BANK OF AMERICA

June 13, 2021

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

Re: Request for Public Input on Climate Change Disclosures

Dear Ms. Countryman:

Bank of America Corporation welcomes Commissioner Lee's public statement of March 15, 2021, seeking public input on climate-related disclosures (the Request). Investors and markets would benefit from a single climate-related disclosure framework, which is critical to establishing the transparency needed to better identify, manage and measure the financial effects of climate-related risks and opportunities on businesses and economies. As a financial services company, we are working with our clients to help with the transition to a low-carbon sustainable future[1] and a single climate-related disclosure standard would help to carry out that work in a way that facilitates an effective transition based on transparency and realistic, market-driven actions. Such transparency is key in demonstrating progress towards climate commitments, such as our recently announced goal to achieve net zero greenhouse gas (GHG) emissions in our financing activities, operations and supply chain before 2050.[2]

With a single standard for disclosure, shareholders and markets can be better informed about the financial effects and risks of climate change, and can better understand the steps a company may take to manage those risks. A single disclosure standard would also mean that the financial effects of climate change could be more broadly considered by the financial markets. Accordingly, we encourage the U.S. Securities and Exchange Commission (the Commission) to establish a framework and multi-phased approach for climate-related disclosure that balances the pressing need for high-quality disclosure against the significant challenges companies face to produce such disclosure as outlined further in Section 1 of this letter.

[1] On April 8, 2021, we announced a goal of deploying and mobilizing $1 trillion by 2030 in our Environmental Business Initiative in order to accelerate the transition to a low-carbon, sustainable economy. This commitment anchors a broader $1.5 trillion sustainable finance goal by both environmental transition and social inclusive development purposes, spanning business activities across the globe (see https://investor.bankofamerica.com/press-releases/detail/1815/bank-of-america-increases-environmental-business-initiative).
[2] Bank of America Announces Actions to Achieve Net Zero Greenhouse Gas Emissions before 2050 (see https://newsroom.bankofamerica.com/content/newsroom/press-releases/2021/02/bank-of-america-announces-actions-to-achieve-net-zero-greenhouse.html).

The Commission should continue to support the International Financial Reporting Standards (IFRS) Foundation in establishing an international sustainability standards board (ISSB) and support that new board in its creation of a climate-related disclosure standard. Further, the Commission should then move that climate-related disclosure standard through its rule-making process, through which it can be appropriately evaluated by U.S. market participants and under the lens of U.S. securities law. Any final rule should reflect an appropriate phase-in and effective date that gives registrants reasonable time to prepare for and develop high-quality climate-related disclosure (refer to Section 2 of this letter). We would like to emphasize that there is a need for a single, global climate-related disclosure standard rather than the current mix of voluntary, and in some cases mandatory, frameworks that continue to create confusion amongst registrants and markets. Additionally, the Commission should consider what potential role the Financial Accounting Foundation should play, if any, in the development of the ISSB and any climate-related disclosure standard.

Following the establishment of a single U.S. climate-related disclosure standard, the Commission should consider addressing the additional Environmental, Social and Governance (ESG) standards issued by the ISSB for other ESG-related areas in which investors seek greater transparency and comparability, such as human capital management. As part of the Commission's consideration, such as through a rulemaking process, these ESG standards can be appropriately evaluated by U.S. market participants and under the lens of U.S. securities law. We recognize that the challenges involved in producing other ESG-related disclosure may be just as significant as those associated with climate-related disclosure, and hence the same considerations need to be taken into account by the Commission. In addition, we encourage the Commission to work with regulators in other jurisdictions to maximize the opportunity for global consistency in ESG reporting standards.

The challenges described in Section 1 should be thought of as prerequisites to establishing an environment for high-quality climate-related disclosure, which require that sufficient time must be given to the market for a common understanding of the rules, methods, assumptions and models to develop. While we support climate-related disclosure for all registrants as outlined in Section 2, such reporting should not become effective until the environment and common understanding for high-quality climate-related disclosure is firmly in place. A significant preparatory period will be needed for registrants to produce high-quality climate-related disclosure on the basis of a US climate-related disclosure standard. Moreover, the market also will need time to fully synthesize those disclosures. Adequate time is necessary to also provide an opportunity for the Commission to address the issues that need attention prior to any mandatory reporting requirement going into effect.

