PATRICK MCHENRY, NC
CHAIR

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

MAXINE WATERS, CA
RANKING MEMBER

October 30, 2023

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

Dear Chair Gensler,

I am writing to urge the Securities and Exchange Commission (the "Commission") to quickly finalize its proposed rule to improve the quality of climate related disclosures in our capital markets[1] in furtherance of the Commission's mandate to protect investors, ensure fair and efficient markets, and facilitate capital formation. Climate change and unaddressed transition risks pose significant uncertainty to American's financial well-being, the returns on their investments, and prospects for those saving for retirement. Climate change is and will have a transformative impact on the American and global economies. From catastrophic flooding in New York, an unrelenting heat dome over Phoenix, ocean temperatures of 90°F off the coast of Florida, and wildfire smoke blanketing much of the country, climate-related disasters—once an aberration—have become unfortunately commonplace.[2] In 2021, the Federal Reserve Bank of San Francisco found that "the ongoing trend of climate change—including higher temperatures and more extreme weather—will result in economic and financial losses for many businesses" and that "such climate-related financial risk may threaten the safety and soundness of individual financial institutions and the stability of the overall financial system."[3] Additionally, the Carbon Disclosure Project—a coalition of bankers, fund managers, advocacy groups, and politicians— recently reported that climate change will cost the 215 largest listed companies nearly $1 trillion over the next five years alone.[4] Similar research suggests that climate change, "if left unmanaged, could cost the world's financial sector between $1.7 trillion to $24.2 trillion in net present value terms."[5] Given these epochal changes—that will have undeniable impact on all aspects of the economy, financial markets, financial stability, consumer well-fare and investor returns—it is essential that companies facing these transformative climate-relate risks disclose fulsome, consistent, and comparable information to their investors and for their stakeholders.

In May 2021, President Biden issued Executive Order ("EO") 14030 entitled on climate-related financial risk.[6] Among other things, EO 14030 directs the Treasury Secretary to work through the FSOC to assess and develop plans to mitigate systemic risks posed by climate-related financial risk. In October 2021, the Financial Stability Oversight Council ("FSOC") issued a report identifying climate change as an emerging and increasing threat to U.S. financial stability.[7] The report identified four areas where it encourages FSOC members to act: building capacity and expertise, filling climate-related data and methodological gaps, enhancing climate-related disclosures, and assessing (in order to then mitigate) climate-related risks.[8]

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[1] SEC, Rule Proposal Entitled "The Enhancement and Standardization of Climate-Related Disclosures for Investors" (Release Nos. 33-11042; 34-94478; File No. S7-10-22) (proposed Mar. 21, 2022).
[2] The New York Times, "Climate Disasters Daily? Welcome to the 'New Normal.'" (Jul. 10, 2023).
[3] Federal Reserve Bank of San Francisco, Climate Change is A Source of Financial Risk, (Feb. 8, 2021).
[4] Reuters, World's Biggest Firms Foresee $1 trillion Climate Cost Hit, (Jun. 4, 2019).
[5] New York Times, Companies See Climate Change Hitting Their Bottom Lines in the Next 5 Years, (Jun. 4, 2019).
[6] White House, *Executive Order on Climate-Related Financial Risk* (May 20, 2021)
[7] Treasury, FSOC Report on Climate-Related Financial Risk (Oct. 2021).
[8] *Id*.

As you know, the Commission has broad statutory authority to promulgate disclosure requirements that are "necessary or appropriate in the public interest or for the protection of investors." [9]

