



The Forum for Sustainable and Responsible Investment

June 14, 2021

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

Re: Response to Request for Comment on Climate Change Disclosure

Dear Ms. Countryman:

On behalf of US SIF: The Forum for Sustainable and Responsible Investment, I am pleased to respond to the invitation to the public, issued March 15, 2021,¹ for input on potential new requirements the SEC could impose on registrants regarding disclosure of climate change and other environmental, social and governance (ESG) criteria.

US SIF is the leading voice advancing sustainable investing across all asset classes. Our mission is to rapidly shift investment practices toward sustainability, focusing on long-term investment and the generation of positive social and environmental impacts. Our members, comprised of investment management and advisory firms, mutual fund companies, asset owners, research firms, financial planners, advisors and broker-dealers, represent more than \$5 trillion in assets under management or advisement. US SIF members integrate ESG criteria into their investment decisions and take their responsibilities seriously as shareowners, including voting proxies and engaging with companies.

Comprehensive ESG disclosure is needed

US SIF has been a leading advocate for ESG disclosure since 2009 when we, along with scores of other investors, sent a letter² petitioning the SEC to initiate a rulemaking to create a comprehensive ESG disclosure framework.

Since the 2009 letter, sustainable investing has grown tremendously, and there have been multiple calls from a broad range of investors and others for enhanced disclosure:

- The Dodd Frank Wall Street Reform Act included several provisions for disclosure, including conflict minerals, resource extraction payments, executive compensation and board diversity.
- The SEC issued guidance on climate risk and opportunity disclosure in 2010, but enforcement ebbed during the Obama Administration and has been non-existent since 2016.
- SEC Chair Mary Jo White launched the "Disclosure Effectiveness" review in 2014, which led to the Regulation S-K Concept Release in 2016. Of the 278 non-form letter

¹ <https://www.sec.gov/news/public-statement/lee-climate-change-disclosures>

² https://www.ussif.org/files/Public_Policy/Comment_Letters/SIF_SEC_ESG_Disclosure_Policy_Letter_and_Submission%2008142009.pdf.

responses, two-thirds of the public comments addressed sustainability issues and most of these supported sustainability-related disclosures in SEC filings. No further action has happened on this matter to date.

Investors are demanding multiple data sources to assess the environmental, social and governance priorities and risk management strategies of publicly traded companies. Additionally, some public companies are voluntarily producing sustainability reports designed to explain how they are addressing ESG risks and opportunities and creating long-term value for shareholders. However, there are substantial problems with the nature, timing, comparability and extent of these voluntary disclosures. Also, while mostly larger companies are issuing voluntary reports, smaller and mid-size companies rarely do.

There is a need to develop a comprehensive framework to help ensure that any securities issuers report more consistent, complete and comparable information relevant to their long-term risks and performance.

We note that the SEC intends to initiate rulemakings on climate change disclosure and human capital management disclosure.³ Chair Gensler expressed at his confirmation hearing that the SEC should consider political spending disclosures.⁴ Therefore, we include recommendations on those specific issues in addition to our primary recommendation to **establish a comprehensive ESG disclosure framework**, as we first requested more than a decade ago.

We discuss these points further below and link them to the numbered questions in Commissioner Lee's statement March 15 statement.

Investor interest in ESG Issues is broad and growing

Commissioner Lee noted in her statement of March 15 that "Since 2010, investor demand for, and company disclosure of information about, climate change risks, impacts and opportunities has grown dramatically." We agree that investor interest in ensuring that companies have good climate and other ESG practices has never been higher. Since 1995, when the US SIF Foundation first measured the size of the US sustainable investment universe—the pool of assets whose managers consider ESG criteria as part of investment analysis and engagement—at \$639 billion, these assets have increased more than 25-fold to \$17.1 trillion in 2020, a compound annual growth rate of 14 percent.⁵ According to our survey, climate change has emerged as the single largest ESG issue among asset managers that disclose the specific ESG issues they consider; they reported in 2020 that they analyze climate concerns across \$4.2 trillion in assets.⁶

³ SEC Agency Rule List, Spring 2021, Unified Agenda.

https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST¤tPub=true&agencyCode=&showStage=active&agencyCd=3235&csrf_token=1637FC94BB8DCCC5208DC475452089BCCF1C2B947AF343072E340D706F3BB8078EBB2A982239F931B4F76375DCC79C786EF4.

