June 15, 2022

Via Electronic Submission

Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Re: The Enhancement and Standardization of Climate-Related Disclosures for Investors - Release Nos. 33-11042; 34-94478; File No. S7-10-22

Dear Chair Gensler,

The American Council on Renewable Energy ("ACORE") respectfully submits these comments in response to the Securities and Exchange Commission's ("SEC" or "Commission") proposed rule "The Enhancement and Standardization of Climate-Related Disclosures for Investors." ACORE is a national nonprofit organization dedicated to advancing the renewable energy sector through market development, policy changes, and financial innovation. ACORE's membership includes renewable energy developers, institutional investors, corporate buyers, electric power generators, retail energy providers, and other stakeholders interested in identifying and implementing the best environmental, social, and governance ("ESG") disclosure and scoring practices.[1] ACORE member companies hold more than $25 trillion in assets. In 2021, more than 90 percent of the booming utility-scale U.S. renewable growth was financed, developed, owned, or contracted for by ACORE members.

ACORE supports the SEC's objectives to help investors access consistent, transparent, and forward-looking climate-related information to enable investors to access information on climate risks, greenhouse gas emissions, and climate solutions. Our comments support many of the elements of the proposed rule, while expressing some caution that the nature and extent of information and analyses that must be reported do not inadvertently drive suboptimal financial, climate, or environmental results.

Importance of standardized climate disclosures

Companies are adopting aggressive sustainability targets and considering ESG criteria to better evaluate the impact of their investments and business activities on climate change. However, new "sustainability" investments often do not directly result in greenhouse gas ("GHG") emission reductions. As the SEC has acknowledged, the current methodologies for measuring climate risks and opportunities have long been impeded by a lack of standardization, making it difficult for investors to compare companies' impacts on an apples-to-apples basis. These voluntary methodologies have given inadequate attention to material and forward-looking climate information relevant to companies' future financial performance and long-term climate impact. Furthermore, if we intend to achieve the significant declines in GHG emissions scientists say are needed by 2050, the business community must quickly adopt a standardized, transparent,

[1] The views expressed are those of the American Council on Renewable Energy and do not necessarily reflect the views of any individual ACORE member company.

and forward-looking approach that more effectively measures the climate impact of sustainability investments.

SEC climate disclosures should align with the Task Force on Climate-related Financial Disclosures ("TCFD") and GHG Protocol and have coordination with the International Sustainability Standards Board ("ISSB")

The TCFD and GHG Protocol have become the most used and trusted voluntary frameworks for companies to disclose climate information. Many companies already have internal processes to disclose climate information based on their recommendations and standards. We support the selected climate disclosures in the proposed rule modeled from these established frameworks.

These voluntary frameworks have processes to periodically update their guidance to reflect changing market conditions. For example, the GHG Protocol recently announced an effort to determine the need and scope for additional guidance for its Scope 1-3 emissions disclosure standards.[2] The SEC should also consider a schedule to regularly review and update its disclosures in response to changes by the TCFD and GHG Protocol, as well as to other market adjustments observed by the SEC. The SEC should consider committing to coordinate with these voluntary frameworks and international standards every few years to ensure consistency for international registrants. If the SEC intends to remain consistent with the TCFD and GHG Protocol, the SEC should issue a public notice for comment and make changes after performing a cost-and-benefit analysis. It is important that the decisions and interpretations of these nongovernmental organizations alone would not impact the legal obligations and risks of the regulated community.

