THE ASSOCIATION FOR INVESTOR RELATIONS

June 21, 2022

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

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

Dear Ms. Countryman:

The National Investor Relations Institute ("NIRI")[1] appreciates the opportunity to provide comments regarding the rule proposal by the Securities and Exchange Commission ("SEC" or "Commission") to enhance and standardize climate-related disclosures by public companies.[2]

At the outset, NIRI is concerned about the overly prescriptive nature of this Proposed Rule. Scientific knowledge about how best to measure climate change has not been firmly established and continues to evolve. Companies are currently relying on a number of climate-related frameworks that are still developing their standards, and a consensus does not exist among public companies and their investors about which specific climate change metrics are the most decision-useful across different companies and industries. For these reasons, NIRI believes the SEC should be employing a more flexible, principles-based approach to regulation in this area, as it did when it issued its 2010 climate guidance.[3]

The "one-size-fits-all" disclosure regime the SEC proposes also overlooks the fact that climate change risks and impacts differ significantly among companies and depend largely on their business or industry sector. While NIRI acknowledges the Commission's desire to standardize climate change disclosures, the regulatory framework it proposes will generate an

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[1] Founded in 1969, the National Investor Relations Institute ("NIRI") is the professional association of corporate officers and investor relations consultants responsible for communication among corporate management, shareholders, securities analysts, and other financial community constituents. The largest professional investor relations association in the world, NIRI's more than 2,800 members represent over 1,350 publicly held companies with more than $7 trillion in stock market capitalization.

[2] The Enhancement and Standardization of Climate-Related Disclosures for Investors, 87 Fed. Reg. 21,334 (Apr. 11, 2022) (hereinafter "Proposed Rule").

[3] *See* Commission Guidance Regarding Disclosure Related to Climate Change, 75 Fed. Reg. 6,290, at 6,294 (Feb. 8, 2010) (Flexibility in disclosure requirements "has resulted in disclosures that keep pace with the evolving nature of business trends without the need to continuously amend the text of the rule.").

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overabundance of climate-related information where costs to companies will greatly exceed the benefits to shareholders. Additionally, the degree and granularity of climate-related disclosures required in the SEC's Proposed Rule surpass that of any other risk facing a public company.

The Proposed Rule also appears to be establishing new standards for materiality and Generally Acceptable Accounting Principles ("GAAP") that are unique to climate change risks and impacts, instead of treating these issues in the same manner as other risks and impacts facing public companies.

NIRI re-affirms the arguments it made in its June 2021 comment letter,[4] and offers the following specific comments on the Proposed Rule:

1. **The Materiality Standard**. The principle of materiality is a fundamental tenet in the disclosure framework that governs how public companies disclose information to the investing public. As stated by the U.S. Supreme Court in its *TSC Industries v. Northway* decision:

> An omitted fact is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote. … What the standard [contemplates] is a showing of a substantial likelihood that, under all the circumstances, the omitted fact would have assumed actual significance in the deliberations of the reasonable shareholder. Put another way, there must be a substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the "total mix" of information made available.[5]

Ensuring that any new disclosure standards are rooted in the materiality standard is critical to preserving the ability of investors to identify and act on decision-useful information. Public companies that are responsible for emitting significant amounts of greenhouse gases already must disclose climate-related information. Yet many public companies operate businesses that lack any type of meaningful carbon footprint. NIRI believes that mandating granular climate change disclosures for these companies is unnecessary and will only result in the disclosure of non-material information that will be of limited usefulness to a large majority of investors, but impose significant additional disclosure costs on these companies. While climate

[4] *See* Letter from Gary A. LaBranche, President and CEO, National Investor Relations Institute, to The Honorable Allison Herren Lee, Commissioner, Securities and Exchange Commission (June 11, 2021), *available at* https://www.sec.gov/comments/climate-disclosure/cll12-8907317-244255.pdf.

[5] *TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438, 449 (1976). The materiality standard was reaffirmed by the Supreme Court in *Basic Inc. v. Levinson*, 485 U.S. 224, 232 (1988) ("We now expressly adopt the TSC Industries standard of materiality for the § 10(b) and Rule 10b-5 context."). In its decision in *Basic*, the Court also stated that when an "event is contingent or speculative in nature, it is difficult to ascertain whether the 'reasonable investor' would have considered the omitted information significant at the time." *Id.* at 232.

change is an extremely important environmental issue, it should be treated in the same manner as other environmental issues, at least for securities law disclosure purposes.