⁴ Confirmation hearing of Gary Gensler before the Senate Committee on Banking, Housing and Urban Affairs, March 2, 2021. <https://www.banking.senate.gov/hearings/02/22/2021/nomination-hearing>.

⁵ *Report on US Sustainable and Impact Investing Trends 2020*, US SIF Foundation (2020): <http://www.ussif.org/trends>.

⁶ *Ibid.*, 21.

Another 2021 survey of 3,600 professional investors underscored that ESG considerations are an important part of global capital allocation decisions, with 77 percent of professional fund selectors and 75 percent of institutional investors reporting that they consider ESG factors an integral part of sound investing.⁷

CFA Institute, the leading investment professional standards organization, "encourages all investment professionals to consider ESG factors, where relevant, as an important part of the analytical and investment decision-making process, regardless of investment style, asset class, or investment approach."⁸

ESG data is material

An ample body of literature makes clear that ESG criteria is material to financial performance, and much work over the past decade has established materiality standards for ESG issues.

The Sustainability Accounting Standards Board (SASB)⁹ and the Global Reporting Initiative (GRI), through multi-stakeholder processes that include corporations, investors and other market participants, have created corporate sustainability reporting standards for ESG issues. SASB's Materiality Map is a summary of sustainability issues that are "likely to affect the financial condition or operating performance of companies within an industry."¹⁰

A recent review of 1,000 studies¹¹ published in academic journals from 2015 to early 2020 found that a higher ESG rating for an individual company was associated with higher corporate financial performance (e.g., return on equity or assets, or stock performance) in 58 percent of the studies focusing on corporate performance, and a higher ESG rating for a portfolio of stocks was associated with better investment returns in 59 percent of the studies analyzing fund performance. For studies tracking the carbon footprint or climate risk of companies or funds, the more climate-focused companies performed better than their peers 57 percent of the time, and the climate-focused funds performed better than conventional funds 65 percent of the time.

An earlier meta-study, published in 2015, arrived at similar conclusions regarding the links between ESG factors and corporate financial performance. After reviewing 2,200 individual studies on this topic, the authors reported that 90 percent of the studies found a non-negative

⁷ *ESG Investing: Everyone's on the bandwagon*, Dave Goodsell (Natixis, 2021):

<https://www.im.natixis.com/us/research/esg-investing-survey-insights-report>.

⁸ *Positions on Environmental, Social, and Governance Integration*, CFA Institute (2018)

<https://www.cfainstitute.org/-/media/documents/article/position-paper/cfa-institute-position-statement-esg.ashx>.

⁹ SASB is now merged with the International Integrated Reporting Council to form the Value Reporting Foundation.

<https://integratedreporting.org/news/iirc-and-sasb-form-the-value-reporting-foundation-providing-comprehensive-suite-of-tools-to-assess-manage-and-communicate-value/>

¹⁰ Materiality Map, Sustainability Accounting Standards Board. <https://materiality.sasb.org/>.

¹¹ *ESG and Financial Performance: Uncovering the Relationship by Aggregating Evidence from 1,000 Plus Studies Published between 2015–2020*, Tensie Whelan et al. (undated):

https://www.stern.nyu.edu/sites/default/files/assets/documents/NYU-RAM_ESG-Paper_2021%20Rev_0.pdf.

relationship between ESG considerations and corporate financial performance. A clear majority showed a positive relationship.¹²

The independent research firm ISS studied the relationship of ESG performance to the economic value added (EVA) margin of US companies with a market capitalization above \$250 million between 2013 and 2019.¹³ Its findings show that "high ESG performance is generally positively related to valuation and profitability and negatively correlated with volatility." It also found "high ESG performance/high-EVA margin stocks tend to outperform."