Furthermore, the ISSB has published exposure drafts related to climate disclosures that adopt many of the TCFD's recommendations and offer industry-based disclosure topics and metrics sensitive to varying sector business models and value chains. The SEC should work collaboratively with the jurisdictional working group set up by the ISSB to facilitate the development of a global baseline for climate disclosures.[3]

In climate transition plan disclosures, the rule should call attention to material risk aspects, such as renewable energy

Renewable energy stands at the heart of efforts to address climate change. The International Energy Agency ("IEA") has stated we will not achieve net zero without doubling the global rate of renewable energy generation. Two-thirds of electricity generation must come from renewable energy sources, and investment in renewable energy needs to triple by 2030 to meet the 2050

[2] "GHG Protocol to assess the need for additional guidance building on existing corporate standards". Greenhouse Gas Protocol. https://ghgprotocol.org/blog/ghg-protocol-assess-need-additional-guidance-building-existing-corporate-standards

[3] "Public Comment on Enhancement and Standardization of Climate-Related Disclosures for Investors Proposed Rule". Value Reporting Foundation. https://www.sec.gov/comments/s7-10-22/s71022-20127884-289400.pdf

Paris Agreement target.[4,5] Renewable energy generation, use, provision, and investment are thus material considerations and strategic business decisions in company climate transition and net-zero plans, as companies contribute to meeting global climate targets while also reducing their exposures to GHG emissions-intensive activities; improving their long-term financial performance; complying with climate-related policies; and responding to customer demand for less carbon-intensive energy.

Net-zero commitments now cover one-fifth of the world's largest corporations. However, common net-zero activities such as purchasing carbon- or nature-based offsets may not have the same impact as actions that more directly drive decarbonization. The rule should call attention to the most material risk aspects of emissions and climate transition plans where available, such as renewable energy generation, use and investment, while also allowing other transition plan disclosures. If a registrant has adopted a transition plan, the SEC should also require the company to disclose how it is using or investing in renewable energy to comply with laws, regulations or policies, and the changing demands or preferences of customers, as proposed.

<u>The SEC should permit voluntary disclosures of climate opportunities, as proposed, including renewable energy generation, provision, use, and investment</u>

The SEC should permit and, indeed, encourage companies to discuss climate-related opportunities, such as the generation, provision, or use of renewable power, as proposed. According to a report by the Organisation for Economic Co-operation and Development ("OECD"), investing in renewable energy and low-carbon products can present opportunities through the formation of green-aligned markets, products and innovations; contribute to "climate-resilient growth;" while reducing stress on the financial system. Furthermore, the OECD has estimated that "achieving the 2 degree [C] scenario by 2050 could have a net positive effect on global GDP of up to 5%."[6]

It is our recommendation that, in order to provide the clearest picture and utmost transparency, while not discouraging investment in the creation of new renewable energy, the SEC should include the reporting of direct investments in renewable energy projects as a climate opportunity. This will afford investors the opportunity to report these investments and their impact in a transparent manner in climate-related disclosures. It is our opinion that the SEC could unintentionally negatively impact investing within the renewable sector if the appropriateness of its inclusion in company disclosures is not detailed specifically.

Investors choose to invest in renewable energy as a strategic business decision in addition to a strategy to achieve decarbonization objectives. The U.S. renewable energy sector has attracted over $425 billion in investment over the last decade.[7] Debt and equity providers continue to

[4] "Renewable Power: More efforts needed". IEA. https://www.iea.org/reports/renewable-power
[5] "World must triple clean energy investment by 2030 to curb climate change -IEA". World Economic Forum. https://www.weforum.org/agenda/2021/10/iea-international-energy-markets-environment-renewables
[6] "ESG Investing and Climate Transition". OECD. https://www.oecd.org/finance/ESG-investing-and-climate-transition-market-practices-issues-and-policy-considerations.pdf
[7] "Clean Energy Investment Trends". BloombergNEF. https://about.bnef.com/

show strong confidence in the renewable energy sector even as financing mechanisms have evolved to meet the capital requirements of renewable energy projects.

Financial institutions and other corporations with large tax capacities provide renewable energy tax equity in support of U.S. renewable energy development and the clean energy transition. In addition to the environmental benefits, these investments compare favorably to other financial products in risk and return profiles. Many financial institutions also offer sustainable finance and other climate-related financial products and services that can direct funding to renewable energy.[8] Chief among them are sustainable financing product options and client services that assist in the transition to green portfolios.

