June 16, 2022

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

Submitted via e-mail

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

Dear Ms. Countryman:

Miller/Howard Investments, Inc. (Miller/Howard) 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 provide investors with decision-useful climate-related financial information.

Miller/Howard is an independent, research-driven investment boutique with over thirty years of experience managing portfolios for major institutions, mutual funds, and individuals in dividend-focused investment strategies. On behalf of our clients, we manage portfolios representing roughly $3B in assets under management. As active investors and active owners, we routinely assess the resiliency and profitability of the companies in which we invest, and strive to work with companies when we identify areas that could be sources of risk or opportunity, or gaps in public-facing disclosures on topics that we believe are material and important. As such, we have experience engaging companies on risks posed by climate change and understand the value of comparable, consistent, and reliable climate-related information.

Miller/Howard believes climate-related disclosures are critical for effective investment analysis and decision-making, and 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. Our comments reflect our support of the climate science and calls to action set forth by the Intergovernmental Panel on Climate Change and the Paris Agreement.

We appreciate that the SEC integrated many recommendations from the Task Force on Climate-related Financial Disclosures (TCFD) into the proposal: TCFD recommendations cover many essential elements of climate risk disclosure that we use for our own decision-making, and are broadly supported and used by companies, investors, and regulators worldwide. Whether we are engaging with a company or presenting to a partner or stakeholder, we have found that TCFD as a shared framework serves all parties by facilitating a more productive, efficient, and precise discussion.

We also support the SEC's inclusion of a GHG emissions reporting requirement in the proposal, because emissions information is critical to our understanding of the quality of a company's strategy in the face of climate change and the energy transition. Further, it is our position that Scope 3 emissions disclosure should be mandatory for all registrants; given the broad demands of the market for such information, disclosure should not be conditioned on the reporting company conducting a materiality assessment. Smaller registrants should be phased in, perhaps on a longer timeline than the 2026 reporting timeframe for Scope 1 and 2 emissions.

Beyond our support for the Proposed Rule, we also offer recommendations that we believe will improve the consistency and comprehensiveness of the disclosures that will result from its implementation. We outline these perspectives in the letter below, but first seek to recognize the following essential elements of the Proposed Rule.

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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]
- Many investors believe that 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 – including but not limited to company strategy, financial impacts, risk management, GHG emissions data, offsets, and governance – will offer greater accessibility and assurance of this information to investors.

The Proposed Rule's mandatory disclosures will fill essential gaps for investors 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 in any given year, 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.
- Adoption of mandatory disclosure requirements 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.
- As data-driven investors, we value assurance that we are accessing a company's real, material climate-related data, and we likewise value the ability to compare a company's performance on climate indicators to that of its peers. Requiring such disclosure in company filings will provide users of those filings confidence that they are in receipt of the most recent and material climate-related information. Reducing the number of sites of material disclosure from many (e.g., sustainability reports, CDP questionnaires, data vendors, possibly more) to one (company filings) is not only more efficient for all parties, it also serves to increase the confidence of investors and companies that the material information is being received by the market and the shareholder.
- While the shareholder engagement process has been important for developing models and best practices for climate disclosure, it has not always been efficient, with some engagements lasting years to move a single company to improved practices and others not yet yielding the desired outcomes. Mandatory climate-related disclosure requirements are a necessary precursor to informed markets, creating a floor of information on which investors can rely.

To those who would suggest that mandating climate-related disclosure is not within the SEC's mission "to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation", we ask which of the following scenarios best serves the investors and corporations attempting to create stable, sustainable, and growing returns:

- Scenario 1 – Climate-related Information – Disclosure Not Required
- Scenario 2 – Climate-related Information – Disclosure Optional
- Scenario 3 – Climate-related Information – Disclosure Required, Specifications Provided

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

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An investor living under Scenario 1, when faced with two similar companies hailing from the same industry, may seek and fail to find a significant differentiator between the two financial profiles. _Result_: She will have to make an investment decision without having all of the information she believes is material.

