

Comments of the
Semiconductor Industry Association
on the
Proposal of the Securities and Exchange Commission:
*The Enhancement and Standardization of
Climate-Related Disclosures for Investors*

87 Fed. Reg. 21,334 (April 11, 2022)
File No. S7-10-22

Submitted via email to rule-comments@sec.gov on June 17, 2022

The Semiconductor Industry Association (SIA)¹ appreciates the opportunity to comment on the proposal by the Securities and Exchange Commission (SEC) on the Enhancement and Standardization of Climate-Related Disclosures for Investors, 87 Fed. Reg. 21,334 (April 11, 2022) (Proposed Rule or Proposal). Member companies of SIA have a long record of engaging in efforts to reduce emissions of gases that contribute to climate change, both in their own operations and by designing and fabricating products with improved energy efficiency to drive down emissions throughout the economy. SIA supports measures to improve the understanding of investors and the general public on our industry's contribution to climate change and the positive role we play in providing solutions to this global challenge. At the same time, we believe the Proposal can be improved to advance the SEC's goals of increased transparency and standardization while appropriately limiting burden and expense for companies or disincentivizing proactive measures to address climate change.

Background on the Semiconductor Industry and Its Role in Addressing Climate Change

Semiconductors are a fundamental enabling technology driving innovations throughout our entire economy, ranging from information and communications technology to transportation and manufacturing to clean energy. Given the strategic importance of U.S. leadership in this critical technology, both the House and Senate have passed bills to provide \$52 billion in incentives to increase domestic semiconductor manufacturing capacity and invest in semiconductor research in order to enhance supply chain resilience, promote economic growth, and strengthen national security.

The semiconductor industry is a direct and indirect producer of emissions that contribute to climate change, both directly and through the global supply chain, and technologies enabled by semiconductors present a substantial opportunity to drive emissions reductions throughout the economy. At a high-level, the industry's role in climate change can be summarized as follows:

¹ The Semiconductor Industry Association (SIA) is the voice of the semiconductor industry, one of America's top export industries and a key driver of America's economic strength, national security, and global competitiveness. Semiconductors – the tiny chips that enable modern technologies – power incredible products and services that have transformed our lives and our economy. The semiconductor industry directly employs over a quarter of a million workers in the United States, and U.S. semiconductor company sales totaled \$258 billion in 2021. SIA represents 99% of the U.S. semiconductor industry by revenue and nearly two-thirds of non-U.S. chip firms. Through this coalition, SIA seeks to strengthen leadership of semiconductor manufacturing, design, and research by working with Congress, the Administration, and key industry stakeholders around the world to encourage policies that fuel innovation, propel business, and drive international competition. Learn more at www.semiconductors.org.

- Scope 1 emissions – In terms of direct emissions, the U.S. semiconductor industry is a very small contributor to emissions. According to data of the U.S. Environmental Protection Agency (EPA), semiconductor manufacturing accounts for 0.2 percent of all industrial emissions in the U.S.,² and 0.1 percent of total U.S. emissions (industrial and non-industrial). These emissions are primarily from process gases known as perfluorocompounds (PFCs) and other fluorinated greenhouse gases used during the fabrication process. The complex process of fabricating semiconductors at the nanoscale requires the use of gases with very specific chemical and physical properties, but many of these gases have long atmospheric lifetimes and are potent greenhouse gases. Unfortunately, there are no known substitutes for these gases, and advancements in transistor density and process complexity necessitate the increased use of many of these gases. For over two decades the global semiconductor industry has successfully worked to reduce emissions of these gases,³ and as a result achieving additional reductions is becoming increasingly difficult.
- Scope 2 emissions – Semiconductor companies are engaged in research, design of chips, fabrication of semiconductor devices, and the distribution of finished products globally. The fabrication process can be energy intensive and consume electricity generated on-site or off-site, and many companies operate large campuses where they conduct chip research and design and other corporate functions.
- Scope 3 emissions – The semiconductor industry relies on a complex global supply chain consisting of raw material suppliers, providers of complex capital equipment used in the production process, and others, and finished chips are incorporated into a broad range of products that are produced and subsequently used around the world. SIA's comments to the Department of Commerce provide a more detailed discussion of the semiconductor supply chain.⁴

