No. 24-1522 (consolidated with Nos. 24-1624, 24-1626, 24-1627, 24-1628, 24-1631, 24-1634, 24-1685 and 24-2173)

In the United States Court of Appeals for the Eighth Circuit

STATE OF IOWA, et al.,

Petitioners,

v.

UNITED STATES SECURITIES & EXCHANGE COMMISSION,

Respondent,

DISTRICT OF COLUMBIA, et al.,

Intervenors.

Petitions for Review of an Order of the Securities & Exchange Commission

BRIEF OF *AMICI CURIAE* INSTITUTIONAL INVESTORS IN SUPPORT OF RESPONDENT SEC

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eighth Circuit Local Rule 26.1A:

- *Amici curiae* Boston Trust Walden; Ceres, Inc.; Generation Investment Management; Inherent Management Corp.; Kepos Capital LP; Mercy Investment Services; Miller/Howard Investments, Inc.; Nia Impact Capital; Stance Capital; United Church Funds; The Pension Boards – United Church of Christ, Inc.; and Zevin Asset Management disclose that they have no parent corporations, and no publicly held company owns 10% or more of them.

- *Amicus curiae* APG Asset Management NV discloses that its parent corporation is APG Groep NV.

- *Amicus curiae* Impax Asset Management Group plc ("Impax") discloses that BNP Paribas Asset Management Holding ("BNPPAMH") owns more than 10% of the issued ordinary share capital of Impax. BNPPAMH is an affiliate of BNP Paribas SA (EPA: BNP), which is publicly traded.

- *Amicus curiae* Parnassus Investments, LLC ("Parnassus") discloses that it is an affiliate of Affiliated Managers Group (NYSE: AMG), which is publicly traded. AMG has a 65% ownership interest in Parnassus.

- *Amicus curiae* School Sisters of Notre Dame Collective Investment Fund discloses that its parent corporation is School Sisters of Notre Dame Worldwide Inc.

- *Amicus curiae* Trillium Asset Management discloses that it is wholly owned by Perpetual Ltd. (ASX: PPT), which is publicly traded.

/s/Katherine L. Pringle
Katherine L. Pringle

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INTEREST OF AMICUS CURIAE[1]

The undersigned *Amici* include the following institutional investors representing over $2 trillion in assets under management: APG Asset Management NV; Boston Trust Walden; California Public Employees' Retirement System (CalPERS); California State Teachers' Retirement System (CalSTRS); Generation Investment Management; Inherent Management Corp.; Impax Asset Management Group plc; Kepos Capital LP; Mercy Investment Services; Miller/Howard Investments, Inc.; New York City Comptroller's Office; Nia Impact Capital; Oregon Office of the State Treasurer, Tobias Reed; Parnassus Investments; School Sisters of Notre Dame Collective Investment Fund; Stance Capital; Trillium Asset Management; United Church Funds; The Pension Boards – United Church of Christ, Inc.; and Zevin Asset Management. *Amicus* Ceres, Inc. is a non-profit advocacy organization with an investor network of 220 asset owners and managers, pension funds, endowments and others with trillions in assets under

[1] All parties have consented to the filing of this brief. *See Fed. R. App.* P. 29(a)(2). Pursuant to Fed. R. App. P. 29(a)(4)(E), the *Amici* state that no party's counsel authored this brief in whole or in part.

management; through that network, Ceres, Inc. has been informed of the interests of institutional investors, as reflected in this brief.

