Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549–1090

August 3, 2026

Re: Rescission of Climate-Related Disclosure Rules (File No. S7-2026-19)

Dear Secretary Countryman:

The undersigned 15 investors, labor unions, and public interest organizations write to urge the Securities and Exchange Commission (SEC) to refrain from finalizing the rescission of the climate-related disclosure rules, and to object to its legal and policy arguments justifying the rescission. In its release, the SEC attempts to hamstring its own ability to further its mission to protect investors, maintain fair and efficient markets, and facilitate capital formation by putting forth a vision of its statutory authority that is unsupported by statute, caselaw, and past SEC practice, and a preferred policy approach that ignores an overwhelming amount of investor voices. If adopted, this flawed perspective would have far-ranging, negative implications.

The SEC's Statutory Authority Arguments Are Unfounded

Section 7(a)(1) of the Securities Act and sections 12 and 13 of the Securities Exchange Act grant the SEC authority to require "such other information" as it determines is "necessary or appropriate in the public interest or for the protection of investors" in addition to statutorily specified disclosures.[1] The SEC's arguments that this authority is limited to disclosures "channeled by" and "comparable to" the kinds of disclosures in Schedule A of the Securities Act and the equivalent provisions of the Securities Exchange Act such that they must be "central to an understanding of the company's business or financial characteristics" — and that climate-related disclosures do not meet this standard — are thoroughly debunked by the "Shadow SEC," composed of legal academics including former SEC General Counsel and Acting Director of the Division of Corporation Finance John Coates.[2]

The current SEC's assertion that its authority is so narrow is contravened by the Commission's longstanding practice. Throughout its history, the SEC has exercised its authority to require "such other information" as it determines is "necessary or appropriate in the public interest or for the

[1] 15 U.S.C. § 77g(a)(1); 15 U.S.C. §§ 78l–78m.
[2] Coates, John et al. "Shadow SEC Statement No. 10: The SEC's Proposed Climate "Do-Over"—Prejudged, Internally Inconsistent, and Partisan." The CLS Blue Sky Blog. July 1, 2026.

protection of investors"[3] without engaging in the cramped exercise of comparing the newer disclosures it mandated to Schedule A and its Exchange Act equivalents.

The SEC's newly-advanced and unsupported legal position is further undermined by the reversal of the SEC staff's position expressed as recently as two years ago. In a public meeting in 2024, the SEC staff recommended the SEC adopt the very disclosures it is now attempting to rescind. The SEC staff's recommendation was the result of thorough consideration of the legal issues after reviewing a historically large comment file that included discussion of the SEC's legal authority to promulgate the rules. Now, many of the same staff, without any intervening adverse judicial decisions addressing the SEC's authority, have decided the agency lacks the authority. The aboutface of the staff's perspective a mere two years later is notable and brings into doubt the legal consistency and rule of law that underpin our capital markets and raises significant doubt as to the integrity of this process.

The SEC could have chosen to propose to rescind the climate-related disclosure rules purely on policy grounds. Therefore, its discussion of its legal authority is superfluous, and given the recent Supreme Court decision in *Loper Bright*,[4] deserving of little to no deference from courts. The SEC seems to be striving to limit its authority by creating an illusion of a legal controversy where there is none. Indeed, the SEC has recently proposed several rules under dubious legal authority, and yet does not provide a comparable discussion of its interpretation of its authority to do so.

The SEC Is Attempting To Make Materiality an Issuer-Determined Concept Instead of an Investor-Determined Standard, Turning the Supreme Court's Definition of "Materiality" on Its Head

There is no statutory language, legislative history, or caselaw suggesting the SEC's disclosure authority is limited by materiality.[5] The SEC does not deny this, as it places its argument about materiality under its policy reasons for rescinding the rules instead of under its section on statutory authority.

Even if we were to accept materiality as a requirement for the SEC to require a disclosure item, the SEC's articulated conception of materiality runs afoul of the Supreme Court holding that information is material if there is a "substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information."[6] Even though the SEC attempts to characterize interest in climate disclosures as limited to niche investors, that characterization is unsupported by the SEC's rulemaking record. An analysis of 320 comment letters submitted to the climate-related disclosure rules comment file by asset owners and asset managers that collectively own or manage over $50 trillion in assets showed

[3] 15 U.S.C. § 77g(a)(1); 15 U.S.C. §§ 78l–78m.
[4] *Loper Bright Enterprises v. Raimondo*, 603 U.S. 871 (2024).
[5] Thornton, Alexandra and Tyler Gellasch. "[The SEC Has Broad Authority To Require Climate and Other ESG Disclosures]()." Center for American Progress. June 10, 2021.
[6] *TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438, 449 (1976) (emphasis added).

overwhelming support for the proposals.[7] For example, the analysis found that 270 investors mentioned requiring climate-risk disclosures in the 10-K and 97 percent of those who did supported it, and 296 investors mentioned aligning disclosures with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) and 100 percent of those who did supported it.[8] If such incontrovertible evidence of investor support for adding disclosures to the "'total mix' of information" is insufficient to meet the SEC's definition of materiality, it is difficult to fathom what would.

