



June 14, 2022

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street N.E.
Washington, D.C. 20549

Re: File No. S7-10-22: The Enhancement and Standardization of Climate-Related Disclosures for Investors

Ms. Countryman:

Bailard, Inc. submits this comment in support of File No. S7-10-22: The Enhancement and Standardization of Climate-Related Disclosures for Investors (the "Proposed Rule"). We express deep gratitude for the Commission and SEC Staff's substantive work leading to this groundbreaking Proposed Rule that will drive standardized disclosures and meet the needs of investors for material climate-related information, as well as further the SEC objectives of maintaining fair, orderly, and efficient markets and facilitating capital formation.

Founded in 1969, Bailard is an independent asset and wealth management firm serving individuals, families, and institutions. With over \$5.2 billion under management, we manage assets across domestic and international equities, fixed income, and private real estate, as well as provide financial, tax, and estate planning services.

Bailard believes climate-related disclosures are critical for effective investment analysis and decision-making and we are therefore supportive of many components of the Proposed Rule's measures to establish a baseline of climate risk information accessible to investors of all sizes; however, we also offer recommendations for the Proposed Rule to be strengthened to improve the consistency and comprehensiveness of the disclosures that will result from the rule. We have outlined these perspectives in the letter below, but first seek to recognize the following essential elements of the Proposed Rule.

The scope and materiality of the categories covered by the Proposed Rule, including the disclosures in financial statements, is a clear reflection of the Commission's recognition of the urgency of climate-related risks.

- The Proposed Rule comes at a time when addressing material risks related to the climate crisis has never been more urgent: the latest IPCC report from April 2022 reaffirms the need for "immediate and deep emissions reductions across all sectors" to limit global warming to 1.5 degrees Celsius.¹

¹ https://www.ipcc.ch/site/assets/uploads/2022/04/IPCC_AR6_WGIII_PressRelease_English.pdf

- Many investors believe issuers must have clear decarbonization strategies and commitments backed up by credible science-based transition plans to mitigate climate-related risks. Decisions that companies and investors make today will have long-term impacts on emissions and climate-related matters; for example, long-lived assets that may lock in increasing emissions over the course of the asset's life.
- We believe that disclosure of material and systemic risks of climate change will help companies and investors to understand, price, and manage climate risks and opportunities. These activities are not only at the core of efficient securities markets but are also essential to ensuring a just and thriving economy that works for all people and communities.
- Inclusion of climate-related disclosures in the financial statements (Reg S-X) and in accompanying (Reg S-K) disclosures regarding company strategies, financial impacts, risk management, GHG emissions data, offsets, etc. will offer greater accessibility and assurance of this information to investors.

The Proposed Rule's mandatory disclosures will fill essential gaps for investors, and will do so in a cost-effective manner.

- Voluntary disclosures have been insufficient to meet investors' needs for comparable, consistent, and reliable information from issuers. The lack of a regulatory mandate has led to inconsistent information across multiple reporting regimes, causing cherry-picking among companies regarding which metrics and information to disclose, as well as confusion among investors about which disclosures to trust and use.
- The Proposed Rule will provide a critical baseline on climate risks, opportunities and impacts that will allow investors of all sizes to make smart and informed decisions about where to invest their money, and how to vote on board elections and shareholder proposals.
- Bailard intends to use the climate data disclosed as a result of the Proposed Rule to improve the accuracy of our ESG scoring model, thereby informing our investment decision-making.
- Bailard also intends to use the climate data disclosed as a result of the Proposed Rule to inform our corporate engagement activities – helping us to move past discussions of disclosure and allowing us to instead focus on the urgent matter of strengthening emissions reduction targets and accountability on progress against those targets.
- The Proposed Rule will increase the efficiency of investor resources dedicated to climate risk management, including staff time on corporate engagement and spending on third-party data providers.
- While the shareholder engagement process has been important in developing models and best practices for climate disclosure, consistent and mandatory disclosure across the market that allows efficient and informed investor decision-making, necessitates the requested disclosures.

