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Office of the Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

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

Dear Office of the Secretary:

This letter is the response of BDO USA, LLP to your request for comments regarding the proposal referred to above.

We recognize that investor and other stakeholder demand in the United States for environmental, social and governance (ESG) information has significantly increased, particularly over the past few years. In response to investor, stakeholder, or other societal pressures, many companies have provided ESG information in sustainability reports. However, many other companies have not. This disparity in reporting, combined with the multitude of frameworks available to guide disclosure, has heightened concerns about consistency and comparability of information across companies and puts pressure on the development of a standardized framework. In that regard, we commend the SEC for its recognition of the need for and efforts to produce a high-quality framework that enables reporting of reliable and comparable information related to climate change and helps provide clarity to registrants. Moreover, disclosure of material climate-related information in the annual report ultimately subjects the information to the same level of rigor required to make other material disclosures in an annual report which may serve to enhance the confidence in its reporting.

While we support a standardized framework for the disclosure of material information, we have observations and concerns about several aspects of the proposed amendments, including the proposed disclosures, scope, and transition requirements. We have organized our feedback into these categories, but highlight that many of our observations are interconnected, meaning that our scope observations and recommendations may have implications on timing or on the disclosures that are ultimately provided. We share the Commission's goal to provide consistent, comparable, and reliable disclosures while limiting the compliance burden for registrants and would be happy to discuss any questions about our comments.



DISCLOSURE FRAMEWORK

Non-Financial Statement Disclosure

We support the Commission's approach to climate-related disclosures by largely incorporating the concepts and requirements of the widely used and applied Task Force on Climate-Related Financial Disclosure (TCFD) and Greenhouse Gas Protocol's accounting and reporting frameworks. With a view toward the goal of reliable, consistent, and comparable disclosures, we believe the Commission should also evaluate whether the proposed reporting concepts within the International Sustainability Standards Board's (ISSB) proposed framework should be considered when adopting the SEC's final rules. This would potentially alleviate challenges and concerns about the implementation of certain aspects of the SEC's proposal. We also encourage the Commission to thoughtfully consider feedback provided by registrants with respect to implementation questions and challenges associated with the proposed Regulation S-K disclosures. We anticipate that the broad and expansive nature of the disclosure requirements outside the financial statements will require a new and different focus on risks and activities that may or may not have previously been addressed by a company's board of directors and management, new resources and expertise, enhancements to systems and processes, and significant costs that will require time for registrants to thoughtfully consider and make reliable disclosures.

We support an explicit requirement to address climate-related risks and appreciate the investor calls for such information if they have not historically been able to discern the nature of and exposure to these risks are for certain companies. However, we note that the amendments would require registrants to disclose whether any climate-related risk is reasonably likely to have a material impact on a registrant over the short, medium, and long term. While the proposal does not define the short-, medium-, and long-term time horizons to allow flexibility for a registrant to select the *"time horizons that are most appropriate to its particular circumstances,"* it is not clear to us why an explicit requirement to address the "medium-term" is necessary within the SEC's reporting framework for one particular risk. Larger companies are required to disclose their risk factors based on the *"material factors that make an investment in the registrant or offering speculative or risky"* and such disclosures should be organized logically with relevant headings and groupings. These risks are not bifurcated into three time-horizon categories. Moreover, we note that management's discussion and analysis (specifically, Regulation S-K 303(b)(1)) requires companies to analyze their ability to generate and obtain adequate amounts of cash as well as their plans for cash in the short-term (within 12 months of the balance sheet) and long-term. We believe registrants and other stakeholders are accustomed to addressing and disclosing the short-term and long-term views on their business, risks, prospects, and liquidity needs. Given the proposal permits companies the flexibility to define their own meaning of medium-term and long-term time horizons, we believe there will be disparate definitions across registrants, which will reduce comparability. Additionally, the magnitude and probability of climate risks can vary so significantly and are highly uncertain over time (particularly with respect to transition risks), we question the need to present the medium-term impacts. Requiring companies to create their own definition of medium-term and long-term time horizons and present these risks and impacts on strategy and outlook into buckets of time beyond the short- and long-term may result in disproportionate emphasis on the impact of the climate above all other material risks and impacts. We would not otherwise anticipate that the elimination of the reference to the "medium-term" would result in the loss of information. To the extent a Company has specified climate-related targets at different points in the future, the risks and impacts associated with reaching those targets would be disclosed.