Climate-related disclosure should continue to be made consistent with the Commission Guidance Regarding Disclosure Related to Climate Change (the 2010 Guidance) or applicable updated guidance.[3] Additionally, we support required climate-related disclosure in a specialized report

[3] SEC, Commission Guidance Regarding Disclosure Related to Climate Change, 75 Fed. Reg. 6290 (Feb. 8, 2010).

to be furnished (i.e., not filed) outside of filings under the Securities Act of 1933 (Securities Act) and Securities Exchange Act of 1934 (Exchange Act). To encourage more fulsome disclosure, a climate-specific safe harbor is also needed to protect registrants' good faith efforts to comply with those disclosure requirements.

We note that our comments provided herein are consistent with our corporate belief in Responsible Growth: we have to grow and our growth has to be client-centric, we have to manage risk carefully, and our growth must be sustainable. We believe sustainability is based on 1) operational excellence, 2) being a great place to work for our teammates and 3) sharing success with the communities we serve around the world. Our ESG strategy and reporting is important to us to help demonstrate how we deliver long-term value and address key societal priorities, as best defined by the United Nations' Sustainable Development Goals. Consistent with those views, we generally prepare various ESG-related reports annually using frameworks established by the following organizations: Global Reporting Initiative (GRI), Sustainability Accounting Standards Board (SASB), CDP, Task Force on Climate-Related Financial Disclosures (TCFD) and United Nations Global Compact. We publicly post our ESG-related reports on our website (www.bankofamerica.com).

Additionally, we also report under the International Business Council of the World Economic Forum's (IBC-WEF) Stakeholder Capitalism Metrics. The IBC, with the collaboration of Deloitte, EY, KPMG, and PwC, published a set of common sustainability metrics in the WEF report: *Measuring Stakeholder Capitalism: Towards Common Metrics and Consistent Reporting of Sustainable Value Creation*.[4] The Stakeholder Capitalism Metrics draw from a range of existing standards and represent a common, core set of metrics and recommended disclosures to align sustainability reporting, reduce fragmentation, encourage the convergence of existing standards toward a single, global common standard, as well as encourage faster progress towards solutions to environmental and social challenges. As of May 9, 2021, approximately 80 global companies from every region and across a diverse range of industries have indicated their commitment to reporting under the Stakeholder Capitalism Metrics, reflecting a desire by these companies to see greater convergence of ESG reporting that appears consistent with the objectives of Commissioner Lee's Request. We recommend that the Commission evaluate the IBC-WEF climate-related metrics and their underlying principles, so they are considered in connection with any actions taken by the Commission. Given our long history of ESG reporting under multiple frameworks and our leading role in developing the IBC-WEF metrics, we hope the Commission finds our comments of use as it considers the many courses of actions available to it. For the Commission's convenience, our first disclosure of the Stakeholder Capitalism Metrics can be found in our 2020 Annual Report.[5]

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[4] See https://www.weforum.org/reports/measuring-stakeholder-capitalism-towards-common-metrics-and-consistent-reporting-of-sustainable-value-creation.

[5] Please refer to pages 40-44 of Bank of America Annual Report 2020 (see https://d1io3yog0oux5.cloudfront.net/_695951010a5b585561767936968f33db/bankofamerica/db/867/9129/annual_report/BAC_2020_Annual_Report.pdf).

Our response to the Request is structured thematically in three sections and is intended to respond to the key matters on which the Commission has requested input.

- Section 1 discusses the current challenges that companies face in producing high-quality climate-related disclosures, which need to be addressed as prerequisites to required climate-related reporting.
- Section 2 discusses our recommendation on how the Commission should proceed in establishing a US climate-related disclosure framework.
- Section 3 discusses immediate priorities and a related work plan that we recommend the Commission consider addressing as it carries out the recommendation discussed in Section 2.

The road to reliable, high-quality climate disclosure will require time, effort, patience and a willingness to experiment, especially as preparers, analysts, regulators and markets become more educated and proficient with the models, methodologies and many other specialized concepts connected with identifying, managing and measuring climate risk.

