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The Honorable Gary Gensler
Chairman
US Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549

Submitted electronically via e-mail

Re: BP America Inc. comments on File Number S7-10-22: The Securities and Exchange Commission Proposed Rules for the Enhancement and Standardization of Climate-Related Disclosures for Investors

Dear Chairman Gensler,

BP America Inc., an indirect subsidiary of BP p.l.c. (a foreign private issuer ("FPI"))¹, appreciates the opportunity to provide comments on the Securities and Exchange Commission's (SEC) Proposed Rules for the Enhancement and Standardization of Climate-Related Disclosures for Investors. bp supports the Biden Administration's goal for the US to get to net zero by 2050, an ambition we share as reflected in the purpose and ambition we launched in February 2020.

Introduction

bp has a 150-year history in America, and the US plays a key role in our planned transition from international oil company to an integrated energy company. We are one of America's largest oil and natural gas producers and the largest marketer of natural gas in North America. Our operations in the US also include onshore and offshore wind, solar and biogas; in 2020, we tripled our total potential wind capacity and added 9 gigawatts of high-quality solar projects to our renewables development pipeline.

¹ "bp" is used interchangeably herein to refer to BP p.l.c. or any subset of the BP group of companies.

BP p.l.c listed American Depositary Shares on the New York Stock Exchange in 1970 and since then has reported under the Securities Exchange Act of 1934 as an FPI, now trading on the New York Stock Exchange. bp is in regular dialogue with our American retail and institutional investors to provide them with the information they need to make informed investment and voting decisions.

We support the SEC's initiative to promulgate appropriate and proportionate standards which would require registrants to describe their exposure to material climate-related risks, and their approach to managing them. We further support the objective of achieving such disclosure in a manner that allows investors to compare material information from multiple registrants in a consistent manner. We recognize the growing demand by investors for this type of information and have already seen that bp's climate-related disclosures have played an important role in enhancing bp's engagement with investors and wider stakeholders.

bp aims to be recognized as an industry leader in the transparency of its reporting. BP p.l.c. already provides disclosures consistent with the Task Force on Climate-Related Financial Disclosures (TCFD) Recommendations and Recommended Disclosures in its annual report on Form 20-F in accordance with United Kingdom ("UK") requirements.² These disclosures cover subject matter broadly equivalent to the SEC proposed rules. While there are differences between the current UK requirements and the proposed SEC rules in some areas, we do not believe these impact the availability of material and decision-useful information for investors.

Our comments draw on bp's experience with climate-related reporting (both mandatory and voluntary), and we hope the SEC will find them informative and helpful in finalizing the proposed rules.

First and foremost, we support the SEC requiring climate-related financial disclosures consistent with the TCFD framework and respectfully encourage consideration of the following points, so that the rules require the disclosure of material information for investors while remaining proportionate for registrants to implement in a timely and accurate manner:

- I. Foreign private issuers, which we believe should be covered by the rule as the SEC proposes, should be allowed to comply by making disclosures in accordance with mandatory requirements in their home jurisdiction that substantially meet the objectives of the SEC's proposed rules, such as the UK Financial Conduct Authority Listing Rule incorporating the TCFD framework.
- II. The proposed disclosure requirements should be limited to decision-

² UK Financial Conduct Authority Listing Rule LR9.8.6(8)

useful information, in line with other SEC disclosure obligations, to ensure clear, balanced and proportionate disclosures that reduce the risk of obscuring material information. SEC-required disclosure on material climate risks can be a complement to voluntary disclosures that a company may use to report on information below that level of materiality threshold for the benefit of a broader range of its stakeholders, including customers, employees, and civil society.

- III. The proposed phase-in period should be extended to afford registrants the required time to efficiently implement the systems and processes required to prepare the disclosures.
- IV. Further clarification should be provided in respect of certain aspects of the expected GHG reporting requirements, in particular Scope 3 disclosure requirements.
- V. The proposed rules should not require the retrospective disclosure of historic climate-related information, which would introduce data inherently exposed to a greater risk of inaccuracy and difficulty to assure given, in particular, that registrants would have had no opportunity to implement the systems and processes to collect the required data for those prior years.