Under Scenario 2, the investor may have access to disclosures from both companies – but the disclosures vary in tone and content so significantly that one might as well compare apples and oranges; or, perhaps the information from each company *can* be compared to the other, but only if the investor has the means to devote numerous research hours to unearthing, checking, and then normalizing the information just so she can make that comparison, which then factors into her investment decision.[2] _Result_: *At best*, an optional disclosure regime saps resources from investors who do have the means to do the work of consuming and comparing such data; *at worst*, companies don't disclose at all. This would have a knock-on effect of severely limiting the ability of investors to have a fulsome, data-driven sense of industry-level performance on climate-related indicators, and the true leaders and laggards therein.

Lastly, under Scenario 3, the investor knows where to go to find information as well as what information she will find, and she is able to compare Company A to Company B. (Maybe she wants to compare the companies' performance on key indicators to the industry averages, which would also, and only, be possible under this scenario.) Likewise, companies know where to disclose information and what information to disclose, and can be confident that practices captured by the indicators are seen by the market.

It seems clear that, of the 3 scenarios, the last is the only one under which there's even a hope of fair, orderly, and efficient markets in a carbon-constrained, ever-warming world.

Miller/Howard's comments on components of the Proposed Rule

Miller/Howard supports the requirements for disclosure of Scope 1 and 2 GHG data (operational emissions and emissions related to electricity and other operational energy sources). Many companies have already started to include these types of disclosure in their sustainability reporting, which demonstrates the achievability of this request: Some companies are already doing it. Further, we favor requiring that this information be disclosed systematically and in financial documents, as doing so would add a level of assurance that is beneficial to asset managers, such as Miller/Howard, who are making decisions for our clients that incorporate these metrics. The added assurance is not just for investors, however; companies could be more confident that they are getting credit for what they are doing and that the market is receiving the information.

Asking for this information is not new to Miller/Howard: We have spent years pushing companies to disclose their emissions and set a corporate strategy that includes emissions reduction targets.[3]

To illustrate the need for Scope 1, 2, and 3 data with a single use case: Miller/Howard has extensive experience investing in C-corps and Master Limited Partnerships that operate in the midstream energy space, where finding ESG disclosure in general, and environmental disclosure in particular, can be challenging. We find that some midstream companies offer limited or no disclosure, and others point investors to disclosures from the parent or sponsor company, where the midstream data is usually folded into numbers and information representing the larger company.

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[2] https://www.sustainability.com/thinking/costs-and-benefits-of-climate-related-disclosure-activities-by-corporate-issuers-and-institutional-investors/

[3] Miller/Howard has filed or co-filed over 50 shareholder resolutions since 2010, many of which were focused on environmental topics; a full list is available at https://mhinvest.com/esg-shareholder-advocacy-resolutions/. Most recently, we have been pushing companies to set emissions reduction targets that are science-based and in line with the goals of the Paris Accord. We are a long-time supporter of CDP, formerly known as the Carbon Disclosure Project, and as such, we have participated in the annual Non-Discloser Campaign which involves pushing companies to provide climate-related data, aligned with the TCFD recommendations and inclusive of quantitative emissions information.

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When a midstream energy investor wants to compare players in the industry, she might have to look at a number of additional companies (the parent company's sustainability report, for example), whether she's invested in them or not, and attempt to parse which parts of the other company's disclosure apply to the one she's researching. Requiring climate-related disclosure in the annual financial statement makes sense not just from a materiality perspective, but from a clarity perspective: Currently, it is resource-intensive, if not near impossible, to compile a fulsome profile of climate-related information for more than a handful of midstream companies.

Assets that transport, store, and process fossil fuels such as natural gas sit at the crux of the energy transition, and by ensuring that midstream energy investors have access to company-specific climate-related data, the SEC could play an important role in guaranteeing that investors have a clear picture of how the companies are managing their operations, strategy, and governance.

Lastly, beyond the value this information would have for assessing an individual registrant's prospects and risks, it would also be of use when we consider and manage a portfolio's carbon footprint by weighting particular stocks up or down, or avoiding them entirely, and when we engage directly with companies on related issues.

