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Vanessa A. Countryman, Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549

Re: File Number S7-10-22

RSM US LLP appreciates the opportunity to offer our comments on SEC Release No. 33-11042, *The Enhancement and Standardization of Climate-Related Disclosures for Investors* (the proposed rule). RSM US LLP is an independent registered public accounting firm serving middle-market issuers, brokers and dealers.

We appreciate the Commission's efforts to seek input on what constitutes decision-useful information for investors in discerning the impact of climate-related risks on current and potential investments. We encourage the Commission to consider comments received from investors and registrants regarding the usefulness, operability and costs of providing the disclosures discussed in the proposed rule so as to discern whether the rules as written are operable and whether the benefits of providing the disclosures justify the cost of compliance.

We note that the Commission views the decision usefulness of the proposed climate-related disclosures as being related to the consistency, comparability and reliability of the information.¹ We agree that the reliability of, and confidence in, financial information is fundamental to the successful operation of the U.S. financial markets. Public company auditors have a long history of independently evaluating information used in making investment decisions and are well positioned to enhance the reliability of climate-related disclosures that investors find useful.

We also believe, that when implementing the proposed new required disclosures, the reliability of the required disclosures for the benefit of investors would be positively affected if the proper amount of time is provided for registrants to (a) understand the new requirements, (b) gather the requisite information for accurate and meaningful disclosures and (c) design and implement the appropriate internal controls over the reporting related to those disclosures. We are reminded of the implementation of Section 404 of the Sarbanes-Oxley Act and the amount of time involved for registrants and auditors to build the appropriate infrastructure and procedures for compliance. Also, as explained in our comments, it is anticipated that the Public Company Accounting Oversight Board (PCAOB) may need time to revise its standards to accommodate certain aspects of the proposed rules, if finalized. We recommend the Commission consider these factors in adopting the final effective and transition dates for the proposed rule.

As further explained in our comments, we suggest that the consistency and comparability of the proposed climate-related financial metrics in registrants' financial statements would be improved by (a) the development of one established comprehensive third-party framework for the climate-related disclosures; (b) the further clarification of terms used in the proposed rule; and (c) the provision of more examples of the required disclosures.

¹ See page 7 of the proposed rule.

In this letter, we offer comments on certain matters in the proposed rule for which feedback was specifically requested by the Commission. Our comments address only those matters for which we have relevant knowledge and experience as a provider of audit and attestation services.

Financial Statement Metrics

Overview

53. The proposed rules would specify the basis of calculation for the climate-related financial statement metrics. Is it clear how to apply these accounting principles when calculating the proposed climate-related financial statement metrics, or should we provide additional guidance? Should we require a registrant to report these metrics with reference to its consolidated financial statements, as proposed? If not, how should registrants report these metrics? If we were to establish accounting principles (e.g., the basis for reporting these metrics) in a manner that differs from the principles applicable to the rest of the consolidated financial statements, would the application of those principles to the proposed metrics make climate-related disclosures less clear, helpful, or comparable for investors?
58. In several instances, the proposed rules specifically point to existing GAAP and, in this release, we provide guidance with respect to the application of existing GAAP. Are there other existing GAAP requirements that we should reference? Are there instances where it would be preferable to require an approach based on TCFD guidance or some other framework, rather than requiring the application of existing GAAP?

In 2021, the Financial Accounting Standards Board Staff released an Educational Paper² to provide investors and other interested parties with an overview of the intersection of environmental, social and governance (ESG) matters with financial accounting standards. The paper also provides overviews of ESG reporting and the FASB's role in setting financial accounting standards. Further, the paper provides illustrative examples of how an entity may consider the effects of material ESG matters when applying current accounting standards, including those related to:

- The evaluation of whether there is substantial doubt about an entity's ability to continue as a going concern
- The disclosure of risks and uncertainties
- Valuing inventory at the lower of cost and net realizable value
- Impairment of goodwill and indefinite-lived intangible assets
- Estimating the useful life of a finite-lived intangible asset
- Impairment indicators requiring the testing of a long-lived asset held and used for recoverability
- Determining when an accrual is required for a loss contingency
- Estimates of future taxable income for the recognition of deferred tax assets
- Fair value measurements

² See FASB Staff Educational paper, *Intersection of Environmental, Social, and Governance Matters with Financial Accounting Standards*.

This FASB paper demonstrates the guidance that already exists in U.S. generally accepted accounting principles (GAAP) regarding climate-related disclosures. However, the Commission's proposed requirements for climate-related financial statement metrics extend beyond what is required by U.S. GAAP. For example, while the severe-weather-events-driven impacts might be analogous to existing estimates (and thus disclosures), the disclosures related to "other natural conditions" and "transition activities" would be new for most companies.

The proposed climate-related financial statement metrics requirements appear to align with the recommendations of the Task Force on Climate-Related Financial Disclosures, but other frameworks currently also are used in practice (e.g., Science-Based Targets, CDP, Climate Disclosure Standards Board). None of the frameworks currently being used are comprehensive in scope, and none is considered to be the "gold standard" for climate-related disclosures. We view the use of a comprehensive framework for climate-related disclosures as being analogous to how U.S. GAAP provides consistency and completeness of financial reporting information by standardizing the definitions and methods used in accounting across all industries. Therefore, we believe the use of a comprehensive framework outlining the requirements of climate-related financial statement metrics would be beneficial in providing more consistency for the disclosures and in ensuring the completeness of the disclosures. We recommend the SEC coordinate any finalization of its proposal with the standard-setting activities of the International Sustainability Standards Board.

If no framework is available, we believe the proposed rule should be more prescriptive as to what should be disclosed, and more examples of such disclosures would be helpful. We note that, in the past, the Commission has responded to requests from the preparer and audit communities for advice and other assistance relating to required disclosures and other matters by timely providing Compliance and Disclosure Interpretations. We believe the provision of such application and implementation guidance would be helpful before any final rule becomes effective and as any climate-disclosure rules are implemented.

