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Via Email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

Vanessa A. Countryman, Secretary  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

**Re: Release Nos. 33-11042; 34-94478; File No. S7-10-22  
Proposed Rule: The Enhancement and Standardization of Climate-Related  
Disclosures for Investors**

Dear Ms. Countryman,

Royal Gold, Inc. (“**Royal Gold**”) appreciates the opportunity to comment on the U.S. Securities and Exchange Commission’s (the “**SEC**”) proposed rule regarding the enhancement and standardization of climate-related disclosures for investors<sup>1</sup> (the “**Proposed Rule**”), which would require publicly traded companies to provide certain climate-related information in their registration statements and annual reports on Form 10-K (“**Form 10-K**”) to enable investors to make informed judgments about the impact of climate-related risks on current and potential investments.

We appreciate the significant amount of time and effort the SEC has put into developing the Proposed Rule and support the SEC’s ongoing efforts to improve the consistency, comparability and reliability of climate-related disclosures.

### **Overview**

At Royal Gold, we understand that sustained economic performance cannot be obtained without sound environmental, social and governance (“**ESG**”) practices. We recognize the need to ensure that our investors have access to material information related to the impact of climate change on our business. Royal Gold makes passive investments in mining operations through the purchase of metal streaming and royalty interests from mine operators. We acknowledge that

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<sup>1</sup> *The Enhancement and Standardization of Climate-Related Disclosures for Investors* (March 21, 2022), available at <https://www.sec.gov/rules/proposed/2022/33-1104.pdf>.

mining activities are inherently energy and water intensive and our investments facilitate mining operations that contribute to greenhouse gas (“GHG”) emissions.

In our Environmental, Social and Governance Report for 2021 (“**2021 ESG Report**”), we published our first voluntary disclosures with respect to Scope 3 emissions and our plans to undertake climate-related scenario analysis under the recommendations of the Financial Stability Board’s Task Force on Climate-Related Financial Disclosures (“**TCFD**”), and we hope to provide similar emissions disclosure and the findings of any scenario analysis undertaken in our future ESG reports. In the preparation of our 2021 ESG Report, we considered, and in connection with future ESG reports, we will consider, what climate-related information is material to our investors.

While we agree that the potential impacts of climate change on our business necessitate active integration of ESG considerations into our business and support reporting of consistent, comparable, and reliable climate-related data, we believe that any reporting framework adopted by the SEC should strike an appropriate balance between providing investors with material information that allows comparability and providing registrants with clarity and flexibility in their approach to assessing and reporting risks related to climate change.

We commend the SEC’s thoughtfulness with respect to (i) a phased approach for adoption, (ii) reliance on existing frameworks, and (iii) safe harbor provisions for Scope 3 GHG emission disclosures. We are concerned, however, by the breadth and complexity of the Proposed Rule. We believe the Proposed Rule will significantly impact our business and reporting methodologies and likely result in substantial additional time, costs, and risks of liability, particularly with respect to data collection and certification, assurance, and internal controls, all of which might negatively impact our profitability and adversely affect our investors.

We believe the modifications to the Proposed Rule discussed below would ameliorate the imposition of unreasonable costs, burdens, and risks of liability under the federal securities laws, while encouraging fulsome disclosure of climate-related information that is material to a reasonable investor, increasing the use of analytical tools to assess material climate risks, and driving aspirational goal setting.

### **Scope 3 Emissions**

The Proposed Rule requires reporting of Scope 3 GHG emissions in certain instances if determined to be material to the registrant, in gross terms, without taking into account any purchased or generated offsets.

As of March 30, 2022, we hold passive metal streaming and royalty interests on 187 properties, spanning five continents, including interests in 43 producing mines and 18 development stage projects. These properties are owned and managed by third-party mining companies. We consider only seven of our metal streaming and royalty interests to be material to our business.