The *Amici* submit this brief to express the urgency and importance to investors of the Securities and Exchange Commission's ("SEC" or the "Commission") *The Enhancement and Standardization of Climate-Related Disclosures for Investors*.[2]

SUMMARY OF ARGUMENT

Investor need for reliable, decision-useful, and comparable climate risk information has gone unaddressed for too long. Institutional investors representing more than $54 trillion in assets under management (including nearly all of the undersigned) submitted over 300 letters during the public comment process explaining the need for disclosures regarding climate-related risks, which result in hundreds of billions of dollars' worth of exposure every year. As detailed in those comments and herein, the existing, largely voluntary reporting of climate risks under various third-party frameworks has resulted in incomplete and frequently inaccurate information. Investors like the

[2] Securities Act Release No. 33-11275, Exchange Act Release No. 34-99678 (Mar. 6, 2024), published at 89 Fed. Reg. 21668 (Mar. 28, 2024) (the "Final Rules").

undersigned are forced to sift through unreliable, inconsistent, and limited climate risk data in an attempt to understand climate risk exposures. The Final Rules address these deficiencies by establishing a clear and much needed framework for climate-related disclosures.

The information called for by the Final Rules is crucially important because climate-related risks have undeniable impacts on firm fundamentals. Physical risks created by severe weather events, coupled with transitional risks created by market shifts toward a low-carbon economy, have enormous and unprecedented implications for asset valuation and risk management. Disclosures about these risks create opportunities for investment, and the *Amici* and other investors can and will use those disclosures in a variety of ways to inform their decision making, allocate capital, and vote their shares. At bottom, and consistent with the capitalist principles underlying the securities markets, the purpose of providing this information is to create opportunities for profit making. Enhanced disclosures will benefit not only institutional investors, but also any person who has savings invested in the market through, for example, a 401(k) retirement plan or a college fund. This is because the firms managing these funds will

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have better information to protect their clients' savings; better information in the market will mean more accurate pricing and less volatility, which benefits people with invested savings even if they never access the information themselves.

The statutory and constitutional attacks made by petitioners ignore that the Final Rules are *disclosure* rules, not climate regulatory rules. This is exactly what Congress established the SEC to do: ensure that investors have the information they need to make informed investment and voting decisions. Furthermore, the robust, years-long comment process, and the substantial changes to the proposed rules resulting from that process, foreclose any serious contention that the Final Rules are arbitrary and capricious under the Administrative Procedure Act.

ARGUMENT

I. The Climate Risk Disclosure Rules Are Responsive to Investor Needs.

A. Climate-related financial risks are real and substantial.

The Final Rules require certain disclosures of financial risks that are substantial and material to investors. Climate risks can significantly, and increasingly, impact issuers' core value, profit

projections, and long-term health. The Final Rules require disclosure of physical risks (both acute and chronic) and transition risks that may directly impact a corporation's valuation and profit projections.

Acute physical risks, such as hurricanes, flash floods, wildfires, short-term droughts, and tornadoes, can damage warehouses, destroy equipment, shut down operations, and disrupt global supply chains. The scope of these risks is enormous: A 2022 study cited by the Federal Reserve Board estimated that about $2.5 trillion of global asset value is at risk in a business-as-usual emissions pathway.[3] Since 1980, the U.S. has experienced 395 severe weather events causing more than $1 billion of damage each.[4] Overall, physical climate risks are estimated to cost the U.S. economy upwards of $150 billion annually and are forecast to cost trillions over this century, globally.[5]

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[3] Brunetti et al., Climate-related Financial Stability Risks for the United States: Methods and Application, Federal Reserve Board (2022), available at: https://www.federalreserve.gov/econres/feds/files/2022043pap.pdf.

[4] *See* https://www.ncei.noaa.gov/access/billions (visited Aug. 8, 2024).

[5] *See* the Fifth National Climate Assessment dated November 2023, a congressionally mandated report due every four years, available at: https://nca2023.globalchange.gov; *see also* Comment Letter from Boston Trust Walden dated June 16, 2022 at 2 (citing 2022 study from the U.S.

Registrants also face chronic (or long-term) climate risks such as rising sea levels, prolonged water scarcity, and severe weather events, all of which can degrade long-term profits. Final Rules at 21674-75. These risks may also compound in ways that deepen the financial impact on a registrant. For example, climate-risk exposure may increase a registrant's cost of insurance, or make insurance unavailable altogether. Or chronic climate risks could unfold simultaneously and impact a registrant's direct business operations or the business operations of its suppliers.