At the same time, technologies enabled by semiconductors have the potential to make significant contributions towards solutions to global climate change. The deployment of information and communications technology (ICT) throughout the economy can achieve dramatic improvements in energy efficiency in virtually all sectors of the economy and in the

² Data of the U.S Environmental Protection Agency (EPA) from 2020 indicates the U.S. semiconductor industry accounts for 5.9 million metric tons of CO₂-equivalents (CO₂-e) (see <https://www.epa.gov/ghgreporting/ghgrp-electronics-manufacturing>) out of a total of 2.6 billion metric tons of CO₂-e emitted from industrial sources. See <https://www.epa.gov/ghgreporting/ghgrp-reported-data>.

³ The global semiconductor industry, under the auspices of the World Semiconductor Council (WSC), has voluntarily worked to reduce emissions of PFCs for over two decades. In the late 1990s the industry set a goal of reducing emissions by 10 percent by 2010, and in 2011 the WSC announced it far surpassed this PFC reduction goal, achieving a 32 percent reduction in PFC emissions despite rapid industry growth and increasing product complexity. Joint Statement of the 15th Meeting of the World Semiconductor Council, available at http://www.semiconductorcouncil.org/wp-content/uploads/2016/07/WSC_2011_Joint_Statement.pdf. The WSC set a new 10-year voluntary goal calling for the implementation of best practices in new fabs. World Semiconductor Council "Best Practice Guidance for Semiconductor PFC Emission Reduction" (May 18, 2017) available at <http://www.semiconductorcouncil.org/wp-content/uploads/2017/07/Best-Practice-Guidance-of-PFC-Emission-Reduction.pdf>. The industry has implemented these best practices and successfully reduced its normalized emissions, although progress in achieving further emissions reductions has slowed due to a number of technical challenges.

⁴ Comments of the Semiconductor Industry Association (SIA) On the Department of Commerce "Notice of Request for Public Comments on Risks in the Semiconductor Supply Chain" available at <https://www.semiconductors.org/wp-content/uploads/2021/11/SIA-Response-to-Commerce-RFI-on-Semiconductor-Supply-Chain-Risks.pdf>.

production of clean energy. According to the World Economic Forum, semiconductor-enabled technologies such as digital technologies can reduce greenhouse gas emissions by 15 percent - almost one-third of the 50 percent reduction required by 2030.⁵ The role of semiconductors in contributing to climate solutions represents a major market opportunity for the industry. With this context in mind, please find below SIA’s specific concerns and suggestions for improving the Proposed Rule.

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I. **GHG Emissions Disclosures**

A. **SEC Should Make Disclosure of Scope 1 Emissions Consistent with Existing EPA Emissions Reporting Requirements**

The semiconductor industry has publicly reported on direct emissions of greenhouse gases since 2011 pursuant to a regulation of the U.S. Environmental Protection Agency (EPA).⁶ Under this regulation, semiconductor fabs must report emissions of fluorinated gases from the industry’s production processes, and the data from this reporting is publicly available by facility, gas, and quantity.⁷ These regulations are based on a rigorous and technical measurement and estimation methodology, and EPA has recently proposed revisions to the regulation to improve the quality of the data collected under the program by addressing changes in industry practices; adopting improved calculation and monitoring methods, and collecting new data to understand new source categories or new emissions sources for specific sectors.⁸

It is essential that any SEC disclosure requirements for Scope 1 emissions align with the existing regulatory requirements imposed by EPA. Ensuring consistency will help ensure data consistency and thereby enhance the public’s understanding of the semiconductor industry’s contribution to climate emissions. Furthermore, aligned reporting and disclosure requirements will be more efficient and enable companies to maintain a single process of measuring and reporting on Scope 1 emissions. For example, with respect to reporting timeframes, it would be challenging for many companies to be required to submit Scope 1 emissions on a fiscal-year basis rather than the calendar-year basis included in EPA’s regulations.