Section 1: Challenges to High-Quality Climate-Related Disclosures

In this Section, we describe practical and systemic challenges that need to be addressed and resolved to help ensure registrants are prepared to provide high-quality climate-related disclosure, which form the basis for our recommendation that the Commission move deliberately but cautiously as it considers disclosure requirements. Any disclosure requirements must consider the matters below and give an ample implementation period for registrants and markets to prepare for adoption. These challenges consist of the following key areas: 1) data, 2) standards, models and methodologies, 3) systems and controls, 4) education, 5) assurance and 6) the evolving regulatory and standards landscape.[6]

Data

Comprehensive and robust climate risk analysis requires data that have not been captured in the normal course of business. It will take time to develop the processes necessary to capture and analyze these data. Moreover, producing high-quality climate risk data presents several key challenges: modeling using historical data, data validation, data standardization and taxonomies, data provided by clients and customers, and data timeliness. Each is discussed below.

- *Modeling Using Historical Data:* Historical data generally provide limited insight in evaluating potential losses or changes in economic conditions due to climate change events. While there is a significant amount of historical climate data, models that effectively link that data to reliable forecasts of economic conditions at the global, national, regional or sector-specific levels are in developing stages. Hence, modeling the

[6] The challenges described in this section relate to ESG and climate-related reporting in the context of the requested input regarding future Commission climate change disclosures and are not intended to be read as commenting on Bank of America’s historical or future voluntary ESG and climate-related reporting.

effects of climate change to understand the financial effects of climate risk involves significant complexity and requires significant resources, as well as the use of novel modeling approaches and potential reliance on third-party providers.

- *Data Validation:* As new climate models must be developed, new data attributes are required, specifically as they relate to the modeling of acute and chronic physical risk. As physical risks expected to occur over extended time horizons are not generally contemplated in current modeling frameworks, it may be necessary to rely on third-party providers of such frameworks. This creates challenges in executing validation processes regarding models, variables and assumptions used by such providers. Providers may use differing models and methodologies, which would impair comparability and the ability to rely on such data. Differing models, methodologies and assumptions can and do result in significantly different measurements and estimates.

- *Data Standardization and Taxonomies:* Data required to quantify climate risk typically must be acquired from multiple sources that are recorded and reported using different methods, assumptions and formats. This is particularly true for financial institutions that rely on client information to quantify the impact of their lending activities. For example, Scope 1 and 2 emissions may be publicly reported by a company and such data may be reported on a significant lag.[7] There are additional measurements used to estimate Scope 3 emissions for which typically, very little information is available regarding methods and assumptions used to gather, calculate or estimate such information. Further, such data may be obtained from third-party data providers based on that same publicly reported information or based on proprietary models created by the data provider with little information available as to the nature of the key assumptions made in the estimation process. In addition, information can be received in structured or unstructured formats thus creating standardization challenges. A lack of uniform, universal climate taxonomies therefore also presents an ongoing challenge for the climate data effort. For example, there is no standardized approach to properly classify green investment assets.

- *Data Provided by Clients and Customers:* The data needed by a company from its clients or customers to quantify climate risk are substantially greater than what has been historically required. In many, if not most cases, registrants do not have the necessary client and customer data and may not have processes in place to collect that data. For example, our clients' transition plans to a lower carbon environment or the geo-locations of their operations and facilities do not have standard data elements and have not been captured by us at client on-boarding or otherwise. Furthermore, while specific client data may be available for a parent company on an enterprise-wide basis, such data may not be available for individual subsidiaries. We also note that sourcing client data from third-party data providers are also subject to limitations, including, for example, data from privately held companies. Thus, determining the appropriate approach to estimate climate risk will require solutions to these additional complexities.

[7] Such estimates are often based on the widely used GHG Protocol.

- *Data Timeliness:* Making consistent, comparable and reliable climate risk and emissions data available on a timely basis is a critical challenge with regard to all types of climate-related data and for all companies. In particular, there are significant challenges specific to financial institutions, for which Scope 3 emissions are a significant factor in assessing indirect carbon footprints. High-quality climate-related disclosure should be based on timely information and timely information is not consistently available at this time.

Standards, Models and Methodologies

Measuring and estimating carbon emissions, or other GHG emissions in carbon equivalents, for companies is an evolving landscape. While the GHG Protocol is a widely used standard for measuring emissions, its application requires the use of estimates, which can significantly impact measurement outcomes. Registrants and markets need time to experiment with different measurement approaches and determine which prove best over time. For example, in July 2020, we joined the Partnership for Carbon Accounting Financials (PCAF) to collaborate with other financial institutions to determine a consistent methodology to assess and disclose emissions associated with our financing activities (i.e., financed emissions) based on the GHG protocol. While early in its own process of finalizing its methodologies, PCAF is just one of several methodologies for assessing and disclosing financed emissions utilized by banks and other financial institutions.