57. Should we provide additional guidance as to when a registrant may exclude a historical metric for a fiscal year preceding the current fiscal year?
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The proposed rule states, "if a registrant has not previously presented such metric for such fiscal year and the historical information necessary to calculate or estimate such metric is not reasonably available to the registrant without unreasonable effort or expense, the registrant may be able to rely on Rule 409 or Rule 12b-21 to exclude a corresponding historical metric."³ We believe this proposed facts-and-circumstances-based exception to a requirement to present historical information would be difficult to apply in practice due to the amount of judgment in determining whether a metric is "reasonably available to the registrant without unreasonable effort or expense." We therefore recommend the Commission consider requiring disclosures to be adopted on a prospective basis, with no required presentation of corresponding historical metrics for fiscal years preceding the current reporting fiscal year so as to further enhance the reliability of the disclosures.

³ See page 113 of the proposed rule.

Financial impact metrics

62. Should impact from climate-related opportunities be required, instead of optional, as proposed? We are proposing to require a registrant that elects to disclose the impact of an opportunity to do so consistently (e.g., for each fiscal year presented in the consolidated financial statements, for each financial statement line item, and for all relevant opportunities identified by the registrant). Are there any other requirements that we should include to enhance consistency? Should we only require consistency between the first fiscal period in which opportunities were disclosed and subsequent periods?

We encourage the Commission to consider comments received from investors regarding the usefulness, and registrants regarding the operability and costs, of providing, the proposed disclosures regarding the impact of climate-related opportunities. However, we caution that such disclosures, if finalized as proposed, would be required to be audited, and the registrant therefore would be required to provide appropriate audit evidence to support such disclosures at the required level of materiality. We believe it may be difficult for the registrant to provide disclosures with an acceptable level of estimation uncertainty for an auditor to opine upon.

We also note that, if a registrant makes a policy decision to disclose the impact of a climate-related opportunity on the proposed financial statement metrics, it would be required to follow the same presentation and disclosure threshold requirements applicable to the required disclosures related to financial impact metrics and expenditure metrics (i.e., disclosures would be provided if the sum of the absolute values of all the impacts on the line item is one percent or more of the total line item for the relevant fiscal year). We believe the one percent threshold may result in disclosure amounts well below the currently required materiality level for planning and performing the audit, which could create a gap between what investors expect the auditor to perform when metrics are in the audited financial statements and what existing PCAOB standards require the auditor to perform, especially as it relates to the establishment of materiality for the audit. We believe it would be prudent for the materiality requirement for such disclosures to be consistent with that required by SEC Regulation S-X Rule 1-02(o), which would limit the information required to those matters about which an average prudent investor ought reasonably to be informed.

Alternatively, consideration could be given to providing the disclosure regarding the impact of climate-related opportunities in the Form 10-K in accordance with SEC Regulation S-K. If presented outside of the audited financial statements, the registrant's auditor could perform an attestation engagement with respect to the disclosures. The disclosure of such information in the Form 10-K would be analogous to the disclosure of management's discussion and analysis (MD&A) in the Form 10-K. Section 701, *Management's Discussion and Analysis*, of the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Attestation Engagements sets forth attestation standards and provides guidance to a practitioner concerning the performance of an attestation engagement with respect to MD&A.

We believe consistency and comparability drive the decision usefulness of information, and therefore, if the impact of climate-related opportunities is required to be disclosed, we agree that it should be presented consistently. We also recommend the Commission consider requiring disclosures to be adopted on a prospective basis, with no required presentation of corresponding historical metrics for fiscal years preceding the current reporting fiscal year, as a prospective approach would be consistent with the implementation practice general used for most accounting and auditing pronouncements and most SEC rules and regulations.

63. Is it clear which climate-related events would be covered by “severe weather events and other natural conditions”? If not, should we provide additional guidance or examples about what events would be covered? Should we clarify that what is considered “severe weather” in one region may differ from another region? For example, high levels of rainfall may be considered “severe weather” in a typically arid region.

Although determining which climate-related events are covered by “severe weather events and other natural conditions” would require a significant amount of judgment, we believe it would be helpful if the Commission provided additional guidance and examples about which events would be covered. In particular, we believe it would be helpful if the term “other natural conditions” was defined and if more examples of such conditions were provided. We also believe it would be helpful if the Commission clarified that what is considered “severe weather” in one region may differ from another region.

70. We have not proposed defining the term “upstream costs” as used in the proposed examples for the financial impact metrics and elsewhere. Should we define that term or any others? If so, how should we define them?

In the proposed rule, the Commission states:⁴

We expect that the proposed financial statement metrics impact would provide additional transparency into the nature of a registrant’s business and the significance of many of the climate-related risks and impacts on its overall financial condition. Such disclosures are expected to provide investors with valuable insights into potential changes to, among others, revenue or costs from disruptions to business operations or supply chains; impairment charges and changes to the carrying amount of assets due to the assets being exposed to physical risks; revenue or cost due to new emissions pricing or regulations resulting in the loss of a sales contract and; operating, investing, or financing cash flow from changes in upstream costs, such as transportation of raw materials.

Since it is the Commission’s expectation that the proposed financial statement metrics provide insights into potential changes to operating, investing or financing cash flow from changes in upstream costs, we believe it would be prudent to define the term “upstream costs.” Defining that term and any other terms (e.g., climate-related events, severe-weather events, etc.) used throughout the proposed disclosure requirements would assist financial statement preparers in providing consistent, comparable and reliable information to investors. We defer to investors to opine on a definition of “upstream costs” that would result in decision-useful information to them.

71. Are the proposed examples in the financial impact metrics helpful for understanding the types of disclosure that would be required? Should we provide different or additional examples or guidance?

We believe it would be helpful if the Commission provided additional examples of the proposed required financial impact metrics. As discussed above, we believe it also would be helpful if the Commission provided ongoing advice and other assistance regarding the proposed required financial impact metrics through the timely issuance of Compliance and Disclosure Interpretations.

⁴ See pages 360 and 361 of the proposed rule.

Expenditure metrics

80. Are the proposed terms and examples used in the expenditure metrics helpful for understanding the types of disclosures that would be required? Should we provide different or additional examples?

We believe it would be helpful if the Commission provided additional examples for calculating and presenting the proposed required expenditure metrics. As discussed above, we believe it also would be helpful if the Commission provided ongoing advice and other assistance regarding the proposed required expenditure metrics through the timely issuance of Compliance and Disclosure Interpretations.

