Comments on the Proposed ESG Regulation by the SEC

I am strongly opposed to this proposed unprecedented, unreasonable, and unauthorized expansion of power by the SEC as codified in S7-10-22, "The Enhancement and Standardization of Climate-Related Disclosures for Investors".

This proposed rule greatly expands corporate disclosure requirements and substitutes government intervention into areas best served by science, the free market, and the unencumbered choices of individuals. Once in place, the new ESG regulation will be used as a tool to force preferred public policy choices and to allow the US government to pick winners and losers in the marketplace. The current policy requiring disclosure of known risks must not be replaced by speculative, policy-guided criteria.

What is being proposed are mandated disclosures based on presumed theories of carbon-driven climate change and extreme event frequency. These linkages are hypothetical, speculative, and highly controversial and should not form the basis for mandated disclosures.

No doubt, the system of additional ESG disclosures is highly popular in some corners, as this mandate will necessarily result in winners and losers. Counted among the winners are banks offering "green" stock mutual funds charging high fees for "woke" portfolios. Other winners include the army of accountants, business consultants, lawyers, and the industries that are implicitly favored such as "green energy." However, the losers will be many, including all industry shouldering the burdens of the new reporting requirements, stockholders of public companies, public utilities, and industries based on fossil fuels. The proposed system will open a Pandora's box of legal liability from potential lawsuits associated with supposed under-reporting of the extremely subjective criteria and difficult task of quantifying the so-called "carbon footprint" of one's business. The tendency will be for companies to overstate risks in order to minimize legal liability. Who does this protect and favor? Certainly not the stockholder.

The justification for the expanded regulation is the presumed superior long-term performance of highly rated ESG rated stocks. This presumption has been called into question by several studies including those by Rupert Darwell [(1)] and The Center for Retirement Research [(2)] that show no increased stock performance.

The criteria for assigning ESG ratings to companies is highly subjective and speculative. Unsurprisingly, those organizations that have calculated ESG ratings have shown significant variation in their outcomes for individual companies. In addition to climate uncertainty, criteria such as diversity, inclusivity, social justice, justice are by their nature abstract and impossible to quantify.

Should the proposed expansion of the SEC's disclosure requirements be implemented, it is highly probable that abuses of this expansion of power will be seen:

- Criteria will be developed to favor expansion of renewable energy to the exclusion of traditional fossil fuels. This is a policy choice more properly implemented through legislative mandates

- Requiring companies to speculate of the cost of potential future legislation that could financially encumber their companies is patently absurd. One could better predict the winners of future lotteries.
- The manipulation of ESG ratings criteria will be subjective and political-driven by preferred policy outcomes.
- The operation of the free market will be corrupted with the government putting its finger on the scale of decisions that should instead reflect market and individual choices
- As in the case of climate change, ESG criteria will be developed based on the assumption that only one hypothesis (anthropogenic global warming) is scientifically correct. This is not the proper role of government, it is the province of the scientific process
- The presumed link between carbon dioxide emissions and climate variability, often referred to as the "extreme event hypothesis", is not supported by empirical data. This is a major assumption used to justify the new ESG disclosure requirements. In fact, actual data on frequency and severity of weather-related events tends to invalidate this hypothesis
- The new ESG criteria will weaponize the use of the financial markets to obtain politically-preferred public policy outcomes. It is not the proper role of government to interfere in the capital market
- The new ESG disclosure system will facilitate the replacement of the fiduciary responsibility of corporations to maximize return for their shareholders with a system of "woke capital" that intends to maximize other results that may not benefit the shareholder. This undermines our current system of capitalism
- It will be impossible for any regulatory body that sets criteria for ESG rules to remain apolitical. This new requirement will openly invite political corruption.
- Developing and mandating extensive ESG criteria brings the US a step closer to China's social credit scoring system that is currently used to persecute political opponents, limit free speech, and punish dissent. Expanded ESG regulation is a major step towards totalitarianism.
- Expansion of ESG is a major goal for the WEF (World Economic Forum) and the globalists whose stated intention is the destruction of national identities and to develop a trans-national governmental system

In summary, the proposed expansion of mandatory corporate disclosures to include expanded ESG criteria is a dangerous step for our country, its independence, and our freedoms. Even if well-intentioned, the potential for mis-use and manipulation of this system to achieve policy goals is enormous, and the supposed benefits do not justify the inherent risk.

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1) Climate-Risk Disclosure: A Flimsy Pretext for a Green Power Grab, by Rupert Darwell, RealClear Foundation, Nov 2021
2) ESG Investing and Public Pensions: An Update, by Jean-Pierre Aubry et All, Center for Retirement Research, October 2020