Separately, registrants face transition risks associated with the global shift to a low-carbon economy. For example, a registrant may depend on fuels or other inputs that may be restricted by law or regulation, requiring significant investment in new technologies or processes. Higher-carbon products may also face additional taxes in the form of carbon border adjustment mechanisms that make the products more expensive to their eventual consumers. Or a registrant may

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Office of Management and Budget finding that climate risks could lead to an annual federal revenue loss at the end of the century of 7.1 percent, which in today's dollars would equal $2 trillion a year).

confront competition from less carbon-intensive products, requiring it to adapt or lose market share. *Id.* at 75. The transition to a low-carbon economy creates opportunities as well as risks, and those too are useful in investment decision-making.[6] A registrant's transition plan thus may be a positive differentiator, demonstrating effective management of risks or a plan to take advantage of new opportunities.

Physical and transition risks present distinct management challenges. As the Minnesota State Board of Investment (which manages assets worth over $142 billion) stated in support of the SEC rule proposal:

> Physical risk and transition risk have starkly dissimilar characteristics. For most businesses, transition risk is highly uncertain in the short term, but transitory, relatively predictable in its costs, which can be spread over several years, and manageable in the sense that strong corporate leadership should be able to mitigate harm via proactive strategies. Physical risk, on the other hand, is a durable, long-term threat generating both increased risk of random catastrophic events and increased likelihood of prolonged adverse environmental conditions that no management team can fully plan or prepare for. *Investors must have detailed*

[6] *See* Comment Letter from Breckinridge, dated June 17, 2022 at 2 ("The carbon transition poses risks to carbon-producing assets and creates opportunities in cleaner technologies.").

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information on both risk types to make informed decisions, especially if that investor has a long-term time horizon.[7]

B. The undersigned investors will use the required climate-related disclosures in deciding how to allocate capital and vote their proxies.

Investors such as the *Amici* use climate-related information to properly assess value.[8] Among other things, the information disclosed under the Final Rules will be used to inform active, passive, fundamental, quantitative, and factor-based investment strategies.[9] It will also be used to evaluate and construct models for risks and exposures at the portfolio level, allowing investors to understand and price the exposure to physical risks in making investments and to hedge against those risks.[10]

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[7] Minnesota State Board of Investment Comment Letter dated June 15, 2022 at 2 (emphasis added).

[8] *See, e.g.*, United Church Funds Comment Letter dated June 15, 2022 at 2 ("UCF believes climate-related disclosures are critical for effective investment analysis…"); Miller/Howard Investments, Inc. Comment Letter dated June 16, 2022 at 1 ("Miller/Howard believes climate-related disclosures are critical for effective investment analysis and decision-making…").

[9] *See, e.g.*, CalPERs Comment Letter dated June 15, 2022 at 5.

[10] *See, e.g.*, Minnesota State Board of Investment Comment Letter dated June 15, 2022 at 2-3.

The disclosures of Greenhouse Gas ("GHG") emissions data required by the Final Rules – both Scope 1 (direct emissions from owned or controlled sources) and Scope 2 (indirect emissions from the generation of purchased fuels) – will result in much greater financial modeling accuracy, enabling investors to assign carbon costs per units of carbon emitted and forecast the magnitude of those costs for issuers going forward.[11] Investors will also be able to use climate data to inform their proxy voting and evaluate whether managers are effectively managing risks, seizing opportunities, and preparing for the transition to a low-carbon economy. A registrant's failure to adequately manage climate risks may result in withholding support for directors.[12]

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[11] *See, e.g.*, Manulife Investment Management Comment Letter dated June 17, 2022 at 2.

[12] *See, e.g.*, New York State Common Retirement Fund Comment Letter dated June 3, 2022 at 3-4 ("The Fund uses these metrics to inform and prioritize engagements, and if, after engagement and full assessment, companies fail to demonstrate minimal transition readiness, the Fund considers taking investment actions with respect to those companies, such as underweighting, restricting new investments, or divestment, consistent with fiduciary duty.").