The Morgan Stanley Institute for Sustainable Investing compared the return and risk performance from 2004 to 2018 of mutual and exchange-traded funds classified by Morningstar as ESG-focused against their traditional counterparts, using total returns and downside deviation. It found that there was "no financial trade-off in the returns of sustainable funds compared to traditional funds, and they demonstrate lower downside risk." Moreover, during a period of extreme volatility, the study found "strong statistical evidence that sustainable funds are more stable."¹⁴

Corporate climate and ESG reporting is still inadequate for investors

In response to the rising demand from investors and other stakeholders, 90 percent of the S&P 500 index companies now provide some form of ESG or sustainability report¹⁵ and sustainability reporting is becoming common globally as well. A variety of voluntary international frameworks and standards have arisen to guide companies in this reporting, the biggest of which include the Carbon Disclosure Standards Board (CDSB), GRI, SASB, the International Integrated Reporting Council (IIRC) and the Task Force on Climate-Related Financial Disclosures (TCFD). Importantly, these standards now incorporate more forward-looking risk management and governance disclosures, which tend to be qualitative rather than metric-based.

Still, the International Organization of Securities Commissions (IOSCO) recently found that investor demand for sustainability-related information is currently not being properly met.¹⁶ Investors and issuers both complain that the information provided under voluntary frameworks is not adequate for a variety of reasons, including:

- the lack of comparability and completeness,
- the omission of material disclosures from a framework's requirements,

¹² "ESG And Financial Performance: Aggregated Evidence from More Than 2000 Empirical Studies," Gunnar Friede, Timo Busch, Alexander Bassen, *Journal of Sustainable Finance & Investment* (Volume 5, 2015 – Issue 4) <https://www.tandfonline.com/doi/full/10.1080/20430795.2015.1118917>.

¹³ *ESG Matters*, G. Kevin Spellman, CFA, David O. Nicholas. (2019) https://www.issgovernance.com/file/publications/ISS_EVA_ESG_Matters.pdf.

¹⁴ Sustainable Reality: Analyzing Risk and Returns of Sustainable Funds, Morgan Stanley Institute for Sustainable Investing. (2019) [https://www.morganstanley.com/pub/content/dam/msdotcom/ideas/sustainable-investing-offers-financial-performance-lowered-risk/Sustainable Reality Analyzing Risk and Returns of Sustainable Funds.pdf](https://www.morganstanley.com/pub/content/dam/msdotcom/ideas/sustainable-investing-offers-financial-performance-lowered-risk/Sustainable%20Reality%20Analyzing%20Risk%20and%20Returns%20of%20Sustainable%20Funds.pdf).

¹⁵ <https://www.globenewswire.com/news-release/2020/07/16/2063434/0/en/90-of-S-P-500-Index-Companies-Publish-Sustainability-Reports-in-2019-G-A-Announces-in-its-Latest-Annual-2020-Flash-Report.html>.

¹⁶ <https://www.iosco.org/news/pdf/IOSCONEWS594.pdf>.

- the ability for firms to "shop" around for the framework and disclosures which cast them in a favorable light, and
- the massive amount of incongruent sustainability data makes it hard to form an accurate picture of a firm's performance and risk management.

Investors' experience with the results of the SEC's 2010 guidance to publicly traded companies is instructive. Despite many firms reporting *some* sustainability data, the 2010 SEC climate disclosure guidance¹⁷ has not satisfied the needs of investors because it essentially allows firms to self-determine which climate risks are material. Management is often overly optimistic about a firm's climate resilience, may not fully understand what investors actually believe is material or want to know, and may have an interest in obscuring parts of the picture, leading to significant under-reporting of risks.