The Commission's proposal comes at a time when other federal agencies, state governments, and governments across the globe are embracing climate-related disclosure and accountability. On October 7, 2023, the State of California adopted SB 253 requiring both public and private companies with over a billion dollars in annual revenue that operate (or offers goods and services) in California to publicly disclose the greenhouse gas ("GHG") emissions released from their operations and supply chain.[10] On October 24, 2023, the Board of Governors of the Federal Reserve System ("Fed"), Federal Deposit Insurance Corporation ("FDIC"), and Office of the Comptroller of the Currency ("OCC"), finding that, "financial impacts that result from the economic effects of climate change and the transition to a lower carbon economy pose an emerging risk to the safety and soundness of financial institutions and the financial stability of the United States,"[11] finalized risk management principles that provide guidance to banks they supervise with over $100 billion in total assets as those/u banks develop capabilities and deploy resources to manage climate-related financial risks.[12] In January 2023, six of the nation's largest banks started participating in the Fed's pilot climate scenario analysis to help identify, measure, monitor, and manage climate-related financial risks and will be required to submit reports detailing climate risk-management practices and challenges by July 31.[13] Additionally, on July 31, the European Commission adopted the European Sustainability Reporting Standards ("ESRS") which standardize how companies within the EU (or those that are based outside the EU but have significant business interests in the EU) report climate change metrics and other ESG related information.[14]

In concurrence with this regulatory momentum, numerous investors and market participants have testified before the House Committee on Financial Services stating that high-quality, climate risk-related disclosures are necessary for investors to make informed decisions about where to invest their hard-earned money and how to exercise their corporate suffrage.[15] Several witnesses testified that while most public companies today already voluntarily disclose climate risk information, a standardized approach to these disclosures is needed.[16] The lack of standardization harms both issuers and investors alike. Today, U.S. investors waste a significant amount of time and capital seeking this information, and when they find it, they spend further time and resources deciphering the different and varying metrics and targets companies in our capital markets use. Without access to standardized information, investors are left guessing which companies are best positioned to manage climate risk safely and are profitable long-term investments for their investment portfolio Additionally, many issuers seek to provide climate-related information to meet the increased investor demand, but struggle to improve the quality of their disclosures as they lack a consistent framework by which to do so. Issuers have complained about the increased costs that will come from complying with these new disclosure rules; however, due to the passage of similar rules in both California

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[9] *See, e.g.*, Section 7 of the Securities Act of 1933 15 U.S.C. 77g, that authorizes the Commission to require the filing of registration statement by issuers and further authorizes the Commission to require that these registration statements "shall contain such other information…as the Commission may by rules or regulations require as being necessary or appropriate in the public interest or for the protection of investors."); Section 12 of the Exchange Act of 1934 [15 U.S.C. 78l] gives the SEC authority to require issuers provide "such information…as the Commission may by rules and regulations require" in their registration with a national securities exchange; Section 13 of the Exchange Act of 1934 [15 U.S.C. 78m] gives the SEC authority to require issuers provide periodic and annual reports to "keep reasonably current the information…required to be included…pursuant to [Section 12]".

[10] The New York Times, "California Governor to Sign Landmark Climate Disclosure Bill" (Sep. 17, 2023).

[11] Federal Reserve, Board Memo re Interagency Principles for Climate Related Financial Risk Management for Large Financial Institutions," (Sep 25, 2023), (Accessed Oct 26, 2023.)

[12] FDIC, "Agencies Issue Principles for Climate-Related Financial Risk Management for Large Financial Institutions," (Oct 24, 2023), (Accessed Oct. 26. 2023).

[13] Federal Reserve, Pilot Climate Scenario Analysis (CSA) Exercise: Participant Instructions (Jan. 2023).

[14] Forbes, European Union Approves Climate/ ESG Reporting Standards (Aug. 2, 2023).

[15] House Financial Services Committee, Virtual Hearing Before the Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets Entitled "Climate Change and Social Responsibility: Helping Corporate Boards and Investors Make Decisions for a Sustainable World" (held Feb. 25, 2021).

[16] *See* GAO, Public Companies: Disclosure of Environmental, Social, and Governance Factors and Options to Enhance Them (Jul. 6, 2020); S&P Global, Climate disclosures are increasing in the US but still far from what the SEC has proposed (Apr. 5, 2022).

and the EU—which cover a significant number of U.S. issuers—will effectively be re-disclosing information they are already required to produce and provide.