The proposal requires disclosure of Scope 3 greenhouse gas emissions (GHG) for certain filers if material or if the company has set a GHG emission target or goal that includes Scope 3 emissions. While a company may have set targets or goals to reduce Scope 3 GHG emissions, it is unclear how to evaluate materiality, given that Scope 3 GHG emissions stem from a company's upstream and downstream value chain, and not costs incurred by the company itself. For example, if a company chose to use a different vendor because the vendors GHG emissions are lower, it is not clear how the company would determine materiality. We believe the Commission needs to provide additional guidance on how a company would determine whether Scope 3 GHG emissions are material, given they are indirect in nature and external to the company.

With respect to the proposed requirement for registrants to disclose their Scope 3 GHG emissions if they have set a related goal or target, we wish to highlight that this may serve as a disincentive for a company to set targets or goals to reduce Scope 3 GHG emissions, which may be counter to the intent of the proposed rules.

Financial Statement Disclosure

Materiality is the cornerstone of the financial reporting framework established by the FASB and the reporting framework established by the SEC. As specified in Statement of Financial Accounting Concepts No. 8, *"materiality is entity specific. The omission or misstatement of an item in a financial report is material if, in light of surrounding circumstances, the magnitude of the item is such that it is probable that the judgment of a reasonable person relying upon the report would have been changed or influenced by the inclusion or correction of the item."* The use of materiality in the FASB's Concept Statements is consistent with the definition in the auditing standards of the AICPA and the PCAOB (as well as Staff Accounting Bulletin No. 99). Accordingly, we believe materiality is a widely understood and appropriate guiding principle that should be used for financial statement disclosure.

As the demand for climate-related disclosure has increased over time, we appreciate that such demand has enhanced the qualitative factors that may make certain disclosures more "material" in the context of an SEC filing. However, the proposed use of an absolute value of the impacts of severe weather events and transition activities on each financial statement line item that exceed one percent of the line item for financial statement disclosure purposes is not likely consistent with an individual company's materiality assessment or the threshold that is generally applied to every other disclosure in its financial statements, or even outside of the financial statements. As proposed, the financial statement metrics place a disproportionate lens on impacts related to climate above all other material impacts to a registrant and its financial statements. One percent of specified financial statement line items will most likely be substantially less than the materiality used by registrants and less than the materiality used by auditors in their audits of financial statements and internal control over financial reporting. This is particularly true given the proposal requires use of the absolute value of the impacts when determining whether the one percent threshold is exceeded, thereby triggering the disclosure requirement. It is quite possible that the net effects of severe weather events and transition activities could largely offset one another, yet the absolute value of the impacts exceeds one percent. That reduces the level of precision a company must apply to disaggregated information to adequately support disclosures in the financial statements and will have a corresponding impact on auditors as they determine the nature, timing, and extent of testing necessary to opine on the financial statements.



Moreover, as amounts reported on specified lines in the financial statements vary significantly for a particular registrant and across registrants, we do not believe impacts of one percent will result in consistent and comparable disclosures by registrants (which is one of the primary objectives of the proposal). The proposal would result in the disclosure of impacts for amounts that are less than one percent on a line item due to the requirement to consider the absolute values of positive and negative impacts. While companies must comply with US GAAP (or IFRS as issued by the IASB) and Regulation S-X presentation requirements, many companies voluntarily disaggregate more than required by the rules to provide further transparency about balances or line items on the financial statements. A requirement to disclose climate-impacts of one percent may disincentivize these companies from voluntary disaggregation resulting in a loss of information.