Financial estimates and assumptions

86. For the proposed financial statement metrics, should we require a registrant to disclose material changes in estimates, assumptions, or methodology among fiscal years and the reasons for those changes? If so, should we require the material changes disclosure to occur on a quarterly, or some other, basis? Should we require disclosure beyond a discussion of the material changes in assumptions or methodology and the reasons for those changes? Do existing required disclosures already elicit such information? What other approaches should we consider?

If finalized, proposed SEC Regulation S-X Rule 14-02(g) would require a registrant to disclose “whether the estimates and assumptions the registrant used to produce the consolidated financial statements were impacted by exposures to risks and uncertainties associated with, or known impacts from, severe weather events and other natural conditions, such as flooding, drought, wildfires, extreme temperatures, and sea level rise.” We note that this proposed requirement, if finalized, would be duplicative with existing required disclosures in management’s discussion and analysis of financial condition and results of operations (MD&A).⁵

Existing SEC Regulation S-K Item 303(b)(3) requires the disclosures within MD&A to provide qualitative and quantitative information necessary to understand the estimation uncertainty and the impact the critical accounting estimate has had or is reasonably likely to have on financial condition or results of operations to the extent the information is material and reasonably available. This information is required to include why each critical accounting estimate is subject to uncertainty and, to the extent the information is material and reasonably available, how much each estimate and (or) assumption has changed over a relevant period, and the sensitivity of the reported amount to the methods, assumptions and estimates underlying its calculation.

Regulation S-K Item 303(b)(3) defines *critical accounting estimates* as “those estimates made in accordance with generally accepted accounting principles that involve a significant level of estimation uncertainty and have had or are reasonably likely to make a material impact on the financial condition or results of operations of the registrant.” We note that proposed Regulation S-X Rule 14-02(g), if finalized, would not narrow the required disclosure to critical accounting estimates, but rather would require disclosure of whether any estimates and assumptions the registrant used to produce the consolidated financial statements were impacted by exposures to risks and uncertainties associated with, or known impacts from, severe weather events and other natural conditions. If the Commission chooses to retain the requirement in Rule 14-02(g), we believe the consistency of the required disclosures would be

⁵ We note that in 2018, the Commission voted to adopt amendments to certain disclosure requirements that were duplicative or overlapping in light of other Commission disclosure requirements and U.S. GAAP. See Final Rule 33-10532, *Disclosure Update and Simplification*.

improved if the disclosures were limited to critical accounting estimates as defined in Regulation S-K item 303(b)(3). Further, we believe such disclosures may be more meaningful if they were included in the registrant's MD&A, together with the other required disclosures related to critical accounting estimates.

Inclusion of climate-related metrics in the financial statements

87. We are proposing to require the financial statement metrics to be disclosed in a note to the registrant's audited financial statements. Should we require or permit the proposed financial statement metrics to be disclosed in a schedule to the financial statements? If so, should the metrics be disclosed in a schedule to the financial statements, similar to the schedules required under Article 12 of Regulation S-X, which would subject the disclosure to audit and ICFR requirements? Should we instead require the metrics to be disclosed as supplemental financial information, similar to the disclosure requirements under FASB ASC Topic 932-235-50-2 for registrants that have significant oil- and gas-producing activities? If so, should such supplemental schedule be subject to assurance or ICFR requirements?

We believe preparers of the financial statements should opine on whether to require the proposed financial statement metrics to be disclosed in a note to the registrant's audited financial statements, in a schedule to the financial statements or as supplemental financial information. For the sake of consistency of information presentation, we believe one of these options should be chosen by the Commission after hearing comments from registrants, investors and other financial statement users.

We believe subjecting all financial statement disclosures to the appropriate internal control over financial reporting results in more reliable disclosures. We note that all registrants are required to comply with SEC Regulation S-K Item 308 regarding management's assessment of the effectiveness of the registrant's internal control over financial reporting; however, only large accelerated and accelerated filers are required to provide the registered public accounting firm's report on the registrant's internal control over financial reporting in the registrant's annual report. We therefore suggest that any "ICFR requirements" related to the proposed climate-related financial statement metrics, if finalized, be those already articulated in Regulation S-K Item 308.

88. Instead of requiring the financial statement metrics to be disclosed in a note to the registrant's audited financial statements, should we require a new financial statement for such metrics? For example, should a "consolidated climate statement" be created in addition to the consolidated balance sheets, statements of comprehensive income, cash flows, and other traditional financial statements? Would including the proposed metrics in a new financial statement provide more clarity to investors given that the metrics are intended to follow the structure of the existing financial statements (including the line items)? What complications or unintended consequences may arise in practice if such a climate statement is created?

We believe it would be more appropriate to disclose the proposed required financial statement metrics in a note to the registrant's audited financial statements than in a new financial statement because:

- Such metrics represent off-balance sheet risks and uncertainties.
- A new financial statement for such metrics may need to include aspects of balance sheet, income statement and cash flow information in the same statement, which may result in a presentation format that is challenging for investors to understand.

- Some registrants may not have any information to disclose in response to the requirements, and that fact would be more appropriately stated in a note to the financial statements than through presentation of a consolidated climate statement containing no information.

As noted in the previous response, we believe preparers of the financial statements should opine on whether to require the proposed financial statement metrics to be disclosed in a note to the registrant's audited financial statements, in a schedule to the financial statements or as supplemental financial information. For the sake of consistency of information presentation, we believe presentation of the disclosure should be prescribed by the Commission after hearing comments from registrants, investors and other users of the financial statements.

90. Should we require any additional metrics or disclosure to be included in the financial statements and subject to the auditing and ICFR requirements as described above? For example, should any of the disclosures we are proposing to require outside of the financial statements (such as GHG emissions metrics) be included in the financial statements? If so, should such metrics be disclosed in a note or a schedule to the financial statements? If in a schedule, should such schedule be similar to the schedules required under Article 12 of Regulation S-X and subject to audit and ICFR requirements? Should we instead require the metrics to be disclosed as supplemental financial information in a supplemental schedule? If so, should such supplemental schedule be subject to assurance or ICFR requirements?

We defer to investors to opine on whether it would be helpful for any additional metrics or disclosure to be included in the financial statements and subject to the auditing and ICFR requirements. However, we note that standalone greenhouse gas (GHG) emissions metrics are not derived from the financial information of a registrant, and therefore do not fall under the financial statement audit requirements. As such, we do not believe it would be appropriate for GHG emissions metrics to be included in a note to the registrant's audited financial statements, in a schedule to the financial statements or as supplemental financial information. GHG emissions metrics only should be reflected in the audited financial statements if they are a significant input to a financial statement estimate that is required to be recorded or disclosed in accordance with U.S. GAAP.

