



June 11, 2021

The Honorable Gary Gensler  
Chairman  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549

Dear Chairman Gensler:

The National Mining Association (“NMA”) appreciates the opportunity to provide comments in response to the U.S. Securities and Exchange Commission’s (“SEC” or “Commission”) request for public input on climate change disclosures specifically, and environmental, social and governance (“ESG”) disclosure more generally.<sup>1</sup> The primary question underlying the request is whether current disclosures on climate change adequately inform investors of known material risks and opportunities. Underneath that broad inquiry, the SEC poses 15 specific questions, many containing multiple sub-questions, to facilitate the SEC’s evaluation of its disclosure rules “with an eye toward facilitating the disclosure of consistent, comparable, and reliable information on climate change.”

NMA is a national trade association that includes the producers of most of the nation’s coal, metals, industrial and agricultural minerals; the manufacturers of mining and mineral processing machinery, equipment and supplies; and the engineering and consulting firms, financial institutions and other firms serving the mining industry. NMA members produce energy, metals and minerals that are essential to economic prosperity and a better quality of life and are committed to development that balances social, economic and environmental considerations. Among NMA’s members are publicly traded companies listed in the United States that are subject to the SEC’s disclosure requirements. Additionally, most NMA companies, whether publicly traded or privately held, already voluntarily disclose key ESG matters (including climate) through a variety of mechanisms.

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<sup>1</sup> See Public Statement of Acting Chair Allison Herren Lee, “Public Input Welcomed on Climate Change Disclosures” (March 15, 2021), available at <https://www.sec.gov/news/public-statement/lee-climate-change-disclosures>.

NMA is concerned that mandatory disclosure rules—particularly related to non-material climate-related risks— could proliferate investment bias and practices by investors and financial institutions to exclude certain energy-intensive companies and sectors from investment portfolios or restrict access to or significantly increase the cost of capital. The SEC should not contribute to this problem because such biases and practices unnecessarily devalue companies and create an inequitable financial environment for certain companies, regardless of their results, strategy, or financial performance. Furthermore, climate-related risk (and ESG-related risk in general) is not limited to traded entities and any mandatory SEC requirement would place an undue burden and cost on public companies.

NMA firmly believes that current disclosures serve the purpose of providing financially material information on climate- and ESG-related risks that is decision-useful for investors. For example, public companies have diligently disclosed in various SEC filings material climate risks, especially since the SEC issued its 2010 “Guidance Regarding Disclosure Related to Climate Change.”<sup>2</sup> As described below, companies are also going farther and developing annual robust sustainability reports and/or utilizing third-party reporting programs and standards that go beyond financially material risk disclosure. These voluntary disclosures are tailored to the issues of greatest importance to the individual company and its investors and other identified stakeholders. Any SEC efforts to supplement existing disclosure efforts with mandatory reporting requirements risks duplication of information and potentially disclosure of information that would not be material to our members’ investors.

Given the breadth of NMA membership from companies that solely operate domestically to international companies listed on multiple exchanges, the views set forth here are those of the association as a whole and are not necessarily the views of any individual NMA member.

### **The SEC Must Complete its Review of the 2010 Climate Change Guidance Before Pursuing a Rulemaking to Mandate Climate Disclosures**

The NMA believes it is premature for the SEC to move forward with a rulemaking to incorporate mandatory climate-related risk disclosures in financial reports without first completing an assessment of the effectiveness of the 2010 Climate Change Guidance and whether there are gaps in providing material information on climate-related risks to investors. On Feb. 24, 2021, Acting SEC Chair Allison Herren Lee announced that the Division of Corporation Finance would begin a review of the 2010 Climate Change Guidance to enhance its focus on climate-related disclosure in public company filings.<sup>3</sup>

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<sup>2</sup> See SEC, Commission Guidance Regarding Disclosure Related to Climate Change, Release No. 33-9106 (Feb. 2, 2010), 75 Fed. Reg. 6290 (Feb. 8, 2010) (“2010 Climate Change Guidance”).

<sup>3</sup> See SEC, Public Statement of Acting Chair Allison Herren Lee, “Statement on the Review of Climate-Related Disclosure” (Feb. 24, 2021), available at <https://www.sec.gov/news/public-statement/lee->

Specifically, she directed staff to: (1) review the extent to which public companies address the topics identified in the 2010 guidance; (2) assess compliance with disclosure obligations under the federal securities laws; (3) engage with public companies on these issues; and (4) absorb critical lessons on how the market is currently managing climate-related risks. Based on this review, staff are charged with updating the 2010 guidance to reflect developments in the last decade.

