July 31, 2026

Office of the Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Submitted electronically via www.sec.gov

Re: Rescission of Climate-Related Disclosure Rules; Release Nos. 33-11421; 34-105572; File No. S7-2026-19

Dear Members of the Commission:

I respectfully submit this comment in support of the Commission's proposal to rescind in full the climate-related disclosure rules adopted in March 2024 (the "Final Rules").[1] Full rescission—rather than a further round of exemptions, delays, or phase-ins—is the disposition most consistent with the securities statutes, with the Commission's longstanding materiality framework, and with the Commission's statutory obligation to consider efficiency, competition, and capital formation.

This letter makes six points. First, Congress has not authorized the Commission to construct a climate-disclosure regime, and climate and energy policy lie outside the agency's institutional competence. Second, the existing materiality-based disclosure system already requires registrants to disclose financially significant climate matters; the Final Rules add little except a privileged regulatory category for one policy topic. Third, the information the Final Rules would compel is uncertain, model-dependent, and only superficially comparable. Fourth, precisely because that information is unreliable as a measure of financial value, its principal effect would be to steer corporate behavior and capital allocation—with predictable consequences for domestic energy investment and affordability. Fifth, the rule's costs would be borne not by an abstraction called "Wall Street" but by American workers, consumers, shareholders, and retirement savers, with fixed compliance costs falling disproportionately on smaller issuers. Sixth, even judged on its proponents' own climate-policy terms, the rule's environmental mechanism is indirect and speculative.

I. Congress Has Not Authorized a Climate-Disclosure Regime, and Climate Policy Lies Outside the Commission's Expertise

The threshold defect of the Final Rules is statutory. The disclosure provisions of the Securities Act and the Securities Exchange Act enumerate subjects tied to the issuer's business, financial condition, management, and securities; the Commission's residual authority to require disclosure "in the public interest or for the protection of investors" is an implementation power tethered to

[1] The Enhancement and Standardization of Climate-Related Disclosures for Investors, Release Nos. 33-11275; 34-99678, 89 Fed. Reg. 21668 (Mar. 28, 2024); Rescission of Climate-Related Disclosure Rules, Release Nos. 33-11421; 34-105572, 91 Fed. Reg. 33296 (June 3, 2026) ("Rescission Proposal").

those securities-market purposes, not a commission to standardize data on any subject that interests some investors. The Commission's own rescission proposal now correctly treats efficiency, competition, and capital formation as constraints on authorized rules rather than as freestanding grants of power.[2]

The legal landscape has shifted decisively since adoption. In *Loper Bright Enterprises v. Raimondo*, the Supreme Court overruled *Chevron* and directed courts to exercise independent judgment in identifying the best reading of an agency's authorizing statute; the Commission can no longer defend the Final Rules by pointing to statutory ambiguity plus a "reasonable" interpretation.[3] Under the major-questions cases, an agency that discovers transformative power in a long-extant statute—on a question of vast economic and political significance—must identify clear congressional authorization.[4] A regime that the Commission itself estimates would impose annualized costs of approximately $4.9 billion, across a contested national policy domain that Congress has repeatedly considered and declined to assign to the Commission, is a paradigmatic major question. And in *Alliance for Fair Board Recruitment v. SEC*, the en banc Fifth Circuit rejected precisely the theory on which the Final Rules rest: that investor demand for standardized, comparable information is itself a sufficient statutory anchor for a disclosure mandate.[5]

This reading is consistent with the Commission's own historical practice. In 1975, after extensive proceedings, the Commission concluded that it "generally is not authorized to consider the promotion of goals unrelated to the objectives of the federal securities laws," although such considerations "would be appropriate to further a specific congressional mandate."[6] Congress has since directed the Environmental Protection Agency—not the Commission—to administer greenhouse gas reporting. The Commission has no comparative expertise in emissions accounting, climate modeling, or energy policy, and the Final Rules' technical architecture (organizational boundaries, emission factors, scenario design, transition-plan taxonomies) would place the agency in the position of supervising a scientific and policy apparatus it did not build and cannot independently evaluate.

II. Existing Materiality-Based Requirements Already Capture Financially Significant Climate Information

Rescission would not create a disclosure vacuum. Item 101 of Regulation S-K requires disclosure of the material effects of environmental regulation on capital expenditures, earnings, and competitive position; Item 103 reaches material environmental proceedings; Item 105 requires disclosure of material risk factors; and Item 303 requires discussion of known trends,

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[2] Rescission Proposal, 91 Fed. Reg. at 33303.

[3] *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

[4] *West Virginia v. EPA*, 597 U.S. 697, 721–32 (2022); *Biden v. Nebraska*, 600 U.S. 477, 494–507 (2023).