Providing high-quality climate-related disclosure requires processes that identify, measure and estimate carbon and other GHG emissions. GHG emissions need to be consistently measured to be properly managed and reported. To do so requires generally accepted standards of measurement, estimation and reporting. While measurement standards have been developed under the GHG Protocol, an independent board similar to the Financial Accounting Standards Board would be needed to establish and maintain uniform methods of measurement, estimation and reporting of emissions (refer to Section 2 of this letter).

Without such standards to drive consistency and uniformity and address the considerations identified in this Section, data published by registrants may vary materially from one year to the next due to ongoing changes to data collection processes or changes in measurement/estimation methodologies, which may vary between individual registrants, making it difficult for investors to track progress by individual registrants or compare performance between registrants.

Systems and Controls

Climate-related disclosure must be supported by the appropriate system architecture and infrastructure to support the collection of data, its measurement, processing and reporting. This generally will require new data attributes, new databases, and new system functionality. It is important to note that there is no existing general ledger for carbon or other GHG emissions or other key climate-related metrics. Systems and processes have to be designed and built from the ground up, at significant financial cost and personnel commitment. At the same time, control standards related to those systems, processes and data must be implemented. While many believe those standards need to be in line with those mandated by the Sarbanes-Oxley Act for financial disclosures, others are indicating that a different calibration is needed based on materiality and other considerations. Before any new disclosure mandates for climate-related risks become effective, the Commission should provide guidance regarding its expectations for control standards over climate-related disclosures. This is very important as the effort to build systems and appropriate control environments will require significant time and investment over many years.

Education

The complexities of physical and transition risks, modeling and methodologies for measuring those risks and other aspects of carbon emissions measurement require a unique skill set. Translating this type of risk into meaningful disclosure will require substantial new expertise, which can be thought of as a new discipline of risk and accounting professionals that have yet to be trained. Other classes of professionals will be needed, including analysts who can interpret climate risk disclosure and help ensure that information is considered in asset pricing. Building this expertise will take time.

Assurance

In addition to a lack of climate risk management personnel, there is a lack of personnel qualified to provide assurance of climate risk disclosure. Furthermore, it is not clear that current auditing standards used for financial reporting should be applied to climate reporting without significant modification; the accounting profession and the Public Company Accounting Oversight Board would need to develop special assurance or audit standards. In light of these circumstances and other challenges discussed in this Section, it is premature for the Commission or any other regulator to consider or impose assurance or audit requirements.

Evolving Regulatory and Standards Landscape

Regulators across the globe are learning how best to regulate climate risk. Some are issuing new regulations that require new types of climate risk disclosure, which impact our subsidiaries and clients doing business in those jurisdictions. While we encourage the SEC to consider those regulations to determine what lessons can be drawn and applied in the U.S., we are concerned about divergent approaches, increased compliance costs and conflicting regulatory interpretations that require region-specific implementation, resulting in a fragmented approach to climate risk disclosure across the globe. In addition to the evolving regulatory landscape, the number of private sustainability reporting frameworks available for use on a voluntary basis leads to confusion as registrants consider what information should be reported. In this respect, we strongly support the IFRS Foundation's efforts to establish a single set of climate-related and, in time, other ESG reporting standards with global reach and the Commission's support of those efforts.

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Registrants face significant, substantive challenges as they start on the road to produce high-quality climate risk disclosure, and they and the market will need sufficient time to prepare. In Sections 2 and 3, we provide recommendations on how to proceed with establishing requirements for registrants while providing adequate time to address the challenges discussed above.

Section 2: Our Recommendation for Establishing a U.S. Climate-Related Disclosure Framework

We recommend that the Commission consider the following course of action in light of the challenges discussed in Section 1.

Support the IFRS Foundation and the Establishment of an ISSB

In Section 1, we describe the need for a global climate-related disclosure standard with supporting standards for climate-related measurement. Such standards should result in improved asset pricing as markets absorb the information based on those standards.