Unfortunately, the Proposed Rule deviates from the EPA regulation in several additional important respects.

⁵ World Economic Forum, “Digital technology can cut global emissions by 15%. Here’s how,” 2019 <https://www.weforum.org/agenda/2019/01/why-digitalization-is-the-key-to-exponential-climate-action/>.

⁶ 40 C.F.R. Part 98, Subpart I. Semiconductor fabrication falls under the category of “Electronics Manufacturing.”

⁷ See <https://ghgdata.epa.gov/ghgp/main.do>.

⁸ See Proposed Rule, *Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule* (Apr. 29, 2022), pre-publication version available at <https://www.epa.gov/system/files/documents/2022-04/revisions-and-confidentiality-determinations-for-data-elements-under-the-greenhouse-gas-reporting-rule.pdf>.

1. Threshold Levels for Reporting

First, the SEC proposed rule requires reporting Scope 1 emissions irrespective of quantity of emissions and whether such emissions are material; in contrast, the EPA rule establishes a minimum threshold of 25,000 metric tons of carbon equivalents (MTCO_{2e}). SIA requests that the SEC establish a minimum threshold consistent with the current EPA regulation, which generally corresponds to emissions of a large-scale commercial semiconductor fab. Similarly, SIA requests that the SEC establish a de minimis exemption (similar to exemptions set forth in Item 402(u)(4)(ii) and Item 402(c)(2)(ix) under Regulation S-K) that would allow companies to exclude from their disclosure the emissions from facilities that, in the aggregate, generate less than 10% (or some other specified threshold percentage) of the company's total emissions, provided that the company disclose the number of facilities excluded, and the reasonable assumptions upon which the determination was made, pursuant to the de minimis exemption.

2. Third-Party Verification

In addition, the SEC proposal would mandate third-party verification of emissions. Under the EPA regulation, in contrast, EPA specifically elected not to require third-party verification of emissions reporting noting the substantial expense of hiring third party verifiers, timing delays associated with verifier review, and the need for standardization across such verifiers' approaches to confirming the emissions data reported.⁹ In addition to the issues identified by EPA, SIA is also concerned that the third-party verifiers may lack the industry- and site-specific knowledge necessary to validate these highly technical emissions calculations,¹⁰ which would introduce additional costs and potential timing delays in order to train the verifiers on evaluating the calculations. Instead, the report submitted to EPA must include "a signed and dated certification statement provided by the designated representative of the owner or operator, according to the requirements of [40 C.F.R.] § 98.4(e)(1)."¹¹ The submission must include the following certification statement signed by the designated representative or any alternate designated representative:

I am authorized to make this submission on behalf of the owners and operators of the facility or supplier, as applicable, for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting

⁹ See, e.g. <https://www.epa.gov/sites/default/files/2015-07/documents/step4-alternative-verification-methods-evaluation.pdf>.

¹⁰ SIA further notes that the evaluation of complex emissions calculations (which are generally prepared by engineers with the relevant technical background) is better suited to the expertise of an agency like EPA, which is staffed with engineers and technical experts who evaluate these types of calculations. Emissions calculations are not simple math. Instead, it requires an understanding of chemistries, chemical concentrations, air flow rates, emissions factors, mass balances, destruction and removal efficiencies, physical and operational constraints, etc.

¹¹ 40 C.F.R. § 98.3(c)(9).

required statements and information, including the possibility of fine or imprisonment.¹²

The proposed requirement of third-party verification of emissions disclosure is inconsistent with the requirements of the existing EPA regulation and needlessly adds cost and complexity to the disclosure. The EPA regulation has been in operation for a decade and has been working well in providing relevant, accurate information to the public on the disclosure of emissions from industrial facilities, including semiconductor fabs. In addition, it may be difficult or impossible for companies to comply with this requirement as it is unclear whether there are a sufficient number of qualified third-party verification entities to provide this service. Finally, an added requirement of third-party verification adds cost and complexity to an already challenging new requirement, while at the same time adding little additional value to investors. SIA believes this need not be a mandatory aspect of the proposal as many companies believe certified self-reporting provides adequate assurance of accuracy. SIA requests that the SEC modify the proposal and allow companies to self-certify emissions, consistent with existing EPA regulations.

