



The Honorable Gary Gensler
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C., 20549

June 11, 2021

Re: Response to Call for Public Input on Climate Change Disclosures

Dear Chair Gensler,

Friends of the Earth, Amazon Watch and Rainforest Action Network are pleased to submit comments to the SEC regarding climate risk disclosure, under this cover.

Background on Friends of the Earth, Amazon Watch and Rainforest Action Network

Friends of the Earth U.S. is a 501(c)(3) non-profit, membership-based organization with offices located in California and Washington, DC. FOE currently has over 2.8 million members and activists located across all 50 states and the District of Columbia. Our mission is to advocate for sustainable policies and practices in the public and private sectors. We have decades of experience advocating for financial regulations to address the threat of climate change. **Contact: jconant@foe.org**

Amazon Watch is a 501(c)(3) non-profit organization with offices in California, Washington, DC and New York, and long-term consultants in various Amazon countries. Our mission is to protect the rainforest and advance the rights of Indigenous peoples in the Amazon Basin. We partner with Indigenous and environmental organizations in campaigns for human rights, corporate accountability, climate justice, and the preservation of the Amazon's ecological systems. **Contact: moira@amazonwatch.org**

Rainforests Action Network is a 501(c)(3) non-profit, with an office in California. RAN preserves forests, protects the climate and upholds human rights by challenging corporate power and systemic injustice through frontline partnerships and strategic campaigns. **Contact: merel@ran.org**

Introduction: Material risk and the need for climate disclosure

We are pleased that the SEC is receiving comments to increase disclosure rules regarding climate risk, and to submit comments to assist the Commission in achieving its aims. We believe that the SEC's mission to protect investors; ensure fair, orderly, and efficient markets; and facilitate capital formation requires a disclosure regime that will obligate all publicly listed companies to report on the climate impacts of their business operations as well as the climate risks to their businesses and to the markets as a whole.

The Commission should prioritize the development of a robust framework for climate risk disclosure. Climate issues have emerged as a fundamental priority for both investors and the general public because of the extreme damage that failure to take urgent action will cause, not only to

enterprise value and the broader economy, but to the future of society and the natural ecosystems upon which society depends. It is therefore crucial to make rapid progress in regulating disclosures in regard to climate risks and impacts. Once this phase has been completed, the Commission should attend to the broader array of ESG issues that have the potential to drive enterprise value, global economic and financial stability and social cohesion.

The success of companies' long term business strategies requires a comprehensive understanding of the risks and environment in which they operate. Therefore mandating key disclosure around natural resource management, such as water scarcity and ecosystem impacts, will enable investors to evaluate the resilience of businesses in light of these key issues. Vulnerability to climate impacts, collateral harms from climate mitigation strategies, and lack of adaptation and resilience resources and capabilities fall unevenly on low income and communities of color, indigenous communities, and less wealthy nations – all of which may have material impacts on businesses' long term value and social license to operate. As we detail below, the Commission should mandate the disclosure of these critical issues.

In an era of profound climate stress, Environmental, Social and Governance (ESG) considerations are an increasingly important part of global capital allocation decisions. One recent study found that 77% of professional fund selectors and 75% of institutional investors now consider ESG factors an integral part of sound investing, and that nearly 60% of financial advisors expect ESG investing to be standard practice across the industry in five years' time.ⁱ

Currently, 90% of issuers on the S&P 500 make some form of ESG disclosuresⁱⁱ – but these disclosures are neither mandatory nor standardized. Despite many firms reporting *some* sustainability data, the 2010 SEC climate disclosure guidance is insufficient in that it essentially allows firms to self-determine and report which climate risks they consider to be material. Corporate management is often short-sighted in terms of companies' climate physical and transition risks and is unprepared to address the real impacts on corporations, whether it be in regard to risks from GHG emissions, land management practices, or human rights. While many voluntary disclosure frameworks exist, the information provided under voluntary frameworks lacks comparability and completeness, fails to offer a comprehensive picture across businesses and across sectors, and allows firms to choose the framework that casts them in the most favorable light – a tendency that can make climate risk reporting more of a public relations effort than a responsible approach to corporate governance.

Given the physical and transition risks inherent to the ongoing climate crisis and the urgent need for a low-carbon transition, investors and the public need detailed information about companies' growing climate financial risk, their contribution to climate change, and their plans for transitioning to a low-carbon economy.ⁱⁱⁱ Increased climate risk disclosure will lead to improved corporate resilience to climate change risks and increased financial performance. ESG factors are strongly correlated with financial performance and investment portfolio performance. A review^{iv} of 1000 studies published in the last five years found that in 58% of studies, a higher ESG rating for an individual company was associated with higher corporate financial performance, and 59% of studies showed a higher ESG rating for a portfolio of stocks associated with better investment returns. Of particular relevance for the question of climate risk, the review showed that climate-friendly companies and portfolios performed better by 57% and 65% of the time, respectively.