If the disclosure of GHG emissions metrics would be helpful to investors and are operable for registrants to provide, we believe it would be better presented in the Form 10-K disclosures in accordance with SEC Regulation S-K. If presented in the Form 10-K, the registrant's auditor could perform an attestation engagement with respect to the GHG emissions metrics. Like audits of financial statements and internal control over financial reporting, attestation of GHG emissions metrics by a public company auditor can provide an objective and independent assessment of the assertions, data and other disclosures made by management.

91. Under the proposed rules, PCAOB auditing standards would be applicable to the financial statement metrics that are included in the audited financial statements, consistent with the rest of the audited financial statements. What, if any, additional guidance or revisions to such standards would be needed in order to apply PCAOB auditing standards to the proposed financial statement metrics? For example, would guidance on how to apply existing requirements, such as materiality, risk assessment, or reporting, be needed? Would revisions to the auditing standards be necessary? What additional guidance or revisions would be helpful to auditors, preparers, audit

committee members, investors, and other relevant participants in the audit and financial reporting process?

Registered public accounting firms currently audit registrant financial statements under the standards of the PCAOB and stand ready to audit the climate-related financial statement metrics that are included in the audited financial statements. We believe, however, that there may be gaps between what investors may expect the auditor to perform when such metrics are in the audited financial statements and what existing PCAOB standards require the auditor to perform, especially as it relates to the establishment of materiality for the audit. Based on our understanding of the PCAOB's existing standards, we believe additional guidance would be needed regarding the application of existing PCAOB requirements to the climate-related financial statement metrics proposed to be included in the audited financial statements.

Paragraph .07 of PCAOB Auditing Standard (AS) 2105, *Consideration of Materiality in Planning and Performing an Audit*, requires the auditor to evaluate whether, in light of the particular circumstances, there are certain accounts or disclosures for which there is a substantial likelihood that misstatements of lesser amounts than the materiality level established for the financial statements as a whole would influence the judgment of a reasonable investor. If so, the auditor is required to establish separate materiality levels for those accounts or disclosures to plan the nature, timing and extent of audit procedures for those accounts or disclosures. Therefore, if the proposed one percent threshold for disclosure of climate-related impacts on the financial statement line items is not considered material, current PCAOB auditing standards may not require the auditor to perform audit procedures for those disclosures.

The PCAOB has procedures in place for determining whether additional guidance or revisions to its auditing standards would be needed in order to apply them to the proposed financial statement metrics. The PCAOB's Investor Advisory Group and Standards and Emerging Issues Advisory Group will enable the PCAOB to obtain essential input and insights from investors and other stakeholders on this matter. The standard-revision process is subject to proper due process and thus would take time, so we recommend the Commission consider this in adopting the final effective and transition dates for the proposed rule. Any PCAOB standards changes would need to be implemented and effective before the proposed disclosures are required to be included in the audited financial statements.

92. Would it be clear that the climate-related financial statement metrics would be included in the scope of the audit when the registrant files financial statements prepared in accordance with IFRS as issued by the IASB? Would it be clear that the proposed rules would not alter the basis of presentation of the financial statements as referred to in an auditor's report? Should we amend Form 20-F, other forms, or our rules to clarify the scope of the audit or the basis of presentation in this context? For example, should we amend Form 20-F to state specifically that the scope of the audit must include any notes prepared pursuant to Article 14 of Regulation S-X? What are the costs for accounting firms to provide assurance with respect to the financial statement metrics? Would those costs decrease over time?

We believe the climate-related financial statement metrics and related audit requirements for foreign filers should align with those for domestic filers.

Attestation of Scope 1 and Scope 2 Emissions Disclosure

Overview

136. If we required accelerated filers and large accelerated filers to obtain an attestation report covering Scope 3 emissions disclosure, should the requirement be phased-in over time? If so, what time frame? Should we require all Scope 3 emissions disclosure to be subject to assurance or only certain categories of Scope 3 emissions? Would it be possible for accelerated filers and large accelerated filers to obtain an attestation report covering the process or methodology for calculating Scope 3 emissions rather than obtaining an attestation report covering the calculations of Scope 3 emissions? Alternatively, is there another form of verification over Scope 3 disclosure that would be more appropriate than obtaining an attestation report?

The Commission has stated that Scope 3 emissions are “all other indirect emissions” that “are a consequence of the company’s activities but are generated from sources that are neither owned or controlled by the company.”⁶ Thus, this proposal, if finalized, would affect a large number of private companies because registrants would need to include in their Scope 3 emissions disclosures information from the upstream and downstream activities in their value chains (e.g., suppliers, distributors and others). We believe it would be prudent to exclude Scope 3 emissions from all assurance and attestation requirements because the vastness of Scope 3 emissions would result in (a) high estimation uncertainty being associated with such disclosures; (b) multitudes of entities, including private companies, needing to calculate their indirect emissions that are a consequence of the registrant’s activities; and (c) challenging circumstances for registrants to provide the appropriate source documentation related to Scope 3 emissions data from so many entities.

139. Should we require accelerated filers and large accelerated filers to initially include attestation reports reflecting attestation engagements at a limited assurance level, eventually increasing to a reasonable assurance level, as proposed? What level of assurance should apply to the proposed GHG emissions disclosure, if any, and when should that level apply? Should we provide a one fiscal year transition period between the GHG emissions disclosure compliance date and when limited assurance would be required for accelerated filers and large accelerated filers, as proposed? Should we provide an additional two fiscal year transition period between when limited assurance is first required and when reasonable assurance is required for accelerated filers and large accelerated filers, as proposed?

140. Should we provide the same transition periods (from the Scopes 1 and 2 emissions disclosure compliance date) for accelerated filers and large accelerated filers, as proposed? Instead, should different transition periods apply to accelerated filers and large accelerated filers? Should we provide transition periods with different lengths than those proposed? Should we require the attestation to be at a reasonable assurance level without having a transition period where only limited assurance is required? Should we instead impose assurance requirements to coincide with reporting compliance periods?