3. Reporting by Per Unit of Production

In addition to requiring the disclosure of GHG emissions by constituent gas in terms of MTCO₂e, the Proposed Rule would require reporting of GHG intensity per unit of production.¹³ SIA requests this part of the proposal be eliminated from the final rule, at least as it pertains to the semiconductor industry.

Production information, such as output per square centimeter of wafers out (cm²), is viewed as sensitive and highly confidential business information in the semiconductor industry and companies carefully protect this information from disclosure. Information about a company's capacity, yield and output would provide competitors, including global competitors, with valuable information. For this reason, under the EPA reporting rule, while companies provide information on output to EPA,¹⁴ this information is not disclosed to the public as part of EPA's release of information on emissions. We further note that non-U.S. companies are not subject to similar reporting and disclosure requirements, and therefore disclosure of this sensitive information would place U.S. manufacturers at a competitive disadvantage to their global competitors.

A new SEC requirement to disclose this output information would be detrimental to the competitive position of U.S. semiconductor companies. In addition, in the absence of a standard measurement of production in the semiconductor industry, there is little value to investors in requiring such a metric. Accordingly, SIA requests that the SEC modify the proposal and eliminate any requirement to disclose production data. To the extent the SEC concludes some type of metric is required, as an alternative we suggest the reporting of emissions per unit of total revenues. Some companies use this approach in their citizenship or environmental reports.

¹² 40 C.F.R. § 98.4(e)(1).

¹³ 87 Fed. Reg. at 21,382.

¹⁴ 40 C.F.R. 98.96(a), (e).

B. Liability for Emissions Disclosures

SIA recommends that the final rule extend the Safe Harbor for Scope 3 emissions disclosures to Scopes 1 and 2 as well. This is particularly appropriate for Scope 2 emissions as reliance on third-party's data/estimates is necessary and the science of GHG accounting is rapidly-evolving. In addition, the SEC should seek to minimize new liability imposed associated with GHG disclosure requirements by allowing such disclosures to be “furnished” instead of “filed.”¹⁵

SIA further recommends that emissions disclosure for businesses, operations, and assets acquired during a reporting year not be required until the reporting year that begins no sooner than eight months after the effective date of the acquisition, similar to the disclosure requirement found in Instruction 3 to Item 1.01 of Form SD.

C. Scope 3 Emissions Disclosure Requirements Should Be Revised

The requirement for companies to disclose Scope 3 emissions is challenging for a number of reasons and should not be finalized as proposed. This disclosure requirement would be particularly challenging for component suppliers such as semiconductor manufacturers due to where these companies sit in the value chain, the vast number of customers they have, and the number of products in which semiconductors are used. Semiconductor manufacturers also have a “long tail” of suppliers, meaning that they purchase small quantities of materials from many different suppliers.

As an initial matter, accounting methodologies, disclosures standards, and definitions of what constitutes a Scope 3 emission are still rapidly evolving and there is variability across and within industries as to what is typically captured. For example, within the semiconductor industry, there is substantial variability in what product lifespan is used that may result in large differences in total emissions reported. In light of these circumstances, it is not possible for Scope 3 emissions disclosures to be standardized in a manner that satisfies the SEC's aims in promulgating this rule. To the contrary, Scope 3 emissions disclosures may infuse greater confusion and lack of standardization because different companies may report based on different inputs and definitions. For example, as the Proposed Rule acknowledges, given the many categories of Scope 3 emissions up and down a company's value chain, there would be no standardized approach to what categories of Scope 3 emissions may be material for particular industries, much less individual companies with different industries.¹⁶

