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April 4, 2022

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

Dear Chairman Gensler:

Ever since its founding following the Great Depression, the U.S. Securities and Exchange Commission (SEC) has been tasked with three important objectives: to protect investors; to maintain fair, orderly and efficient markets; and to facilitate capital formation. All of these objectives are critical to maintaining public trust in the U.S. financial market. On March 21, 2022, the Democratic majority of the Commissioners approved the publication of a new proposed rule that would require domestic and foreign registrants to disclose certain climate-related impacts. I am deeply concerned that the proposed rule has the potential to run counter to the SEC's long-standing commitment to its mission by adding undue burdens on companies, while simultaneously sending a signal of opposition to the all-of-the-above energy policy that is critical to our country right now.

The 506-page proposed rule, as presented, would require public companies to disclose a number of things, including their Scope 1, Scope 2, and on occasion, Scope 3 greenhouse gas (GHG) emissions as well as the impacts that climate risks have had on their operations in the short-, medium-, and long-term. While I acknowledge the SEC's desire to mandate climate-risk disclosures that are currently filed on a voluntary basis, I cannot help but consider the true need for that mandate when the Commission itself reports that "nearly two-thirds of companies in the Russell 1000 Index, and 90 percent of the 500 largest companies in that index," already publish sustainability reports that include information about climate risks.[1] In that sense, one could argue that the proposed rule aims to solve a problem that does not exist. Further, to suggest that any and all public companies have the resources and capabilities to capture this data is shortsighted. Forcing this rule on companies has the potential to not only impose undue financial hardships, but also to erode public trust, especially if less-resourced companies are unable to accurately report this data.

Arguably, though, the most concerning piece of the proposed rule is what appears to be the targeting of our nation's fossil fuel companies. Not only will these companies face heightened reporting requirements on account of their operations, but they will also be subjected to

[1] Statement of Chair Gary Gensler on Proposed Mandatory Climate Risk Disclosures, Mar. 21, 2022, *available at* https://www.sec.gov/news/statement/gensler-climate-disclosure-20220321.

additional scrutiny for the Scope 3 emission disclosures of other companies that utilize their services and products. Furthermore, accelerated and large accelerated filers would be required to take the additional step of obtaining certification from a third-party to attest to the accuracy of the disclosures.

I firmly believe that the SEC has a duty and responsibility to every American to uphold their mission and prevent an unraveling of our U.S. economy; however, that duty and responsibility unfortunately becomes tainted when the Commission publishes rules that seemingly politicize a process aimed at assessing the financial health and compliance of a public company. As the SEC collects public comment on this rule, I urge both you and your fellow Commissioners to reassess the structure and need for these additional disclosures and to consider alternative reporting requirements, particularly for those that are already required to disclose emissions and climate-risk data to other agencies. For instance, as you aware, the U.S. Environmental Protection Agency (EPA) collects such information from fossil fuel companies through its Greenhouse Gas Reporting Program (GHGRP) and shares its public reports in October of each year.[2] Enacting rules that are seemingly duplicative in nature–particularly for our nation's energy companies–may add additional burdens that are both timely and costly for publicly traded companies and may also serve to create unnecessary confusion for investors. Ultimately, I am interested in the implementation of rules that are rational and ensure that the system is fair. Reassessing the responsibilities of our nation's energy companies within these disclosures is a critical component to reaching that fairness.

Thank you for your prompt attention to this issue. I look forward to receiving your response.

Sincerely,

Joe Manchin III
United States Senator

[2] United States Environmental Protection Agency, Greenhouse Gas Reporting Program (GHGRP), *available at* https://www.epa.gov/ghgreporting.