[5] *Alliance for Fair Board Recruitment v. SEC*, 125 F.4th 159 (5th Cir. 2024) (en banc).

[6] Rescission Proposal, 91 Fed. Reg. at 33306–07 (quoting Release No. 33-5627, 40 Fed. Reg. 51656 (Nov. 6, 1975)).

events, and uncertainties reasonably likely to have a material effect on financial condition or results. Securities Act Rule 408 and Exchange Act Rule 12b-20 sweep in whatever further information is necessary to make required statements not misleading. The Commission's 2010 interpretive guidance maps climate-related legislation, international accords, indirect business consequences, and physical effects onto each of these provisions.[7]

That framework is working. The Commission's own staff review of 87,865 annual reports filed from 2016 through 2025 found that 47% of registrant filings in 2024–2025 contained climate-related discussion—including 79-81% of large accelerated filer annual reports—and that where climate language appears, it overwhelmingly appears in an economic or financial framing.[8] That is exactly the pattern a materiality-based system should produce: disclosure where management judges the matter financially significant, silence where it is not.

The Final Rules invert this architecture by privileging climate as a special regulatory category. Board-level oversight of climate risk must be disclosed *regardless of the materiality* of the risk.[9] Financial-statement effects are governed by prescriptive one percent and de minimis thresholds rather than the Supreme Court's contextual materiality standard.[10] And the Commission has acknowledged that the costs of assessing and monitoring whether emissions are material "could be significant" even where the registrant ultimately concludes that no disclosure is required—a regime in which issuers must build a measurement system in order to prove immateriality.[11] No other category of business risk—interest rates, geopolitics, technology, litigation—receives a bespoke disclosure code of this kind. The disparity is not an oversight; it is the point. And it is precisely what the securities statutes do not authorize.

III. The Mandated Disclosures Are Uncertain, Model-Dependent, and Only Superficially Comparable

The Final Rules were justified in large part as a remedy for inconsistent, incomparable climate information. The best available evidence shows that prescriptive standardization cannot deliver what was promised, because the underlying quantities are estimates built on discretionary assumptions.

The Federal Reserve's 2024 pilot climate scenario analysis is the most probative demonstration. Six of the largest, most sophisticated U.S. banking organizations, analyzing *the same borrowers* under a common exercise, produced estimates of transition-risk impact that differed by more than 100 basis points for over 20% of common-obligor loans, and by more than 500 basis points

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[7] Commission Guidance Regarding Disclosure Related to Climate Change, Release Nos. 33-9106; 34-61469, 75 Fed. Reg. 6290 (Feb. 8, 2010).

[8] Rescission Proposal, 91 Fed. Reg. at 33317–23.

[9] Rescission Proposal, 91 Fed. Reg. at 33298.

[10] Rescission Proposal, 91 Fed. Reg. at 33299, 33310; cf. *TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438 (1976).

[11] Rescission Proposal, 91 Fed. Reg. at 33313.

for almost 6%.[12] The Board attributed the dispersion to data gaps, vendor reliance, and unavoidable modeling choices about scenario severity, insurance, and balance-sheet assumptions. If the most heavily supervised financial institutions in the country cannot converge on climate-risk quantities for identical exposures, a Form 10-K line item will not close the gap; it will merely dress heterogeneous guesses in the typography of audited fact.

The measurement literature reinforces the point. Corporate emissions figures from different data providers diverge substantially—roughly 97% of paired Scope 3 estimates in one peer-reviewed comparison differed by more than 10% between providers.[13] In a sample of 2,102 annual reports containing emissions disclosures, 97.6% presented a single point estimate with no uncertainty analysis, and fewer than 1% quantified uncertainty at all—false precision as a reporting norm.[14] Pairwise correlations among major ESG ratings run from just 0.38 to 0.71, driven principally by measurement disagreement rather than differing weights.[15] Even the international standard-setters that pioneered these frameworks are still correcting them: the ISSB issued targeted amendments to IFRS S2's greenhouse-gas requirements in December 2025 to address application problems, and the European Commission has since cut total ESRS data points by more than 70%.[16] Embedding a detailed federal filing mandate atop standards that their own authors are actively simplifying invites costly, repeated rework.

Scenario analysis deserves particular caution. It is a legitimate internal planning tool precisely because management tailors assumptions to the business. Compelling cross-company disclosure converts those customized exercises into apparent comparables when time horizons, probabilities, and adaptation assumptions differ—comparability in form, not in substance.