Indeed, the SEC is attempting to turn the concept of materiality on its head such that issuers can have free rein to trump reasonable investors' determination of what is material — in clear contravention of the Supreme Court's position that materiality is determined by reference to what a reasonable *investor* would consider important. The SEC contends that the climate-related disclosure rules "are unnecessary because existing disclosure requirements already elicit information about the material effects of climate-related matters."[9] But investors have repeatedly made clear, including in the 2022 comment file, that there are many disclosures they find material that issuers are either not providing or not providing with the desired level of reliability and comparability. This is the case with human capital management as well: the SEC's 2020 principles-based requirement that companies provide certain human capital management disclosures if material did not result in meaningful disclosures,[10] and investors are continuing to demand mandatory disclosures.[11] The SEC leaving disclosures up to the discretion of the issuer when investors have already spoken clearly and forcefully on these issues effectively puts the issuer in the driver's seat where the investor should be, with predictable results.

Scholars have been debating whether regulators should mandate certain disclosures or let issuers decide what to disclose for decades. John C. Coffee Jr. made the case for a mandatory disclosure system in a seminal 1984 article, arguing that it would "improve the allocative efficiency of the capital market—and this improvement in turn implies a more productive economy."[12] Many others have also called for a mandatory disclosure system over the years as well as an increase in the amount of mandatory disclosures required.[13] Scholars and others have often cited the need for

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[7] Rothstein, Steven. Ceres. "Analysis shows that investors strongly support the SEC's proposed climate disclosure rule." October 11, 2022.
[8] *Id.*
[9] Securities and Exchange Commission. "Rescission of Climate-Related Disclosure Rules." Proposed withdrawal of final rules. May 29, 2026 at 47.
[10] Intelligize. Human Capital Disclosure Report: Learning on the Job. April 21, 2021.
[11] *See* Human Capital Management Coalition. Available at https://www.hcmcoalition.org/. Accessed July 2026.
[12] Coffee, Jr. John C. Market Failure and the Economic Case for a Mandatory Disclosure System. 70 VA. L. REV. 717. 1984.
[13] *See, e.g.* Brown, J. Robert. Revisiting (Again) "Truth in Securities Revisited" The SEC Disclosure Regime in the New Millennium. Journal of Law and Political Economy, 5(2). May 2025. Fox, Merritt B. The Issuer Choice Debate. 2 THEORETICAL INQUIRIES L. 563. 2001. Fox, Merritt B. Retaining Mandatory Securities Disclosure: Why Issuer Choice Is Not Investor Empowerment. 85 VA. L. REV. 1335. 1999. Green, Andy et al. "Letter to SEC on Corporate Transparency and Accountability and the Coronavirus Pandemic." May 26, 2020. Guttentag, Michael D. An Argument for Imposing Disclosure Requirements on Public Companies. Florida State University Law Review, No. 32, 2004. February 26, 2009.

investors to be able to have comparable data and incentives for issuers to provide less disclosure than would be optimal for investors and efficient markets as reasons for a robust mandatory disclosure system. Paul G. Mahoney, a David and Mary Harrison Distinguished Professor at the University of Virginia Law School who served as dean of the Law School and interim president of the university, has argued that the main justification for mandatory disclosures is to reduce the costs of investors monitoring corporate management to prevent their self-serving use of company resources.[14] The SEC should therefore continue to mandate certain disclosures instead of leaving it up to issues to determine whether they should.

The SEC is Curtailing the Avenues Available for Investors to Communicate About What Is Material to Them

Meanwhile, the SEC is shutting down opportunities for investors to communicate to issuers — and the SEC itself — what they find material. With this release, the SEC discounts the record number of investors that strongly supported the climate-related disclosure rules in the 2022 comment file, indicating that the SEC will not prioritize investor voices in its notice-and-comment rulemaking.

The SEC has also taken other actions that limit investors' ability to communicate what they find material: 1) changing 13D/13G guidance suggesting that investors with more than a five percent ownership stake in public companies could be subjected to heightened regulation if they engaged with companies on important issues,[15] causing a chilling effect on investor engagements with issuers;[16] 2) curtailing investor access to courts by going from disfavoring forced arbitration provisions to explicitly allowing them,[17] 3) changing its staff guidance so that only shareholders with over $5 million in shares will be able to communicate through EDGAR;[18] and 4) chipping away at the shareholder proposal process by issuing a staff legal bulletin making it easier for companies to exclude proposals;[19] no longer serving as the arbiter on disputes between corporate management and shareholders over whether shareholder proposals can be excluded from corporate ballots;[20] and according to reporting, likely attempting to repeal Rule 14a-8, the regulation governing shareholder proposals, altogether.[21] But regarding this specific issue, investors have spoken loudly and