While we have no role in the management or operation of these mining properties and have very limited influence over the decisions of the mine operators, it has always been a core tenet of our business model that successful mining projects should create sustainable benefits for all stakeholders (including stockholders, project labor and local communities), and we seek to promote responsible and sustainable development by mine operators across our portfolio.

In order to make a materiality determination with respect to Scope 3 emissions as called for under the Proposed Rule, we will need to rely on disclosures of emissions data by the third-party operators of the mining properties in which we hold interests and third-party data collection services. We do not expect that the collection, calculation, and disclosure methods, and the availability and reliability of relevant data, will be uniform across the operations where we hold our interests, and in many cases, we lack contractual rights to require operating companies to disclose emissions data to us. We anticipate significant challenges related to data availability, accessibility, sharing, reliability, confidentiality requirements, and verifiability, which will create difficulties for assurance and reporting and expose us to risks of liability for information we are not able to verify. Accordingly, in response to question 195, we believe that disclosure related to a registrant's Scope 3 emissions should be treated as furnished, not filed, to encourage disclosure of available information and reduce the risks of liability.

Furthermore, we believe that any Scope 3 disclosures should be voluntary, considering the significant risk of inaccurate or misleading disclosure given the evolving methodologies for Scope 3 data collection. While the promulgating release for the Proposed Rule provides that disclosure of Scope 3 emissions that are unknown or not reasonably available may be excluded from disclosure, we believe it is preferable for companies like Royal Gold to voluntarily provide any limited information that we have, even if subject to significant qualifications, assumptions, and estimates, as we currently do in our 2021 ESG Report. We are hopeful that development of this field over time will result in wide adoption of a consistent standard and improve our models in the years to come, but we do not believe it is appropriate to require disclosure of Scope 3 emissions or expose registrants to significant risks of liability for such disclosures at this stage.

### **Scenario Analysis and Other Analytical Tools**

The Proposed Rule would also require registrants to describe any analytical tools, including scenario analysis, used to assess the prospective impacts of climate-related risks on their businesses and consolidated financial statements. For each scenario, the Proposed Rule would require disclosure of (i) the parameters, (ii) any assumptions and analytical choices, and (iii) the projected principal financial impacts on the registrant's business strategy. The Proposed Rule, however, provides an exception to such disclosure requirements where a registrant does not use such analytical tools.

Question 30 specifically asks whether requiring such disclosure only if and when a registrant performs scenario analysis will discourage registrants from conducting scenario analysis. Our definitive answer is "yes." While we agree that scenario analysis is useful "because it allows

companies to test their business strategy against a spectrum of hypothetical future climate scenarios and develop a better-informed view of implications for their enterprise value and value chains,”<sup>2</sup> the level of information the SEC is seeking in the Proposed Rule for scenario analysis is far more granular than what companies have typically reported under the TCFD framework. This increased disclosure could prove burdensome and difficult, result in significant competitive impacts, and increase liability exposure. Therefore, the Proposed Rule’s disclosure obligations would likely discourage adoption of scenario analysis as an assessment tool.

In our 2021 ESG Report, we disclosed that we expect to undertake limited, qualitative climate-related scenario analysis in 2022 with respect to material assets in our portfolio to enhance our established risk management processes. However, we note that scenario analysis is inherently based on speculation, and we are applying this methodology in its early stages to develop our understanding of the GHG emission performance of individual material assets within our portfolio of stream and royalty interests. We consider our current scenario analysis efforts to be an early stage building block towards identifying climate risks and opportunities and believe that significant disclosure obligations may deter our use of this tool to its full extent or at all.

We urge the SEC not to burden registrants who are early adopters of scenario analysis with additional disclosure obligations. To the extent that this disclosure requirement is maintained in the final rule, we believe that it would be appropriate to (i) treat such disclosure as furnished, not filed, (ii) provide safe-harbor protection from claims under the antifraud provisions of the federal securities laws, and (iii) require disclosure of any projected principal financial impacts on the registrant’s business strategy only to the extent any such findings are material.

