Statement for the Record

On Behalf of the

American Bankers Association

Before the

Subcommittee on Oversight and Investigations

Of the

House Financial Services Committee

January 18, 2024

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Building Success. Together.

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The American Bankers Association (ABA)[1] appreciates the opportunity to provide a Statement for the Record for this hearing, Oversight of the SEC's Proposed Climate Disclosure Rule: A Future of Legal Hurdles.

On March 21, 2022 the Securities and Exchange Commission issued a proposed rule The Enhancement and Standardization of Climate-Related Disclosures for Investors[2]. On June 17, 2022 the ABA filed a detailed comment letter[3] responding to the proposal. In our comments, ABA noted that the proposal goes far beyond the SEC's mandate to protect investors, among other serious concerns, and noted that the significance of the recommendations would likely require the withdrawal and re-proposal of the rule.

Among the major concerns cited in our letter was that the proposal did not apply the "reasonable investor" standard of materiality to climate-related disclosure requirements; that the proposed disclosures must be scalable to the size and complexity of the registrant as well as to the materiality of climate-related risks to its business; that Scope 3 financed emissions disclosures should be limited to publicly-announced emission targets; and that more extensive safe harbors and longer transition periods are needed to recognize the nascent state of climate-related financial risk management. These concerns are detailed extensively in our comment letter and its appendices cited above.

Today we expand upon the concerns we raised in the letter regarding Scope 3 financed emissions, and in particular the potential for such required disclosures to dramatically impact certain non-registrants who nevertheless may face reporting burdens and costs due to their relationships with impacted registrants.

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[1] 1 The American Bankers Association is the voice of the nation's $23.4 trillion banking industry, which is composed of small, regional, and large banks that together employ approximately 2.1 million people, safeguard $18.6 trillion in deposits, and extend $12.3 trillion in loans. Learn more at www.aba.com.

[2] https://www.sec.gov/news/press-release/2022-46

[3] https://www.aba.com/advocacy/policy-analysis/letter-to-sec-on-climate-related-disclosures-proposal

These concerns are also reflected, in part, by members of the Federal Reserve Board's Community Depository Institution Advisory Council (CDIAC) which noted the following in the record of that group's most recent meeting on November 16, 2023:

The third point raised by Council members was in the context of the pending finalization of the SEC's climate disclosure rules. Council members expressed concern that, once finalized, the FHLBs may have disclosure obligations related to the collateral they hold. Should that be the case, the burden could fall on CDIs and other banks, consequently raising the effective cost of FHLB advances or disincentivizing borrowing from FHLBs.[4]

Because the Federal Home Loan Banks (FHLBs) are SEC registrants, it is likely that any Scope 3 disclosure requirements will require them to obtain from their members detailed information on loans pledged as collateral or sold to the FHLBs, increasing costs to these members – many of whom would not otherwise be covered by the rule's requirements. This potential to dramatically increase cost and reporting burdens on many small banks who are not SEC registrants – and on the customers they serve, is a troubling and presumably unintended consequence of the financed emissions requirement.

Similar impacts would also apply to:

- Banks that are seller/servicers to Fannie Mae and Freddie Mac.
- Community banks whose depositors include SEC registrants.
- The many municipalities and revenue projects across the country whose bonds are held by banks and investment funds.

Further, as we detail in our comment letter, the additional costs of compliance will provide little benefit to investors, as the level of financed emissions has no relevance to transition-related financial risk of the bank. In fact, the measurement of financed emissions will merely be correlated to the size of the institution and the size of its commercial borrowers. Those large borrowers with high emissions are generally the most capable of transitioning to a low-carbon economy. Only when specific emissions targets have been committed to will financed emission disclosures have decision-usefulness. In these limited situations, investors and other stakeholders may form expectations as to how certain parts of an institution's lending portfolio may change in the future.

Again, we appreciate this opportunity to submit this statement for the record. We encourage the subcommittee to examine in close detail whether the SEC's proposal – and final rule when it is released – is consistent with that agency's mandate of investor protection and adheres to the "reasonable investor" standard of materiality that has been traditionally applied.

[4] https://www.federalreserve.gov/aboutthefed/files/CDIAC-meeting-20231116.pdf