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STATEMENT on Regulation of Climate Change Disclosures by
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CREATIVE INVESTMENT RESEARCH

We understand that:

In light of demand for climate change information and questions about whether current disclosures adequately inform investors, public input is requested from investors, registrants, and other market participants on climate change disclosure. The Securities and Exchange Commission (SEC or Commission) has periodically evaluated its regulation of climate change disclosures within the context of its integrated disclosure system.

Creative Investment Research has been measuring ESG impacts since 1989. We are one of the premier firms in understanding and analyzing the impact on markets and companies of Environmental, Social and Governance (ESG), Corporate Social Responsibility (CSR), and impact investing factors. See: <https://www.impactinvesting.online/2019/03/we-are-one-of-premier-firms-in.html>

We appreciate the opportunity to comment and to submit empirical data and other information in support of these comments.

Given the fact that incompetence, discrimination and exclusionary practices based on race are prevalent in investment and finance, including at regulatory bodies, we decline to directly address the questions, having done so over the past 30 years. We note our answers to the questions posed by reference to the following:

In 1989, we were among the first research firms to evaluate these factors. See: Social Performance Indicators for Banks, 2002. <https://www.creativeinvest.com/SocialPerformanceIndicatorsfortheFinanceIndustry.pdf>

"Environmental Issues and Stock Returns." Our 2015 report quantifies the impact environmental issues have on company stock prices. <https://www.eventbrite.com/e/how-environmental-issues-impact-stock-returns-tickets-2029288657>

We stated, on February 5, 2015, in testimony to the Norwegian Ministry of Finance (<http://www.creativeinvest.com/NorwayTestimonyFeb52015.pdf>) and on April 22, 2015 in testimony to the Government of the United Kingdom (<https://www.creativeinvest.com/UKConsultationonChangestoInvestmentRegulationsApril222015.pdf>):

"As the market value of environmental, social and governance factors continues to grow, companies and investment managers will engage in fraudulent practices related to these factors. These practices will range from simple falsification of environmental, social and governance records to more sophisticated, but no less fraudulent methods related to environmental, social and governance ratings."

On September 22, 2015 automaker Volkswagen admitted that defeat devices used to cheat emissions testing were installed in 11 million vehicles worldwide.

We outlined an approach to these questions in Comments on the Environmental, Social and Governance Reporting Guide. Government of Hong Kong. September 18, 2015.
<https://www.creativeinvest.com/HongKongESGReporting.pdf>

We tied ESG to the competitive position of the U.S. capital markets. As we noted on Oct. 5, 2006, foreshadowing the rise of cryptocurrencies:
"competitive advantage with respect to capital access is available to any country with significant economic potential and a modest telecommunications infrastructure." <https://www.sec.gov/comments/4-526/4526-1.pdf>

On January 15, 2010, during a discussion on Race, Class and the Environmental Movement, we explored solutions for health/wealth disparities, the structure/metrics of injustice, and ideas for advancing equity. See: <https://www.prlog.org/10490189-race-class-and-the-environmental-movement.html> and <https://drive.google.com/file/d/1LUCWzdGTyh92SqiUXjsiZ-ugM-4eFGab/view?%20usp=sharing>

We suggest race and class be explicitly considered in your deliberations.

In addition, several Amicus Curiae or Friend of the Court briefs filed in signal cases contain relevant discussions of the factors noted:

The U.S. Court of Appeals for the District of Columbia Circuit accepted a Friend of the Court brief filed by William Michael Cunningham in Mozilla Corporation vs. the Federal Communications Commission (net neutrality).
<https://www.prlog.org/12729944-william-michael-cunningham-files-amicus-brief-in-net-neutrality-case-18-cv-1051.html>

Amicus Brief in Fiduciary Rule Case (16-cv-1035):
<https://www.prlog.org/12573252-william-michael-cunningham-files-amicus-brief-in-fiduciary-rule-case-16-cv-1035.html>

Amicus Brief in Met Life v FSOC (16-5086):
<https://www.prlog.org/12570202-william-michael-cunningham-files-amicus-brief-in-met-life-fsoc-16-5086.html>

Amicus Brief in Galvin v SEC (15-1150):
<https://www.prlog.org/12499745-william-michael-cunningham-files-amicus-brief-in-galvin-sec-15-1150.html>

Amicus Brief in US vs. SP (US District Court, Central District CA):
<https://www.prlog.org/12256590-william-michael-cunningham-files-amicus-brief-in-us-vs-sp-us-district-court-central-district-ca.html>

Revised brief in SEC vs. Citigroup (2nd Cir Ct of Ap):
<https://www.prlog.org/11948760-william-michael-cunningham-files-revised-brief-in-sec-vs-citigroup-2nd-cir-ct-of-ap.html>

Background

William Michael Cunningham manages an ESG investment research firm, Creative Investment Research, founded in 1989 to expand the capacity of capital markets to provide capital, credit and financial services in minority and underserved areas and markets. We have done so by creating new financial instruments and by applying existing financial market technology to underserved areas. The Community Development Financial Institution Fund of the US Department of the Treasury certified the firm as a Community Development Entity on August 29, 2003. The Small Business Administration certified the firm as an 8(a) program participant on October 19, 2005. We did not receive any revenue due to our participation in the 8(a) program, and resigned from the program in 2007.

In 1991, Mr. Cunningham created the first systematic bank analysis system using social and financial data, the Fully Adjusted Return® methodology. In 1992, he developed the first CRA securitization, a Fannie Mae MBS security backed by home mortgage loans originated by minority banks and thrifts. In 2001, he helped create the first predatory lending remediation/repair MBS security.¹

¹

Pool	Client	Originator	Social Characteristics
FN374870	Faith-based Pension Fund	National Mortgage Broker	Mortgages originated by minority and women-owned financial institutions serving areas of high social need.
FN296479			
FN300249			
GN440280	Utility Company Pension Fund	Minority-owned financial institutions	
FN374869			
FN376162			
FN254066	Faith-based Pension Fund	Local bank	Predatory lending remediation