These and other examples were described in detail in the comment letters submitted to the SEC.[13] As to those who have claimed that the information would "not be useful" to them, the response is simple enough: Investors who do not wish to use the information are not obligated to do so.

C. Existing climate-related disclosures are deficient.

The existing, largely voluntary, system of climate-risk reporting has allowed registrants to pick and choose which information to provide. As a result, disclosures are fragmented and difficult for investors to compare across registrants or across reporting periods. Final Rules at 21669. Investors commented that such inconsistent and incomplete disclosures make investment decisions more unreliable.[14]

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[13] *See id.*; Comment Letters from CalSTRS dated June 17, 2022 at 2-4; CalPERS dated June 15, 2022 at 1-3; Calvert Research and Management dated June 17, 2022 at 2; Wellington Management Company LLP dated June 17, 2022 at 1-4.

[14] *See, e.g.*, BlackRock, Inc. Comment Letter dated June 11, 2021 ("While there has been significant progress in expanding climate-related disclosure over the last decade, at present the sustainability disclosure landscape is hampered by inconsistent frameworks across and within industries and jurisdictions."); Bloomberg L.P. Comment Letter dated June 3, 2021 at 3 ("Our view is unequivocal: there is a serious lack of decision-useful disclosure around climate-related risks and opportunities that, if provided, would improve the pricing and

Stated simply, investors including the undersigned are unable to accurately price climate risks based on current climate-related disclosures.[15]

What the *Amici* and other investors need is the clear and consistent information that will be required under the Final Rules. The California Public Employees Retirement System ("CalPERS"), one of

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efficient allocation of capital in the market."); Calvert Research and Management Comment Letter dated June 1, 2021 at 2 ("We now need … consistency and comparability for climate-related disclosures so we can more accurately price assets, allocate capital, run scenarios, and mitigate risk, as well as inform our issuer engagement efforts."); Franklin Templeton Investments Comment Letter dated June 17, 2022 at 2 ("Currently, both investors and companies face costs and uncertainties where information provided is not consistent, assured and integrated into the financials. We see analysis and evidence that incomplete information adversely impacts companies' cost of capital, and increasingly is relevant to top line revenues.") (footnote omitted); Boston Trust Walden Company Comment letter dated June 16, 2022 at 3 ("While voluntary climate risk disclosure has been on the rise in recent years, the lack of a regulatory mandate has led to inconsistent information provided across multiple reporting regimes. This inconsistency has allowed companies to self-select which metrics and information to disclose and has caused confusion amongst investors about which disclosures to trust and use.").

[15] *See also* Shashwat Alok et al., *Do Fund Managers Misestimate Climatic Disaster Risk*, 33 REV. FIN. STUD. 1146, 1181 (2020) (finding that mutual fund managers are misestimating climate risks based on current, inconsistent and unreliable disclosures).

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the nation's largest investors with $450 billion in assets under management, described the need as follows:

> Having the necessary climate disclosures and consistent information across companies are vital to properly assessing how these risks affect companies' financial drivers and ways in which they could impair companies' valuations. Information that comes out of the requirement from the final climate disclosure rule will be used during due diligence and security selection as it will help ensure our ability to compare one company's climate-risk to its peers.[16]

Numerous investor letters emphasize that it is essential to have comparable, clear information in order to compare and value potential investments.[17]

The Commission's 2010 Climate Disclosure Guidance is, as the Commission has expressly acknowledged, inadequate. The Commission recognized the "need to both standardize and enhance the information available to investors" concerning climate risks, in light of the "significant deficiencies in the consistency and completeness" of the

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[16] CalPERS Comment Letter dated June 15, 2022 at 6.