We believe that, when implementing the proposed new required disclosures, the reliability of the required disclosures would be positively affected if the proper amount of time is provided for registrants to understand the new requirements and gather the requisite information for accurate and meaningful

⁶ See page 41 of the proposed rule.

disclosures. Thus, a phased-in effective-date approach over several years would be appropriate. However, we believe the phased-in effective-date approach should be based solely on the registrant's filing status.

If the proposed rule is finalized, we believe a prudent implementation approach would be a two-step approach of first providing ample time for registrants to obtain and document the appropriate emissions data and to implement adequate controls over the reporting over that data, and then requiring attestation reports reflecting attestation engagements at one predetermined assurance level (i.e., either at a limited assurance level or at a reasonable assurance level as determined by the Commission after considering input from investors and registrants). The provision of time allotted to registrants to initially comply with GHG emissions disclosure requirements should be commensurate with the registrant's resources as reflected by its filer status (i.e., nonaccelerated filers and smaller reporting companies would need more time to comply with the disclosure requirements than would accelerated and large accelerated filers). We view this implementation approach to be similar to that used for the effective dates for Section 404(b) of the Sarbanes-Oxley Act of 2002.

141. Under prevailing attestation standards, "limited assurance" and "reasonable assurance" are defined terms that we believe are generally understood in the marketplace, both by those seeking and those engaged to provide such assurance. As a result, we have not proposed definitions of those terms. Should we define "limited assurance" and "reasonable assurance" and, if so, how should we define them? Would providing definitions in this context cause confusion in other attestation engagements not covered by the proposed rules? Are the differences between these types of attestation engagements sufficiently clear without providing definitions?

We agree the terms "limited assurance" and "reasonable assurance" are defined terms; however, we defer to investors to opine on whether these terms are understood in the marketplace. To mitigate the possibility of confusion in the marketplace, we believe it would be prudent if the Commission dictated a single level of assurance to be provided in the attestation engagements. Regardless, the auditing profession stands ready to provide whichever level of assurance is deemed most appropriate by the Commission for the benefit of investors and registrants.

In discerning whether to require a limited assurance or reasonable assurance attestation, we remind the Commission that, in addition to the amount of time that would be required for a registrant to prepare for the attestation engagement as discussed above, another factor to consider is the extent of procedures and related time required to complete each of these engagements. The primary difference between the two levels of assurance relates to the nature, timing and extent of procedures required to obtain sufficient, appropriate evidence to support the limited assurance conclusion or reasonable assurance opinion. We note that the scope of work in a limited assurance engagement is substantially less than a reasonable assurance engagement. More extensive testing procedures beyond inquiries and analytical procedures, including recalculation and verification of data inputs, are required in reasonable assurance engagements, such as inspecting source documents. We believe the ability for registrants to provide the appropriate source documentation related to Scope 2 emissions could be particularly challenging due to the third parties from which such documentation would be required.

142. As proposed, there would be no requirement for a registrant to either provide a separate assessment and disclosure of the effectiveness of controls over GHG emissions disclosure by management or obtain an attestation report from a GHG emissions attestation provider specifically

covering the effectiveness of controls over GHG emissions disclosure. Should we require accelerated filers and large accelerated filers to provide a separate management assessment and disclosure of the effectiveness of controls over GHG emissions disclosure (separate from the existing requirements with respect to the assessment and effectiveness of DCP)? Should we require management to provide a statement in their annual report on their responsibility for the design and evaluation of controls over GHG emissions disclosure and to disclose their conclusion regarding the effectiveness of such controls? Instead of, or in addition to, such management assessment and statement, should we require the registrant to obtain an attestation report from a GHG emissions attestation provider that covers the effectiveness of such GHG emissions controls as of the date when the accelerated filer or large accelerated filer is required to comply with the reasonable assurance requirement under proposed Item 1505(a)? If so:

- (i) Would it be confusing to apply either such requirement in light of the existing DCP requirements that would apply to the proposed GHG emissions disclosure?
- (ii) Would a separate management assessment and statement on the effectiveness of controls over GHG emissions provide meaningful disclosure to investors beyond the existing requirement for DCP?
- (iii) Should we specify that the separate management assessment and statement must be provided by the accelerated filer's or large accelerated filer's principal executive and principal financial officers, or persons performing similar functions? Should we clarify which members of the accelerated filer or large accelerated filer's management should be involved in performing the underlying assessment?
- (iv) What controls framework(s) would the effectiveness of the registrant's controls over GHG emissions disclosure be evaluated against, if any?
- (v) For the GHG emissions attestation provider, what requirements should be applied to such GHG emissions disclosure controls attestation requirement? For example, what attestation standards should apply? Should other service provider(s) in addition to or in lieu of the GHG emissions attestation provider be permitted to provide such attestation over the effectiveness of the GHG controls?
- (vi) Should we limit such a requirement to accelerated filers and large accelerated filers only or should it apply to other registrants as well?
- (vii) What would be the potential benefits and costs of either approach?
- (viii) Should we require a certification on the design and evaluation of controls over GHG emissions disclosures by officers serving in the principal executive and principal financial officer roles or persons performing similar functions for an accelerated filer or large accelerated filer? Would a certification requirement have any additional benefits or impose any additional costs when compared to a requirement for management to assess and disclose in a statement in the annual report the effectiveness of controls over GHG emissions?

We believe that, if GHG emissions are required to be disclosed, it will be important that registrants design and implement effective controls over such disclosures at an appropriate level of precision. We believe subjecting all disclosures to the appropriate controls would result in the most useful disclosures.

We note that all registrants are required to comply with SEC Regulation S-K Item 308 regarding management's assessment of the effectiveness of the registrant's internal control over financial reporting;

however, only large accelerated and accelerated filers are required to provide the registered public accounting firm's report on the registrant's internal control over financial reporting in the registrant's annual report. We therefore suggest that, if GHG emissions are required to be disclosed, the registrants subject to those disclosures be required to provide an assessment and disclosure of the effectiveness of controls over the GHG emissions. Similar to the evaluation of internal control over financial reporting being based on criteria established in the *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission, it would be prudent for the effectiveness of a registrant's controls over GHG emissions disclosure to be evaluated against criteria in a suitable controls framework.