US SIF's suggestions for an ESG disclosure framework

An effective disclosure framework should be:

- **Mandatory** - ESG disclosure must be mandatory for all reporting issuers in the United States. Such disclosure should include a management discussion of ESG issues using quantitative ESG data where possible and fact-based information where quantification is difficult. Companies should present their sustainability management policies and strategies, ESG performance data and management's analysis of the key conclusions from the information.
- **Comprehensive** – ESG disclosure must be comprehensive to allow investors to gain a holistic understanding of company practices. Investors need information comprised of both universally applicable and industry-specific components to form a view of the quality of management, including but not limited to required financial reporting.
- **Comparable** - Assure that required reporting meets investor needs for comparability. Disclosures should allow comparisons among organizations within sectors, regions, industries or portfolios.
- **Internationally aware** - We encourage the SEC to adopt the best attributes of international standards and harmonize, where possible, with existing international standards to prevent comparability mismatches that leave the information generated less useful for investors.
- **Able to evolve** – Any disclosure framework should be designed to evolve in a timely manner as new issues emerge.

Such a mandatory disclosure framework will help ensure the robust functioning of the US capital markets by allowing investors to adequately assess climate and other ESG risks in making decisions regarding allocation of capital to issuers. The European Commission has established

¹⁷ <https://www.sec.gov/rules/interp/2010/33-9106.pdf>.

the Non-Financial Reporting Directive requiring companies to report sustainability information.¹⁸ The United States should establish its own comprehensive ESG disclosure framework to remain competitive in attracting investors seeking robust ESG information.

Response to Questions

Q1. How can the Commission best regulate, monitor, review and guide climate change disclosures in order to provide more consistent, comparable and reliable information for investors....? Where and how should such disclosures be provided?

As soon as possible, the SEC should require **all** public companies to disclose against a broad, standardized set of climate and ESG related metrics and qualitative descriptions.

Such disclosure should include a qualitative management discussion of ESG issues and quantitative ESG data comprised of universally applicable and industry-specific components. In addition, companies should present their sustainability management policies and strategies, ESG performance data and management's analysis for investors of the key conclusions from this information.

Disclosures are most useful to investors and registrants if they are mandatory and standardized in a way that makes them comparable across firms within an industry, across sectors and over time. They should be easily accessible, machine-readable and clear to be useful to all investors across different levels of sophistication.

Disclosures should be in annual and quarterly SEC filings and, to the extent possible, included in the audited financial statements.

Q2. What information related to climate risks can be quantified and measured? How are markets currently using quantified information? Are there specific metrics on which all registrants should report (such as, for example, scopes 1, 2, and 3 greenhouse gas emissions, and greenhouse gas reduction goals)? What quantified and measured information or metrics should be disclosed because it may be material to an investment or voting decision?....

Disclosures should include both qualitative disclosures, such as the requirements in TCFD, and specific, line-item, quantitative disclosures.

At a minimum, issuers should:

- provide a qualitative discussion of risk management and the firm's business model and strategy under the most ambitious scenario of holding average global warming to 1.5 degrees Celsius over the pre-industrial era, as well as the increasingly catastrophic 2 degree, 3 degree, and 4 degree scenarios, and the extent to which the firm's decarbonization goals and climate strategy depend on the availability of carbon offsets.

¹⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021PC0189>.

- disclose the precise locations of significant assets and operations that might be affected by climate-related hazards such as floods, fires, droughts, severe precipitation, cyclones, heat and sea-level rise.
- report on total Scope 1, 2 and 3 greenhouse gas emissions as defined in the Greenhouse Gas Protocol.¹⁹ Scope 3 emissions must also include those emissions resulting from activities that issuers finance or underwrite.

Q3. *What are the advantages and disadvantages of permitting investors, registrants, and other industry participants to develop disclosure standards mutually agreed by them?*

Disclosure standards must be created by a regulatory body. Industry-led, voluntary standards development would be subject to the challenges that existing standards-setting bodies face and would not generate the information that investors need on the timelines that they need it. We firmly believe that required disclosure must meet investors' needs by being consistent, comparable and complete, which current, voluntary disclosure is not.