Similarly, the quality and reliability of emissions data that comprises Scope 3 emissions is generally low because, by definition, it is not within the direct control of the reporting entity. Oftentimes, companies may not have access to primary data necessary to produce credible emissions estimates and must instead rely upon surrogate emissions indicators such as supplier spend and general industry emissions factors that may be dated and/or non-representative for a particular company. Given the wide error bands and relatively low quality of data for this category of emissions and the substantial burden and expense of requiring companies to disclose it, the SEC should delay this requirement from the proposal until there is more accurate, reliable, and less burdensome methodology for calculating Scope 3 emissions

¹⁵ 87 Fed. Reg. at 21,449.

¹⁶ See, e.g., 87 Fed. Reg. at 21,379.

that also would drive consistency and comparability in reporting approaches within particular industries. Challenges with data reliability may be particularly acute for SIA members that do not directly manufacture silicon wafers (i.e., “fabless” companies) who must rely entirely for substantial upstream and downstream emissions data on third parties over whom the companies exert minimal control.

Moreover, for some companies within the semiconductor industry as well as companies in many other industries, disclosure of Scope 3 emissions would not accomplish the SEC’s goals of elucidating climate-related risks and a company’s ability to transition to a lower-carbon economy.¹⁷ For example, electronic hardware manufacturers have extensive and deep supply chains that face a wide variety of risks from labor shortages to pandemics to severe weather events that may be exacerbated by climate change. However, Scope 3 emissions associated with such companies’ supply chains have little bearing on these risks and the manufacturers have limited ability to influence the magnitude of these emissions.

In addition, tying requirements to disclose Scope 3 emissions to inclusion of these emissions in a company’s GHG reduction goals disincentivizes companies from including these emissions in such goals and places new burdens on companies that previously articulated such goals. The potential unintended consequences of this aspect of the Proposed Rule warrant removal of this requirement. Similarly, the SEC must reassess other requirements -- such as mandatory detailed disclosure of net zero/GHG reduction goals, internal carbon prices, and climate-risk scenario analyses -- that impose burdens on companies that may have been more proactive on climate planning and would disincentivize others from setting goals or conducting climate risk analyses, including such goals or analyses that are intended for internal use only.

Finally, at a minimum, to the extent the SEC finalizes as proposed the Scope 3 emissions disclosure requirements it also should finalize (a) the proposed Safe Harbor; (b) that assurances are not required for this category of emissions; and (c) the disclosure exemption for small reporting companies.¹⁸ These features of the Proposed Rule must be finalized as measures to mitigate potential liabilities companies face associated with the Scope 3 disclosure requirement and constrain regulatory burdens that provide limited or no benefits to investors’ understanding of a company’s climate-risk profile.

II. The SEC Inadequately Considers Burdens and Costs Associated with Aspects of the Proposed Rule, and Such Burdens are Unjustified When Weighed Against Benefits

A. Climate Related Financial Statement Metrics

SIA urges the SEC to remove from the rule the requirement to include disaggregated climate-related financial statement metrics and related disclosures in a note to the company’s audited financial statements. This aspect of the Proposed Rule is complex and unclear, and how companies would implement these requirements is murky, at best. The implications for systems and internal controls associated with this aspect of the Proposed Rule are an order of magnitude higher than for the rest of the requirements. As a threshold matter, the Proposed Rule does not justify these requirements as necessary and the utility of the information for

¹⁷ See, e.g., *id.* at 21,378.