NIRI believes that the materiality standard forms a solid foundation that supports the goal of enhanced climate change disclosures by public companies. However, there is no policy or regulatory need for the Proposed Rule to require disclosures that exceed the materiality standard.

NIRI's position is entirely consistent with the framework established by one of the leading third-party standard setters, the Sustainability Accounting Standards Board ("SASB"). The SASB, has developed standards for 77 industries where sustainability risks and opportunities are "reasonably likely to *materially* affect the financial condition, operating performance, or risk profile of a typical company within an industry."[6] (emphasis added).

Likewise, the recommendations developed by the Task Force on Climate-related Financial Disclosures ("TCFD") are designed to help public companies with their "legal obligation to disclose *material* information in their financial filings—including *material* climate-related information."[7] (emphasis added). The Task Force also encourages "organizations for which climate-related risks and opportunities could be material in the future to begin disclosing climate-related financial information outside financial filings to facilitate the incorporation of such information into financial filings once climate-related issues are determined to be *material*."[8] (emphasis added).

In NIRI's view, the SEC should not mandate climate change disclosures unless such disclosures involve *material* climate-related risks, impacts, and/or opportunities. Deviation from the principle of materiality will generate unnecessary costs on public companies, fail to serve the interests of investors, and distract the SEC from its core mission.

As noted in the Proposed Rule, these specific climate-related risks include:

- *Acute risks*, which are "event-driven and may relate to shorter term extreme weather events, such as hurricanes, floods, and tornadoes, among other events."[9]

- *Chronic risks*, which relate to "longer term weather patterns and related effects, such as sustained higher temperatures, sea level rise, drought, and increased wildfires, as

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[6] *See* Sustainability Accounting Standards Board, *Proposed Changes to the SASB Conceptual Framework & Rules of Procedure*, at 30 (Aug. 28, 2020), *available at* https://www.sasb.org/wp-content/uploads/2020/08/Invitation-to-Comment-SASB-CF-RoP.pdf.
[7] Task Force on Climate-related Financial Disclosures, *Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures*, at 3 (October 2021), *available at* https://assets.bbhub.io/company/sites/60/2021/07/2021-TCFD-Implementing_Guidance.pdf.
[8] *Id.*
[9] *Proposed Rule* § 229.1500(c)(2).

well as related effects such as decreased arability of farmland, decreased habitability of land, and decreased availability of fresh water."[10]

- *Transition risks*, which are the "actual or potential negative impacts on a registrant's consolidated financial statements, business operations, or value chains attributable to regulatory, technological, and market changes to address the mitigation of, or adaptation to, climate-related risks …."[11]

For any *material* climate-related risks that are disclosed, NIRI acknowledges the SEC's goal of developing a regulatory framework that standardizes certain metrics to provide "consistent, comparable, and reliable" information. However, for companies that do not have *material* climate-related risks or impacts, NIRI believes that the current private ordering process involving sustainability reports and other disclosures outside of regulatory filings should be encouraged and continue to evolve.

2. **Regulation S-K Amendments**. The SEC's Proposed Rule would add a new subpart to Regulation S-K that would require all public companies to disclose certain climate-related information, including risks that are reasonably likely to have material impacts on their business or financial statements. As proposed, the content of these disclosures would include the following:

- Disclosure about the oversight and governance of climate-related risks by a company's board and management;

- Disclosure about how any climate-related risks identified by the company have had, or are likely to have, a material impact on its business and consolidated financial statements over various periods of time;

- Disclosure about how any identified climate-related risks have affected, or are likely to affect, a company's strategy, business model, and outlook;

- Disclosure about a company's processes for identifying, assessing, and managing climate-related risks and whether any such processes are integrated into the company's overall risk management system or processes;

- Disclosure about any transition plans, scenario analyses, or carbon price metrics that a company may have adopted to address climate-related issues; and

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[10] *Id.* at (c)(3).
[11] *Id.* at (c)(4).

- Disclosure about the impact of any climate-related events (*i.e.*, severe weather events and other natural conditions) within its financial statements.