Regardless of the disclosure threshold selected, we believe additional guidance would be needed for companies to understand how to quantify the effects of severe weather-related events and other natural conditions on the financial statements. For example:

- a. What is the baseline for the determination of whether a line item has been affected by one percent (or any specific amount) for transition costs? For example, if a company transitions to LED bulbs in all locations across the globe over a period of five years, how does it measure the savings and across what timeframe?
- b. How do companies determine whether a weather event is a “severe” weather event? A registrant’s financial reporting function and system of internal controls is generally designed to filter the cause for material variances each reporting period. Under the proposal, every weather event occurring in every geographic location where a company operates will need to be evaluated to determine whether a weather-related event is “severe,” and if so, capture the impacts to every financial statement line for aggregation and evaluation for possible disclosure. Moreover, to the extent that severe weather occurs every year in particular locations, such variances may not exist period to period, and registrants may find it difficult to establish controls to identify and quantify the events. Such controls would need to operate at a significantly lower level of precision than other internal controls over financial reporting.
- c. How is a registrant able to determine with accuracy that any impact to a particular line item was the result of weather or other natural conditions vs. some other impact? While the impact of some events may be known and well understood, others may not. For example, the impacts of impairment, inventory write-offs and insurance recoveries associated with a warehouse destroyed by a hurricane are quantifiable, but how does a registrant establish if lost revenue associated with the destroyed warehouse was offset by increased revenue at another warehouse (i.e., are any increases in other locations attributable to the hurricane vs. other increases in demand)?
- d. How should companies determine whether an event is a “severe weather event” or “other natural condition”? We do not believe it will always be clear whether an event fits these categories or not, and it may take time to determine whether they fall within scope or not. For example, a wildfire could be caused by careless campers, utility companies, or



lightening. There are other factors that may have created conditions for a wildfire or made the wildfire much worse than it might otherwise have been (i.e., poor land management). It is unclear to us whether a wildfire that was started by careless campers and exacerbated by poor land management is a “severe weather event” or “other natural condition.” Further, the cause of a wildfire may not be known for some time. How should companies track and report data in these circumstances when the impacts of the event may or not be within the scope of the proposal?

Challenges in registrants’ ability to obtain weather-related impacts in a direct and measurable way is likely to create further challenges for an auditor to obtain the necessary audit evidence to opine on such amounts. Some of these challenges are further exacerbated using a one percent threshold. Accordingly, we believe the Commission and staff should coordinate with the FASB and PCAOB before finalizing the proposed financial metric disclosures to ensure that the disclosure requirements are operable and auditing standards appropriately contemplate an audit of “climate-related” metrics.

Management’s discussion and analysis (MD&A) is used to provide investors with “*material information relevant to an assessment of financial condition and results of operations of the registrant*” and “*includes descriptions and amounts of matters that have had a material impact on reported operations.*” While a registrant will comply with Item 303 of Regulation S-K by describing the material drivers of changes in revenue, cost of sales and general and administrative expenses, a lower threshold will be used to report climate-related matters within the financial statements. We believe the Commission should consider the inconsistency of requiring such disclosure within the financial statements for the impacts of severe weather events and transition activities when other material fluctuations are described outside the financial statements (i.e., within MD&A). We believe the appropriate location within Form 10-K to discuss the drivers of changes affecting a company’s financial condition and results of operations is within MD&A, and we do not believe it is appropriate to segregate one category of drivers of changes (i.e., climate-related impacts) and disclose those in the audited financial statements.