Q5. *What are the advantages and disadvantages of rules that incorporate or draw on existing frameworks, such as, for example, those developed by the Task Force on Climate-Related Financial Disclosures (TCFD), the Sustainability Accounting Standards Board (SASB), and the Climate Disclosure Standards Board (CDSB)?*

In developing existing frameworks, third-party standard setters have compiled and created a broad range of useful, well-researched metrics and descriptions demonstrating the range of items that investors find material. This includes both quantitative metrics and qualitative information about governance, strategy and risk management.

A range of standards exists because no single standard captures everything that investors need in one place.

- For example, TCFD has acknowledged that its framework is not sufficiently standardized to generate comparable disclosures for users. Many companies claiming to be TCFD-compliant are providing boilerplate language rather than reporting in a rigorous manner.
- The SASB materiality framework has gaps in both climate and non-climate areas, especially the lack of comprehensive environmental, climate and air quality coverage for certain polluting industries and for key labor protections, human capital management, and diversity and inclusion coverage for many sectors.

Adopting any single existing framework would thus be less valuable than choosing the best components of each. The SEC should incorporate key elements from these frameworks into its climate and ESG disclosure regulations. In particular, we recommend that the SEC review the European Non-Financial Reporting Directive, CDSB, GRI, the Value Reporting Foundation and the TCFD.

¹⁹ <https://ghgprotocol.org/corporate-standard>.

Q6. *How should any disclosure requirements be updated, improved, augmented, or otherwise changed over time? Should the Commission itself carry out these tasks, or should it adopt or identify criteria for identifying other organization(s) to do so?*

The fastest route to implementing a disclosure framework is for the SEC to immediately commence on a first round of rulemaking to establish a set of disclosures for all public issuers, informed both by existing frameworks and the demands of US investors.

Delegating authority outright to any of the third-party standard setters raises a number of legal and practical pitfalls. The SEC could face additional litigation risk if it seeks to accredit an external standard setter on the grounds that it exceeds the Commission's authority to do so. This could delay implementation of a new mandatory regime.

As the existing frameworks continue to develop and the standard setters work towards global harmonization, the SEC can issue subsequent guidance and rules to point to specific developments and industry-specific standards that can be incorporated into the mandatory disclosure regime and the industry guides.

Whether or not the Commission eventually concludes that a standard setter is needed in the future to update the disclosure requirements as new issues emerge, it must not delay the initial adoption of mandatory ESG disclosure requirements within SEC rules. In addition, the SEC should strive to write the initial rule in a manner that is durable and less likely to quickly need updates.

Q10: *How should disclosures...be enforced or assessed? For example, what are the advantages and disadvantages of making disclosures subject to audit or another form of assurance? If there is an audit or assurance process or requirement, what organization(s) should perform such tasks? What relationship should the Commission or other existing bodies have to such tasks?*

Disclosures should be integrated into the issuer's audited financial statements.

For medium to large issuers, the SEC should require that CEOs and a board member responsible for climate issues both assess and certify the accuracy and completeness of climate and ESG related disclosures—including for subsidiaries. The issuer should be required to engage an independent auditor to attest to and report on these assessments and certifications, similar to the requirement in Section 404(b) of the Sarbanes-Oxley Act. This integrated audit process will provide an early and important check on management omission of material climate disclosures.

All quantitative disclosures of climate and ESG metrics should be tagged in a machine-readable format to allow investors, academics and other stakeholders to easily use this information and compare, analyze and identify discrepancies that could be the basis for shareholder pressure and enforcement action.

Staff within the SEC Division of Enforcement with specific climate expertise should enforce issuer disclosures related to climate. The Division of Enforcement must prioritize climate-

related cases and quickly respond to tips and complaints received by the Commission, and support the efforts of the Whistleblower Program to effectively and quickly process climate-related whistleblower claims.