Bailard's comments on components of the Proposed Rule

Bailard supports any comment letters on this Proposed Rule submitted by the following organizations of which we are a member: As You Sow, CDP, Ceres, Climate Action 100+, the Interfaith Center on Corporate Responsibility, and the Principles for Responsible Investment. In particular, we submit and support the below comments:

- Bailard supports the Proposed Rule's requirements for disclosure of Scope 1 and Scope 2 greenhouse gas emissions data and its phased-in approach.
- Bailard supports the Proposed Rule's requirement for disclosure of Scope 3 emissions but recommends that the SEC require Scope 3 disclosures for all registrants (rather than just "material" Scope 3 emissions for larger filers). The decision of whether to disclose Scope 3 emissions should not be conditioned on the reporting company conducting a materiality assessment given the broad demands of the market for

Scope 3 information. And smaller registrants should not be exempt from Scope 3 emissions disclosure but rather should be phased in, perhaps on a longer timeline than their 2026 reporting timeframe for Scope 1 and 2 emissions.

- Should the SEC choose not to eliminate the materiality assessment for Scope 3 disclosures, then:
 - Bailard would support the Proposed Rule's requirement that companies that have set Scope 3 targets disclose their Scope 3 emissions.
 - To the extent that an issuer does not find Scope 3 emissions to be material, Bailard would recommend that the Proposed Rule be amended to require the issuer to disclose the basis for that determination. (For example, the company could disclose that Scope 3 emissions are less than 5% of the company's greenhouse gas footprint, or that the company's sector is a minimal Scope 3 contributor.)
 - Bailard would recommend that the Commission provide additional guidance regarding how companies are to determine materiality of their Scope 3 emissions, including consideration of the demands of their investors, asset owners, and asset managers for such information to fulfill portfolio-wide net-zero commitments.
- Bailard recommends that the Proposed Rule be amended to phase out Scope 3 safe harbor over time.
- Bailard supports the SEC's clarification that the Scope 3 category "Investments" includes "financed emissions."
- Bailard recommends that the Proposed Rule be amended to require the company board to assess alignment of its climate lobbying and advocacy positions with its transition plans, net-zero commitments, and internationally recognized climate goals (e.g. Paris Agreement) and to produce and disclose a narrative outlining how the board carried out its assessment.
- Bailard recommends that the Proposed Rule be amended to require companies with net-zero or related transition plans to disclose in their 10-Ks and board governance or charter documents whether or not specific directors or board committees have oversight and accountability for company climate lobbying, climate policy strategy, and trade association review.
- Bailard supports the following governance disclosure requirement from the Proposed Rule: "(ii) Whether any member of the board of directors has expertise in climate-related risks, with disclosure in such detail as necessary to fully describe the nature of the expertise."
- Bailard recommends that the Proposed Rule be amended to include disclosures regarding fenceline communities' rights and climate related risks where they are directly or indirectly impacted by a listed company's operations, business model, transition risk mitigation plan, and/or emissions.
- Bailard recommends that the Proposed Rule be amended to require disclosure of company risk management strategies, by:
 - Adding a provision requiring companies that have a climate transition plan to disclose it and to provide an annual investor update on progress toward fulfilling the plan.
 - Adding a requirement for companies to describe whether their risk management and financial assumptions have been evaluated against a rapid decarbonization scenario, not just against a range of possible scenarios.
- Bailard supports the Proposed Rule's requirement that greenhouse gas emissions disclosures be reported without deducting any offsets.
- Bailard recommends that the Proposed Rule be amended to require disclosure of whether or not executive compensation is tied to climate-related performance, and if so, how.

- Bailard supports the Proposed Rule's requirement to include certain disclosures in the notes to financial statements to aid investor decision-making and comprehension of the extent to which climate related considerations are affecting the assumptions and disclosures underlying the financial statement.

The climate crisis requires immediate action to mitigate the growing threats to financial markets and the economy, and, more importantly, to people and the planet. Therefore, we ask the SEC to strengthen the elements of the Proposed Rule to ensure investors and companies have uniform, comparable information to best manage such risks. We again applaud the Commission for its comprehensive efforts on the Proposed Rule, appreciate the opportunity to participate in this rulemaking, and thank you for your consideration of our comments. For further discussion or questions, please contact: McKenzie Fulkerson-Jones, ESG Analyst, [REDACTED]

Sincerely,



Blaine Townsend
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Bailard, Inc.