Scope 3 emissions:
The SEC should create the conditions necessary for an **orderly development of needed market information** by creating a consistent Scope 3 requirement. The tools and methodologies needed to provide estimated Scope 3 emissions are available now and will be refined over time. The proposed rule gives sufficient leeway to start with rough estimates and to refine Scope 3 calculations over time.

Miller/Howard believes that sectors for which Scope 3 emissions should be obviously material include:

1. Emissions associated with the use of fuel produced by oil and gas companies;
2. Emissions "financed" by banks and insurers; and
3. Emissions associated with the use of vehicles produced by automakers.

Notes to the financial statements:
Ceres and others, such as Carbon Tracker, have communicated extensively about the need for more explicit requirements and guidance from the SEC to ensure that climate disclosure in the financial statements is adequate.

Miller/Howard is in support of Ceres' and Carbon Tracker's messaging and comments on this topic.[4]

Governance disclosure:
As is often the case with any ESG issue, governance is at the core: what structures and safeguards are in place, in service of what strategy emphasizing which values, and led by which people or entities.

Earlier this year, Miller/Howard had an interaction with a major energy company, with a market cap of over $60B, that highlighted for us that it's not just who are the leaders, but also what they bring to the table: In a proxy statement, this company claimed that every director nominee checked the 'Climate' box. However, upon further inquiry – as none had a biography that offered insights into the source of climate expertise – we discovered that the information was reflective of each nominee stating that he or she, in a self-assessment, had climate experience. The company was not prepared to clarify what 'climate experience' means for the board as a whole, or to the individuals who claimed to have it.

What this means to investors, however, seems clear: This particular information is not actionable, and has been a waste of the company's time and ours. We support the Proposal's inclusion of the item that "would require disclosure of whether any

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[4] See also: Carbon Tracker, *Flying Blind: The glaring absence of climate risks in financial reporting*, 2021 September 16. https://carbontracker.org/reports/flying-blind-the-glaring-absence-of-climate-risks-in-financial-reporting/

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member of a registrant's board of directors has expertise in climate-related risks, with disclosure required in sufficient detail to fully describe the nature of the expertise."

Indigenous peoples:
We recommend that the Commission enhance the Proposed Rule by explicitly referencing Indigenous peoples, and by explicitly referencing the United Nations Declaration on the Rights of Indigenous Peoples. [5] Further, we urge the Commission to require that registrants disclose how they consider Indigenous land tenure and resource management, and how they assess and recognize land rights.

Climate lobbying:
Currently, the Proposed Rule does not address climate lobbying. We encourage the SEC to change the rule to address what can be a very material misalignment between company values (perhaps stated commitment to Net Zero targets or to responsible corporate behavior) and company voice (supporting organizations that engage in direct or indirect lobbying in a manner that directly contradicts company values).

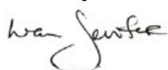
In one engagement with a large company, Miller/Howard raised concerns about how the company's strong messaging and reputation was undermined by its participation in a trade organization that works, with great efficacy, for antithetical purposes. Through the conversation, we discovered that the company had merely not taken the time to assess and align their spending with their values, and it committed to ending the relationship that it agreed was working against its own interests.

Requiring disclosure of climate lobbying would serve as perhaps as the same trigger as Miller/Howard's dialogue, pushing companies to assess how participation in (and corporate resources spent on) lobbying activities does or does not serve its interests. Regardless, disclosure of climate lobbying would serve investors who view climate and/or lobbying information as both material and actionable.

Conclusion:
The climate crisis requires immediate action to mitigate the growing threats to financial markets and the economy, and, more importantly, to people. 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: Nicole Lee at

Thank you,



Luan Jenifer
President
Miller/Howard Investments, Inc.

Nicole Lee
Director of ESG Research
Miller/Howard Investments, Inc.

Attachment: Miller/Howard comment on proposed regulation by the SEC on climate-related disclosures, as initiated by the March 15, 2021 Request for Public Comment. Submitted Nov. 5, 2021

[5] https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

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November 5, 2021

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

Submitted via email: rule-comments@sec.gov

Dear Chair Gensler:

Miller/Howard appreciates this opportunity to comment on proposed regulation by the Securities and Exchange Commission ("SEC") on climate-related disclosures, as initiated by the March 15, 2021 Request for Public Comment. We commend the Commission for its ongoing efforts to ensure that U.S. based companies provide the most useful information regarding risks facing businesses, including those that are climate-related.