The SEC should consider increasing the climate-related expertise at Regional Offices, particularly those offices responsible for areas most affected by climate change.

In addition, the Division of Corporation Finance should establish an ESG disclosure review team.

Q12. *What are the advantages and disadvantages of a “comply or explain” framework for climate change that would permit registrants to either comply with, or if they do not comply, explain why they have not complied with the disclosure rules?*

Current trends show that a “comply or explain” framework would perpetuate the status quo of uneven, incomplete and non-comparable disclosures. Some firms would ignore the voluntary standards, others would comply, and variation among complying firms would frustrate investors’ ability to compare among them.

Q15: *....Should climate-related requirements be one component of a broader ESG disclosure framework?*

As stated above, the SEC should create a comprehensive, comparable and reliable framework of a broad range of ESG disclosures because investors are also seeking information about many ESG issues, not only climate risks.²⁰

The following recommendations are included on the specific issues the Commission has indicated will be on their agenda, as we noted earlier.²¹

Human capital management: Metrics related to wages, worker benefits, and diversity and inclusion within the workforce and board are all relevant indicators of sustainability that investors increasingly incorporate into their investment decisions, including through shareholder engagement (filing and voting on shareholder proposals and other engagement with management).

At a minimum, the SEC should require publicly traded companies to disclose:

- the composition of the workforce by broad job/skill category, gender and racial or ethnic group—i.e., the information that US companies currently are already required to file, but not publicly release, in their EEO-1.²²
- the average pay in each EEO-1 job category by gender and racial or ethnic group.
- annual employee turnover.

²⁰ See our response to Question 5 for existing disclosure frameworks from which to create a comprehensive set of issues.

²¹ See fn 3 and 4.

²² <https://www.eeoc.gov/employers/eo-1-data-collection>.

In addition, it would be very helpful to investors for companies to provide qualitative discussions on workforce health & safety, workforce culture, human and labor rights, and workforce pay and incentives.

Political activity and spending: A company’s political activity—both its election spending and lobbying—can present significant reputational risk if not disclosed and managed properly. If there is a disconnect between a company’s political activity and its purported values, it can face damaging boycotts or media campaigns.

Moreover, understanding corporate political activity is essential to understanding corporate climate risk. A corporation can make every effort to manage its climate impact and disclose that effort to investors. However, that effort is deeply undermined if the corporation is also paying dues or donations to a trade association that works to undermine climate change control and mitigation policies.

Proponents of increased disclosure of corporate political activity have filed more than 1,000 proposals²³ on the topic in the last 10 years. A 2011 petition²⁴ requesting that the SEC require all public companies to disclose their political expenditures has received more than 1.2 million comments—the most in the Commission’s history.

Note that a cost-benefit analysis²⁵ of a potential political spending disclosure rule found that “the range of economic benefits of this disclosure rule would greatly outweigh the nominal costs imposed on corporations for compliance.”

Issuers should therefore be required to disclose:

- the policies and procedures regarding their political activity as well as a description of management’s and the board’s decision-making process and oversight for making payments.
- itemized expenditures for both direct and indirect election spending and lobbying, including payments to trade associations, politically active nonprofits and party committees.

²³ <https://www.proxypreview.org/2021/report-blog/social-issues/corporate-political-activity>.

²⁴ <https://www.sec.gov/rules/petitions/2011/petn4-637.pdf>.

²⁵ <https://www.sec.gov/comments/4-637/4637-12.pdf>.

US SIF appreciates the opportunity to submit these comments in order to inform the Commission's deliberations on developing a corporate reporting framework on climate risk and other critical ESG issues that corporations, investors and the public increasingly must confront. We ask the SEC to create a comprehensive system for a broad range of environmental, social and governance issues to be disclosed.

Sincerely

A handwritten signature in black ink that reads "Lisa N. Woll". The signature is written in a cursive, flowing style.

Lisa Woll
CEO