## **Materiality**

The SEC’s treatment of the concept of materiality in the Proposed Rule is a departure from the standard articulated by the U.S. Supreme Court and the SEC over decades and incorporated into United States generally accepted accounting principles stipulated by the SEC and the Financial Standards Accounting Board (the “FASB”). The fundamental test for materiality – whether there is a substantial likelihood that a reasonable investor would consider the information important in deciding whether to purchase or sell a security – should be the standard for disclosures under the final rule.

The Proposed Rule’s application of a one-percent threshold for impacts of climate events on financial statement line items and financial statement footnote disclosures should be eliminated because it does not align with other materiality guidance issued by the SEC and the FASB with respect to preparing financial statements and footnote disclosures. The SEC’s Staff Accounting Bulletin No. 99, Materiality (“SAB 99”), provides effective and well-considered guidance on assessing materiality from both a quantitative and qualitative standpoint for such financial

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<sup>2</sup> See *The Enhancement and Standardization of Climate-Related Disclosures for Investors* (March 21, 2022), at p. 84.

statement line items and related disclosure and should not be undermined by a bright-line one percent standard. SAB 99 is more than adequate to provide guidance on assessing the materiality of the impact of climate events when preparing financial statements and footnote disclosures.

The Proposed Rule requires all registrants to disclose Scope 1 and 2 emissions regardless of materiality and, while the Proposed Rule requires disclosure of Scope 3 emissions only if material or if the registrant has a GHG reduction goal that includes Scope 3 emissions, the SEC created ambiguity by suggesting that Scope 3 emissions might be material even in instances where such emissions do not make up a significant portion of a registrant's overall GHG emissions. Similarly, the Proposed Rule's requirements to make disclosures related to scenario analysis "if used" and climate-related targets and goals "if set" are inconsistent with the traditional materiality standard.

We believe that these varied standards in the Proposed Rule create confusion and ambiguity and could result in inconsistent financial statement preparation and disclosure as well as disclosure of information that is not material to investors. We believe that the final rule should allow materiality to guide climate-related disclosure requirements, in a manner consistent with principles of materiality traditionally recognized by the SEC and the courts. In addition, we encourage the SEC to solicit input from the FASB on the final rule with respect to materiality thresholds (if any), financial statement footnote disclosure requirements, and method of adoption (discussed further below), consistent with the SEC's long-standing practice for accounting-related rule setting.

### **Infeasibility of Form 10-K Filing Deadline**

The Proposed Rule requires registrants to include climate-related financial statement metrics and related disclosures in a note to the financial statements, including (i) quantitative disclosure of the impacts of severe weather events, natural conditions, and transition activities on individual financial statement line items, (ii) quantitative disclosure of amounts capitalized and expensed related to severe weather events, natural conditions, and transition activities, (iii) expenditures and costs related to meeting any disclosed GHG emissions reduction targets or other climate-related commitments, (iv) how estimates and assumptions are impacted by climate-related events and transition activities, (v) contextual information about how each specified metric was derived, and (vi) a description of the impact of physical risks and transition risks on financial statement metrics. These disclosures would be subject to management's internal control over financial reporting and audit by the registrant's auditor. In order to comply with these rules, registrants would need to identify severe weather events, transition activities, and climate-related risks, and determine the impact of these items on individual financial statement line items.

Given our business of owning passive interests in mining operations through the purchase of metal streaming and royalty interests, our disclosures under the Proposed Rule will necessarily rely on disclosures by the operators of the properties in which we hold interests. Many of these operators, however, do not file reports with such information until after the filing deadline for our Form 10-K, which negates our ability to identify severe weather events, transition activities,

and climate-related risks at such properties and quantify any impact on our financial statements for our own Form 10-K filing. For example, if we own an interest in a mining property operated by a foreign private issuer experiencing a severe drought that impacts such operator's financial statements, we may not be aware of such impact before filing our annual audited financial statements, as the foreign private issuer is not required to file its annual report on Form 20-F with the SEC until four months after the fiscal year end (*i.e.*, April 30 for a calendar year foreign private issuer). Further, several of our material metal streaming and royalty interests are in mining properties operated by Canadian issuers that will not be required to comply with the SEC's climate-change rule because they file under the Multijurisdictional Disclosure System.