Miller/Howard submits this comment letter in support of a rulemaking by the SEC on mandatory climate change disclosures: We believe that disclosure of the 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.

Miller/Howard is an independent, research-driven investment boutique with thirty years of experience managing portfolios for major institutions, mutual funds, and individuals in dividend-focused investment strategies. As active investors, we routinely assess the resiliency and profitability of the companies in which we invest, and strive to work with companies when we identify areas that could be sources of risk or opportunity, or gaps in public-facing disclosures on topics that we believe are material and important. Additionally, Miller/Howard works closely with organizations, such as Ceres and the Interfaith Center of Corporate Responsibility. These organizations engage hundreds of corporations on their environmental, governance and social impacts.

<u>Miller/Howard believes climate disclosures are critical for effective investment decision-making</u>.

Rationale for mandatory climate disclosures

Climate change poses a systemic risk to the economy, and therefore has material impacts on companies of all sizes in all industries.

- U.S. regulators recognize climate change as a systemic risk to the financial system.[1]
- A company may be *impacted by* climate change, and a company can have climate-related *impacts on* the larger economic and social systems in which it is embedded. This is the concept of double materiality,[2] which has been recognized by corporate reporting systems internationally.

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[1] https://www.cftc.gov/sites/default/files/2020-09/9-9-20%20Report%20of%20the%20Subcommittee%20on%20Climate-Related%20Market%20Risk%20-%20Managing%20Climate%20Risk%20in%20the%20U.S.%20Financial%20System%20for%20posting.pdf

[2] https://www.bsr.org/en/our-insights/blog-view/why-companies-should-assess-double-materiality

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- The impacts of climate change include physical risks to real assets from climate-fueled weather events and transition risks posed by regulatory, technology, economic and litigation changes during the shift to a net-zero economy. These risks are happening now as evidenced by the increased frequency and intensity of “100-year” weather events across the globe and the EU taxonomy regulations, for example.
- Climate change risks drive economic instability: they can combine in unexpected ways, with serious, disruptive impacts on asset valuations and global financial markets.
- While not all companies have financially material balance sheet exposures to climate risks (at present), a company’s actions may still have outward impacts on people and the planet that contribute to the systemic risks of climate change; in turn, exposing all actors in the economy to the long-term systemic risks of climate change. Therefore, all companies across all industries should be subject to transparent disclosure on how they have *impact on* and are *impacted by* climate change.

Ignoring climate-related risks will be costlier than climate disclosure compliance.

- The costs to companies of inaction may be dire in the medium and long term, and many of those impacts, such as those from floods, fires, droughts and hurricanes, are already being incurred in the short term.
- While there will be a cost for compliance with SEC climate disclosure rules, it is far less costly to companies and their investors than ignoring the risk.
- What gets measured gets managed: climate disclosure helps companies and investors identify and manage climate-related risks and opportunities.
- Disclosures to CDP in 2019 showed that 215 of the biggest global companies reported nearly US$1 trillion at risk from climate impacts, with many of those impacts likely to hit within the next 5 years. Meanwhile, companies also reported US$2.1 trillion in cumulative gains from realizing business opportunities related to climate change.[3]

Climate risk disclosure would bring significant benefits to investors and companies.