Sustainable debt options include green bonds and loans, social bonds, sustainability bonds, sustainability-linked loans and bonds, and transition bonds.[9] As the energy transition accelerates, financial institutions are stepping up the issuance of these products and increasing the underwriting of sustainable debt for renewable energy firms. In 2020, green and sustainability bonds totaled $315.4 billion.[10] Many financial institutions disclose impact reports on issued bonds reviewed by third-party opinion providers and may attach metrics to their sustainability-linked bonds and transition bonds, such as an ESG score, to increase transparency to investors. Green bonds can also be linked to specific environmental targets, such as an increase in the share of renewable energy generation and consumption, to enhance their climate impact. Financial institutions can also create ESG-related derivatives products, including renewable energy purchasing instruments such as power purchase agreements ("PPAs"), proxy revenue swaps, renewable energy certificates ("RECs"), wind index futures, renewable identification numbers ("RINs") futures, and low-carbon fuel standard futures. These efforts enhance the liquidity and deployment of green investment and can be verified to demonstrate the veracity and impact of investments.

As the OECD stated in its report, "accurate information on climate-related opportunities and the commitment of issuers to engage in the transition is important for market efficiency and integrity, combined with accuracy of public sector monitoring of net risks."[11] Renewable energy generation, use, provision, and investment are key demonstrations of companies' commitments to benefit from climate opportunities.

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[8] "Transition bonds" finance projects that are considered as interim steps toward a low-carbon economy, such as the development of a gas power plant in place of coal, which may still retain climate risks.
"Climate Transition for Financials: Bankers and Brokers". BloombergNEF.
https://www.bnef.com/insights/26637/view. p. 12-23

[9] "Climate Transition for Financials: Bankers and Brokers". BloombergNEF.
https://www.bnef.com/insights/26637/view. p. 16

[10] "Climate Transition for Financials: Bankers and Brokers". BloombergNEF.
https://www.bnef.com/insights/26637/view. p. 14

[11] "ESG Investing and Climate Transition". OECD. https://www.oecd.org/finance/ESG-investing-and-climate-transition-market-practices-issues-and-policy-considerations.pdf

Renewable Energy Credits ("RECs") should be defined as legal instruments, with particular disclosure of the type of RECs relied upon in a company's climate strategy

Driven by investors and customers demanding less carbon-intensive energy, many load serving providers and independent power producers are transitioning to GHG emissions-free renewable power. Commercial and industrial ("C&I") offtakers are dramatically transforming the grid by creating demand for projects to meet internal sustainability goals. Seventy-five percent of Fortune 100 companies now have some form of renewable energy or sustainability target.[12] C&I offtakers accounted for over 40 percent of all signed U.S. renewable power purchase agreements ("PPAs") in 2021.[13] In 2021, corporate procurement through renewable PPAs reached 17 gigawatts ("GW"), an approximate 3.5 GW increase from the previous year.[14]

A renewable energy credit is a legal instrument that represents the environmental and nonpower attributes of renewable energy generation. One REC represents one megawatt-hour ("MWh") of renewable energy generation. REC ownership is how companies in the U.S. make credible and verifiable renewable energy usage claims,[15] and may be used to address Scope 2 GHG emissions associated with purchased electricity.[16,17]

While a company that claims credit for renewable energy use must retain or retire ownership of RECs, companies have various options available to procure renewable energy, as described below. These methods have differing impacts on reducing GHG emissions.[18]

Power Purchase Agreements: A multi-year contract in which an entity sells electricity and RECs to another party, often at a fixed price. In a *physical* PPA, the offtaker receives the electricity generated from a renewable power plant and its RECs. A *virtual* PPA is a contract in which an offtaker agrees to purchase electricity and RECs from a renewable developer at a set fixed price, but continues to buy physical electricity from its local electricity provider. In this scenario, the developer sells the renewable power into the wholesale electricity market and does not deliver electricity to the buyer, and the parties agree on a financial settlement on the difference between the market price of the electricity and the stated contract price. Renewable energy projects often do not receive financing until a PPA with an offtaker is signed. An offtaker

[12] Fortune 100 sustainability reports.