The SEC must therefore move swiftly to finalize mandatory disclosure rules for climate risk; stewardship of a just and equitable transition to a low carbon economy; human capital management; racial, economic, environmental, and climate justice; taxes; and political spending to avoid untenable

growth of climate and ESG risk within our markets that harms investors, spurs the improper allocation of capital, and may render U.S. companies uncompetitive in attracting global investment.

The need to emphasize disclosures related to land use and deforestation

In the comments that follow we will place particular emphasis on the need for climate risk disclosure by companies connected to the production of agricultural commodities in the developing world — including soy, palm, timber, cocoa, pulp & paper and cattle — as these commodities contribute to climate change in multiple ways:

- First, tropical agriculture is a leading cause of greenhouse gas emissions.^v If deforestation were a country, it would be the third largest emitter in the world. Forests hold more carbon than humans have emitted for the past 30 years through fossil fuel use. However, deforestation now accounts for roughly 6% of global climate pollution and converting forests into farmland is the number one cause.
- Second, farming activities (including plowing and irrigation) and inputs (such as fertilizer and fuel) also produce emissions. This accounts for another 11% of global emissions.
- Finally, destruction of forests reduces the amount of carbon that the world's forests can remove from the atmosphere through photosynthesis. In the decade of the 1990s, intact tropical forests removed around 46 billion tons of CO₂ from the atmosphere, a total of 17% of anthropogenic CO₂ emissions in the decade. This figure decreased to 6% of emissions during the subsequent decade in part because tropical forests are shrinking.

As a result of these forces, deforestation and unsustainable land use linked to tropical agriculture now account for 21-23% share of global emissions. If historical trends continue, we stand to lose another 131.21 million hectares of standing forest cover over the next 30 years, an area approximately the size of Peru. Virtually all the scientific models for meeting the Paris goals require achieving zero net deforestation by 2030. Furthermore, most deforestation in the developing world linked to internationally traded commodities is illegal (violates local law) and connected to organized crime.^{vi}

Current SEC regulations do not explicitly cover the global forest and land use sector, and a new disclosure regime that fails to address these issues would be incomplete and ineffective. For the reasons noted above, disclosure of issuers' risks associated with deforestation and unsustainable land use is directly material to investors as well as to the stability and efficiency of markets as a whole. In 2020, for example, Blackrock stated, "As a long-term investor, the reputational and operational risks faced by companies being implicated in deforestation allegations is concerning to us."^{vii}

Yet companies have historically under reported climate risks from the forest and land use sector, focusing narrowly instead on fossil fuels, when climate disclosures have been made. A CDP survey of 1,500 companies with high forestry impacts found that 70 percent did not disclose data on such impacts, and even the companies that did disclose showed no or limited action to mitigate impacts.^{viii}

New climate-related regulations should therefore state *explicitly* that they cover forests, food and land-use. The duty to disclose and manage supply chain links to deforestation and land-use emissions should not depend solely on a company's assessment of financial materiality for the following reasons:

- a. The broad societal interest in addressing climate change and the magnitude of future catastrophic impacts to the US economy, national security, and the American public necessitate disclosure of both material risks to stakeholders and long-term financial flows.
- b. Available research in tropical commodity supply chain risks already supports evidence of financially material, industry-wide risks in tropical commodity supply chains when climate-related risks are not addressed.^{ix} For example, economic modeling suggests that 15 percent of Indonesian peat plantations are likely to become stranded and that Colombian cattle ranchers face a sixfold increase in production costs related to emissions.^x

Finally, any climate-related financial disclosures, including in the forest and land use sector, should have an equity component and be ground in international human rights norms and standards. Industrially-driven acquisition and conversion of land in tropical geographies has led to frequent land disputes between commodity producers and Indigenous People or traditional communities. Impacts to marginalized groups, labor violations, and illegal activity are often obscured by complex commodity supply chains, leaving investors unable to reliably assess exposure or alignment to personal/institutional values. Land insecurities and illegal encroachments into indigenous territories have also heightened persistent and extreme violence against environmental defenders.^{xi} (For greater detail on this topic, we refer the Commission to the separate letter on this subject submitted by Friends of the Earth, Amazon Watch, Rainforest Action Network, ACRE, et al.)

Question 1: How can the Commission best regulate, monitor, review, and guide climate change disclosures in order to provide more consistent, comparable, and reliable information for investors while also providing greater clarity to registrants as to what is expected of them? Where and how should such disclosures be provided? Should any such disclosures be included in annual reports, other periodic filings, or otherwise be furnished?

Climate and ESG-related disclosures are critical for continued robust functioning of the U.S. capital markets. If the U.S. disclosure requirements fall behind the rest of the world, it will put our funds at a competitive disadvantage. In contrast, if the U.S. takes the lead in this space, it will attract global capital that is seeking to have access to robust ESG information.