General comments

- I. **The SEC should allow alternative compliance by foreign private issuers (FPIs) that are subject to mandatory disclosure requirements in their home jurisdiction that substantially meet the objectives of the SEC's climate disclosure rule.**

We believe the SEC should follow historic precedent for how it treats FPIs and allow alternative compliance by FPIs that comply with mandatory climate-related disclosure requirements of their home jurisdiction, provided those requirements substantially meet the SEC's objectives. The mandatory TCFD-based requirements of the UK Financial Conduct Authority ("FCA") Listing Rule and the UK's Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022 should be considered substantially equivalent to the proposed SEC rules.

The UK is the first G20 nation to require annual TCFD-consistent disclosure, which requires in-scope companies, like BP p.l.c, to provide investors with climate-related disclosures consistent with the TCFD Recommendations and Recommended Disclosures, or an explanation of why disclosure was not made and steps that the company will make in the future to comply. Similar to the SEC's proposed rules, the FCA requires UK listed companies to disclose how climate change is addressed against the four TCFD pillars, in (i) corporate

governance; (ii) strategy; (iii) risk management; and (iv) metrics and targets. In some instances, the UK requirements go further than the SEC's proposed rules in requiring a description of climate-related opportunities and their actual and potential impact on business models, mandatory analysis of the business's resilience to different climate scenarios, and a description of the performance measures and targets applied in managing climate change.

Similarly, we recognize and support the development of global sustainability reporting standards, including the work being led by the International Sustainability Standards Board (ISSB), which further reinforces the case for alternative compliance.

Allowing FPIs to report under home jurisdiction rules would be consistent with how the SEC has historically regulated FPIs, including on financial reporting. In 2008, the SEC decided to eliminate the requirement that FPIs reporting under International Financial Reporting Standards (IFRS), as issued by IASB, also provide reconciliations of those financial statements to US GAAP. This reform acknowledged that US investors are able to make informed investment and voting decisions with respect to FPIs on the basis of information prepared under globally accepted standards, even when those standards are not identical to those applicable to domestic issuers. The SEC has permitted alternative compliance for FPIs as recently as 2020, when it decided to exempt extractive industry companies that report on payments made to governments pursuant to UK, EU, Norwegian or Canadian requirements from also reporting under substantially equivalent SEC regulations. Similarly, investors should not be disadvantaged if they have access to decision-useful and comparable climate-related information from FPIs in a manner which is substantially equivalent but not identical to that required by the SEC.

FPI's are in a different position than US domestic issuers since they must comply with their domestic disclosure obligations, which may – in certain instances – exceed the SEC's final disclosure requirements. And even where the SEC's requirements may exceed other standards, we do not believe the SEC's requirements will elicit additional material information over and above comparable home-state required disclosures. Rather, the SEC risks eliciting disclosures that are not consistent and comparable within a single company much less across companies and sectors.

In light of these factors, and the fact that the SEC already accepts the IFRS accounting principles, we believe it is reasonable and in keeping with the SEC's historic treatment of FPIs to allow for alternative compliance for climate-related disclosure. And we strongly urge the SEC to publish such a finding with respect to UK Financial Conduct Authority Listing Rule LR9.8.6(8) at the time of publication of its climate disclosure rules to avoid the high cost and inefficiency associated with preparing to disclose under two sets of standards in contravention of the purpose of allowing alternative compliance to begin with.

II. The proposed disclosure requirements should be limited to decision-useful information, consistent with other SEC disclosure obligations, and complement voluntary climate disclosures.

We believe the SEC should align the disclosure requirements with the threshold applied to other SEC disclosure requirements imposed on registrants. As proposed, the rules would require registrants to prepare disclosure about their operations and risk analysis that is substantially more granular than the disclosure prepared on other topics of similar importance to investors and is inconsistent with the longstanding understanding of materiality that underpins U.S. disclosure requirements. Examples of this include the proposals to require disclosure of:

- Data concerning each of 7 constituent greenhouse gases regardless of the materiality of a particular gas in the context of a particular registrant;
- Financial impact metrics in relation to each line item of the consolidated financial statements where the climate-related impact is greater than 1% of the item; and
- The precise location of properties, processes or operations which may be the subject of physical climate-related risk.

