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United States Senate
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-6075

July 21, 2022

The Honorable Gary Gensler
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Gensler:

We are troubled by the Securities and Exchange Commission's (SEC) lack of transparency and disregard for a significant congressional oversight request concerning the SEC's proposed climate disclosure rule—a sweeping new regulation that will harm consumers, workers, and the entire U.S. economy at a time when energy prices are skyrocketing. As you know, our June 15th letter to you requested both answers to questions and records pertaining to this proposed rule by no later than June 29, 2022.¹ Nearly two weeks after this deadline, you sent us a perfunctory one-page response that included none of the answers or records requested.²

Your response is wholly inadequate and unacceptable. In our letter, we asked only a few simple and straightforward questions, including questions that should result in simple “yes” or “no” answers such as:

- “Has the SEC considered the impact that the proposed climate disclosure rule would have on energy prices and any other costs associated with the rule?”; and
- “Has the SEC coordinated with any other Federal agencies on the policies contained in the proposed climate disclosure rule?”

Instead of providing written answers to these questions, your response offered to arrange a briefing by SEC staff that we did not request. This response is particularly disappointing because, on July 6, 2022, Senate Banking Committee (Committee) staff made clear to SEC staff that a briefing is not a substitute for providing written answers and records. After you have provided written answers to our questions, Committee staff can make themselves available for an SEC briefing.

¹ Letter from Senate Banking Committee Republicans to Gary Gensler, Chairman, U.S. Securities and Exchange Commission (Jun. 15, 2022),

https://www.banking.senate.gov/imo/media/doc/banking_republicans_to_gensler_on_climate_proposal1.pdf.

² Letter from Gary Gensler, Chairman, U.S. Securities and Exchange Commission, to Senate Banking Committee Republicans (Jul. 12, 2022),

https://www.banking.senate.gov/imo/media/doc/gensler_response_to_banking_republicans.pdf.

Likewise, we requested that you provide certain records concerning the climate disclosure rule, but you have not provided a single requested record. Your response letter did not ask for additional time to comply with this request nor did it indicate that the SEC is taking any steps to provide the requested records. Instead, you ignored the records request altogether. A member of the public who submitted a Freedom of Information Act (FOIA) request would be entitled to receive more records from the SEC than what the SEC has given members of the Senate committee overseeing the commission.

In addition, we requested that you preserve all records related to the proposed climate disclosure rule. Instead of informing us that the SEC is preserving all of these specific records, you stated that the SEC, as a general matter, “is required to preserve official records under a variety of federal laws and regulations” and “has in place robust information management retention policies and practices that include the preservation of all e-mail communications.”³ While this response indicates that the SEC is likely preserving *some* records related to the climate disclosure rule, including all emails, it does not indicate that the SEC is preserving *all* records related to this rule, including the text messages that we requested.⁴

Subsequent to our letter to you, the U.S. Supreme Court issued a major decision that reinforces the importance of congressional oversight of the SEC’s climate disclosure rule. In *West Virginia v. EPA*, the Supreme Court ruled that the executive branch and its agencies, including financial regulators, cannot use creative, new interpretations of existing law to pretend they have legal authority to support sweeping policy changes that Congress never intended. Unfortunately, the SEC appears to be trying to act in precisely this way with its climate disclosure rule.

We again ask that you promptly provide the written answers and records that we requested and direct your staff to preserve *all* records related to the climate disclosure rule. Thank you for your attention to this matter.

Sincerely,



Pat Toomey
U.S. Senator



Richard Shelby
U.S. Senator



Mike Crapo
U.S. Senator



Tim Scott
U.S. Senator

³ *Id.*

⁴As we noted in our June 15, 2022 letter, the term “records” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded or preserved, and whether original or copy.



M. Michael Rounds
U.S. Senator



Thom Tillis
U.S. Senator



John Kennedy
U.S. Senator



Bill Hagerty
U.S. Senator



Cynthia Lummis
U.S. Senator



Jerry Moran
U.S. Senator



Kevin Cramer
U.S. Senator



Steve Daines
U.S. Senator

cc: The Honorable Sherrod Brown, Chairman, Senate Committee on Banking, Housing, and Urban Affairs

The Honorable Hester M. Peirce, Commissioner

The Honorable Caroline A. Crenshaw, Commissioner

The Honorable Mark T. Uyeda, Commissioner

The Honorable Jaime Lizárraga, Commissioner