As soon as possible, the SEC should require **all** public companies to disclose against a general, standardized set of climate-and-ESG related metrics and qualitative descriptions. In general, the SEC must also stop allowing the movement of capital out of public equity markets through new exemptions, as climate financial risk is growing without scrutiny in the private markets, and must take steps to reverse this migration.

The SEC should revise its rules to push all large companies (including private issuers such as the many large private companies owned by private equity firms and hedge funds) and large offerings of securities into the public markets reporting regime.

The SEC should consider conditioning any remaining registration exemptions upon the disclosure of details of the securities, including financial information and climate and ESG-related requirements for all public companies. Climate and ESG-related disclosures for private debt offerings in particular are important to assessing risks to the banking and financial system, as without information from the

issuers, the banks, funds, and their regulators may be unable to fully and accurately assess their portfolio risks.

Where and how should disclosures be made?

- Disclosures should be mandatory and standardized in a way that makes them comparable across firms and sectors. This is the only way that investors will actually realize the benefits of disclosures.
- Disclosures should be easily accessible, transparent, clear, and decision-useful to all investors across different levels of sophistication.
- Disclosures should include both qualitative disclosures, such as the information in TCFD, as well as specific line-item, quantitative disclosures.
- Disclosures should be in annual and quarterly SEC filings, and to extent possible, should be included in the audited financial statements. All disclosures should be subject to review by the Chief Financial Officer (CFO) and Audit Committee, and subject to attestation by the CFO.
- Following the precedent of the mining safety disclosures in companies' 10k reporting, quantitative sector-specific disclosures should be standardized for companies with exposure to high deforestation risk commodities.

Question 2: What information related to climate risks can be quantified and measured? Are there specific metrics on which all registrants should report (such as, for example, scopes 1, 2, and 3 greenhouse gas emissions, and greenhouse gas reduction goals)? What quantified and measured information or metrics should be disclosed because it may be material to an investment or voting decision? How are markets evaluating and pricing externalities of contributions to climate change? Do climate change related impacts affect the cost of capital, and if so, how and in what ways? How have registrants or investors analyzed risks and costs associated with climate change? What are registrants doing internally to evaluate or project climate scenarios, and what information from or about such internal evaluations should be disclosed to investors to inform investment and voting decisions? How does the absence or presence of robust carbon markets impact firms' analysis of the risks and costs associated with climate change?

The SEC has a broad authority to require disclosures that promote fair and efficient markets, protect investors, or serve the public interest. Disclosures are not just used by purchasers of securities, but also creditors, suppliers, customers, and others. Disclosures also serve an important democratizing function, to allow greater oversight by all stakeholders. There is no statutory requirement that any disclosure, by itself, be quantitatively "material" to the issuer. The SEC currently requires disclosures of many items that are not financially "material" to issuers.

However, climate and ESG information is clearly material to investors and the public. The range of topics and disclosure requirements developed by voluntary and external standards setters, as well as those under development by governments in other jurisdictions, shows the range of items that investors find material. This includes both quantitative metrics and qualitative information about governance, strategy, and risk management. Climate-related and ESG disclosures must cover both physical risks and transition risks that affect enterprise value, but also the impacts that issuers have on society, the global financial system, and investors as a whole.

What information should firms report?

At a minimum, issuers must report on total greenhouse gas emissions (Scopes 1, 2, and 3) linked to their own operations and their tier one suppliers. They should also provide a qualitative discussion

of risk management and a firm's business model and strategy under various climate-related scenarios, including an ambitious 1.5 degree warming scenario and a catastrophic 4 degree warming scenario.

Issuers must also disclose greenhouse gas emissions resulting from real economy activities that they finance or underwrite so investors can assess the massive climate impact of global financed emissions that U.S. firms facilitate. Issuers must also disclose quantitative and qualitative data used in scenario analysis in regard to scope 3 emissions and specifically supply chain emissions from land use, land use change and forestry.

Vulnerability to climate impacts, climate mitigation collateral harms, and lack of adaptation and resilience resources and capabilities fall unevenly on low income and marginalized communities,^{xii} and these impacts have material repercussions for companies, for markets broadly and for society as a whole.

Regarding Scope 1 and Scope 2 emissions, firms should report:

- Total annual emissions of carbon dioxide, hydrofluorocarbons, chlorofluorocarbons, perfluorocarbons, pure methane, natural gas, nitrous oxide, sulfur hexafluoride, and nitrogen trifluoride (in CO₂e), and total annual emissions from energy, heat, and steam purchased by the issuer.
- Total annual expenditures on greenhouse gas emissions reduction equipment, technologies, programs, and initiatives; and percent change in total greenhouse gas emissions (in CO₂e) from the previous year.
- The potential amount of direct and indirect GHG emissions embedded in proved and provable hydrocarbon reserves owned or operated by the issuer (in CO₂e), categorized by fuel type, and percent change over the previous year.
- Total annual Scope 1 fuel consumption broken down by country, activity and type of fuel
- The total value of fossil fuel-related assets owned or managed by the issuer.
- For electricity generation, transmission, and distribution, the total greenhouse gas emissions per MWh and revenue per MWh sold.
- Amount of reduction in energy consumption achieved by conservation and energy efficiency initiatives in the past 1, 3, 5, and 10 years.
- Significant fines and non-monetary sanctions for non-compliance with environmental laws and regulation, with the following details:
 - Total monetary value of significant fines
 - Total number of non-monetary sanctions
 - Cases brought through dispute resolution mechanisms
- Description of any plans to reduce GHG emissions in alignment with science-based targets, including target setting, internal metrics, details of the climate scenarios considered, and expected reliance on carbon offsets to reach emissions reduction targets. Include all assumed values and formulae used in climate scenario and risk management analyses that backs qualitative disclosure, risk identification, and risk analysis including:
 - The value used for the social cost of carbon (the value tied to liability cost per ton of emissions) with the minimum value equivalent to that used for cost-benefit analysis for federal government regulations.
 - Time frames considered in scenario analysis (2030 and 2050 required, with recalibration every five years).
 - Climate scenarios used (baseline, a 1.5 degree scenario, 2 degrees, 4 degrees, and any others deemed useful)

- Assumptions about development of new/competing technologies, timing of deployment, and market penetration and scalability of benefits
- Assumptions of climate-related policy changes
- Assumptions around differences in input parameters across regions, countries, asset location, and/or markets
- Resilience and sensitivity of risk when changing these assumptions
- Efforts to substantiate assumptions and climate targets through internal and external verifiers
- Total annual expenditures on carbon offsets and other carbon dioxide removal methods, resultant estimated total avoided emissions, and resultant estimated total carbon dioxide equivalent stored (with third-party verification). Disclosures on use of offsets should include:
 - How the availability of carbon offsets impact firms' analysis of the risks and costs associated with climate change.
 - Are carbon offsets being used in a way consistent with the sector specific scenarios that are the basis for emission reduction targets, or as a way to reduce emissions at a level more ambitious than the chosen scenario?
 - Efforts by the issuer to reduce Scope 1, 2 and 3 emissions to the absolute minimum before purchasing offsets.
 - What percentage of issuers' GHG target and GHG emissions reductions are to be achieved through offsets and Carbon Dioxide Removals.
 - On what basis any remaining emissions are judged unavoidable.
 - What technological innovations are being pursued in order to reduce the unavoidable amounts.
 - Whether any offsets or Carbon Dioxide Removals relied on are included in countries' or other companies' climate targets (to ensure it is not double counted);
 - Where Carbon Dioxide Removal is taking place, by what mechanisms, and with what governance to ensure its carbon integrity and to prevent negative social and environmental impacts.
 - Names of offset providers used, as well as names of third-party verifiers.
 - In the case of land-based and forest-based offsets, documentation from offset providers demonstrating that all social and human rights safeguards have been fully respected, including the right of impacted indigenous peoples to give or withhold their Free Prior and Informed Consent for offset projects, as required under the UN Declaration on the Rights of Indigenous Peoples, ILO 169, and other international human rights standards.

Regarding disclosures of Scope 3 emissions

Scope 3 GHG emissions comprise upwards of 90% of emissions from companies in land-intensive sectors such as food and Fast Moving Consumer Goods companies,^{xiii} but currently, there is no disclosure requirement for Scope 3 GHGs. It is urgent that deforestation, forest degradation, and land-use change to be factored in as risks and costs associated with climate change. Disclosure of Scope 3 emissions within the issuer's value chain include:

- Emissions from combustion emissions from point sources;
- Emissions from activities for which the issuer has provided financing;
- Emissions from activities the issuer has insured;
- Emissions from land-use change.

Regarding emissions from land use change, deforestation and intact forest degradation

For purposes of these comments, we will focus on emissions from land-use change, which make up almost a quarter of global carbon emissions, with the global loss of tropical forests contributing 10% of annual emissions.^{xiv}

Scenario analysis helps decision makers consider how a business or other entity may perform in different future scenarios. This type of analysis is useful in challenging conventional wisdom and informing decision-making, but is not meant to offer predictions with forecasting power. It is highly important for companies to include land- and forest-related considerations as a part of their climate scenario analysis because deforestation exacerbates the systemic risk of climate change.

In reporting on land use change and deforestation, the Commission's expectations should be informed by the following understandings:

- Deforestation and land use change can be quantified, measured and disclosed by issuers involved in the sourcing of forest risk commodities, which include palm oil, soy, cattle, wood and timber, paper and pulp, and may include rubber, coffee, and cocoa. Such disclosures could be phased in over time, providing an onramp for companies to engage their suppliers and build their visibility into their supply chain. Required disclosures could be limited to registrants that source more than a *de minimis* amount of forest-risk commodities.
- Deforestation and forest degradation are never explicitly planned as business activity. It follows that anticipated emissions from deforestation are never reported as part of standard disclosures, and emissions from past deforestation are similarly unreported.
- In the case of firms directly managing agribusiness operations, the precursor to deforestation and land conversion is land acquisition, permitting and licensing.

The Commission should therefore require that disclosure on forests include company policies and practices on the acquisition and conversion of land (whether directly by them or by others in their value chain) *prior to* carrying out their business activities, as well as land management practices during the production of such commodities. The Commission should seek to align its standards with the requirements of forthcoming Deforestation-Free Procurement legislation in the states of New York and California.^{xv} The Commission should also ensure that disclosures apply to the whole value chain, and specifically cover:

- Corporate policies and targets on the acquisition of land, deforestation and forest degradation;
- The governance procedures in place to ensure oversight and implementation of, and compliance, with these policies;
- The geographic scale at which land acquisition, ownership or management data have been collected and reviewed, and on which this assessment is based.

In line with CDP Forests,^{xvi} and the Accountability Framework Initiative,^{xvii} reporting on these areas could address the following set of questions:

- Does the firm have a stated policy to address, mitigate, avoid and reduce emissions from land use change to absolute minimum? What are the firm's commitments to addressing

deforestation and land use change and implementation plans for those commitments, including scope (i.e. how much of value chain addressed in plans) and target dates.

- Progress against commitments
- Does the firm have a cut-off date by which all deforestation activities in its value chain should have ceased?
- Does the firm have clear expectations that its suppliers will adhere to policies and cut-off dates?
- Total volume of commodity sourced, traced to its point of origin/country of origin. For commodities sourced in countries at high risk for deforestation and land use change, traced to point of origin (i.e. farm or plantation level).
- Does the firm have full traceability of its forest-risk supply chains to the level of the concession, plantation or ranch from which product ingredients are derived?
Reporting should include data on company land banks and land management practices, including:
 - Size in hectares of land under management with georeferenced location data for assessment of physical risks and impacts
 - Vegetation types, topography, soil types
 - Forested area in hectares; areas of forest assessed by third parties to include intact primary forest; High Carbon Stock forest areas;^{xviii} High Conservation Value forest areas.^{xix}
 - Concession permits with documentation of adherence to all applicable laws and statutory requirements
 - Qualitative data/documentation of contested land claims and documentation of Free, Prior, Informed Consent or lack thereof by local/indigenous communities. (For greater detail on this topic, we refer the Commission to the separate letter on this subject submitted by Friends of the Earth, Amazon Watch, Rainforest Action Network, ACRE, et al.)

Regarding disclosures of social risks and impacts as related to climate

Because climate change, social justice, and inequality are inextricably linked, reporting on only one dimension will not satisfy the sustainability concerns of investors, just as improving on only one dimension does not adequately improve the overall sustainability or financial performance of an issuer, or fully mitigate their harmful impacts on the financial system and investors as a whole.

For example, decades of racist housing and polluting facility siting policies have yielded disproportionate harm towards communities that live near toxic power plants and manufacturing sites, which, in turn, has real costs to the economy in terms of economic productivity and public health expenditures. Increasing recognition of these issues is burdening companies engaged in these harmful activities with reputational and liability risks that will only grow. To allow investors to understand the long-term risk profile these companies face, they should be required to disclose how they have contributed to environmental and climate injustice in the past and present, and their efforts and strategy to correct those disparities.

Similarly, communities around the globe have lost valuable natural resources, ecosystems, and biodiversity due to extractive industries, which permeate global supply chains. Increasing recognition of these harms and efforts to address them means that investors need to know how entangled issuers are with these harmful practices. Companies must disclose their methods for evaluating and measuring ecological and economic impacts of corporate activities in the land sector.

Related to climate change are a host of other environmental justice disclosures regarding water, natural resource use, and pollution. Information about these practices is valuable to investors seeking to allocate their funding in accordance with their value. Specifically, toxic pollution into air,

land, and water bodies must be disclosed, as well as use of natural resources and a company's track record of compliance with environmental laws and regulations.

As long-term value relies upon an adaptive understanding of transition risk and a comprehensive transition plan, investors also need to understand if issuers are ensuring a just and equitable transition for affected workers. To meet this investor need, the SEC should require all companies to disclose how they are incorporating elements of a just transition into their overall decarbonization strategy. This includes:

- Issues around plant closures, differential economic impacts, and racial, environmental, and public health harms. Such concerns are not typically part of issuers' decarbonization plans, but they are crucial for investors to assess a plan's likelihood of success, as well as to decide whether the plan meets criteria for investment.
- As governments increasingly consider public policy changes to create financial incentives or penalties to ensure companies provide support and fair treatment for affected workers and communities, investors need adequate disclosure of firms' strategies around a just transition to predict performance amid likely upcoming policy changes.

Question 3: What are the advantages and disadvantages of permitting investors, registrants, and other industry participants to develop disclosure standards mutually agreed by them? Should those standards satisfy minimum disclosure requirements established by the Commission? How should such a system work? What minimum disclosure requirements should the Commission establish if it were to allow industry-led disclosure standards? What level of granularity should be used to define industries (e.g., two-digit SIC, four-digit SIC, etc.)?

Disclosure and reporting standards should be developed by the SEC with robust input from stakeholders. This will ensure the most coherent, comprehensive, and authoritative guidance. Industry-led disclosure should be discouraged.

Question 4: What are the advantages and disadvantages of establishing different climate change reporting standards for different industries, such as the financial sector, oil and gas, transportation, etc.? How should any such industry-focused standards be developed and implemented?

It is important to establish different reporting standards for different industries so that the unique risks posed by each can be adequately addressed in sectors where they are prevalent. For example, the financial sector should report on financed emissions, which will require a set of comprehensive metrics that is distinct to other sectors. Similarly, it is important to develop a specific set of reporting standards for sectors with high land use change-related emissions, such as agriculture, forestry, and food & beverage.

In regard to deforestation and land use change, the industries heavily dependent on forestry, agriculture and land use require specific reporting standards that capture holistic effects of business on natural capital. Current reporting standards such as SASB and GRI do not sufficiently contend with Scope 3 emissions or emissions caused by land use change. Given the extreme complexity of measuring, reporting and verification, we would recommend a materiality approach to minimize the reporting burden for companies with minimal exposure.

Question 5: What are the advantages and disadvantages of rules that incorporate or draw on existing frameworks, such as, for example, those developed by the Task Force on Climate-Related Financial Disclosures (TCFD), the Sustainability Accounting Standards Board (SASB), and the Climate Disclosure Standards Board (CDSB)? Are there any specific frameworks that the Commission should consider? If so, which frameworks and why?

In developing existing frameworks, third party standard setters have compiled and created a broad range of useful, well-researched metrics and descriptions that the SEC should incorporate into their climate and ESG disclosure regulations. To some extent, a range of standards exists because no single standard captures everything that investors need in one place. Adopting any single existing framework would be less valuable than choosing the best components of each and combining them.

- The TCFD disclosure framework recognizes the uncertainty of climate change effects and prescribes a forward-looking risk assessment methodology to gain a better understanding of business risks posed by climate change. The framework has widespread support in both corporate and financial sectors and has gained traction among regulatory authorities abroad. Integrated reporting, i.e. reporting climate-related risk disclosure in an integrated format within annual filings (also recommended by TCFD) emphasizes the level pegging of material ESG information alongside traditional financial information. However, TCFD has itself acknowledged that its framework is not sufficiently standardized to generate comparable disclosures for users. Many argue that companies claim to be TCFD-compliant but are often not reporting under TCFD in a rigorous manner. Similarly, TCFD does not cover land use and deforestation risk in a way that is actionable by investors.

The SASB materiality framework has come under criticism for critical gaps in both climate and non-climate areas, especially the lack of comprehensive environmental, climate, and air quality coverage for certain polluting industries, and for key labor protections, human capital management, and diversity and inclusion coverage for some sectors.

- Both aforementioned standards (TCFD and SASB) are widely accepted by investors and financial market registrants, and the SEC should support this ongoing convergence and collaborate with stakeholders to identify clear standards. However, the SEC should not delegate authority to a third-party. Delegating authority outright to any of the third-party standard setters raises a number of legal and practical pitfalls. The SEC could face additional litigation risk if it seeks to accredit an external standard setter, which could create further delay implementation of a new mandatory regime.
- Instead of delegating authority, the fastest route to achieving the most important climate and ESG disclosures is for the SEC to immediately conduct a first round of rulemaking to establish a general set of disclosures for all public issuers, informed both by existing frameworks and the demands of U.S. investors. As the existing frameworks continue to develop and the standard setters work towards global harmonization, the SEC can issue subsequent guidance and rules to point to specific developments and industry-specific standards that can be incorporated into the mandatory disclosure regime and the industry guides.

As regards disclosures of land and forest-related risks, the Commission should work with existing actors in the area of forest impact management and reporting to develop appropriate disclosure requirements and to clarify criteria for inclusion in disclosure requirements. These actors include CDP,^{xx} the Accountability Framework initiative (Afi), and the New York Declaration on Forests (NYDF) Assessment Partners.^{xxi}

Question 6: How should any disclosure requirements be updated, improved, augmented, or otherwise changed over time? Should the Commission itself carry out these tasks, or should it adopt or identify criteria for identifying other organization(s) to do so? If the latter, what organization(s) should be responsible for doing so, and what role should the Commission play in governance or funding? Should the Commission designate a climate or ESG disclosure standard setter? If so, what should the characteristics of such a standard setter be? Is there an existing climate disclosure standard setter that the Commission should consider?

In regard to emissions from land use change and forestry, disclosure requirements could and should consider the availability of satellite technology, land remote sensing, and other technology which can detect deforestation, quantify ecosystem carbon stocks, and allow for year-on-year comparisons of changes in forest landscapes.