[14] Mahoney, Paul G. Mandatory Disclosure as a Solution to Agency Costs. 62 U. CHI. L. REV. 1047. 1995.
[15] Securities and Exchange Commission. "Exchange Act Sections 13(d) and 13(g) and Regulation 13D-G Beneficial Ownership Reporting." July 11, 2025.
[16] Johnson, Lamar. "SEC updates guidance on ESG engagement disclosures, prompts temporary confusion." ESG Dive. February 25, 2025.
[17] Securities and Exchange Commission. "Acceleration of Effectiveness of Registration Statements of Issuers with Certain Mandatory Arbitration Provisions." Final rule; Policy statement. September 19, 2025.
[18] Securities and Exchange Commission. "Proxy Rules and Schedules 14A/14C." July 9, 2026.
[19] Crenshaw, Caroline A. "Statement on Staff Legal Bulletin 14M." Securities and Exchange Commission. February 12, 2025.
[20] Securities and Exchange Commission, Division of Corporation Finance. "Statement Regarding the Division of Corporation Finance's Role in the Exchange Act Rule 14a-8 Process for the Current Proxy Season." November 17, 2025.
[21] Schmidt, Robert and Ryan Tracy. "SEC Planning to Repeal Rule Governing Shareholder Proposals." Capitol Account. June 22, 2026.

unambiguously about what they deem material. This SEC is taking the position that investors representing $50 trillion in assets are not sufficiently reasonable, elevating its own judgment in a newly SEC-created environment that has significantly curtailed the ability of investors to speak.

Instead of protecting investors as its mission requires, the SEC is making it more difficult for investors to make their voices heard by the management of the companies they are invested in, by the SEC, and in the courts. Its actions betray a prioritization of corporate management over investors, in contravention to its statutory mission.

The SEC's Reasoning Could Have Broad Implications Beyond Climate-Related Disclosures to the Detriment of Investors, Fair and Efficient Markets, and Capital Formation

The reasoning behind the SEC's proposed repeal, if followed, could have broad implications beyond the rescission of climate-related disclosure rules, into areas of great importance to investors. If the SEC adopts this unsupported, narrow interpretation of its authority and ignores investor voices, it will be unable to fulfill its mission, including with respect to longstanding disclosures such as market risks, more recently-adopted disclosures such as cybersecurity, and possible future disclosures such as human capital management, automation, and artificial intelligence.[22] The risks are significant, including increased investor costs, less informed investment decisions, greater market mispricing, and misallocation of capital across the economy.

First, reducing current disclosures and curtailing the SEC's ability to mandate additional disclosures as they become necessary would impose additional costs on investors, as the costs of obtaining such information would shift from the issuers who have easy access to the information to investors who will be forced to purchase such information from private data providers. Such information will be less complete and less reliable than SEC-mandated disclosures.

Second, the reliability and comparability of the information would also be impaired due to the lack of specific SEC requirements and uniformity of disclosures.

Third, the decrease in information available to all investors would make markets less fair. There would be more material nonpublic information available to corporate insiders and others with business or personal relationships with issuers or management, putting retail and index fund investors at a disadvantage.

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[22] Gerding, Erik et al. Freshfields US LLP. "What the SEC's Proposed Rescission of its Climate-Related Disclosure Rules Signals for Future Disclosure Rulemaking Beyond Climate." Harvard Law School Forum on Corporate Governance. July 14, 2026; *see* Securities and Exchange Commission Investor Advisory Committee. "Recommendation of the SEC Investor Advisory Committee Regarding the Disclosure of Artificial Intelligence's Impact on Operations." December 4, 2025.

Fourth, reduced disclosure would undermine capital formation, as reduced transparency may result in investors seeking a higher risk premium. Transparency is critical to forming and maintaining investments. The reduced visibility from the decrease in information elevates risk and widens information gaps, which can deter long-term institutional capital investment.

Fifth, reduced disclosure would also undermine efficient capital allocation. If investors lack robust disclosures, companies exposed to less risk can lose out in capital raising to companies exposed to higher risks.

Lastly, we are also concerned that the SEC has made these broad pronouncements about its authority at a time when the agency lacks the political balance mandated by the Securities Exchange Act of 1934 and has not met the statutory requirement that appointments to the SEC alternate by party.[23] We urge the SEC to withdraw the proposal in its entirety.

Thank you for the opportunity to comment on this proposal. For further discussion, please contact Natalia Renta at natalia@ourfinancialsecurity.org.

Sincerely,

AFT
American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
Americans for Financial Reform Education Fund
Chevedden Corporate Governance
Harrington Investments, Inc.
Investor Advocates for Social Justice
Muslims for Just Futures
National Education Association (NEA)
NorthStar Asset Management
People Power United
Public Citizen
Service Employees International Union (SEIU)
SOC Investment Group
United Church Funds
Zevin Asset Management

[23] 15 U.S.C. 78d(a) (providing that no more than three commissioners shall be members of the same political party and that "in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable").