate change disclosures, it would consider oversight processes that are similarly robust.

Alternatively, if the SEC were to require companies to adopt one of the existing third-party frameworks for sustainability reporting, we suggest that it consider an alternative approach that would preserve a company's ability to choose the framework that is most appropriate for its business, as long as the framework meets certain standards. As noted above, companies within the REIT industry disclose metrics and other information based on a variety of different third-party frameworks. Rather than picking a "winner" among the existing frameworks, we suggest that the SEC consider an approach similar to its rules governing management's assessment of internal control over financial reporting. That rule requires management to use a "suitable, recognized control framework that is established by a body or group that has followed due-process procedures, including the broad distribution of the framework for public comment" to evaluate the company's internal control over financial reporting.[65] As stated above, we believe such due process procedures and robust oversight are critical to preserve the integrity of any mandatory reporting framework.

Conclusion

Nareit and its member REITs have a long-standing commitment to responsible stewardship of their real estate assets and to providing investors and other stakeholders with decision-useful, material information about climate change. Nareit supports additional principles-based SEC disclosure requirements related to climate change, with only limited exceptions, which we believe would best accommodate the diverse business models and circumstances of REITs and other corporate issuers and would provide sufficient flexibility to address evolving risks and technological developments. As it moves forward, we urge the Commission to uphold its long-standing commitment to a principles-based, registrant-specific approach to disclosure.

Nareit and its members appreciate the opportunity to share the perspective of the REIT and publicly traded real estate community on these important matters related to climate change disclosures. We would be happy to answer any questions about our comments and to serve as a resource to the Commission and its staff as it moves forward with its efforts to address climate change.

[64] SEC, Policy Statement: Reaffirming the Status of the FASB as a Designated Private-Sector Standard Setter, Release Nos. 33-8221, No. 34-47743, IC-26028 (Apr. 25, 2003) available at https://www.sec.gov/rules/policy/33-8221.htm.
[65] See, Exchange Act Rule 13a-15(c).

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Please do not hesitate to contact either one of us ([redacted]; [redacted]; or [redacted]; [redacted]) if you would like to discuss these comments, or related issues raised by this complex subject in greater detail.

Respectfully submitted,

Steven A. Wechsler
President & CEO

Victoria P. Rostow

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