Question 8: How, if at all, should registrants disclose their internal governance and oversight of climate-related issues? For example, what are the advantages and disadvantages of requiring disclosure concerning the connection between executive or employee compensation and climate change risks and impacts?

Understanding of a firm's climate risk requires understanding how a firm integrates climate risk, and ESG risk more broadly, into corporate governance at all levels. Issuers should therefore disclose company structures, processes, and incentive structures designed to identify, assess, and manage climate-related and other ESG risks, as follows:

- Describe the board's oversight of climate related risks and opportunities.
- How often does the Board or board committees (audit, risk, or others) analyze climate-related issues?
- Is climate included when reviewing and guiding strategy, major plans of action, risk management policies, annual budgets, business plans, overseeing major capital expenditures, acquisitions, and divestitures?
- Are there board members or board committees responsible for climate-related issues?
- Describe management's role in assessing and managing climate related and other ESG risks and opportunities.
- Are there climate-related responsibilities assigned to management-level positions or committees? What is the organization structure?
- How is management informed about climate-related issues and how do they monitor them?
- To what extent does the firm engage with civil society stakeholders to inform its approach to managing ESG risks and impacts?

Question 10: How should disclosures under any such standards be enforced or assessed? For example, what are the advantages and disadvantages of making disclosures subject to audit or another form of assurance? If there is an audit or assurance process or requirement, what organization(s) should perform such tasks? What relationship should the Commission or other existing bodies have to such tasks? What assurance framework should the Commission consider requiring or permitting?

- To the greatest extent possible, disclosures should be integrated into the issuer's audited financial statements.
- For medium to large issuers, the SEC should require that CEOs and a board member that has been given responsibility for climate issues both assess and certify the accuracy and completeness of climate and ESG related disclosures - including for subsidiaries. An

independent auditor must be engaged to attest to and report on these assessments and certifications, similar to the requirement in Section 404(b) of the Sarbanes-Oxley Act. This integrated audit process will provide an early and important check on management's/board's attempts to omit material climate disclosures.

- All quantitative disclosures of climate and ESG metrics should be tagged in a machine-readable format to allow academics and other stakeholders to easily use this information and compare, analyze, and identify discrepancies which could be the basis for shareholder pressure and enforcement action.
- Public disclosures related to climate must be vigorously enforced by staff within the Division of Enforcement with specific expertise on this issue. The SEC should consider increasing the climate-related expertise at Regional Offices, particularly those offices responsible for areas most affected by climate change.
- The SEC's Division of Enforcement must prioritize climate-related cases and quickly respond to tips and complaints received by the Commission, and support the Whistleblower Program to effectively and quickly process climate-related whistleblower claims.
- The Division of Corporation Finance must establish a climate-related disclosure review team and the Office of Inspections, Compliance and Examinations should create a team that examines investment advisers, registered investment companies, and private funds engaged in ESG investing.

Question 15: In addition to climate-related disclosure, the staff is evaluating a range of disclosure issues under the heading of environmental, social, and governance, or ESG, matters. Should climate-related requirements be one component of a broader ESG disclosure framework? How should the Commission craft climate-related disclosure requirements that would complement a broader ESG disclosure standard? How do climate-related disclosure issues relate to the broader spectrum of ESG disclosure issues?

Once a robust and comprehensive climate disclosure framework has been established the Commission should develop a wider set of reporting standards that encompass the full range of environmental, social and governance matters. When boards and other users of the information make decisions, information that provides only a single focused perspective is not adequate and can be misleading. In particular, if the full range of sustainability factors is not considered in a holistic and integrated manner, there is the potential for blind spots, and therefore for decisions to be made that fail to achieve the right balance between all affected stakeholders, and have negative impacts on other parts of the planet, its people and/or profit.

As with climate reporting, the Commission should promote a comprehensive approach that emphasizes a holistic, strategic consideration of sustainability matters and considers the full impact of business on the planet, its people and biodiversity in the medium to long term. Climate and environmental disclosures should be integrated into a broader suite of ESG disclosures, as investors are seeking information also about human capital management, racial equity, diversity and inclusion, political spending, and taxes.

In addition, investors increasingly seek reasonable information regarding political spending and taxes paid in different jurisdictions.

Qualitative indicators to address broader ESG issues might include the following:

- Describe your firm's strategy around promoting climate and environmental justice, racial and economic equity, human rights, and responsible stewardship of land, biodiversity, natural resources, and local economies.

- How has your firm historically impacted frontline and fenceline communities, including through pollution and your contribution to climate change?
- What actions has your company taken to address environmental and climate injustice?
- What has your firm done to reduce the ecological impacts of corporate activities in the land sector, including through rights-based regenerative practices like soil regeneration, landscape restoration, and biodiversity enhancement that improves local economies?
- What percentage of your firm’s suppliers were screened using environmental impact; racial, economic, and environmental justice; and human rights criteria?
- For any plans to reduce emissions in accordance with science-based targets, how the company plans to ensure a just transition for affected workers and communities.