Public companies are already required under the existing disclosure regime to disclose material climate risks and impacts. For example:

- Item 303 of Regulation S-K, Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") requires disclosure of "material events and uncertainties known to management that are reasonably likely to cause reported financial information not to be necessarily indicative of future operating results or of future financial condition. This includes descriptions and amounts of matters that have had a material impact on reported operations, as well as matters that are reasonably likely based on management's assessment to have a material impact on future operations."[12]

- Item 101 of Regulation S-K, Description of Business, requires a description of the registrant's business, including each reportable segment. It specifically requires disclosure of the material effects that compliance with environmental regulations "may have upon the capital expenditures, earnings and competitive position of the registrant."[13]

- Item 103 of Regulation S-K, Legal Proceedings, requires a description of material pending legal proceedings, as well as administrative or judicial proceedings related to "the discharge of materials into the environment or primarily for the purpose of protecting the environment."[14]

- Item 105 of Regulation S-K, Risk Factors, requires disclosure of the "material factors that make an investment in the registrant or offering speculative or risky."[15]

- Securities Act Rule 408 require companies to disclose, in addition to the information that is subject to specific disclosure mandates, "such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading."[16]

Additionally, many companies already provide extensive and detailed disclosures in their annual proxy statements regarding their governance structures and practices that are applicable to climate-related issues and other ESG topics. Nevertheless, NIRI acknowledges that it may be

[12] 17 C.F.R. § 229.303(a).
[13] 17 C.F.R. § 229.101(c)(2)(i).
[14] 17 C.F.R. § 229.103(c)(3).
[15] 17 C.F.R. § 229.105(a).
[16] 17 C.F.R. § 230.408(a). *See also* 17 C.F.R. § 240.12b-20.

helpful to investors for there to be narrative disclosures that are more descriptive about the internal processes that companies use to determine the materiality of climate related risks and impacts.

3. **Regulation S-X Amendments**. The SEC proposes to amend Regulation S-X—which governs financial statements included in documents filed with the SEC—to require climate-related metrics in existing financial statement line items, with further explanation of these issues in the notes to a company's financial statements.[17] Under the Proposed Rule, there would be disclosures in three categories: (1) financial impact metrics; (2) expenditure metrics; and (3) financial estimates and assumptions.

The SEC concedes that the proposed financial statement metrics disclosures would involve "estimation uncertainties that are driven by the application of judgments and assumptions, similar to other financial statement disclosures (*e.g.*, estimated loss contingencies, fair value measurement of certain assets, etc.)."[18]

The Proposed Rule would also require each company to disclose, for each financial statement metric, "contextual information to enable a reader to understand how it derived the metric, including a description of significant inputs and assumptions used, and if applicable, policy decisions made by the registrant to calculate the specified metrics."[19]

The traditional concept of materiality already requires the disclosure of climate-related impacts that materially affect an issuer's financial condition and results of operations.[20] Additionally, current SEC regulations state that financial statements filed with the Commission that are not prepared in accordance with GAAP are "presumed to be misleading or inaccurate, despite footnote or other disclosures."[21]

NIRI strongly opposes the proposed amendments to Regulation S-X, as they are unworkable and will result in numerous implementation difficulties and interpretive challenges. These requirements also circumvent the traditional standard-setting process for GAAP financial statements and footnote disclosures that is the responsibility of the Financial Accounting Standards Board ("FASB").

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[17] *See Proposed Rule* at 21,363.
[18] *Id.*
[19] *Id. See* Proposed Rule § 210.14-02(a).
[20] *See Proposed Rule* at 21,367-368.
[21] 17 CFR 210.4-01(a)(1) ("Financial statements filed with the Commission which are not prepared in accordance with generally accepted accounting principles will be presumed to be misleading or inaccurate, despite footnote or other disclosures, unless the Commission has otherwise provided.").

These S-X amendments are also unnecessary. Public companies are already required to disclose material financial impacts in their financial statements that are climate-related.[22] NIRI believes that companies should continue to apply existing materiality standards and GAAP rules to climate-related risks and impacts. If there are to be additional disclosures mandated, they should be provided outside of the financial statements.

4. **<u>GHG Emissions Disclosure Requirements (Scopes 1 and 2)</u>**. Independent of materiality, the SEC proposes to require public companies to calculate and disclose their direct greenhouse gas ("GHG") emissions (Scope 1) and indirect GHG emissions from purchased electricity and other forms of energy (Scope 2). These disclosures could rely on broadly accepted disclosure frameworks, such as the TCFD recommendations and the Greenhouse Gas Protocol.

NIRI acknowledges that there are a number of industries where greenhouse gas emissions are material items. According to the Environmental Protection Agency ("EPA"), the primary sources of greenhouse gas emissions in the United States in 2020 were: (1) transportation (27%), electricity production (25%), industry (24%), commercial and residential (13%), agriculture (11%), and land use and forestry (13%).[23] Instead of taking an industry-specific approach, however, the SEC's Proposed Rule would require all companies to calculate and disclose Scopes 1 and 2 GHG emissions without regard to materiality.