¹⁸ See *id.* at 21, 391, 21,396.

investors is highly questionable. The Proposed Rule states the climate-related financial statement metrics would “provide additional transparency into the impact of climate-related events,” but companies *already* must address any material impacts and in light of the comprehensive disclosures required elsewhere in the Proposed Rule SEC must justify these additional requirements as substantially additive to investor knowledge.¹⁹ Similarly, the climate-related disclosure requirements in the S-K regulations provide “insights into the nature of a registrant’s business, the implementation of the registrant’s targets and goals, and material trends.”²⁰

Further, it is unclear how companies are supposed to parse what specific expenditures or financial impacts are “climate-related.” Take, for example, a recent year when a COVID-19 pandemic spike coincided with a major weather event, both of which disrupted operations. It is unclear how a company would specify on a line-item basis financial impacts of the latter disassociated from the former. Moreover, the Proposed Rule could result in significant overlap of disclosures required for expenditure metrics with those required for financial impact metrics. For example, if an information technology company designs a new product or service that is more energy efficient (expenditure), and at the same time regularly provides products with increased performance and greater security, how much of the associated development expense would be tagged as climate-related? If a company experiences either an increase or decrease in sales of a product or service, how would they determine if that was related to climate change, some other attribute of the product or service, or just changing demand for that service? In addition, the substantial burden of tracking the financial implications of any natural disaster that could be considered “climate-related” and reporting that information on audited financials far outweighs any potential knowledge gained by investors, particularly given the comprehensive disclosures in the rule. Similarly, it is highly uncertain how a company should incorporate a wide range of “transition” risks into this exercise. Furthermore, it is unclear (a) how a company would construct “baseline” financial statements against which to compare actual financial statements, (b) at what point certain “climate-related” impacts would become incorporated into the “baseline” financial statements for comparison in future periods, and (c) how such theoretical financial statements would be audited.

Finally, the one percent threshold for inclusion of climate-related financial impacts and expenditures is very low, and delinked from a concept of materiality. It is also arbitrary as one percent for one line item could be \$1 billion while one percent for another line item would be \$25 million. If SEC proceeds with finalizing this aspect of the proposal in some form, it should (1) delay implementation of this aspect of the rule by at least a year; (2) narrow the scope to direct costs incurred by the company; (3) raise the reporting threshold significantly, (4) limit to a smaller subset the applicable line items for which disclosure would be required, and (5) permit these disclosures to be unaudited. With respect to the auditing requirement, climate is a horizontal issue and requires gathering disparate data that resides across multiple functions of an organization and with third parties. Data processes and controls over climate-related information are not as mature as financial reporting processes and controls. To mature these processes and controls to a level of audit readiness will take significant time. Further, applying this threshold is a departure from other recently issued accounting and reporting requirements that have trended toward allowing management to apply judgment when preparing financial statement disclosures, focusing on material information within the footnotes.

¹⁹ *Id.* at 21,368.

²⁰ *Id.*

B. Granularity of Climate-Related Risk Disclosures Requirements

As a general matter, SIA supports requirements for companies to disclose information on financially material climate-related risks associated with their businesses. However, climate-related risks need not be treated fundamentally differently than other types of risks that companies face; the Proposed Rule's overly prescriptive requirements would require companies to report detailed information not only on their climate related risks, but on how those risks are identified, quantified, and managed within the company. The Proposed Rule fails to adequately consider the burdens and sensitivities associated with such risk identification, quantification, and management, and has failed to explain why, in this context, as opposed to the many other risks companies face, such disclosures are warranted. For example, the laundry list of detailed disclosure requirements on identifying/assessing climate risks²¹ potentially invites dozens of pages of discussion as do the governance disclosures regarding board of director oversight.²²

The level of detail the Proposed Rule requires is burdensome to prepare and of limited ultimate utility to an investor. Take, for example, this governance disclosure requirement, which is one of many similar requirements: "Whether certain management positions or committees are responsible for assessing and managing climate-related risks and, if so, the identity of such positions or committees and *the relevant expertise of the position holders or members in such detail as necessary to fully describe the nature of the expertise.*"²³ The Proposed Rule does not explain or justify the time and resource burden such a disclosure requirement imposes on companies against the limited insight it provides.

In addition, requiring disclosure of physical and transitional climate-related risks for a company's entire "value chain" as defined in the Proposed Rule would be complex and burdensome as it would require consideration of (potentially attenuated) third parties' activities, including materials sourcing/processing and the transportation, processing, use, and end life of sold products.²⁴ Instead, the final rule should limit the scope to a company's direct operations.