We encourage the SEC, in line with its role and mandate, to focus the rules on information that is material and decision-useful for investors. Companies have other mechanisms, such as sustainability reports, where they can issue additional, climate-related information that does not meet the traditional materiality standard but addresses the informational needs of a broader range of their stakeholders including customers, governments, and civil society.

Requiring disclosure at the proposed rules' level of granularity, including where it is not material in respect of a particular registrant, would not substantively improve an investor's ability to make decisions regarding the company and could obscure other relevant information, making it more difficult for investors to identify the information that may affect their investment and voting decisions.

III. Further guidance is needed on the financial metric disclosure requirements.

We support the objective of providing investors with enhanced disclosures of the financial impact of climate-related risks, and the resilience of the registrant's strategy to climate related risks, as is already required of certain UK listed companies in accordance with TCFD recommended disclosures. If, however, the SEC expects registrants to be able to provide quantitative disclosures in its financial statements, greater clarity would be needed both for registrants and their auditors. Providing greater clarity on the scope of the required disclosure

would also aid the SEC's goal of ensuring that disclosures are consistent and comparable across registrants.

In particular, we request additional specificity in regards to how, in preparing the proposed climate-related financial statement metrics, registrants should determine the financial impact of transition activities or climate-related physical risks and expenditures related to transition activities and the mitigation of physical risks. As currently drafted, for example, the proposed rules are unclear on how companies should distinguish climate-related impacts and expenditures from those that are part of normal business operations in order to apply the one percent threshold for disclosure.

Further, requiring registrants to take a view on future potential financial impacts that derive specifically from climate-related events and transition risks would involve an inherently speculative and forward-looking exercise. This exercise is unlikely to be underpinned by observable inputs that would ordinarily be required in order to give a faithful representation of the financial statements and be suitable for assurance. The potential for different companies to reach different conclusions on the potential impacts in these circumstances would again reduce the comparability of the disclosures.

IV. The proposed phase-in period should allow more time between finalizing the rules and reporting against them.

For a large, accelerated filer like BP p.l.c., the proposed timeline would require disclosure beginning in 2024 in respect of reporting year 2023. We expect this timeline to present significant operational difficulties given the substantial time and resource required to develop internal systems and processes to collect, and sufficiently assure for purposes of disclosure, the new categories of data needed for the climate-related financial statement metrics and new GHG emissions disclosures. Many of these systems and processes would need to be in place by the start of the 2023 reporting year – a matter of months from now – despite the fact that the proposed rules have not yet even been finalized. Ultimately, the specific amount of time needed to implement the rules will be determined by the complexity of the final rules themselves.

The preparation of quantitative disclosure of expenditure or capital costs incurred to mitigate the risks associated with transition activities, severe weather events and the financial impact of severe weather would require new processes and systems to be developed and rolled out globally to systematically track this data in a clear and reliable manner. This will take considerable time for companies to develop and implement.

At present, bp's financial reporting systems are based on a third-party software solution currently tailored to our reporting obligations under IFRS. To the best of our knowledge, there is no vendor – including our current solution provider –

with a product available to support the functionality needed to categorize and track financial information related to climate risk and impact in a manner consistent with the proposed climate-related financial metrics. Added to this we would need to develop policies and internal processes, implement training for all affected personnel across all jurisdictions within our global group, and develop monitoring and quality assurance controls.

Based on our experience, we anticipate that the development and implementation of the necessary data reporting systems will require more time than is afforded by the proposed timelines for any requirements that are incremental to BP p.l.c.'s existing disclosures. If the final disclosure obligations are issued this year, there will only be at most a few weeks or months before 2023 data collection would need to begin, which is neither practicable nor realistic. Further, this timeline is likely to stretch the resources and operational capacity of registrants in a way that risks doing harm to the overall objective of accurate disclosure that investors can rely on, in light of the undertaking enumerated above. More time would allow registrants, software developers, assurance providers and international regulators to work collectively to develop a more effective and robust framework and solutions for quantitative financial metric disclosures.