IV. The Final Rules Would Steer Capital Allocation and Corporate Governance, Threatening Energy Investment and Affordability

Because the mandated metrics are unreliable measures of financial value, their real function is behavioral. The chain runs as follows.

The rule raises the regulatory salience of climate metrics and subsidizes climate-screening investment strategies. A universal, filed, assured climate dataset lowers the private cost of pursuing climate-screening strategies and confers official status on the underlying metrics—financed by all shareholders, including diversified savers who place little value on the data. The

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[12] Board of Governors of the Federal Reserve System, Pilot Climate Scenario Analysis Exercise: Participant-Level Results and Observations (May 2024), Transition Risk Module, Figure 12.

[13] Timo Busch, Matthew Johnson & Thomas Pioch, Corporate Carbon Performance Data: Quo Vadis?, 26 J. Indus. Ecology 350 (2022).

[14] Cormac P. Dineen, Rick C. Lupton & Stephen R. Allen, Firms Largely Ignore Uncertainty When Disclosing Greenhouse Gas Emissions in Their Annual Reporting, 17 Sustainability Acct., Mgmt. & Pol'y J. 26 (2026).

[15] Florian Berg, Julian F. Kölbel & Roberto Rigobon, Aggregate Confusion: The Divergence of ESG Ratings, 26 Rev. Fin. 1315 (2022).

[16] IFRS Foundation, ISSB Issues Targeted Amendments to IFRS S2 (Dec. 11, 2025); European Commission, Commission Adopts Revised Sustainability Reporting Standards (July 3, 2026).

Council of Economic Advisers estimates that the misallocation of capital toward environmentally screened investments reduced cumulative U.S. GDP by $98–196 billion between 2016 and 2023, roughly 0.07% of GDP per year, with environmental ESG accounting for about 20% of aggregate capital misallocation by 2023.[17] The Final Rules would reinforce exactly this channel.

Disclosure mandates of this design regulate governance. The board-oversight, risk-management, target, scenario, and transition-plan provisions predictably shape board agendas, committee structures, and management processes—subjects traditionally governed by state corporate law. Where disclosure is designed to induce governance behavior, the line between disclosure and substantive regulation becomes vanishingly thin, implicating the D.C. Circuit's holding in *Business Roundtable v. SEC*.[18]

Emissions are activity measures, not value measures. A ton of carbon dioxide equivalent carries radically different financial implications depending on margins, contracts, regulation, geography, asset life, and the ability to pass through energy costs. The peer-reviewed literature finds limited evidence of investor demand for firm-level greenhouse-gas data, modest expected pricing effects, and a real risk that mandated uniformity produces comparability that is "costly or misleading."[19]

Uncertain metrics plus filing liability change corporate conduct. The Commission's own economic analysis identifies the mechanisms: registrants may reveal competitively sensitive assumptions and supply-chain vulnerabilities, alter efficient business strategies to avoid disclosure, abandon climate targets to reduce litigation exposure, and pay higher assurance and insurance fees.[20] Those effects reduce expected cash flow and are capitalized into lower valuations, higher required returns, and reduced investment.

The burden lands on energy investment and household affordability. Energy producers, utilities, and energy-intensive manufacturers are the registrants for which climate metrics are most consequential and most contested. A regime that attaches federal filing liability to uncertain emissions and transition estimates functions as a standing tax on domestic energy investment—and, through pass-through, on the energy and goods prices every American household pays. Compliance costs are paid from corporate resources; depending on market conditions, they are borne through lower profits and valuations, lower wages, higher prices, or forgone investment.[21]

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[17] Council of Economic Advisers, The Cost of Capital Misallocation to ESG Investments with an Environmental Focus, in Economic Report of the President ch. 13 (Apr. 2026).

[18] *Business Roundtable v. SEC*, 905 F.2d 406, 408–13 (D.C. Cir. 1990).

[19] Richard Frankel, S.P. Kothari & Aneesh Raghunandan, The Economics of ESG Disclosure Regulation, 30 Rev. Acct. Stud. 3218 (2025).

[20] Rescission Proposal, 91 Fed. Reg. at 33330.

[21] Rescission Proposal, 91 Fed. Reg. at 33327, 33341.

V. The Costs Are Borne by American Households, Not by "Wall Street."

The legal payer of compliance costs is a registrant; the economic bearer is a person. Standard federal incidence methods allocate corporate-level burdens across capital, labor, and consumption: the Congressional Budget Office attributes 75% of the long-run corporate income-tax burden to capital income and 25% to labor, and the Treasury Department's method attributes 82% and 18%, respectively.[22] Whatever the precise split, none of it stops at a brokerage house.