NMA strongly encourages the SEC to complete this work first, share the results with the public, and offer an opportunity for public comment on the SEC's analysis, recommendations, and any proposed revisions before finalizing any changes to the guidance. It is critical that the SEC start with a solid foundation of information related to existing disclosures under this guidance and the separate evolution in voluntary disclosures of climate-related risk that has occurred over the last decade. The analysis underpinning this review must be transparent and completed before the SEC makes any decisions regarding a rulemaking to require mandatory disclosure. NMA believes that such an analysis will likely reveal that an updated guidance rather than a rulemaking is the more appropriate mechanism to address any disclosure gaps.

### **Current Voluntary Disclosures on Climate Change Adequately Inform Investors of Known Material Risks and Opportunities**

NMA believes it is important for public companies to communicate relevant information, data, and risk factors, including climate- and ESG-related topics, to their shareholders. NMA's members already make such disclosures—as appropriate for their businesses, in compliance with existing disclosure laws, and responsive to the evolving preferences and expectations of investors and other stakeholders. NMA's member companies whose shares are listed on U.S. stock exchanges already report climate and other ESG data and information that they deem have a material impact on their current and future financial performance in their regulatory filings with the SEC. Many of NMA's member companies also publish standalone sustainability reports and integrated financial and sustainability reports made accessible to shareholders and the public, and voluntarily comply with internationally recognized third-party standard setters like the Carbon Disclosure Project, Global Reporting Initiative (including the coal and mining sector supplements), Sustainability Accounting Standards Board (including the coal and metal mining industry standards), the Task Force on Climate-Related Financial Disclosures,

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[statement-review-climate-related-disclosure](#). Notably, on Mar. 4, 2021, Commissioners Hester Pierce and Elad Roisman released a public statement regarding this review, stating that they believe “the new initiative is simply a *continuation* of the work the staff has been doing for more than a decade and not a program to assess public filers’ disclosure against any *new* standards or expectations.” (emphasis in original). The Commissioners assert that “[this] announcement cannot foreshadow a plan for the staff to issue guidance that would elicit more specific line items or otherwise convert the Commission’s generally principles-based approach to a prescriptive one.” According to the Commissioners, any changes “would require a new Commission vote.” See Public Statement of Commissioners Hester Pierce and Elad Roisman, “Enhancing Focus on the SEC’s Enhanced Climate Change Efforts.”

the International Organization for Standardization 1400, among others. Disclosures made in sustainability reports and in response to these third-party programs are often broader in scope than the materiality principle that underpins the SEC's regulatory program.<sup>4</sup>

Existing voluntary disclosures of climate- and ESG-related information are exceptionally effective as they allow individual companies to collaborate with their investors, customers, local communities, and other priority stakeholders to determine what information is material for their operations and business and report it in a manner suitable for their collective needs. Individual companies, informed by engagement with these stakeholders, determine the best course for their company, whether it be through internationally recognized third-party programs, sector-developed programs, or internally developed programs specific to the company. Companies can also differentiate themselves by presenting information and analysis in an informative way as opposed to solely providing quantitative data as one part of a financial report. Existing voluntary disclosure methods have become accepted practices for issuers and have also satisfied the needs of investors who are now making decisions based on climate- or ESG-related factors. A SEC rulemaking mandating companies to file additional information with the Commission is simply not necessary.

The SEC should not create a one-size-fits-all, prescriptive, rules-based mandatory disclosure program given the breadth and scope of information already provided on a voluntary basis. The SEC should trust that companies are actively working with their investors to identify and disclose the relevant, financially material metrics—whether quantitative metrics or qualitative information—that are most decision-useful. The NMA believes that this work and these relationships will continue to drive appropriate climate- and ESG-related disclosures that are aligned with the importance of materiality and company-specific decisions.