Similarly, requiring disclosure of scenario analyses would be counter-productive by discouraging goal-setting and could result in over-disclosure of sensitive information.

In sum, SIA's view is that these granular requirements are inconsistent with requirements for treatment of other types or risks in financial filings, and not necessary or appropriate in this context.

C. Disclosure of Carbon Offsets or RECs and Internal Carbon Pricing

The Proposed Rule calls for mandatory disclosures by companies that use carbon offsets or renewable energy credits (RECs) as part of their climate strategy or that maintain an internal carbon price to assess potential future costs associated with carbon-related assets. Some

²¹ See *id.* at 21,361.

²² See *id.* at 21,467.

²³ *Id.* (emphasis added).

²⁴ *Id.* at 21,349 (defining "value chain" broadly as all upstream and downstream activities related to a company's operations).

companies currently make these disclosures on a voluntary basis, but others may be reluctant to do so, with good reason. Mandatory disclosure of expected use of carbon offsets or RECs could inflate an already growing demand for both, which would affect pricing. Further, mandatory disclosure of internal carbon pricing could provoke second-guessing of a company's own internal carbon pricing calculation. By making these disclosures mandatory if a company uses these techniques, the SEC could inadvertently chill innovation by companies that would otherwise have a full arsenal of techniques to address their climate impact. The SEC should substitute these mandates with a more broadly-worded requirement to explain the strategy fully, acknowledging that specific details may appropriately be withheld for a variety of reasons.

III. Timing Considerations: Need for Adequate Lead-time for Implementation and 10-K Filing Challenges

Given the sweeping scope of the proposed new requirements, including both the new disclosures and inclusion of climate-related financial metrics in audited financials, rule implementation and compliance deadlines should be delayed beyond those in the hypothetical schedule in the Proposal unless substantially fewer disclosure burdens are included in the final rule.²⁵ Establishing the teams and implementing the internal processes and controls necessary to comply with the sweeping new requirements in the Proposed Rule warrant additional lead-time. Further, many companies will need to implement governance enhancements, develop their climate-related infrastructure and expertise, and work with their auditors to ensure that the accounting standards are being properly applied to climate-related impacts. Failure to provide adequate lead-time will lead to compliance challenges and potentially undermine the accuracy and reliability of the extensive new data and information included in SEC filings.

In addition, to the extent attestation requirements apply to Scope 1 and 2 emissions disclosures, the final rule should further delay implementation of the attestation obligation by one or more years in order to ensure there are qualified auditors to verify reporting numbers. In the alternative, the final rule could omit the attestation requirement without jeopardizing the SEC's main goals to require consistent, comparable, and reliable information.

Relatedly, the Proposed Rule does not allow sufficient time to prepare accurate emissions estimates that can be verified through third party attestation. In order to calculate their Scope 1 and Scope 2 GHG emissions, companies must collect extensive information from various entities such as utility companies, energy retailers, and even landlords regarding their actual energy consumption. They must also collect renewable energy certificates and relevant emissions factors that are necessary for estimating the GHG emissions associated with that energy consumption. This data collection can require several months after the close of a fiscal year, after which data must be validated, emissions calculated, and third-party attestation must be completed. It is not feasible for companies to complete these activities in time for inclusion in their 10-K fiscal reporting.

Further, although the Proposed Rule would allow companies to estimate the final three months of their previous fiscal year's emissions without actual supporting data, this approach could create substantial additional work for filing companies to generate estimates and then reconcile those estimates at a later time when actual data was available to calculate the emissions. Instead, it would be preferable for companies to submit the required GHG emissions information in a separate filing to be completed up to six months following close of the calendar year, as EPA GHG reporting is based on calendar year. This very modest delay in investors' access to

²⁵ *Id.* at 21,392.

the Scope 1 and 2 emissions data is warranted given the challenges associated with a more expedited disclosure timeline.

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SIA appreciates the SEC's consideration of these comments as it works to finalize the rule.