The Commission, through its work at the International Organization of Securities Commissions (IOSCO), and the White House[8] have indicated support for the IFRS Foundation's initiative to establish the proposed ISSB with its first priority being climate-related disclosure. We encourage the Commission to continue that support and direct its staff to work with the IFRS Foundation's ISSB task force, either directly or through IOSCO, to promote the establishment of the proposed ISSB. We understand that it will take time for the ISSB to be fully staffed and operational, begin deliberations and, ultimately, issue a standard on climate-related disclosure. Such a process could take several years to complete, which will help provide an important and necessary window for the Commission, registrants and markets to address the many challenges that we described in Section 1.

Establish U.S. Climate-Related Disclosure Rules based on a New ISSB Standard

We urge the Commission, once the ISSB is chartered, becomes operational and issues a final standard, to propose rules that incorporate that standard into a new disclosure requirement for U.S. registrants. We understand that the Commission may need to modify the standard to, for example, comport with the Commission's mission and to be compatible with the U.S. domestic framework and regulatory process. We recognize that the Commission and U.S. market

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[8] See The White House, U.S. International Climate Finance Plan, at 11–12 (Apr. 22, 2021) (https://www.whitehouse.gov/wp-content/uploads/2021/04/U.S.-International-Climate-Finance-Plan-4.22.21-Updated-Spacing.pdf (stating that the Treasury Department will "[s]upport and help guide, in coordination with U.S. regulators, the direction of work undertaken by the [IFRS] Foundation, [IOSCO], and the [Financial Stability Board] towards consistent, comparable, and reliable climate-related financial disclosures and help shape any forthcoming recommendations or international standards to be compatible with the U.S. domestic framework and regulatory process")).

participants need to be given the opportunity to fully vet the new ISSB standard and consider any changes that may be necessary under U.S. law or for U.S. markets. Additionally, while any reporting regime should be based on the adaptation of an ISSB standard, such rules should be consistent with the Commission's principles-based approach to disclosure. Importantly, we do not support the notion of competing standards. Competing standards lead to confusion and inefficiencies, including potentially overlapping work and related costs.

Additionally, as the ISSB issues standards covering different ESG topics, the Commission should apply the same pattern recommended for the climate-related disclosure standard discussed above and vet and modify the ISSB standards as appropriate for U.S. law, U.S. markets and the Commission's principles-based approach to disclosure.

Minimum Climate-Related Disclosure Standard

While the ISSB will reach its own conclusions, we support the use of the TCFD recommendations as the minimum standard for climate-related disclosure with its flexible, principles-based focus on governance, strategy, risk management and metrics and targets. We believe that this is one of the reasons why TCFD recommendations are already being commonly used for climate-related reporting and in certain jurisdictions form the basis for proposed mandatory reporting. For example, the UK Government recently issued a public consultation on proposals for listed companies and large private entities to require reporting aligned with TCFD recommendations. We also appreciate the clear and understandable format that can be used to prepare that report. The IBC-WEF also recommended in its Stakeholder Capitalism Metrics that companies prepare their own TCFD reports. Accordingly, any new standard issued by the ISSB should be based on the TCFD recommendations and the Commission should encourage the ISSB to use such recommendations.[9] Additionally, the Commission should consider what steps can be taken to encourage further adoption of voluntary TCFD reporting by U.S. registrants outside of Securities Act and Exchange Act filings.

Mandatory U.S. Climate-Related Reporting and Effective Date

Once a U.S. climate-related disclosure rule has been finalized, the Commission should mandate climate-related reporting, consistent with the mission of the Commission, for all registrants similar to the specialized reporting related to the Conflict Minerals Rule.[10] However, unlike specialized reporting under the Conflict Minerals Rule, the Commission should permit such disclosure to be included in stand-alone reports to be furnished (i.e., not filed) with the Commission and should not require such disclosure to be subject to audit or assurance

[9] In December 2020, the CDP, the Climate Disclosure Standards Board, the GRI, the International Integrated Reporting Council and the SASB developed a model for a climate disclosure standard based on elements set out by the TCFD.

[10] See SEC, Conflict Minerals (the Conflict Minerals Rule), 77 Fed. Reg. 56274 (Sept. 12, 2012). The Conflict Minerals Rule is codified at 17 C.F.R. §§ 240.13p-1, 249b.400, and Form SD is available at https://www.sec.gov/files/formsd.pdf.

requirements. A reporting regime outside of a registrant's Exchange Act filings would mitigate potential liability concerns and promote more fulsome disclosure.