We defer to investors to opine on whether large accelerated and (or) accelerated filers should be required to obtain an attestation report that covers the effectiveness of a registrant's GHG emissions controls. However, if the Commission requires a registrant to obtain an attestation report that covers the effectiveness of the registrant's GHG emissions controls, we believe such an attestation engagement should be based upon management's written assertion(s) (such in accordance with AT-C 205, *Assertion-Based Examination Engagements*), as opposed to a direct examination engagement (such as in accordance with AT-C 206, *Direct Examination Engagements*). The assertion-based attestation engagement should be conducted in accordance with the standards of the PCAOB, AICPA or International Auditing and Assurance Standards Board (IAASB), as dictated by the Commission's final rule.

143. We considered whether to require registrants to include the GHG emissions metrics in the notes or a separate schedule to their financial statements, by amending Regulation S-X instead of Regulation S-K.
- (i) Would there be benefits to including this information in a registrant's financial statements? For example, would requiring the GHG emissions disclosure to be included in the financial statements improve the consistency, comparability, reliability, and decision-usefulness of the information for investors? Would it facilitate the integration of GHG metrics and targets into the registrant's financial analysis? Would such placement cause registrants to incur significantly more expense in obtaining an audit of the disclosure? If so, please quantify those additional expenses where possible.
 - (ii) Should we require a registrant to include the GHG emissions disclosure in its audited financial statements so that the disclosure would be subject to the existing requirements for an independent audit and ICFR? If so, we seek comment on the following aspects of this alternative:
 - (a) If GHG emissions disclosure is subject to ICFR, or an internal control framework similar to ICFR, would GHG emissions disclosure be more reliable compared to what is currently proposed? What are the benefits or costs?
 - (b) Should the GHG emissions disclosure be included in a note to the registrant's financial statements (e.g., in the note where the proposed financial statement metrics as discussed above in Section II.F would be included) or in a schedule, or somewhere else? If the GHG emissions disclosure was required in the financial statements, should it be subject to a reasonable assurance audit like the other information in the financial statements? If in a schedule, should the GHG emissions disclosure be disclosed in a schedule similar to those required under Article 12 of Regulation S-X, which would subject the disclosure to

audit and ICFR requirements? Should we instead require the metrics to be disclosed as supplemental financial information, similar to the disclosure requirements under FASB ASC Topic 932-235-50-2 for registrants that have significant oil- and gas-producing activities? If so, should such supplemental schedule be subject to ICFR requirements? Instead of requiring the GHG emissions disclosure to be included in a note to the registrant's audited financial statements, should we require a new financial statement for such metrics?

- (c) PCAOB auditing standards apply to the audit of a registrant's financial statements. If GHG emissions disclosure is included in a supplemental schedule to the financial statements, should we allow other auditing standards to be applied? If so, which ones? What, if any, additional guidance or revisions to such standards would be needed in order to apply them to the audit of GHG emissions disclosure?
- (d) What are the costs and benefits of employing registered public accounting firms to perform audits of GHG emissions disclosure and related attestation of internal controls? Are there potential cost savings in employing registered public accountants that currently perform audits of financial statements and attestation of ICFR to review GHG emissions disclosure and any related internal controls? If we require GHG emissions disclosure to be presented in the financial statements, should we permit entities other than registered public accounting firms to provide assurance of this information, as proposed for the current attestation requirements under Regulation S-K? If not limited to registered public accounting firms, who should be permitted to provide assurance of GHG emissions disclosure? Should we permit environmental consultants, engineering firms, or other types of specialists to provide assurance? What are the costs and benefits of such approach? Would the reliability of the audits and therefore the information disclosed be affected if assurance providers other than registered public accounting firms are permitted to conduct these audits? Please provide supporting data where possible. If we should allow for assurance providers that are not registered public accounting firms, what qualifications and oversight should they have, and what requirements should we impose on them? Should we direct the PCAOB to develop a separate registration process for service providers that are not otherwise registered? What expertise, independence and quality control standards should apply?
- (e) What would be the other potential benefits and costs of such an approach?

Standalone GHG emissions metrics are not derived from the financial information of a registrant, and therefore do not fall under the financial statement audit requirements. As such, we do not believe it would be appropriate for the proposed GHG emissions metrics to be included in a note to the registrant's audited financial statements, in a schedule to the financial statements or as supplemental financial information. GHG emissions metrics only should be reflected in the audited financial statements when they are a significant input to a financial statement estimate that is required to be recorded or disclosed in accordance with U.S. GAAP.

If the disclosure of GHG emissions metrics would be helpful to investors and can be reliably provided by registrants, we believe it would be better presented in the Form 10-K disclosures in accordance with SEC Regulation S-K. If presented in the Form 10-K, the registrant's auditor could perform an attestation engagement with respect to the GHG emissions metrics. Like audits of financial statements and internal control over financial reporting, attestation of GHG emissions metrics by a public company auditor can

provide an objective and impartial assessment of the assertions, data and other disclosures made by management.

As to the benefits of employing registered public accounting firms to perform audits of GHG emissions disclosure and related attestation of internal controls, we note that the provision of “assurance” is built on the principles of integrity, competence, objectivity and independence, and a system of quality management over all of those principles is necessary. Having “competence” or a particular expertise (e.g., environmental) does not in and of itself qualify a provider to give “assurance.” Auditors are independent of the companies audited, are skilled in gaining an understanding of company processes, have experience in engaging specialists to assist in obtaining or evaluating audit evidence, and have systems of quality management over the attestation engagements they perform.