We also believe a more comprehensive cost-benefit analysis related to the proposed financial statement metrics and disclosures should be performed. It is not clear that the benefits of disclosure within the financial statements, as proposed, outweigh the costs associated with making such disclosures and having them audited. We note the proposing release cites an estimate of 70 additional burden hours per filing to prepare the financial statement metrics. Based on our work with registrants and the concerns highlighted above, we believe this estimate significantly understates the time, effort, and costs to make the proposed financial statement disclosures and support the auditor’s work over such disclosures.

SCOPE

Smaller Reporting Companies

We note the Commission considered an exemption from the rule amendments for smaller reporting companies (SRCs), but ultimately chose not to exempt them as they make up approximately 50% of registrants which would “*considerably undermine one of the primary objectives of the proposed rules, which is to achieve consistent, comparable, and reliable disclosures of climate-related information.*” We appreciate the Commission’s focus on consistency and comparability, an objective that we support. However, we sense that a more comprehensive cost-benefit analysis should be performed before



subjecting such companies to the immense cost associated with the amendments. We do not believe that comparability and consistency across registrants are the only factors to consider when contemplating whether such disclosures should apply to a subset of registrants.

Based on our experience, many smaller registrants have not historically tracked GHG emissions, a practice which we suspect is driven by their materiality assessments and the lack of specific investor calls for such information. Accordingly, the incremental effort to implement the prescriptive amendments may be even more disproportionately disruptive to already resource-constrained small companies. We are also concerned about the ability of such registrants to secure the resources necessary to implement the proposal, from both an internal and external perspective. As highlighted further below, we are not confident that sufficient market resources exist for all public companies to disclose the information called for the proposal in the time contemplated by the Commission (i.e., beginning in 2023).

The SEC's existing scaled disclosure regime recognizes that the costs associated with certain disclosures may outweigh the benefits. SRCs have the ability to scale both financial statement and non-financial statement disclosures, many of which can be scaled on an a la carte basis. Non-accelerated filers, many of which are smaller reporting companies, are also exempt from the requirement to obtain an audit of internal control over financial reporting. Despite the accommodations that exist, SRCs are still required to disclose material information. Such information may include climate-related matters.¹ Accordingly, scoping such companies out from the extensive and costly nature of the disclosure requirements should not result in the loss of material information.

Emerging Growth Companies

For similar reasons, we also question whether the cost-benefit analysis considers companies entering the capital markets. Congress passed the JOBS Act in 2012 to *"increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies."* Emerging growth companies (EGCs) are generally newer to the capital markets and afforded disclosure accommodations to balance the needs of capital formation and investor protection. These accommodations provide such companies with an on-ramp to public company reporting. Due to the expansive nature of the proposed climate-related disclosures and the incremental time and cost to implement the amendments, it is not clear why climate-related disclosure is prioritized over all other disclosures that are only applicable once a company loses emerging growth company status (e.g., an attestation requirement of internal controls over financial reporting and need to adopt new accounting standards on the public company timeframe, etc.).

Alternatively, if the Commission concludes that emerging growth companies should not be exempt from the proposed disclosure requirements, the Commission may wish to at least consider excluding such requirements from initial registration statements and providing an on-ramp (e.g., of at least one year following the IPO) to making such disclosures.

¹ The staff's disclosure guidance from 2010 on climate-related matters highlights where disclosure may be required under existing SEC rules and regulations.



Foreign Private Issuers

We also observe that the Commission considered an alternative to permit compliance using host country disclosure frameworks, but that it was ultimately rejected due to “*growing concerns from investors that climate-related disclosures lack comparability and consistency.*” In light of the international developments over the past several years, particularly the ISSB whose intention is to “*deliver a comprehensive global baseline of sustainability-related disclosure standards that provide investors and other capital market participants with information about companies’ sustainability-related risks and opportunities to help them make informed decisions,*” it is not clear why these standards will not align with the Commission’s objective. Due to the comprehensive nature of the ISSB’s standard-setting process (which is much like the FASB standard-setting process) and mission, we believe the Commission should consider allowing foreign private issuers to adopt the ISSB reporting framework. The basis for allowing such companies to use an international framework would be similar to the basis for allowing such companies to utilize International Financial Reporting Standards that have been issued by the International Accounting Standards Board instead of US GAAP in the SEC filings (among the other accommodations available to FPIs).

Other Companies

Asset-backed issuers are currently excluded from the proposed rules. While we understand the rationale for their exclusion, and we agree with that conclusion, we observe there are several other types of companies that have similar issues. Examples of these types of companies include certain investment funds, mortgage real estate investment trusts (REITs), and certain business development companies (BDCs). These types of entities have operations that are similar in many respects to asset-backed issuers – they invest in interest bearing assets, and the cash flows from those investments are used to provide repayment and returns on the capital structure. Further, many of these types of companies are externally managed and have no employees or facilities. We believe the Commission should consider excluding these types of companies from the scope of the proposed rules as well (or at least make compliance with the rules optional).

TRANSITION

The proposing release notes that there were 6,220 registrants that filed on domestic forms and 740 foreign private issuers that filed on Forms 20-F. The release goes on to cite various studies which highlight the portion of companies with some climate-related disclosure in their filings or separate sustainability reports. That said, it is not clear to us how the Commission considered whether existing resources and specialists in climate-related matters are adequate to support the necessary market infrastructure required to disclose GHG emissions (as well as every other quantitative and qualitative disclosure) by almost 7,000 registrants in a year’s timeframe and within 60, 75 or 90 days after fiscal year end. We expect that the expansive and prescriptive nature of the SEC’s proposal will require registrants to obtain substantially more and different internal and external resources to assist them. We believe that these resources are not currently available in sufficient quantities at this stage to support high quality disclosures in registrants’ SEC filings in the timeframe contemplated by the proposal (i.e., adoption of final rules in 2022 with reporting required for 2023 with disclosures addressing 2021, 2022,



and 2023). We also believe that smaller companies may be disproportionately challenged to secure these resources due to the high demand caused by the rule amendments.

Significant historical changes to the disclosure regime may provide a useful frame of reference in considering the time necessary to implement the amendments. For example, the analysis of and implementation of Accounting Standards Update 2014-09, *Revenue from Contracts with Customers*, in May 2014 was an immense undertaking due to its impacts on the financial statements, information systems, processes and controls. While originally effective for annual reporting periods of public entities beginning on or after December 15, 2016, the FASB subsequently deferred the effective date by one year allowing companies additional time to implement systems, gather data, and resolve application questions. At the time, the SEC staff observed that successful implementation requires sufficient preparation and resources (from both a human and capital perspective) and was an active participant in monitoring readiness. While revenue recognition is inherently different than the calculation of GHG emissions or impact of climate on the financial statements, we observe that that the changes to registrants' system of internal controls, governance and assessment of risk will be just as substantial, if not more due to the use of others and information gathering process (which may not have tracked or produced much of the disclosures required by the proposal).

While it is possible that the information gathering and reporting of climate-related information may one day be no different than the collection and reporting of financial-related information, we believe the proposed amendments will require a significant shift in how many companies think about their businesses and disclose all the related climate impacts. Consequently, we have several recommendations with respect to the timeframe for implementation and adoption:

- We believe that the effective date of the proposed rules (in their entirety) should be at least two years after the issuance of the final rules. For example, if the rules were finalized before the end of 2022, we believe reporting should be required no earlier than for filings that relate to fiscal periods ending after December 15, 2024. We encourage the Commission to consider the reasons for the delay and scale down of the Corporate Sustainability Reporting Directive by the European Parliament (which recently scoped out small- and medium-sized enterprises and allowed in-scope companies an additional year to publish their reports).
- We believe the proposed rules should be applied prospectively, with the option for retrospective application. Proposed Rule 14-01 of Regulation S-X would require financial statement disclosures of the financial impacts of severe weather events, other natural conditions, and transition activities on any relevant line items in the company's financial statements, subject to a one percent threshold, for a company's most recently completed fiscal year and for each historical fiscal year included in the financial statements in the filing. Like the adoption of ASC 606, *Revenue from Contracts with Customers*, and ASC 842, *Leases*, we believe many companies will find it challenging to comply with these requirements prospectively, much less retrospectively. Accordingly, we believe adoption of the proposed rules should be prospective with an option for retrospective application.



- As the Commission is aware, the disclosure of Scope 3 GHG emissions will require registrants to first obtain information from many other parties in their upstream and downstream value chain. Until the market infrastructure for reporting GHG emissions fully develops, public companies will have difficulty complying with the disclosure requirements if such emissions are calculated as of fiscal year end (even if the rules permit a company to estimate fourth quarter emissions). We believe the Commission should instead consider allowing companies to compute their Scope 3 disclosures within 6 months of year end. For example, a calendar year-end registrant would disclose Scope 3 GHG for the period from 10/1/24 through 9/30/25 in its Form 10-K for the year ended 12/31/25 that is filed in 2026. The lag in reporting may help companies operationalize the disclosure requirements and allow for integrated reporting in annual reports filed within 60 or 75 days after fiscal year end. The Commission may also wish to consider allowing a short lag in reporting for other Scope 1 or 2 emissions as well (e.g., report emissions data as of a date within 3 or 4 months of fiscal year end) in lieu of requiring estimates for the fourth quarter.
- Should the Commission scope out SRCs and EGCs from the proposed amendments, we believe incremental transition guidance may be useful due to the expansive nature and computational aspects of the disclosures when such status is lost. For example, upon the loss of SRC status or EGC status, a registrant could be permitted to apply scaled disclosure in the year that such status is lost. This concept is consistent with the existing SRC rules which permit the application of SRC disclosure in the year SRC status is lost, though would be a new transition concept for EGCs. While EGCs that lose their status based on the passage of time alone should be able to adequately prepare to adopt the requirements, losing EGC status due to public float or revenue thresholds may present timing challenges related to information gathering (and attestation).
- Due to the anticipated difficulties registrants may have complying with the voluminous amendments within 60, 75, or 90 days following year end, the Commission may also wish to consider whether the Form 10-K section containing the proposed climate-related disclosures (particularly, greenhouse gas emissions) could be filed at a later date, akin to the due date of Part III information of Form 10-K. Part III information may be incorporated by reference from a registrant's definitive proxy statement but filed no later than 120 days after fiscal year end. If this suggestion is not implemented, we still believe the disclosures of the board and management oversight of climate-related risks would be better placed within Part III, Item 10 of Form 10-K where the registrant makes its other disclosures about corporate governance matters.

CONVERGENCE WITH INTERNATIONAL STANDARDS

As noted above, we believe the Commission should consider allowing foreign private issuers to adopt the ISSB reporting framework. We also consider that, in the context of global capital markets, it is appropriate to consider global standards and frameworks which can be built on to fulfil the needs of investors in specific capital markets. ISSB standards under development and to be developed in future may form a global baseline of requirements which would provide consistency of reporting across multiple jurisdictions. We encourage the SEC to monitor developments at the ISSB and evaluate IFRS



Sustainability Disclosure Standards to determine whether and the extent to which they appropriately meet the SEC's requirements.

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We appreciate this opportunity to express our views to the Commission. We would be pleased to answer any questions the Commission or its staff might have about our comments. Please contact Christopher Tower, ESG Strategy and Service Leader, at (714) 668-7320 or via email at ctower@bdo.com, Tim Kviz, National Managing Partner – SEC Services, at (703) 245-8685 or via email at tkviz@bdo.com, or Phillip Austin, National Managing Partner – Professional Practice Leader, at (312) 730-1273 or via email at paustin@bdo.com.

Very truly yours,

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