Given the challenges described in Section 1, we urge the Commission to provide sufficient time between the release of any final rule containing new climate-related disclosure requirements and the effective date for those disclosure requirements for registrants to comply. Furthermore, it is very important that a required reporting rule be accompanied by appropriate safe harbor provisions in regards to that reporting (see *Safe Harbor for Climate-Related Disclosures and Information Unknown or not Reasonably Available* in the sub-section below).

Materiality

We note that many different concepts of materiality are being debated in regards to ESG reporting and those concepts are not consistent with how that term has been traditionally defined in U.S. securities law. The Commission should resolve this debate in favor of the definition of materiality as defined by U.S. Supreme Court precedent for purposes of climate-related disclosure (refer to Section 3 of this letter).

Safe Harbor for Climate-Related Disclosures and Information Unknown or not Reasonably Available

Given the many challenges of climate-related disclosure highlighted throughout this letter, any required climate-related disclosure should be afforded the protections of safe harbor provisions, similar to those provided for forward-looking statements under the Private Securities Litigation Reform Act of 1995, but more expansive given the nature of climate-related disclosure. The Commission should promote climate-related disclosure by providing a safe harbor from private rights of action and Commission investigations and enforcement actions, particularly for disclosure that is forward-looking and/or based on third-party data. In an effort to encourage and promote climate-related disclosure prior to any rule writing, the Commission should provide substantially similar interim interpretive guidance with respect to private rights of action and Commission investigations and enforcement actions for climate-related disclosures or omissions.

Additionally, Rule 409 under the Securities Act and Rule 12b-21 under the Exchange Act provides relief from prospectus and Exchange Act disclosure obligations for information that is unknown and not reasonably available to registrants. Those rules provide relief to registrants from potentially draconian results when they cannot obtain information needed to make otherwise required disclosures in prospectuses and Exchange Act reports. In light of the challenges outlined in this letter, similar relief should be available for climate-related disclosure required from registrants regardless of where the Commission determines such disclosure should be made. In particular, we recommend that, if the Commission proposes new disclosure rules that include reference to particular metrics, the requirement should permit companies to either provide the requested disclosure or explain, if the information is unknown and not reasonably available to the registrant, why the registrant has not quantified the information.

Regulatory Coordination

While we acknowledge that the Commission has clear mandates for investor protection and fair and efficient securities markets, we encourage it to coordinate with the Financial Stability Oversight Council and the National Climate Task Force in preparing any new rule mandating climate-related disclosures. This approach is consistent with the "Government-wide" approach to the climate crisis set forth in Part II of President Biden's January 2021 "Tackling the Climate Crisis at Home and Abroad" Executive Order 14008 and Section 2 of President Biden's May 2021 "Climate-Related Financial Risk" Executive Order 14030. It will facilitate and promote the Commission's development of more cost-effective and consistent climate-related disclosure rules for registrants that are regulated by multiple federal regulators or need to obtain climate-related disclosure from clients, customers or vendors that are subject to federal reporting requirements. Further, widespread coordinated action by financial regulators, other federal and state government agencies and market participants likely will be needed to reach national goals to limit global temperature rise per the Paris Agreement.

Section 3: Immediate Priorities and Other Topics

The Commission should consider the following immediate priority items to facilitate development of new climate-related reporting rules and the voluntary release of climate-related reporting pending the effectiveness of those new rules.

Study of Climate Disclosure in Commission filings and Update of the 2010 Guidance regarding Climate Disclosure with Clarification of Materiality

We encourage the Commission to carry out its announced intent to conduct a comprehensive study of climate-related disclosure in Exchange Act filings and use the conclusions reached to update the 2010 Guidance. Any updated guidance should confirm the Commission's support of financial materiality as traditionally defined under U.S. securities law. Various definitions of materiality (including, "double," "blended," "dynamic," and "nested" materiality) are being discussed under different sustainability reporting frameworks. These new uses of the term *materiality* are not recognized in U.S. securities law. Consistent with long-standing U.S. legal and market concepts, registrants should continue to assess potential disclosures under the current definition of financial materiality, with guidance from the Commission on how to assess the financial materiality of climate risk.[11]

Encourage Voluntary TCFD Reporting and Study of TCFD Reporting

As noted in Section 2, the Commission should consider what steps can be taken to encourage further adoption of voluntary TCFD reporting, outside of Securities Act and Exchange Act filings, by U.S. registrants as a means to increase climate-related information in markets.