GHG emissions attestation provider requirements

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| <p>144. Should we require a registrant to obtain a GHG emissions attestation report that is provided by a GHG emissions attestation provider that meets specified requirements, as proposed? Should one of the requirements be that the attestation provider is an expert in GHG emissions, with significant experience in measuring, analyzing, reporting, or attesting to GHG emissions, as proposed? Should we specify that significant experience means having sufficient competence and capabilities necessary to: (a) perform engagements in accordance with professional standards and applicable legal and regulatory requirements and (b) enable the service provider to issue reports that are appropriate under the circumstances, as proposed? Should we instead require that the GHG emissions attestation provider have a specified number of years of the requisite type of experience, such as 1, 3, 5, or more years? Should we specify that a GHG emissions attestation provider meets the expertise requirements if it is a member in good standing of a specified accreditation body that provides oversight to service providers that apply attestation standards? If so, which accreditation body or bodies should we consider (e.g., AICPA)? Are there any other requirements for the attestation provider that we should specify? Instead, should we require a GHG emissions attestation provider to be a PCAOB-registered audit firm?</p> <p>145. Is additional guidance needed with respect to the proposed expertise requirement? Should we instead include prescriptive requirements related to the qualifications and characteristics of an expert under the proposed rules? For example, should we include a provision that requires a GHG emissions attestation provider that is a firm to have established policies and procedures designed to provide it with reasonable assurance that the personnel selected to provide the GHG attestation service have the qualifications necessary for fulfillment of the responsibilities that the GHG emissions attestation provider will be called on to assume, including the appropriate engagement of specialists, if needed?</p> |
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Providing an opinion or attestation is different from being an expert or consulting on a complex matter. Understanding the requisite skills to perform attestation services would be important for instilling public trust in sustainability reporting. Although the number of years of requisite experience may be indicative of a skillset, other factors should be considered, such as the provider’s system of quality management, independence with respect to the registrant, etc. If attestation engagements are performed in accordance with the standards of the AICPA, PCAOB or IAASB, a system of quality management is required of the provider to address expertise requirements, including the appropriate engagement of specialists, and other quality management matters for attestation engagements.

Obtaining any level of assurance by a public company auditor in accordance with such standards involves the evaluation of processes, systems and data, as appropriate, and then assessing the findings in order to support an opinion based on an examination or conclusion based on a review. We believe assurance over climate-related reporting when performed by a public company auditor would offer increased investor protection compared with other forms of third-party assurance or verification.

146. Should we require the GHG emissions attestation provider to be independent with respect to the registrant, and any of its affiliates, for whom it is providing the attestation report, as proposed? Should we specify that a GHG emissions attestation provider is not independent if such attestation provider is not, or a reasonable investor with knowledge of all relevant facts and circumstances would conclude that such attestation provider is not, capable of exercising objective and impartial judgment on all issues encompassed within the attestation provider's engagement, as proposed? The proposed provision is based on a similar provision regarding the qualification of an accountant to be an independent auditor under Rule 2-01 of Regulation S-X. Is Rule 2-01 an appropriate model for determining the independence of a GHG emissions attestation provider? Is being independent from a registrant and its affiliates an appropriate qualification for a GHG emissions attestation provider?
147. Should we specify that the factors the Commission would consider in determining whether a GHG emissions attestation provider is independent include whether a relationship or the provision of a service creates a mutual or conflicting interest between the attestation provider and the registrant, including its affiliates, places the attestation provider in the position of attesting to such attestation provider's own work, results in the attestation provider acting as management or an employee of the registrant, including its affiliates, or places the attestation provider in a position of being an advocate for the registrant and its affiliates, as proposed? Should we specify that the Commission also will consider all relevant circumstances, including all financial and other relationships between the attestation provider and the registrant, including its affiliates, and not just those relating to reports filed with the Commission, as proposed?

We believe the proposed requirement for the GHG emissions attestation provider to be independent with respect to the registrant, and any of its affiliates, would enhance the reliability of the attestation report. We believe SEC Regulation S-X Rule 2-01 is an appropriate model for determining the independence of the GHG emissions attestation provider as it addresses financial relationships, employment relationships, business relationships, services in which the provider acts as registrant management, and contingent fees, among other matters.

148. Should we adopt all of the proposed factors for determining the independence of a GHG emissions attestation provider, or are there factors we should omit? Are there any additional factors that we should specify that the Commission will consider when determining the independence of a GHG emissions attestation provider? For example, should we include any non-exclusive specifications of circumstances that would be inconsistent with the independence requirements, similar to those provided in 17 CFR 210.2-01(c) (Rule 2-01(c) of Regulation S-X)?

We believe the use of SEC Regulation S-X Rule 2-01 in its entirety would be most appropriate for determining the independence of a GHG emissions attestation provider.

149. Should the definition of “affiliates” be modeled on Rule 2-01, as proposed, or should we use a different definition? Would defining the term differently than proposed cause confusion because the rest of the proposed independence requirement is modeled on Rule 2-01? Many accountants are likely familiar with the proposed definition given their required compliance with Rule 2-01, would non-accountants understand how to comply with and apply this concept?

For purposes of clarity and consistency, we believe the definition of “affiliates” in the proposed rule should be based on the definition of “affiliates” in SEC Regulation S-X Rule 2-01.

150. Should the term “attestation and professional engagement period” be defined in the proposed manner? If not, how should “attestation and professional engagement period” be defined? Alternatively, should the Commission specify a different time period during which an attestation provider must meet the proposed independence requirements?

For purposes of clarity and consistency, we believe the definition of “attestation and professional engagement period” should be based on the definition of “audit and professional engagement period” in SEC Regulation S-X Rule 2-01.

151. Should we include disclosure requirements when there is a change in, or disagreement with, the registrant’s GHG emissions attestation provider that are similar to the disclosure requirements in Item 4.01 of Form 8-K and 17 CFR 229.304 (Item 304 of Regulation S-K)?

For purposes of clarity and consistency, we believe it would be important for the disclosure requirements when there is a change in, or disagreement with, the registrant’s GHG emissions attestation provider to be consistent with the disclosure requirements in Item 4.01 of Form 8-K and SEC Regulation S-K Item 304.

152. Accountants are already required to comply with the relevant quality control and management standards when providing audit and attest services under the PCAOB, AICPA, or IAASB standards. These quality control and management standards would apply to accountants providing GHG attestation services pursuant to those standards as well. Should we require the GHG emissions attestation provider to comply with additional minimum quality control requirements (e.g., acceptance and continuance of engagements, engagement performance, professional code of conduct, and ethical requirements) to provide greater consistency over the quality of service provided by GHG emissions attestation providers who do not (or cannot) use the PCAOB, AICPA, or IAASB attestation standards? If so, what should the minimum requirements be?

We believe the quality management requirements of the AICPA, PCAOB or IAASB, as determined by the Commission, would be suitable for the provision of GHG attestation services.

