U.S. Securities and Exchange Commission
SMALL BUSINESS CAPITAL FORMATION ADVISORY COMMITTEE

July 13, 2022

Dear Chair Gensler:

On behalf of the SEC Small Business Capital Formation Advisory Committee, we are pleased to submit the below recommendation to the Commission, as approved at the Committee's May 6, 2022 meeting.

On March 21, 2022, the Commission proposed rules on the Enhancement and Standardization of Climate-Related Disclosures for Investors (Release No. 33-11042). As the Commission works toward finalizing the proposed rules, while we recognize that climate is an important topic, we hope you will consider:

- Providing a more detailed cost-benefit analysis, including the impact that the proposed rules would have on smaller public and private companies;
- Scaling and delaying the compliance requirement for emerging growth companies, along with smaller reporting companies;
- Expanding the safe harbor for liability for Scope 3 emissions disclosures to include all climate-related disclosures;
- Eliminating the attestation requirement, as it would be costly and burdensome, and it will delay reporting;
- Requiring the information to be furnished, rather than filed;
- Tailoring the requirements for certain industries;
- Re-evaluating the timing for filing climate-related disclosures since the information may not be available in time for a company's annual report on Form 10-K; and
- Providing a longer implementation timeframe for the new rules, so that smaller companies would have more time to transition, work through implementation, and comply with the new requirements.[1]

In addition, we ask that the Commission consider incentives, rather than penalties, for companies that are providing climate-related disclosures. Companies that are moving in the direction of doing things that are more climate-friendly may, for instance, be deterred from putting together an analysis due to concerns of having to disclose it before it is finalized or concerns of being required to provide additional disclosures that could be financially costly and time-consuming.

We also urge that the Commission consider how the climate-related disclosure requirements may deter private companies from going public. There should be a pathway for very small companies to become public reporting companies without hiring expensive climate-related consultants.

Finally, the Commission should consider the rule's impact on small companies that are suppliers or vendors for public companies. To the extent public companies are required to track and provide downstream greenhouse gas emissions, smaller suppliers and vendors that are unable or delayed in providing their greenhouse gas emissions may lose business to larger companies that can provide such metrics. Due to disadvantages arising from lack of resources and smaller operations scale, both small public and private

[1] Donnel Baird abstained from supporting the Committee's recommendation of providing a longer implementation timeframe for the new rules.

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**Non-voting members*

companies may face greater challenges in accessing capital and generating revenue they need to sustain their businesses.

Respectfully submitted on behalf of the Advisory Committee,

Carla Garrett
Committee Chair

Jeffrey Solomon
Committee Vice Chair

CC: Commissioner Hester M. Peirce
Commissioner Allison Lee
Commissioner Caroline A. Crenshaw
Commissioner Mark T. Uyeda

Dear Chair Gensler:

On behalf of the SEC Small Business Capital Formation Advisory Committee, we are pleased to submit the below recommendation to the Commission, as approved at the Committee's May 6, 2022 meeting.

On March 30, 2022, the Commission proposed rules on Special Purpose Acquisition Companies (SPACs), Shell Companies and Projections (Release No. 33-11048). Our recommendations related to this proposal are as follows:[2]

1. The Committee would like for SPACs to remain a viable path for companies to pursue as a means of getting access to public market capital. The Committee is concerned that the proposed rules, as written, might render SPACs unusable as an alternative to IPOs.

2. The Committee is generally supportive of improving disclosures for SPACs, particularly in the period of time between the announcement of the merger and the closing of the de-SPAC transaction.

3. The Committee encourages the Commission to clearly identify which participants would have underwriter liability. Participants should be held accountable to the same extent they would be in traditional IPOs.

4. Management projections are an important part of the rationale for companies in determining whether to engage in a merger with a SPAC, and they are necessary when financial intermediaries provide fairness opinions related to de-SPAC transactions. As a result, the Committee recommends that the projections in de-SPAC transactions be covered by the liability safe harbor provisions of the Private Securities Litigation Reform Act when disclosed in the de-SPAC transaction.

5. The Committee recommends that the Commission expand or eliminate the 18 month and 24 month timelines provided in the Investment Company Act safe harbor for SPACs. The requirement to engage in a de-SPAC transaction within 18 months after its IPO and complete its de-SPAC transaction within 24 months could incentivize SPAC sponsors to engage in riskier acquisitions to complete the merger process within the artificially short periods.

Respectfully submitted on behalf of the Advisory Committee,

Carla Garrett
Committee Chair

Jeffrey Solomon
Committee Vice Chair

CC: Commissioner Hester M. Peirce
Commissioner Allison Lee
Commissioner Caroline A. Crenshaw
Commissioner Mark T. Uyeda

[2] Sara Hanks abstained from supporting the Committee's recommendations.