The shareholder channel reaches deep into the middle class. Fifty-eight percent of U.S. families—76.14 million households—own stock directly or indirectly, and 401(k) plans and IRAs held a combined $28.1 trillion as of the first quarter of 2026.[23] Applying a conservative 75/15/10 capital-labor-price allocation to the Commission's own $4.881 billion annualized cost estimate, a 401(k) participant calibrated to current median balances, income, and contribution rates would finish a 35-year saving horizon roughly $1,000 short of the no-rule baseline, with an additional (deliberately modest) grocery-price effect from the consumption channel.[24] The per-household figure is small by construction—a $4.9 billion annual burden spread over an $80 trillion equity market—but it is a recurring, compounding transfer away from productive uses, levied on tens of millions of savers in the name of an information mandate most of them never requested. Meanwhile, the wage and price channels do not track equity wealth at all: they consume the largest share of the budgets of the lowest-income households, which devote 11.0% of expenditures to food at home compared with 6.2% for the highest quintile.[25] A rule advertised as investor protection thus charges many investors—and many non-investors—who receive nothing of value in return.

VI. Fixed Compliance Costs Fall Disproportionately on Smaller Issuers

The Final Rules' cost structure is dominated by fixed investments—governance documentation, accounting policies, data systems, emissions inventories, consultants, legal review, and assurance—that must be built before an issuer knows whether any given metric is material. The Commission's adopting release estimated annual compliance costs, averaged over the first ten years, ranging "from less than $197,000 to over $739,000" per registrant, with first-year costs for

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[22] Congressional Budget Office, Current Work on the Distributional Analysis of Household Income Resulting From Policy Changes, Working Paper 2022-09 (Dec. 2022); Julie-Anne Cronin et al., Distributing the Corporate Income Tax: Revised U.S. Treasury Methodology, OTA Technical Paper 5 (May 2012).

[23] Board of Governors of the Federal Reserve System, Changes in U.S. Family Finances from 2019 to 2022 (Oct. 2023); U.S. Securities and Exchange Commission, U.S. Households' Participation in Capital Markets (updated Aug. 2025); Investment Company Institute, Quarterly Retirement Market Data, First Quarter 2026 (June 18, 2026).

[24] The calculation divides the Commission's $4.881 billion annualized estimate (91 Fed. Reg. at 33340–41) by the Federal Reserve's $79.67 trillion measure of public corporate equity (Financial Accounts, series BOGZ1LM883164115Q, 2026 Q1), assigns 75% to capital and 10% to consumer prices consistent with CBO and Treasury incidence methods, and applies the resulting 0.363-basis-point return drag to a participant profile drawn from Vanguard, How America Saves 2026 (June 2026) (median balance $44,115; median income approximately $90,000; median total contribution rate 11.6%; 79% equity allocation (2025 participant-weighted average)).

[25] U.S. Bureau of Labor Statistics, Consumer Expenditure Surveys, Table 1101 (2024 data).

fully covered registrants reaching an estimated $872,000.[26] Issuer evidence before the Commission pointed consistently higher: in a survey of 263 public companies, 73% expected costs above the Commission's estimates, and 41% expected ongoing costs above $1 million; 56% of surveyed biotechnology firms likewise expected costs above the Commission's estimates.[27] Company-level submissions documented initial implementation estimates of $5 million to $10 million or more at large issuers and $650,000 to $1.5 million—plus upwards of $650,000 per year—at a small-cap company.[28]

The Commission's rescission proposal now aggregates the avoided burden: $7.9 billion in initial costs, recurring annual savings reaching $5.6 billion, a present value of $42.3 billion over ten years, and annualized savings of approximately $4.9 billion—figures that exclude unquantified indirect savings from reduced litigation exposure, competitive harm, and insurance costs.[29] Because these costs do not scale with firm size, they impose relatively greater burdens on smaller issuers and emerging companies—the very firms for which the fully phased regime's estimated costs, over $732,000 annually for the smaller-issuer group, represent a meaningful share of resources.[30]

VII. The Final Rules Deepen the Public-Company Cost Disadvantage Without Harmonizing International Requirements

The Final Rules arrive against a secular decline in public listings. The United States had more than 7,800 exchange-listed companies in the mid-1990s; the number today is roughly 40% lower.[31] Peer-reviewed research estimates the total regulatory cost of public-company status at 4.3% of market capitalization for the median public firm and finds that such costs deter private firms' IPO decisions more strongly than they induce public firms to go private—meaning the damage is done quietly, at the margin, before companies ever reach public markets.[32] Smaller companies made up 44% of 2024 IPOs but raised only 3% of IPO capital; a new fixed reporting regime falls hardest exactly there.[33] The Final Rules widen the public-private regulatory gap

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[26] 89 Fed. Reg. at 21875.