Public companies with large stationary sources of emissions already report Scope 1 emissions data to the EPA, and the agency provides detailed methodologies for a range of industries with significant Scope 1 emissions.[24] The EPA also provides detailed guidance for the calculation of Scope 2 emissions.[25] Typically, these emission reports are made public in October of each year, as a part of the agency's Greenhouse Gas Reporting Program.[26]

Instead of requiring every public company to calculate its Scope 1 and 2 emissions, the SEC should:

(1) require all companies filing GHG reports with the EPA to include these reports in their next 10-Q or 10-K filing;

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[22] *See Proposed Rule* at footnote 358. *See also Proposed Rule* at 21,368; and FASB Staff Educational Paper, Intersection of Environmental, Social, and Governance Matters with Financial Accounting Standards (Mar. 2021).
[23] EPA, Sources of Greenhouse Gas Emissions, https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions (last visited 5/31/2022).
[24] EPA, *Direct Emissions from Stationary Combustion Sources* (Dec. 2020), *available at* https://www.epa.gov/sites/default/files/2020-12/documents/stationaryemissions.pdf. *See also* EPA, *Greenhouse Gas Reporting Program, available at* https://www.epa.gov/ghgreporting.
[25] EPA, *Indirect Emissions from Purchased Electricity* (Dec. 2020), *available at* https://www.epa.gov/sites/default/files/2020-12/documents/electricityemissions.pdf.
[26] *See supra* footnote 24.

(2) require companies that have identified Scopes 1 and 2 GHG emissions that are material to their business operations and/or financial condition and are not disclosed in reports to the EPA, to calculate and disclose such Scopes 1 and 2 emissions using a broadly accepted disclosure framework, such as the TCFD framework and/or the Greenhouse Gas Protocol; and

(3) initiate a cooperative process with the EPA, using the EPA's authority under the Clean Air Act, to adjust its existing reporting regime to integrate with the SEC's reporting process for companies with material Scope 1 and Scope 2 GHG emissions.[27]

5. **GHG Emissions Disclosure Requirements (Scope 3)**. Under the Proposed Rule, public companies would be required to disclose indirect emissions from upstream and downstream activities in their value chain (Scope 3), if such emissions are material, or if a company has established a target or a goal that includes such Scope 3 emissions.[28] If a company has set a climate-related target or goal, the SEC's Proposed Rule would require the company to provide additional information about how it intends to meet its target or goal, including regular updates each fiscal year.[29]

Scope 3 emissions are principally societal and economy-wide emissions. Calculating these emissions will be especially challenging because they are beyond the carbon footprint and the control of a public company. Calculations of these emissions will also be subject to differing methodologies, subjective judgments, and widespread inaccuracies.

Under the Scopes 1, 2 and 3 framework, the Scope 3 emissions of one company will be another company's Scope 1 or Scope 2 emissions, leading to a double counting problem. Additionally, it may be impossible for companies to collect Scope 3 emissions data from all the entities in their value chain. The data collected will certainly vary widely in quality and precision. Most importantly, it is unclear what the connection is between third-party GHG emissions and the long-term financial value of a public company.

As part of its rationale for the calculation and disclosure of Scope 3 emissions, the Proposed Rule states that "[a]lthough a registrant may not own or control the operational activities in its value chain that produce Scope 3 emissions, it nevertheless may influence these activities, for example, by working with its suppliers and downstream distributors to take steps to reduce those entities' Scopes 1 and 2 emissions (and thus help reduce the registrant's Scope 3

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[27] *See* Joseph A. Grundfest, Op-Ed, *The SEC Is heading Toward a Climate Train Wreck*, The Washington Post, April 5, 2022, *available at* https://www.washingtonpost.com/business/the-sec-is-heading-toward-a-climate-train-wreck/2022/04/05/3d8fdfc4-b4dc-11ec-8358-20aa16355fb4_story.html.

[28] *Proposed Rule* § 229.1504(c).

[29] *Proposed Rule* § 229.1506(b)(6) and (c).

emissions) and any attendant risks."[30]. This rationale in the Proposed Rule is one of several examples in which the SEC justifies an expansion of its regulatory authority to obligate public companies to take steps to actively reduce GHG emissions, instead of leaving the regulation of GHG emissions to Congress and the EPA.

For these reasons, NIRI believes that Scope 3 emissions reporting should be completely *voluntary*, as the data will not be sufficiently accurate or useful for investment decision-making. It is also clear that the costs of collecting and measuring Scope 3 emissions data currently exceed the benefits derived.

If the Commission decides to move forward with the Scope 3 framework in the Proposed Rule, NIRI offers three additional points:

- The SEC should not presume materiality for Scope 3 emissions. The commentary in the Proposed Rule appears to suggest that many companies should be making a positive materiality determination regarding Scope 3 emissions. This commentary should be replaced in a Final Rule with confirmation by the SEC that companies should continue to assess the materiality of their Scope 3 emissions using existing standards in the securities laws.

- Companies should not be required to calculate their Scope 3 emissions quantitatively in order to determine the materiality of those emissions.[31] As noted in a recent statement by Paul Munter, the SEC's Acting Chief Accountant:

  > A materiality exercise is not a mechanical exercise, nor should it be based solely on a quantitative analysis. Rather, registrants, auditors, and audit committees need to thoroughly and objectively evaluate the total mix of information.[32]

- Finally, the calculation and disclosure of Scope 3 emissions should only be required if a company has established a *public* target or goal involving Scope 3 emissions. If there is to be such a requirement, it should not apply to internal targets or goals that are not publicly disclosed by a company.

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[30] *Proposed Rule* at 21,377.

[31] In the Proposed Rule, the SEC concedes that there is no quantitative threshold for determining materiality, and that "even when Scope 3 emissions do not represent a relatively significant portion of overall GHG emissions, a quantitative analysis alone would not suffice for purposes of determining whether Scope 3 emissions are material." *Proposed Rule* at 21,379.

[32] Paul Munter, Acting Chief Accountant, Securities and Exchange Commission, "Assessing Materiality: Focusing on the Reasonable Investor When Evaluating Errors" (Mar. 9, 2022).

6. **Safe Harbor for Scope 3 Emissions Disclosures**. Since the calculation and disclosure of Scope 3 emissions present a number of difficult challenges, the SEC proposes a "safe harbor" from certain forms of liability under the Federal securities laws for Scope 3 emissions disclosures. This safe harbor is intended to "alleviate concerns that registrants may have about liability for information that would be derived largely from third parties in a registrant's value chain."[33]

NIRI advocated for this type of safe harbor in its 2021 comment letter to the SEC, as Scope 3 data points and estimates are outside of a company's control and are difficult to collect in a reliable and standardized manner.

NIRI also recommends that the proposed safe harbor be expanded to include other climate-related disclosures, including targets and goals, data estimates and assumptions, subjective judgments, and information obtained from unaffiliated third-parties.

7. **Exemption for Smaller Reporting Companies from Disclosure of Scope 3 Emissions**. The SEC proposes to exempt smaller reporting companies ("SRCs") from disclosures involving Scope 3 emissions. The Commission's rationale is to shield these companies from the "proportionately higher costs they could incur, compared to non-SRCs, to engage in the data gathering, verification, and other actions associated with Scope 3 emissions reporting, many of which have fixed cost components."[34]

Under current SEC regulations, a company is an SRC if it has a public float of less than $250 million, or has less than $100 million in annual revenues.[35] The SEC's rationale for a Scope 3 exemption could also apply equally to companies that are larger than an SRC and would be faced with similar Scope 3 costs that significantly exceed the benefits of calculating and reporting on these emissions.

For these reasons, NIRI reiterates its earlier recommendation that Scope 3 emissions reporting should be completely *voluntary*, as the data in its current form is not sufficiently accurate or useful for investment decision-making.

8. **Attestation of Scope 1 and Scope 2 Emissions Disclosures**. Under the Proposed Rule, large accelerated or accelerated filers would be required to obtain an attestation report from an independent attestation service provider covering, at a minimum, disclosures involving Scopes 1 and 2 emissions. The rule does not require the attestation service provider to be registered with the Public Company Accounting Oversight Board ("PCAOB"), but the provider must satisfy certain independence and expertise requirements.

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[33] *Proposed Rule* at 21,390.
[34] *Proposed Rule* at 21,391.
[35] 17 C.F.R. § 229.10(f)(1).

Under the SEC's proposal, companies that are not accelerated or large accelerated filers are permitted to engage a third-party *voluntarily* to attest or verify its Scopes 1 and 2 emissions. If a company chooses to engage in a voluntary attestation process, it is required to disclose information about the process it used with a third-party provider, to help investors "understand the nature and reliability of the attestation or verification provided."[36]

In its explanation of the Proposed Rule, the SEC concedes that "GHG emissions reporting and assurance landscapes are evolving." For this reason, NIRI believes it is premature to require all companies to engage in third-party attestation of Scope 1 and Scope 2 emissions disclosures. As an alternative, NIRI recommends that the SEC expand its voluntary attestation proposal to all public companies, including accelerated filers and large accelerated filers.[37]

9. **Filed vs. Furnished**. Since there is no widespread consensus among companies and investors about many different climate change metrics and risks, public companies are concerned about their potential liability if a new climate change disclosure regime is promulgated. To address these concerns, NIRI has recommended in the past that any new climate change disclosure requirements should be treated as "furnished," so that they are not subject to the same level of liability under the securities laws as information that is "filed" with the Commission.[38]

The SEC proposes to treat required climate-related disclosures as "filed" and, therefore, subject to the application of a stricter liability standard than if the disclosures are treated as "furnished."[39]

Climate change metrics and data that are disclosed by companies, including Scopes 1, 2 and 3 emissions, should be treated as "furnished."[40] As the SEC concedes, the "methodology underlying climate data continues to evolve."[41] Companies should not be subject to a stricter liability standard for disclosures of metrics and data that rely heavily on estimates and assumptions and are still in an evolutionary stage.[42]

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[36] *Proposed Rule* at 21,405.
[37] This concept was also discussed as an alternative in the Proposed Rule. *See Proposed Rule* at 21,451.
[38] This information could be either furnished to the Commission or published to a company's website, or both. *See supra* footnote 4.
[39] *See Proposed Rule* at 21,411.
[40] This concept was listed as an alternative in the Proposed Rule. *See Proposed Rule* at 21,449.
[41] *Proposed Rule* at 21,411.
[42] *See, e.g.*, Press Release, Greenhouse Gas Protocol, GHG protocol to assess the need for additional guidance building on existing corporate standards (Mar. 31, 2022), *available at* https://ghgprotocol.org/blog/ghg-protocol-assess-need-additional-guidance-building-existing-corporate-standards ("GHG Protocol is starting a process to determine the need and scope for additional guidance building on the existing set of corporate GHG accounting and reporting standards for scope 1, scope 2, and scope 3 emissions.").

10. **Cost of Compliance**. NIRI believes that public companies will incur much higher compliance costs than the SEC estimates, assuming the Proposed Rule is finalized as presented. The SEC's assumptions rely heavily on data evaluating the costs of voluntary climate change disclosures that are occurring currently. The Commission downplays the new climate disclosure obligations that would be required in any final regulation. Under the Proposed Rule, companies would be subject to numerous mandatory requirements and a much higher level of liability than the status quo. Additionally, the increased reporting and assurance requirements are highly likely to drive fee increases by the firms providing assurance, increasing corporate costs exponentially.

11. **Compliance Deadlines**. The SEC has proposed a series of compliance deadlines in its Proposed Rule. These deadlines assume that a Final Rule has an effective date in December 2022:

- Large Accelerated Filers would have until 2024 (pertaining to fiscal year 2023) to incorporate the new required climate-related disclosures, including Scope 1 and Scope 2 GHG emissions, into their SEC filings.

- Accelerated and Non-Accelerated Filers would have until 2025 (pertaining to fiscal 2024) to comply with the new climate disclosure requirements; Smaller Reporting Companies would have until 2026 (pertaining to fiscal 2025).

- Additional phase-in periods would apply to disclosures of Scope 3 GHG emissions and third-party attestations.

- Smaller Reporting Companies would be provided a longer compliance transition and would be exempt from the Scope 3 emissions disclosure requirement.

In NIRI's view, the Proposed Rule does not provide adequate time for companies to develop plans, processes, and procedures to comply with these new requirements. This is probably the most wide-ranging rule proposal that the SEC has issued in its history. Many interpretive, logistical, and practical issues will need to be resolved, and companies will need significantly more time to establish the internal systems and controls necessary to comply with a Final Rule.

For these reasons NIRI recommends that each of the compliance deadlines in the Proposed Rule should be extended by an additional two (2) years.

NIRI appreciates the opportunity to comment on the SEC's regulatory proposal to enhance and standardize climate-related disclosures by public companies. Please contact us with any questions, or if we can provide additional information.

Sincerely,

Matthew D. Brusch
President and CEO
National Investor Relations Institute

cc: The Honorable Gary Gensler
The Honorable Hester M. Peirce
The Honorable Allison Herren Lee
The Honorable Carolyn A. Crenshaw
Renee Jones, Director, Division of Corporation Finance