[17] *See, e.g.*, Franklin Templeton Investments Comment Letter dated June 17, 2022 at 1 ("Bringing consistency to those reports is essential, so that investors have the information needed for well-informed capital allocation and effective stewardship…. Currently, both investors and companies face costs and uncertainties where information provided is not consistent, assured and integrated into the financials.").

information elicited by the 2010 Guidance. Final Rules at 21670. Clearer requirements were needed "to ensure that investors have access to more complete and reliable information that will enable them to make informed investment and voting decisions." *Id.*

The *Amici* fully agree with the Commission's assessment and have experienced the impact of deficient reporting. The Final Rules respond to specific needs identified by investors. Investors have, for example, complained that current reporting of physical risks is generally too high-level and generic to meet their needs. Typically, a registrant will make a boilerplate statement that its operations and business, and those of its customers and suppliers, may be vulnerable to severe weather events and natural disasters, without quantifying the potential financial impacts of specific climate risks. Wellington Management, after reviewing filings of 100 registrants in the S&P 500 for location disclosure, found that over 90% disclosed insufficient location data, preventing a full assessment of physical risk exposure.[18] The Final

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[18] *See* Jean M. Hynes, *Re: Request for Input on Climate Change Disclosures*, Wellington Management Company (June 11, 2021) at 4, available at https://www.sec.gov/comments/climate-disclosure/cll12-8944103-245735.pdf.

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Rules remedy these deficiencies by requiring issuers to "describe" the specific climate risks that have "materially impacted or are reasonably likely to have a material impact on" them, as well as "the actual or potential material impacts" posed by those risks. Final Rules at 21670.

Investors have also observed that disclosures fail to describe sufficiently the transition risks faced by registrants. Where a registrant has announced that it has a transition plan, it should be required to describe the plan and what it will cost, to the extent those costs are material. Without this additional layer of information, the *Amici* cannot fully evaluate a registrant's long-term durability.[19] The Final Rules remedy this deficiency by requiring registrants to disclose what "activities, if any," they have undertaken "to mitigate or adapt to a material climate-related risk," including the "use of transition plans,

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[19] *See, e.g.*, Paradice Investment Management LLC Comment Letter dated June 17, 2022 at 2 ("Currently, disclosures in this area are generally weak and limit our ability to determine whether suitable risk identification and management processes are in place. As investors, we look for companies to go beyond understanding risk exposures and to evidence how operations and strategy are being adjusted in response. Without such insights, we may not be able to gain conviction, in this aspect, that the company will be durable over the long term.").

scenario analysis or internal carbon prices to manage a material climate-related risk." Final Rules at 21670.

The Final Rules are also needed to prevent "greenwashing," where an issuer makes vague or misleading statements about its climate-related risks or activities. The practice unfortunately is commonplace. In a 2022 survey of 1,491 executives across different industries around the world, 68% of U.S. executives said their companies had engaged in some form of greenwashing.[20] Standardizing climate disclosures and requiring issuers to describe the specific climate risks facing their organizations will mitigate the harm caused by this kind of misleading disclosure. Requiring registrants to disclose climate-related "targets or goals," including as to GHG emissions, and any "material expenditures" directly resulting from attempts to reach those targets or goals, will help the *Amici* and other investors determine if an issuer's stated climate commitments are real and achievable. Final Rules at 15.

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[20] *See* Adele Peters, *68% of U.S. execs admit their companies are guilty of greenwashing*, FAST COMPANY (Apr. 13, 2022), available at https://www.fastcompany.com/90740501/68-of-u-s-execs-admit-their-companies-are-guilty-of-greenwashing.

In sum, the Final Rules address basic deficiencies with the existing disclosure approach, which result in real disadvantages to investors.[21] The Final Rules respond to investor needs and ensure a baseline of information critical to investors' ability to determine values, assess management, and allocate capital effectively.