In order to provide appropriate time to examine, compile, and verify information that relies on third-party disclosures, the SEC should allow registrants to update financial statements disclosures in subsequent quarterly reports on Form 10-Q as relevant third-party information becomes available.

Furthermore, we ask that the SEC consider moving the climate-related financial statement metrics and related disclosures enumerated by the Proposed Rule from the notes to the financial statements to the Management Discussion and Analysis of Financial Condition and Results of Operations section of the Form 10-K, which seems more appropriate due to the business and financial analysis involved and the forward-looking nature of the disclosures.

### **Expanded Safe Harbor**

The Proposed Rule provides that forward-looking statements made with respect to climate-related disclosures will be subject to the general safe-harbor protections under the Private Securities Litigation Reform Act and contains a separate safe harbor for Scope 3 disclosures. Given the evolving nature of the collection of climate-related data that will serve as the foundation for climate-related disclosures, we believe that this protection from claims under the antifraud provisions of the federal securities laws should be expanded beyond Scope 3 disclosures and should not have a sunset provision.

We believe that any climate-related disclosure that is necessarily forward-looking, is dependent on third-party information, is unreasonably difficult or impossible to verify, or is related to methods and standards that are subject to change should receive this protection. This would include the impacts of climate-related risks under proposed Rule 1502(b), disclosures about future financial statement impacts under proposed Rule 1502(d), disclosures about scenario analysis under proposed Rule 1502(f), transition plan disclosures under proposed Rule 1503(c), all GHG emissions disclosures under proposed Rule 1504, and targets and goals disclosures under proposed Rule 1506.

Without the protection of a safe harbor from liability, registrants will be reluctant to provide climate-related disclosures, and the absence of safe harbor protections could impact registrants' ability to attract and retain senior management.

### **Extension of Compliance Timeline and Method of Adoption**

To effectively prepare for the disclosure requirements mandated by the Proposed Rule, Royal Gold strongly believes that registrants need significantly more time before compliance is required and requests at least 24 months between adoption of a final rule and the initial mandatory compliance date. We anticipate that the final rule will require substantial resources and investment, particularly for companies like Royal Gold where certain relevant data is difficult to obtain given our passive investment portfolio. In addition to data collection, registrants will need to implement governance enhancements, develop internal infrastructure and expertise, and work closely with auditors to ensure proper application of accounting standards to climate-related disclosure and a level of quality sufficient for reasonable assurance. These changes take a significant amount of time to implement and involve cross-functional and often third-party engagement.

Further, the Proposed Rule's requirement to provide extensive new financial statement disclosures for the most recently completed fiscal year and each historical fiscal year included in the financial statements is not practical. The final rule should permit prospective adoption so that the financial statements reflect the new disclosures on a go-forward basis, and no changes are required for the prior period financials.

### **Conclusion**

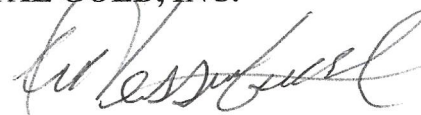
Climate change has the potential to transform the planet, the way we live and the way we conduct business, and Royal Gold is committed to understanding how both the physical impacts of climate change and the transition to a low-carbon economy might affect our business and to providing appropriate disclosures to our investors with respect to the same. We greatly appreciate your review and consideration of our input on the Proposed Rule, and we hope that the final rule will provide clarity to publicly traded companies and result in disclosures that are material to investors in connection with their investment decisions.

If you have any questions regarding this submission, please do not hesitate to contact me.

Respectfully submitted,

**ROYAL GOLD, INC.**

By:



William Heissenbuttel  
President and CEO