Recognizing the uneven nature of voluntary disclosures and investors' clear demand for clear, understandable climate risk information, you have testified numerous times before the Committee that the Commission has both authority and a responsibility to require issuers to disclose standardized, comparable, and decision-useful information within their public filings.[17] The Commission's 2022 proposed rule mandates that issuers disclose—amongst other climate-related risk factors—their direct GHG emissions (referred to as "Scope 1" emissions), their indirect GHG emissions from purchased electricity and other forms of energy ("Scope 2" emissions), and indirect emissions from upstream and downstream activities in their supply chain ("Scope 3" emissions). ￼ estimated in good faith and allows the use of proxy data to estimate supply chain emissions.

Since its introduction, the proposal has received near unanimous support from investors. Of the institutional investors that commented on the proposal—collectively representing over $50 trillion in assets under management—100% support disclosures in line with the recommendations of the Financial Stability Board's Task Force on Climate-related Financial Disclosures, 99% support Scopes 1 and 2 disclosures, 98% support governance disclosure related to board and management oversight, 97% support Scope 3 disclosure as the Commission proposed, and 95% support disclosure of climate-related targets and goals.[18]

Moreover, the State of California recently signed into law SB 253, which requires both public *and* private entities that do business in the state with revenues exceeding $1 billion to report their greenhouse gas emissions beginning in 2026.[19] As you stated last month before the Committee: "If [the California bill] were signed into law, … [t]hat may change the baseline. If those companies were reporting to California, then it would be in essence less costly because they'd already be producing that information."[20] With Governor Newsom's signature,[21] over 75% of Fortune 1000 companies will need to disclose Scopes 1, 2 and 3 emissions.[22]

Given the strong support both from the investor and stakeholder community that demands and would consume these disclosures, and the recent developments in California and by our banking regulators, I urge you to not abandon key components of your proposed rule, including requirements to disclose Scope 3 emissions. Additionally, investors have argued that they need to be informed of an issuer's climate targets and transition plans, and progress made towards and expenditures spent towards these targets and plans, so I urge you to heed to their calls and include in the final rule these elements, as they were initially proposed. I also urge the Commission to retain requirements that companies disclose impacts of climate-related physical and transitional risks in their financial statements, including climate-related inputs, estimates, and assumptions. The final rule should also maintain attestation requirements to ensure that the quality of these disclosures are reliable. Finally, the final rule needs to provide guidance, as contemplated in the proposal, to ensure public companies do not pass on their reporting requirements under the final rule to small private businesses or producers.

I urge the Commission to quickly finalize the rule in a way that preserves these key elements. Thank you for your steadfast attention to improving our capital markets and delivering the transparency needed around climate risks. If you have any questions feel free to reach out to me or have your staff contact Lev

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[17] *See* SEC, Chair Gary Gensler Testimony Before the United States House of Representatives Committee on Financial Services (Sep. 27, 2023); SEC, Chair Gary Gensler Testimony Before the United States House of Representatives Committee on Financial Services (Apr. 18, 2023); SEC, Chair Gary Gensler Testimony Before the United States House of Representatives Committee on Financial Services (Oct. 5, 2021).
[18] Ceres, "Analysis shows that investors strongly support the SEC's proposed climate disclosure rule" (Oct. 11, 2022).
[19] WilmerHale, "First to the Finish Line: Governor Newsom Signs California's Emissions Disclosure Law" (Oct. 11, 2023).
[20] Reuters, "SEC chief says new California law could 'change baseline' for coming SEC climate rule" (Sep. 27, 2023).
[21] The Guardian, "California to require big firms to reveal carbon emissions in first law of its kind" (Oct. 9, 2023).
[22] Wall Street Journal, "Climate Activists Want SEC to Copy California, Europe," (Oct. 26, 2023).

Bagramian, Director of Capital Markets and Investor Protection Policy at Levon.Bagramian@mail.house.gov.

Sincerely,

Maxine Waters
Ranking Member
Committee on Financial Services

Cc.
The Honorable Patrick McHenry, Chairman, Committee on Financial Services
Commissioner Hester Peirce,
Commissioner Caroline Crenshaw
Commissioner Mark Uyeda
Commissioner Jaime Lizarraga
Mr. Erik Gerding, Director of Division of Corporation Finance