BP p.l.c. already reports Scope 1 and Scope 2 emissions on an equity share basis, including equity accounted entities, for both carbon dioxide (CO₂) and methane (CH₄). However, under the proposed GHG emissions disclosure, as we understand the proposed rules, BP p.l.c. would not only be required to obtain the information we already collect from over 100 equity accounted entities over which we do not have operational control, it would also be required to obtain data on emissions of GHGs such as HFCs for which bp does not currently collect data or report because they are not material. In line with the IPIECA/IOGP/API oil and gas industry guidance on sustainability reporting, "...the principal GHGs emitted by the petroleum industry are CO₂ and CH₄, and thus most companies will not need to report all six GHGs [listed above]."³

Further, many of these equity accounted entities are based in jurisdictions that do not otherwise require measurement or disclosure of GHG emissions. Obtaining comprehensive GHG data from equity-accounted investments over whom a registrant has no operational control adds substantial cost and complexity to preparing the proposed disclosures, particularly in light of the attestation obligations and the need to subject the proposed disclosures to a registrant's internal controls procedures.

It is of note that the economic analysis provided by the SEC does not address these specific issues or the impact that they would have on registrants, and we would encourage the SEC to conduct a more thorough impact assessment on

³ <https://www.ipieca.org/resources/good-practice/petroleum-industry-guidelines-for-reporting-greenhouse-gas-emissions-2nd-edition/> page 7-2.

these particular elements of the proposed rules before concluding that it would be proportionate to implement them.

In the interest of producing decision-useful disclosures in a proportionate and timely fashion, and providing certainty for registrants, we encourage the SEC to strive for the issuance of final rules as expeditiously as feasible within the strictures of the rulemaking process, while providing for an implementation timeline which is realistic, proportionate and achievable given the issues discussed above. For example, we would propose that in the first instance the SEC permit registrants to exclude the GHG emissions from equity-accounted entities, where such an entity is not operated by the registrant or the emissions would be expected to be immaterial to the registrant's financial performance, and defer any extension to other entities within the consolidated accounts until further consultation and guidance can be offered to registrants to help overcome the challenges outlined above.

V. The SEC should provide clarification on certain aspects of the proposed GHG emissions disclosure requirements, particularly related to Scope 3.

We support disclosure of GHG emissions data, including Scope 3 emissions data, where that information is decision-useful for investors due to materiality or the information is the subject of a company's targets. In order to achieve these objectives, certain clarifications in the proposed regulatory text are needed to reduce the risk of misinterpretation, which could impede the ability of investors to compare information presented by different companies while imposing significant burdens on registrants and third parties.

We request the SEC clarify in the final rules that companies that have material Scope 3 emissions, or a Scope 3 emissions target that is material to the business, are required to disclose only those categories of Scope 3 emissions listed within the GHG Protocol that are actually material for the organization, which could include those for which it has published a target. This correlates with the recommended disclosure under TCFD, applied to UK listed companies, which requires disclosure of Scope 3 emissions which are appropriate to the particular organization, subject to materiality. In line with this TCFD Recommended Disclosure, bp omits categories not deemed appropriate or material and reports Scope 3, Category 11 emissions data with the specific scope of upstream production volumes, on the basis that it is the most appropriate category in light of bp's aim to be net zero on an absolute basis across the carbon in its upstream oil and gas production by 2050 or sooner.

VI. The proposed rules should not require the disclosure of historic climate-related information not previously required to be disclosed.

As a general principle, we do not believe that the disclosure rules should apply retrospectively. For the reasons stated above, there would be considerable

complexity and resource involved in developing the processes and systems required to collate and provide the requested data, as well as significant concerns related to the accuracy of that data, particularly in relation to GHG emissions and financial metrics. These issues will be exacerbated in relation to data from prior years, which will by definition not be information capable of impacting the historic decisions of investors. We therefore request the SEC to reconsider this aspect of the proposed rules and apply its disclosure requirements only to years following its effective date, with a sufficient time period allowed for implementation per our comments above.

Conclusion

We support and commend the work of the SEC to expand and standardize TCFD-aligned climate-related financial disclosures. We appreciate this opportunity to provide our thoughts on how to make the proposed requirements useful for investors and suitable for registrants to implement, and we are ready to continue to support this effort as the SEC works to finalize the rules.

Sincerely,

Mary M. Strett
Senior Vice President, Americas
Communications & External Affairs