- Investors need consistent, comparable and reliable information at scale that will support both companies and investors in comprehensive risk exposure assessments to navigate the path to a net zero future.
- Investor interests in climate-related data include potential impact on financial returns, but also to fulfill governance and stewardship responsibilities as fiduciaries, which necessitate examination of long-term climate-related risks and impacts. This calls for disclosures of climate information across short, medium, and long-term time horizons.
- Investors’ current process of engagement on climate disclosures on a company-by-company basis is inefficient and slow, which limits the availability of information to investors and perpetuates the systemic risks of climate change. Mandatory climate disclosures would improve efficiency, reduce engagement costs, and protect investors from broad climate-related risks across capital markets
- The current state of climate disclosure does not meet investor needs for comprehensive, science-based, decision-useful data from all enterprises facing material short, medium, and long-term climate change risks.
- A new study has found that mandatory ESG reporting has improved the quality of reporting and increased the accuracy and reduced the dispersion of analysts’ earnings forecasts, among other benefits.[4]

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[3] https://www.cdp.net/en/articles/media/worlds-biggest-companies-face-1-trillion-in-climate-change-risks

[4] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3832745

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Climate change risks are directly connected to human rights and other environmental issues.

- As an active investor, we call on the SEC to consider the interconnections between climate change, racial justice, and human rights, as the worst impacts of climate change are often borne by low-income communities and communities of color. These disproportionate impacts contribute to social inequities, which can have negative consequences on the economy.
- We encourage the SEC to explore the connection between climate, water, food and forests.

Considerations for climate disclosure rules

For the benefit of all market participants, we believe climate change disclosure rules from the SEC should include, at a minimum, the following elements:

- **Based on TCFD:** The SEC's work should be based on the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD), which has been endorsed by hundreds of companies and investors globally. The TCFD covers disclosure guidance on governance, strategy, risk management, and metrics and targets.
- **Transition plan disclosure:** Disclosure rules should provide clear insights into companies' climate transition plans, including short, medium, and long term targets. Disclosure on transition plans should address risk management, governance and strategies, and scenario planning for a net zero future.
- **Industry-specific metrics:** SEC rulemaking should include industry specific metrics, because material climate risks manifest in different ways by industry. These metrics should build on existing standards in common use by investors and companies. Identifying such industry specific metrics would also allow for comparable disclosures.
- **Complete emissions disclosure**: Disclosure rules should include Scope 1, 2 and 3 greenhouse gas emissions, which are needed to assess the full range of climate change risks facing companies. This must include emissions attributable to the lending, investing, and underwriting activities of financial institutions, often referred to as "financed emissions", which contribute substantially to the systemic risk of climate change faced by the financial sector.
- **Inclusion in financial filings:** Material climate disclosures, including discussion on risk exposure and business opportunities, impacts on strategy and emissions reporting and management, should be included in annual, quarterly and other appropriate SEC filings.
- **Subject to audits:** Climate-related disclosures in financial filings should be subject to auditing and assurance measures as are financial disclosures. The SEC should work with the Public Company Accounting Oversight Board (PCAOB)[5] to fully incorporate climate into its audit regulatory functions, over which the SEC has statutory oversight responsibility.
- **Regular updates**: Scientific consensus around climate impacts and capital market responses to climate risks are rapidly evolving. SEC rules should be updated regularly in response to these developments, and they should include the development or adoption of new metrics, as existing climate standards and frameworks have done as the science and markets have evolved.
- **Broad ESG disclosure framework**: The topics of "E", "S" and "G" disclosures are inextricably linked; therefore, the SEC should consider the development of a broad ESG disclosure framework that climate disclosures would feed into; however, it is imperative that the development of a broader ESG disclosure mandate does not delay a rulemaking for mandatory climate disclosures. The climate crisis is too urgent and investors need this information as soon as possible. Additional ESG disclosure themes that

[5] The PCAOB was set up to oversee the audits of public companies and other issuers in order to protect the interests of investors and further the public interest in the preparation of informative, accurate and independent audit reports.

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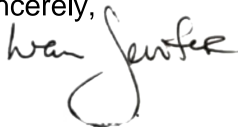
the SEC should consider prioritizing include, but are not limited to, political spending and human capital management.

Conclusion

The climate crisis requires immediate action to mitigate the growing threats to financial markets and the economy, as well as to the people and communities that exist within them; therefore, we ask the SEC to act urgently in its climate disclosure rulemaking process. We appreciate the opportunity to participate in the SEC's request for information and thank you for your consideration of our comments.

Thank you for the opportunity to provide input on this important topic.

Sincerely,



Luan Jenifer, President
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