GHG emissions attestation engagement and report requirements

154. Should we require the attestation engagement and related attestation report to be provided pursuant to standards that are publicly available at no cost and are established by a body or group that has followed due process procedures, including the broad distribution of the framework for

public comment, as proposed? Is the requirement of “due process procedures, including the broad distribution of the framework for public comment” sufficiently clear? Would the attestation standards of the PCAOB, AICPA, and IAASB meet this due process requirement? Are there other standards currently used in the voluntary climate-related assurance market or otherwise in development that would meet the due process and publicly availability requirements? For example, would verification standards commonly used by non-accountants currently, such as ISO 14064-3 and the AccountAbility’s AA1000 Series of Standards, meet the proposed requirements? Are there standards currently used in the voluntary climate-related assurance market or otherwise under development that would be appropriate for use under the Commission’s climate-related disclosure rules although they may not strictly meet the proposed public comment requirement? If so, please explain whether those standards have other characteristics that would serve to protect investors?

We believe the attestation engagement, if required, should be conducted pursuant to standards that are publicly available at no cost and are established by a body or group that has followed due process procedures, including the broad distribution of the framework for public comment. While we agree that the attestation standards of the PCAOB meet this due process requirement and are freely available, we note that they are the interim adopted attestation standards of the AICPA from 2003. Over the past 19 years, the AICPA and IAASB attestation standards have been substantively rewritten to evolve with the needs of users, and they are the standards currently used by U.S. public accounting firms.

We believe the Commission should determine whether the AICPA, PCAOB or IAASB standards provide the most appropriate framework for the performance of attestation engagements related to GHG emissions, and then should dictate that the attestation engagements be performed in accordance with such standards, including the related standards for quality management. If the Commission determines that attestation engagements related to GHG emissions should be conducted in accordance with PCAOB standards, we believe the PCAOB may deem it appropriate to update its attestation standards. The PCAOB’s standard-revision process is subject to proper due process and thus would take time, so we recommend the Commission consider this in adopting the final effective and transition dates for the proposed rule. Any PCAOB standards changes would need to be implemented and effective before the effective dates of the attestation requirements.

155. Should we require that the attestation standards used be publicly available at no cost to investors, as proposed? Should we permit the use of attestation standards, even if not publicly available at no cost, provided that registrants provide access to those standards at the request of their investors?

We believe the attestation engagement, if required, should be conducted pursuant to standards that are publicly available at no cost and are established by a body or group that has followed due process procedures, including the broad distribution of the framework for public comment. Public availability of the standards would be especially important for smaller investors and registrants.

156. Should we require the GHG emissions attestation report to meet certain minimum requirements in addition to any form and content requirements set forth by the attestation standard or standards used by the GHG emissions attestation provider, as proposed? Should we instead require that the attestation report solely meet whatever requirements are established by the attestation standard or standards used?

We agree that the GHG emissions attestation report should meet certain minimum requirements. We believe the requirements set forth in the standards of the AICPA, PCAOB or IAASB, as determined by the Commission, would be suitable for such purposes.

Additional disclosure by the registrant of certain matters related to the attestation

161. Should we require the registrant to disclose whether the attestation provider has a license from any licensing or accreditation body to provide assurance, and if so, the identity of the licensing or accreditation body, and whether the attestation provider is a member in good standing of that licensing or accreditation body, as proposed? In lieu of disclosure, should we require a GHG emissions attestation provider to be licensed to provide assurance by specified licensing or accreditation bodies? If so, which licensing or accreditation bodies should we specify?

We believe it would be prudent for the Commission to require the registrant to disclose whether the attestation provider is licensed by a licensing or accreditation body to provide assurance, and if so, the identity of the licensing or accreditation body, and whether the attestation provider is a member in good standing of that licensing or accreditation body. The provision of such information would be helpful to investors as they could then rely on the licensing and accreditation bodies to vet the provider's expertise, rather than needing to evaluate other related information in discerning that.

162. Should we require a registrant to disclose whether the GHG emissions attestation engagement is subject to any oversight inspection program, and if so, which program (or programs), as proposed? Should we instead require the registrant to disclose whether the attestation engagement is subject to certain specified oversight programs? If so, which oversight programs should we specify?

We believe the disclosure of whether the GHG emissions attestation engagement is subject to any oversight inspection program is only relevant if the Commission also specifies the particular standards under which the attestation engagement should be performed.

163. Should we require a registrant to disclose whether the attestation provider is subject to record-keeping requirements with respect to the work performed for the GHG emissions attestation engagement and, if so, identify the record-keeping requirements and duration of those requirements, as proposed? In lieu of disclosure, should we specify that the record-keeping requirements of a GHG emissions attestation provider must be of a certain minimum duration, such as three, five, or seven years, or some other period? Should we specify that the recordkeeping requirements must include certain reasonable procedures and, if so, what procedures?

We believe the Commission should require the attestation provider to retain the documentation related to the attestation engagement for a period of time it deems appropriate.

Compliance Date

197. Should we provide different compliance dates for large accelerated filers, accelerated filers, non-accelerated filers, or SRCs, as proposed? Should any of the proposed compliance dates in the table above be earlier or later? Should any of the compliance dates be earlier so that, for example,

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a registrant would be required to comply with the Commission's climate-related disclosure rules for the fiscal year in which the rules become effective?

The reliability of the proposed required disclosures impacts their decision usefulness for investors, and the reliability of the disclosures would be positively affected by providing registrants adequate time to (a) understand the proposed new requirements for disclosures of climate-related information, (b) gather the requisite information for accurate and meaningful disclosures and (c) design and implement the appropriate internal controls over reporting related to those disclosures. We recommend the Commission consider these factors in adopting the final effective and transition dates for the proposed rule.

If the proposed rule is finalized, we believe it would be prudent to implement it using a phased-in effective-date approach based on the registrant's filing status. This approach would allow the allotted compliance timeframe to be commensurate with the registrant's resources as reflected by its filer status (i.e., nonaccelerated filers and smaller reporting companies would need more time to comply with the disclosure requirements than would accelerated and large accelerated filers). It also would allow nonaccelerated filers and smaller reporting companies to gain implementation insights from accelerated and large accelerated filers. We view this implementation approach to be similar to that used for the effective dates for Section 404(b) of the Sarbanes-Oxley Act of 2002.

We would be pleased to respond to any questions the Commission or its staff may have about our comments. Please direct any questions to Sara Lord, Chief Auditor, at [REDACTED] or Rich Davisson, Partner – National Professional Standards Group, at [REDACTED].

Sincerely,

RSM US LLP

RSM US LLP