II. The SEC Acted Reasonably and Appropriately in Promulgating the Final Rules.

A. Climate risk rulemaking was broadly supported by investors.

More than 300 institutional investors, representing over $50 trillion in assets under management, filed letters supporting the Commission's proposed rulemaking initiative (while at the same time suggesting modifications to the proposal that the Commission largely adopted). Passive index and actively managed funds, pension funds, and large and small financial institutions all stated their support. Nearly all of the *Amici* filed letters of support. Letters were also

[21] In addition to the information gaps, investors are forced to spend substantial money in trying to find climate-risk information. *See* CalSTRS Comment Letter dated June 17, 2022 at 5 (subscription costs for private GHG emission and private climate risk data); AllianceBernstein L.P. Comment Letter dated June 17, 2022 at 2 (noting the need to purchase data from third-party vendors and consult with industry and scientific experts to fill information gaps).

submitted by AllianceBernstein, BlackRock, Fidelity, Neuberger Berman, Schroders, State Street, Wellington, and other major firms. Their comment letters reflect investor support for: (i) the Final Rules' alignment with recommendations from the Task Force on Climate-related Disclosures ("TCFD")[22]; (ii) requiring that disclosures be made in an SEC-filed report; (iii) requiring disclosures concerning Scope 1 and 2 emissions; and (iv) requiring disclosure of climate-related targets and goals where a registrant has adopted them. The evidence of broad support among institutional investors is substantial, and it belies any suggestion that the Commission cherry-picked the record or cited "demands for climate-related disclosure made by select institutional investors" only.[23] Similarly, the record rebuts any suggestion that *only* large institutional investors support the Final Rules; thousands of self-

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[22] The TCFD was an industry-led task force established by the Financial Stability Board. It developed a reporting framework designed to elicit information to help investors better understand a registrant's climate-related risks. *See* TCFD, Recommendations of the Task Force on Climate-related Financial Disclosures (June 2017), available at https://assets.bbhub.io/company/sites/60/2020/10/FINAL-2017-TCFD-Report-11052018.pdf.

[23] Petitioners' Joint Opening Brief, dated June 14, 2024, at 11 ("Petr's Joint Opening Br.").

identified individual investors filed comment letters supporting the Final Rules.[24]

Further evidence of widespread investor support is available in the public record. In 2021, for example, 733 pension funds, banks, insurance companies, and investment management firms, representing over $52 trillion in assets under management, called on global governments to mandate climate risk disclosures.[25] The TCFD recommendations have been publicly endorsed by thousands of companies and institutional investors across the globe.[26] Surveys of large institutional investors, published in peer-reviewed financial journals, further evidence broad investor support for enhanced climate disclosures.[27]

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[24] *See* Comment Letter Types B, C, D, available at: https://www.sec.gov/comments/climate-disclosure/cll12-lettertype-b.htm; https://www.sec.gov/comments/climate-disclosure/cll12-lettertype-c.htm; https://www.sec.gov/comments/climate-disclosure/cll12-lettertype-d.htm.

[25] *See* Press Release, The Investor Agenda (Oct. 21, 2021), available at: https://theinvestoragenda.org/press-releases/27-october-2021.

[26] *See* https://www.fsb-tcfd.org (noting 4,900 supporters in 103 jurisdictions).

[27] *See* Philipp Krueger et. al, *The Importance of Climate Risks for Institutional Investors*, 33 REV. OF FIN. STUD. 1067, 1104 (2020) (survey

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B. The Commission responded to comments filed by registrants by making significant changes to the final rules.

There can be no serious doubt that the Commission's decision was supported by a robust process. The Commission published a request for comment on March 15, 2021—a full year before issuance of the proposing release—a process that exceeds the requirements of administrative law.[28] That request elicited overwhelming public input on potential climate-related disclosure, including over 6,500 comment letters, and those letters laid the groundwork for the rule proposal issued in March 2022. Then, after receiving the thousands of comments on that proposal, the Commission made significant modifications. For example, the Commission dropped a requirement to disclose Scope 3 (indirect upstream and downstream) GHG emissions. Smaller registrants were given an exemption from the requirement to disclose Scope 1 and Scope 2 GHG emissions. The Commission also added

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respondents considered climate risks to have important financial implications for their portfolios, and a majority believed that climate risks have already started to materialize).