Political, Lobbying and Tax

- Describe your participation in public policy development and lobbying, and any key differences between your lobbying position, the lobbying position of trade groups you participate in, and any stated policies, goal, or other public positions your organization has taken.
- Total monetary value of financial and in-kind political contributions made directly or indirectly, broken down by:
 - a. Country
 - b. Recipient/beneficiary
- Total value of taxes paid in every jurisdiction where the issuer does business.

Adherence to International Human Rights Norms and Conventions

In closing, we would like to underscore the need for climate risk disclosures to take into account questions of equity and to recognize the differential impacts and risks that climate change brings to bear on vulnerable populations. We recommend that corporate disclosures include reporting on issuers’ adherence to international human rights norms. For further detail, we refer the Commission to the separate letter on this subject submitted by Friends of the Earth, Amazon Watch, Rainforest Action Network, ACRE, et al.

Citations

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ⁱⁱⁱ Climate Transition Risk Survey: Capital Providers for Tropical Soft Commodities,” Orbitas, December 7, 2020, <https://orbitas.finance/2020/12/07/climate-transition-risk-survey-capital-providers-for-tropical-soft-commodities/>

^{iv} https://www.stern.nyu.edu/sites/default/files/assets/documents/NYU-RAM_ESG-Paper_2021%20Rev_0.pdf

^v Special report on climate change and land use,” Intergovernmental Panel on Climate Change, 2019, <https://www.ipcc.ch/srccl/>

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^{viii} “70 percent of companies fail to disclose impact on world’s forests,” CDP, July 2019, <https://www.cdp.net/en/articles/media/70-of-companies-fail-to-disclose-impact-on-worlds-forests>

^{ix} Chain Reaction Research applies TCFD-aligned framework to assess deforestation risks,” Chain Reaction Research, January 8, 2021, <https://chainreactionresearch.com/report/chain-reaction-research-applies-tcf-aligned-framework-to-assess-deforestation-risks/>

^x Agriculture in the age of climate transitions: Stranded assets. Less land. New costs. New opportunities.” Orbitas, December 3, 2020, <https://orbitas.finance/2020/12/03/ag-climate-transitions-risk-opportunities/>

^{xi} Global Witness records the highest number of land and environmental activists murdered in one year – with the link to accelerating climate change of increasing concern,” Global Witness, July 2020, <https://www.globalwitness.org/en/press->

releases/global-witness-records-the-highest-number-of-land-and-environmental-activists-murdered-in-one-year-with-the-link-to-accelerating-climate-change-of-increasing-concern/

^{xii} IPCC 204. https://www.ipcc.ch/site/assets/uploads/2018/02/ar5_wgII_spm_en.pdf

^{xiii} https://ghgprotocol.org/sites/default/files/standards_supporting/FAQ.pdf

^{xiv} Almost a quarter of global carbon emissions are generated from agriculture, deforestation and other forms of land use, with the global loss of tropical forests contributing 10% of annual emissions. Agricultural commodities and timber are the leading drivers of forest loss and degradation; more than half of all global forest loss associated with agriculture between 2001 to 2015 was due to the production and consumption of just seven commodities - cattle products, palm oil, soy, timber products, natural rubber, cocoa and coffee. Over 72 million hectares of forests were lost to make way for their production. WRI. (2020). Global Forests Review. <https://research.wri.org/gfr/forest-extent-indicators/deforestation-agriculture>

^{xv} Compliance with the proposed Deforestation-free Procurement legislation in California and New York states will require traceability of forest-risk supply chains “to the smallest administrative unit” (the ranch or plantation)

^{xvi} The CDP Forests reporting framework is based on the TCFD key pillars.

^{xvii} The Accountability Framework initiative (AFi) is a collaborative effort to build and scale up ethical supply chains for agricultural and forestry products. <https://accountability-framework.org/>

^{xviii} <http://highcarbonstock.org/>

^{xix} <https://hcvnetwork.org/>

^{xx} CDP Forests uses 15 KPIs in 6 categories of industry-accepted measures to reduce deforestation. The first four categories map directly onto TCFD pillars:

- Governance – *board-level oversight* of forest-related issues, publicly available company-wide *policy* of no deforestation, and robust public *commitments* to no-deforestation that cover 100% supply and are set to be completed by 2030.
- Strategy – forest issues fully integrated into all parts of long-term strategic business plans
- Risk management – comprehensive forest-related risk assessments
- Measuring and targets – targets, certification, traceability, compliance (control monitor and verify compliance with policies and commitments) and legal compliance.

^{xxi} The [NYDF](#) is a voluntary initiative that brings together governments, companies, civil society and other stakeholders to work collaboratively towards ending deforestation by 2030. [NYDF Progress Assessment Partners](#) is an independent monitoring effort undertaken by a group of NGOs and research institutions that annually assess progress toward the NYDF.