[11] We note that this view is consistent with the Business Roundtable's October 2015 report on materiality: *The Materiality Standard for Public Company Disclosure: Maintain What Works.*

Similarly, we encourage the Commission to conduct a comprehensive analysis of voluntary TCFD reporting prepared by registrants and seek the TCFD's assistance with such analysis. The Commission should make its findings public and provide recommendations for the improvement of such reports.

Climate Risk Advisory Panel

We strongly encourage the Commission to establish a multi-disciplinary climate risk advisory panel composed of registrants, investors, regulators and other market participants to discuss the challenges to high-quality climate-related disclosure (as described in Section 1) and propose additional steps to address these challenges expeditiously. This panel also should consider the topic of climate-related measurement standards as well as the modeling challenges associated with understanding the short-, medium- and long-term financial effects of physical and transition risks on global, national, regional and sector specific economies. Such a panel can be used effectively to discuss and bring transparency to the key climate risk challenges as well as propose additional steps to help resolve them. In addition, this panel could be used to provide the SEC with feedback on the ISSB's work and the ISSB's eventual standard.

Safe Harbor for Climate-Related Disclosure

We view the ultimate adoption of a safe harbor as described in Section 2 as an important step in recognition of the challenges associated with climate-related reporting and the meaningful differences in such reporting versus traditional financial reporting. A climate-specific safe harbor is needed and would encourage additional disclosure and should be addressed by the Commission prior to the adoption and effectiveness of any climate-related disclosure rules.

Encourage Learning and Experimentation

We agree with the U.S. Commodity Futures Trading Commission's Subcommittee on Climate-Related Market Risk's report[12] that the Commission and all other federal regulators need to encourage learning and experimentation on all aspects of climate risk governance, management and measurement. When it comes to identification, management and measurement of climate risks, their financial effects and GHG emissions, innovation will be critical and regulators should encourage that innovation. By sponsoring public debate of the key challenges as well as research on standardization and many other topics associated with climate-related disclosure, the Commission can play an important facilitation role in that innovation.

[12] Managing Climate Risk in the U.S. Financial System; Report of the Climate-Related Market Risk Subcommittee, Market Risk Advisory Committee of the U.S. Commodity Futures Trading Commission, September 2020.

Encourage Inclusion of URL Addresses for Voluntary Climate-Related Reporting in Prospectuses and Exchange Act Reports through Interpretive Guidance

We note that many registrants currently make climate-related disclosures on their corporate websites regarding matters that are not required to be included in their periodic reports or prospectuses by Regulation S-K. However, due to concerns that the information contained at such website could result in potential additional liability, disclosures of such URLs are often omitted from those periodic reports and prospectuses. This can make locating climate-related disclosure more difficult for investors. Accordingly, the Commission should encourage the inclusion of URLs for websites with climate-related disclosure in prospectuses and Exchange Act reports by providing interpretive guidance or other relief establishing that the inclusion of such web addresses does not constitute an incorporation of their contents without an express statement incorporating such contents.

* * *

Conclusion

We hope the Commission finds our input to be of value as it embarks on what is expected to be a multi-year journey to establish high-quality climate-related reporting in the U.S. as a mechanism to provide investors and markets with the information they need on this important subject and key societal priority.

We consider ourselves to be a leader in ESG reporting and our comments in this letter reflect our many years of experience and institutional effort. Moreover, these comments reflect our experience in driving toward a convergence of voluntary reporting standards into a single transparent global standard. We have served a leading role in driving industry-wide efforts, such as those of the IBC-WEF, to encourage the adoption of a common set of stakeholder capitalism metrics based upon widely accepted third-party ESG reporting standards. Transparency arising from climate reporting is the key to investors, capital markets and achieving long-term success, i.e., a sustainable climate. The Commission is well positioned to take a leadership role in facilitating an approach to climate-related disclosure which accommodates the important considerations outlined in this letter. If you have any questions about the positions in our letter or we can serve in other capacity to support the Commission in its efforts, please contact Larry Di Rita at [redacted] or Rudi Bless at [redacted].

Sincerely,

Rudolf A. Bless
Chief Accounting Officer
Bank of America Corporation