[28] *See* https://www.sec.gov/news/public-statement/lee-climate-change-disclosures.

express materiality qualifiers to most of the Final Rules. Registrants, for example, are only required to disclose material impacts of climate-related risks that they have identified, and registrants must disclose Scope 1 and Scope 2 GHG emissions only where they determine that those emissions are likely to have a material impact on them. Many of these changes were supported by the *Amici*. The uniquely robust comment process, and resulting modifications, make clear that the Final Rules are not arbitrary or capricious.

III. The Final Rule is not a Climate Rule, and Striking It Down Would Undermine the Commission's Ability to Address Issues of Emerging Concern to Investors.

The required disclosures provide investors with information vital to making informed investment and voting decisions. But they do not require *any* action by registrants, beyond disclosure. Registrants will not be limited by the Final Rules in how they respond, or do not respond, to climate change. In other words, the Final Rules' focus is on the impact of climate change on registrants, and not of registrants on climate change. Petitioners argue at great length that the Final Rules are intended to change corporate behavior with respect to climate

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change,[29] and are therefore beyond the Commission's authority, but this argument is wholly misguided. That was not the Commission's intent. And if companies do change their behavior, it is only because, as then-Professor Felix Frankfurter said at the time of the passage of the '33 Act, "many practices safely pursued in private lose their justification in public,"[30] an observation that can be made of any mandated disclosure.

The disclosure-focused nature of the Final Rules is perhaps best illustrated by explaining what they do not do. They do not advance a general policy on climate. They do not mandate any operational change by public companies with respect to climate. They do not restrict or limit environmentally harmful activity or cap emissions. Nor do they impose a carbon tax. They simply require public companies to disclose investor-focused information, which has been the defining feature of U.S. securities law and regulation since the Commission's inception.

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[29] *See, e.g.*, Pet'rs' Joint Opening Br. at 64-65.

[30] Felix Frankfurter, *The Securities Act: Social Consequences*, FORTUNE, Aug. 1933, at 55.

Indeed, the Final Rules are in keeping with the long tradition in which the Commission has applied expert knowledge of financial risk and opportunity to emergent phenomena. As the world changes, new financial risks and opportunities emerge. The Commission is authorized to modify its disclosure requirements accordingly, just as it has always done. The Commission has amended its disclosure requirements dozens of times over the last 90 years based on its reasoned determination that additional information, including disclosures about material risks, would be important to investment and voting decisions. *See* Final Rules at 21683-87.

It is precisely because of the need for a vigorous and responsive SEC that the petitioners' assertions are so problematic. The U.S. securities markets are the largest, safest, and most efficient in the world, in large part because of the disclosure rules adopted and enforced by the SEC. Individuals and institutions from around the world invest their money here because of their confidence in U.S. regulation. But the *Amici* have found that, today, there is much more detailed climate-related information being made available outside of the U.S. than within, and the gap is growing wider. Climate-related financial

disclosures are now required in Brazil, the European Union, Japan, New Zealand, Singapore, Switzerland, and the United Kingdom. Given the extraordinary potential impact of climate-related risks, discussed above, the *Amici* believe that striking down the Final Rules would impact the attractiveness of U.S. securities markets and, more generally, would undermine the ability of the SEC to respond to emerging regulatory needs going forward. This brief, and the administrative record, should make absolutely clear that this is a matter of great concern to many of the world's largest investors.

CONCLUSION

For the foregoing reasons, the undersigned *Amici* support the position of Respondent, and urge the Court to deny the petition for review.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitations of Federal Rule of Appellate Procedure 32(a)(7)(B). This brief contains 4,320 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(a)(7)(B)(iii). This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6). This brief has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in fourteen (14) point Century Schoolbook style font.

Dated: August 15, 2024

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CIRCUIT RULE 28A(h) CERTIFICATION

The undersigned hereby certifies that I have filed electronically, pursuant to Circuit Rule 28A(h), a version of the brief in non-scanned PDF format. I hereby certify that the file has been scanned for viruses and that it is virus-free.

/s/Katherine L. Pringle
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 15, 2024, an electronic copy of the foregoing was filed with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. The undersigned also certifies that all participants in this case are registered CM/ECF users and that service of the Brief will be accomplished by the CM/ECF system.

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