[27] 89 Fed. Reg. at 21871 & nn.2972–74 (Nasdaq and Biotechnology Innovation Organization surveys).

[28] Society for Corporate Governance, Comment Letter on File No. S7-10-22, Appendix A-2 (June 17, 2022); U.S. Chamber of Commerce, Comment Letter on File No. S7-10-22, at 16–17 & nn.12, 15 (June 16, 2022); Retail Industry Leaders Association, Comment Letter on File No. S7-10-22, at 37 (June 17, 2022) ($5–15 million initial implementation estimate for a typical retailer).

[29] Rescission Proposal, 91 Fed. Reg. at 33327, 33334, 33340–41.

[30] Rescission Proposal, 91 Fed. Reg. at 33334, 33341, 33345.

[31] James Moloney, Director, Division of Corporation Finance, This Old House: Improving and Remodeling Our Registered Offering and Filer Status Regimes (June 10, 2026).

[32] Michael Ewens, Kairong Xiao & Ting Xu, Regulatory Costs of Being Public: Evidence from Bunching Estimation, 153 J. Fin. Econ. 103775 (2024).

[33] Commissioner Mark T. Uyeda, Remarks at the Small Business Capital Formation Advisory Committee Meeting (Apr. 28, 2026).

while leaving private companies untouched, distorting the choice between listing, private sale, and remaining private.

Nor can the rules be defended as harmonization. The jurisdiction that moved first is retreating: the European Union has narrowed mandatory sustainability reporting to undertakings with more than 1,000 employees and €450 million in turnover, capped value-chain information demands, cut total ESRS datapoints by more than 70%, and projects per-company reporting cost reductions above 30% and administrative savings of €4.5 billion annually from its simplification package.[34] For U.S. multinationals, an SEC filing regime layered atop foreign requirements adds liability, controls, attestation, tagging, and U.S.-specific definitions; multiple regimes duplicate rather than substitute for one another. Maintaining a broad U.S. mandate while Europe deregulates would make American listing less competitive, not more.

VIII. The Environmental Mechanism Is Indirect and Speculative

Finally, the Final Rules cannot be salvaged as climate policy, because they contain none. The rules cap no emissions, price no carbon, and prescribe no technology. Any environmental effect depends on an attenuated chain—investors repricing disclosed information, firms altering real operations, and emissions falling rather than migrating to private or foreign producers. The evidence is not encouraging even for direct instruments: a peer-reviewed study of the EPA's Greenhouse Gas Reporting Program, which mandates facility-level emissions reporting, found improved carbon intensity but no reduction in absolute emissions.[35] The Commission's closest precedent for policy-motivated disclosure—the conflict-minerals rule—cost issuers billions, and after more than a decade, the Government Accountability Office found no evidence it reduced violence in the region it was designed to help.[36] Disclosure is a weak substitute for policy instruments aimed directly at an externality, and the Constitution assigns the choice of such instruments to Congress.

IX. Conclusion

The Final Rules combine doubtful statutory authority, duplicative coverage of genuinely material information, unreliable mandated metrics, predictable distortions to capital allocation and corporate governance, multi-billion-dollar recurring costs borne ultimately by American households, and no credible environmental benefit. Because the rules are stayed and no court has reached the merits, full rescission is a clean restoration of the longstanding materiality framework rather than a disruption of any operating regime. Registrants remain fully obligated to disclose financially significant climate matters under existing rules, and Congress remains free to enact a climate-disclosure statute if it judges one warranted—specifying its scope, thresholds,

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[34] Directive (EU) 2026/470 (Feb. 24, 2026); European Commission, Commission Adopts Revised Sustainability Reporting Standards (July 3, 2026); European Commission, Simplification: Omnibus I Sustainability (2026).

[35] Dominik Bauckloh et al., Under Pressure? The Link Between Mandatory Climate Reporting and Firms' Carbon Performance, 36 Org. & Env't 126 (2023).

[36] U.S. Government Accountability Office, Conflict Minerals: Peace and Security in Democratic Republic of the Congo Have Not Improved with SEC Disclosure Rule, GAO-25-107018 (Oct. 7, 2024).

safe harbors, and relationship to EPA, state, and international regimes. The present statutes do not supply that design, and the Commission should not continue to improvise one.

For the foregoing reasons, I urge the Commission to adopt the proposed rescission in full.

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AFPI appreciates the opportunity to submit this comment letter. If the staff has any questions on the foregoing, please email info@americafirstpolicy.com or call (703)-637-3690.

Respectfully submitted,

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