Moreover, investor preferences and expectations for climate and ESG disclosure are rapidly evolving and likely will continue to do so, which has been the case with other disclosure topics (e.g., mining property disclosure). Specific SEC disclosure requirements in this area risk failing to keep pace with investor and other stakeholder-driven changes in climate and ESG disclosure best practices. Finally, mandating

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<sup>4</sup> See *e.g.*, GRI 101: Foundation 2016, available at (“In financial reporting, materiality is commonly thought of as a threshold for influencing the economic decisions of those using an organization’s financial statements, investors in particular. The concept of a threshold is also important in sustainability reporting, but it is concerned with a wider range of impacts and stakeholders. Materiality of sustainability reporting is not limited only to those sustainability topics that have a significant financial impact on the organization. Determining materiality for a sustainability report also includes considering economic, environmental, and social impacts that cross a threshold in affecting the ability to meet the needs of the present without compromising the needs of future generations. These material issues will often have a significant financial impact in the nearterm or long-term on an organization. They will therefore also be relevant for stakeholders who focus strictly on the financial condition of an organization.”)

disclosures of non-material information could lead to confusion among investors, undermining the SEC's goal to protect and educate investors.

NMA strongly encourages the Commission to look toward providing more guidance on this matter before jumping to a costly and potentially duplicative rulemaking that complicates existing reporting efforts.

### **The SEC's Authority Regarding the Disclosure of Climate and ESG-Related Risks**

Federal securities laws are silent on requiring disclosure of specific climate-related risks. However, as discussed in the SEC's 2010 "Guidance Regarding Disclosure Related to Climate Change," a public company may need to disclose climate-related risks that are "material" to investors.<sup>5</sup> The same reasoning applies with equal force to disclosure of risks related to ESG. "Materiality" has served as the cornerstone of disclosure requirements under the U.S. securities laws since Congress passed the Securities Act of 1933.<sup>6</sup> The SEC subsequently codified this principle in its governing regulations recognizing that addressing nonmaterial issues distracts from its mission of investor protection and maintenance of fair, orderly and efficient markets.<sup>7</sup> Ultimately, the principle of materiality is designed to help identify information most relevant to investors.

In 1976, the U.S. Supreme Court articulated the time-honored standard for materiality still followed by courts today to determine whether information at issue in securities litigation is material to investors: "there must be a substantial likelihood that disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the total mix of the information available."<sup>8</sup> In that decision, the Court expressly noted the harms associated with defining materiality too broadly stating that "some information is of such dubious significance that insistence on its disclosure may accomplish more harm than good" and that "a minimal standard might bring an overabundance of information within its reach, and lead management simply to bury the shareholders in an avalanche of trivial information, a result that is hardly conducive to

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<sup>5</sup> See 2010 Climate Change Disclosure Guidance, *supra* fn 2.

<sup>6</sup> 15 U.S.C. § 77q(a)(2), ("[i]t shall be unlawful for any person in the offer or sale of any securities ... to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements, in light of the circumstances under which they were made, not misleading.")

<sup>7</sup> 17 CFR § 230.405 ("The term *material*, when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters to which there is a substantial likelihood that a reasonable investor would attach importance in determining whether to purchase the security registered.")

<sup>8</sup> *TSC Industries Inc. Northway, Inc.* 426 U.S. 438 (1976).

informed decisionmaking.”<sup>9</sup> The Court has continued to reaffirm this materiality standard in the subsequent decades.<sup>10</sup> Pursuant to Supreme Court precedent, courts have found that the fact that an investor subjectively considered something important, or that a reasonable investor would find the information to be of interest, is not sufficient to meet the materiality standard.<sup>11</sup>

Correspondingly, over the decades the SEC has repeatedly endorsed the concept of materiality as the basis for disclosure requirements, regardless of the type of issue (environmental, financial or otherwise). In its first interpretive statement on environmental disclosures, the Commission outlined the requirements for such disclosures *if material*.<sup>12</sup> Additionally, in response to a number of petitions for rulemakings to require more comprehensive disclosures by corporations of their environmental and equal employment policies, the SEC remained laser-focused on materiality as a disclosure threshold,<sup>13</sup> a position subsequently upheld by the U.S. Court of Appeals for the District of Columbia Circuit.<sup>14</sup> The 2010 Climate Disclosure Guidance is a more recent example. In that interpretive release, the SEC took the position that climate change disclosures may be required as material under particular disclosure items in Regulation S-K, depending upon a company's circumstances.<sup>15</sup>

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<sup>9</sup> *Id.* at 448-449.

<sup>10</sup> See *Basic v. Levinson*, 485 U.S. 224, 234 (1988); *Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U.S. 258 (2014).

<sup>11</sup> See e.g., *United States v. Litvak*, 889 F.3d 56, 65 (2d Cir. 2018) (testimony regarding traders' "own point of view" was relevant only insofar as it was "shown to be within the parameters of the thinking of reasonable investors in the particular market at issue"); *Resnik v. Swartz*, 303 F.3d 147, 154 (2d Cir. 2002) ("Disclosure of ... information is not required ... simply because it may be relevant or of interest to a reasonable investor.").

<sup>12</sup> SEC, *Disclosures Related to Matters Involving the Environment and Civil Rights*, 36 Fed. Reg. 13,989 (July 29, 1971).

<sup>13</sup> See e.g., SEC, *Proxy Disclosure Enhancements*, 74 Fed. Reg. 68,334, 68,335-37 (Dec. 23, 2009) (disclosure limited to risks "reasonably likely to have a material adverse effect on the company"); SEC, *Proxy Disclosure and Solicitation Enhancements*, 74 Fed. Reg. 35,076, 35078 (July 17, 2009) ("[D]isclosure [of compensation policies] under the proposed rule amendment would only be required if the materiality threshold is triggered."). SEC, *Executive Compensation Disclosure*, 57 Fed. Reg. 29582, 29584 (June 23, 1992) (limiting disclosure to "material pay-related information"). The compensation disclosure rules referenced in the petition were premised on the very reasonable conclusion that the amounts and methods of compensation are material to shareholders because they make clear the monetary incentives of high-level corporate officials in exercising their duties.

<sup>14</sup> *Natural Resources Defense Council v. SEC*, 606 F.2d 1031 (D.C. Cir. 1979).

<sup>15</sup> See SEC, 2010 Climate Change Guidance at 6293-95. For example, information about climate change-related risks and opportunities might be required in a registrant's disclosures related to its description of business, legal proceedings, risk factors, and management's discussion and analysis of financial condition and results of operations.

For approximately eight decades, the principle of materiality has been embedded in the framework that governs how public companies disclose information to the investing public. Not only does this foundational principle serve investor protection well by filtering out irrelevant material, but what may be considered “material” also naturally evolves over time to address new issues and developments and takes into account the facts and circumstances that are relevant to each company, including changes in investor expectations or informational needs. As the SEC continues to review its next steps on climate and ESG disclosure, it must ensure that materiality continues to act as the cornerstone of any public company disclosure regime under the federal securities laws. Materiality is foundational to the SEC’s principles-based approach to disclosure, allowing materiality determinations on a case-by-case basis rather than prescribing bright-line rules.<sup>16</sup>

### **SEC Disclosure Rules Are Not the Appropriate Means to Drive Other Policy Initiatives**

The SEC must avoid disclosure obligations designed to further specific policy goals outside of the SEC’s tripartite mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. Congress has not given the SEC the authority to pressure companies into or mandate specific policy or business choices. For example, corporate disclosures should not be used as mechanisms for achieving any national targets or goals to reduce greenhouse gases or to enforce certain environmental standards. Corporate disclosures should focus on a company’s material risks and opportunities that bear a sufficient potential to impact the company’s long-term operational and financial performance and shareholder value creation considering its business. The SEC does not have the expertise or authority to make policy decisions about climate change, nor the authority to expand the public company disclosure obligations beyond the Commission’s mission to ensure that public companies convey material information to investors.

### **Important Considerations if the SEC Decides to Pursue a Rulemaking to Mandate Climate or Other ESG Disclosures**

If the SEC identifies reporting gaps that cannot be addressed through guidance and decides to move forward with a rulemaking to mandate climate or other ESG disclosures, NMA offers the following considerations and recommendations:

- **Materiality is Paramount:** As summarized in detail above, any disclosure requirements must be rooted in the materiality standard. Specifically, the Supreme Court’s traditional materiality standard as established in *TSC* should

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<sup>16</sup> See *Matrixx Initiatives, Inc. v. Siracusano*, 563 U.S. 27, 38-39 (2011) (declining to adopt plaintiff’s bright-line test for materiality and stating that “[a]ny approach that designates a single fact or occurrence as always determinative of an inherently fact-specific finding such as materiality, must necessarily be overinclusive or underinclusive”).

continue to be the benchmark that the SEC uses when developing new climate or ESG disclosure obligations for public companies. The SEC should not use the federal securities laws to mandate public companies to disclose information that does not pass this test. Companies must be able to have the latitude to make determinations of materiality and uncoupling metrics that can be quantified (such as greenhouse gas emissions) from broader discussions around strategy and approach would be detrimental.

- **Recognize Limitations on Quantifying Risks:** Many climate-related risks cannot be quantified, or, if the risk were to be quantified, many assumptions and speculations would be required. Companies should not be unnecessarily compelled to estimate or quantify factors that are unknown or could not be consistently measured across companies, industries, regions, or sectors. Quantitative metrics should be limited to the company and should not extend upstream or downstream. While a company can qualitatively identify possible risks associated with its supply chain, it can only quantify those risks based on assumptions and speculations that are not reasonably known or appropriate for financial filings.

Additionally, the SEC should carefully consider that certain climate disclosures like greenhouse gas emissions taken simply alone are not always a direct indicator of financial risk, especially to infrastructure or company facilities. For example, there may be entities that have a high future financial risk due to sea level rise, wildfires, or floods even if that entity itself has zero greenhouse gas emissions. In that case, disclosure of emissions would not provide the complete picture of risk. The opposite scenario can also be true. Accordingly, *if* the SEC proceeds with developing disclosure requirements, it should incorporate this type of nuance into the requirements rather than using overly simplistic approaches where greenhouse gas emissions are treated as a risk proxy, without further analysis or consideration of other factors.

- **Flexibility is Critical:** Any new disclosure requirements should afford each public company flexibility to adapt its disclosures, so they appropriately fit the company's business, operations, financial performance, and evolving investor preferences and expectations. Climate- and ESG-related disclosures are in their infancy compared to traditional financial disclosures and will continue to evolve and mature. The SEC must afford companies the time and flexibility to implement their disclosure programs, acknowledging that climate- and ESG-related disclosure is an ever-changing subject matter that requires continual learning and presents implementation challenges.

Accordingly, any SEC disclosure mandate should not be an overly prescriptive, rules-based approach that would easily become obsolete in the short term. Companies must be afforded flexibility to respond to relevant





changes in facts, risks, and other circumstances that may arise at the company and tailor their reporting appropriately. Additionally, disclosure mandates should be phased in over time to allow companies the appropriate time to establish the infrastructure necessary to collect and report this information with appropriate internal oversight.

- **Liability:** The SEC should allow climate- and ESG-related disclosures to be “furnished” and not “filed.” There is no reason to subject this information to the strict legal liability that accompanies filings with the SEC for any material misstatement or omission. In contrast, documents furnished to the SEC do not trigger potential liability unless they are materially misleading. The reduced liability standard that attaches to furnished disclosures is appropriate for climate- and ESG-related disclosures given the ever-evolving nature and inherent uncertainty of the data, metrics, and benchmarks and forward-looking models associated with this information.

Simply stated, these disclosures are not sufficiently mature to support the more rigorous liability structure associated with “filed” information. By allowing issuers to furnish this information, the SEC would ensure public companies have the maximum flexibility to provide decision-useful information to investors, while at the same time preserve the accuracy, reliability, and comparability of the information. Moreover, the SEC would appropriately reduce the cost and liability burdens on public companies complying with a new mandatory disclosure program in good-faith.

In addition to allowing information to be furnished with the SEC, the Commission should provide an enhanced safe harbor for climate change disclosures similar to the protections afforded under the Private Securities Reform Act of 1995 for certain forward-looking statements. Finally, the SEC should also institute a “comply or explain” mechanism to ease the compliance burden for public companies, ensure that disclosures are not irrelevant or immaterial, and allow room to explain uncertainties inherent to climate and ESG data and information.

- **Existing Frameworks Should be Leveraged:** The SEC should not operate in a vacuum, ignoring the tremendous strides companies have already taken to report material climate and other ESG-related risks to their investors and the public and the proliferation of third-party programs that help to accomplish these disclosures. The SEC must be careful not to create a redundant reporting scheme or a reporting scheme that becomes out of date or inconsistent with third-party reporting standards. Accordingly, we do not believe the SEC should develop an ESG disclosure framework that is divorced from existing third-party standard-setters for ESG reporting. At the same time, however, the SEC must recognize there are a multitude of ways



companies can appropriately disclose this information—including not using existing third-party standard-setters—that is right for their business and the needs of their investors and other stakeholders. The SEC should give companies the maximum flexibility to choose how each discloses this information, whether by using an existing third-party disclosure scheme or by disclosing material information apart from these schemes. In the end, it is critical that companies are allowed to choose which data they will report on, and how, based on the particulars of their business and what is material.

- **Regulatory Authority Should Not Be Delegated to An External Body:** While NMA believes existing third-party programs should be leveraged since many companies have committed extensive financial and staff resources in adopting and implementing these programs based on their own corporate needs, we strongly object to the SEC delegating its regulatory authority to any of these external bodies.

Every third-party standard-setter has its own organizational governance, mission and objectives, funding sources, and contributors to the standard-setting process. The ESG reporting marketplace produces a diversity of standards, some more transparently developed and inclusive of industry and investor feedback than others. These third-party entities often require substantial amounts of data or information that is not material. Consequently, the standards they create may be inconsistent with financial materiality thresholds underlying U.S. securities disclosure requirements. Additionally, delegation of rulemaking authority to these third-parties would violate the Administrative Procedures Act. Such delegation would require explicit Congressional statutory authorization that does not currently exist.

Moreover, these third-party entities are not regulated or always adequately governed to eliminate bias or conflicts of interest from special interest groups against the primary business of the industry being asked to report certain metrics. Finally, in NMA's experience, some of these programs have not historically incorporated the recommendations of associations or impacted companies into their standards, ignoring critical stakeholder input and missing opportunities to verify the workability and legitimacy of the standards.

While NMA believes companies should have the right to choose to report under these programs, we do not support the SEC requiring all issuers to use a specific reporting framework or create an exclusive list of possible reporting frameworks to choose from. Each company should be allowed to choose for themselves how they report in consultation with their own investors and other identified stakeholders.

- **Disclosure Submissions:** The NMA does not necessarily believe the Annual Report on Form 10-K is the only proper forum for climate- or ESG-related disclosures. Not all investors are concerned with a company's climate or ESG performance with the same level of importance and significance as a company's financial performance. The volume and level of detail of certain ESG and climate disclosure frameworks may not align with the principles of disclosure effectiveness through focused, brief and material company-specific disclosures which underly Form 10-K reporting.

Accordingly, we believe allowing issuers to present their disclosures separately from filed documents, such as on their websites, would be more appropriate. We do not believe this would burden investors as those interested in climate- or ESG-related disclosures could simply read this separate report(s) and make informed investment decisions. Alternatively, issuers could furnish this information on a separate form (e.g., a specialized report, similar to the approach for Form SD for conflict minerals issuers).

To the extent that any new rule making was to add provisions to Form 10-K for such disclosures, we would also recommend allowing companies the option to disclose in the report or to incorporate by reference subsequently. The internal resourcing burden on companies in connection with new reporting requirements can be significant and time consuming. This additional timeline, subsequent to the Form 10-K calendar, could be used to somewhat mitigate those internal infrastructure burdens and allow newly adopting companies time to focus on verification and encourage enhanced reliability and fulsome reporting.

## **Conclusion**

The NMA does not believe that the SEC should mandate climate or ESG-related disclosure at this time. The SEC has a tremendous amount of work to undertake to adequately understand the current universe of voluntary disclosures. We strongly encourage the SEC not to jump immediately into a rulemaking and instead seriously analyze and consider, with adequate public consultation, whether additional guidance could fill reporting gaps, if any are found.

Based on our review of our members' disclosures, we believe that voluntary disclosures sufficiently capture the investor needs for each individual company. We respect our companies' choices of how best to disclose their climate- and ESG-related risks and opportunities and believe the SEC can learn more from these choices.

If the SEC pursues a rulemaking to mandate climate or ESG-related disclosures, NMA is committed to working with the Commission to advance a disclosure framework that takes into consideration the unique aspects of the mining industry, is focused on



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reporting material risks and opportunities, and reduces duplication and conflicts with other mature reporting schemes.

Sincerely,

A handwritten signature in black ink, appearing to read "Tawny Bridgeford". The signature is written in a cursive, flowing style.

Tawny Bridgeford  
Deputy General Counsel & Vice President, Regulatory Affairs