[13] "Clean Energy in America Reaches Milestone in 2021, But Installation Pace Must Accelerate to Reach Emissions Goals". American Clean Power Association. https://cleanpower.org/blog/clean-energy-in-america-reaches-milestone-in-2021-but-installation-pace-must-accelerate-to-reach-emissions-goals

[14] https://www.bnef.com/interactive-datasets/2d5d59acd9000022; PPAs are not the only means by which C&I entities acquire or support renewable energy as part of their sustainability programs.

[15] "Power Purchase Agreements". BloombergNEF. https://www.there100.org/sites/re100/files/2021-02/RE100%20Making%20Credible%20Claims.pdf

[16] Jurisdictions outside the U.S. have other contractual instruments to document renewable energy use, such as Guarantees of Origin in the E.U. or through contractual arrangements between electricity generators and users in regions without established markets for renewable energy attributes.

[17] "Offsets and RECs: What's the Difference?" U.S. Environmental Protection Agency (EPA). https://www.epa.gov/sites/default/files/2018-03/documents/gpp_guide_recs_offsets.pdf

[18] "4 Ways to Get Renewable Energy Certificates". LevelTen Energy. https://www.leveltenenergy.com/post/ways-to-get-renewable-energy-certificates

that has signed either a physical or virtual PPA is thus at least partly responsible for helping to bring a new renewable energy project to the power grid.

Renewable Energy Investments: Certain investments in renewable energy projects can be structured so that the investor can claim RECs for the renewable energy produced, as long as double counting is avoided. Certain large technology companies and retailers, for example, have invested in renewable energy tax credits (also known as a "tax equity" investment) and receive RECs generated from those projects. Direct investments in renewable energy projects bring new GHG emissions-free electricity to the power grid, regardless of whether RECs are retained.[19]

Unbundled REC Purchasing: RECs can be purchased without the underlying electricity from REC retailers. Unlike RECs acquired through PPAs, unbundled RECs may not be associated with new renewable energy project construction. However, renewable energy projects still benefit from demand for unbundled RECs, and unbundled REC purchasing remains important to how the U.S. renewable energy market functions.

Green Pricing Programs and Green Tariffs: Companies and households in certain electricity markets may purchase renewable power and RECs from their utility, competitive supplier, or community choice aggregator, through green power pricing programs or green tariffs. The buyer does not generally control where the renewable energy is sourced in green pricing programs, nor is the market price of electricity relevant to what the buyer pays. In a green tariff, the buyer pays a bundled price stated in the tariff or negotiated with the utility, and the rules of the utility's green tariff assure that the utility has procured energy from a renewable source and that the renewable attributes of generation from that source may only be claimed once by the green tariff customer.

Onsite Generation: A company may also choose to own a renewable energy generation facility and retire the generated RECs to meet its renewable energy goals.

24/7 Purchasing: Some companies have committed to purchasing 24/7 clean energy to ensure their electricity consumption is matched by carbon-free energy generation on an hourly basis.[20] Companies currently use different time-based energy tracking certificates, as the industry works on a more widely accepted standard that could effectively time stamp the hour electricity is produced on a REC. 24/7 purchasing is intended to have a larger impact on reducing carbon emissions, and to incentivize suppliers to locate renewable energy in regions with more fossil fuel generation, thus maximizing the emissions displacement potential of new renewable generation.

The proposed rule does not differentiate among the different sources of RECs described above.

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[19] Please see the sections titled "The SEC should permit voluntary disclosures of climate opportunities, as proposed, including renewable energy generation, provision, use, and investment" and "GHG disclosures should reflect the needs of investors" which detail how investors in renewable energy projects should be able disclose the climate benefits of their renewable energy investments.

[20] "Can 24/7 carbon-free energy become a global standard?" Canary Media. https://www.canarymedia.com/articles/corporate-procurement/can-24-7-carbon-free-energy-become-a-global-standard

Nor does the proposed rule adequately recognize the source of the legal instrument creating the REC, which affects the substantiality of the carbon claims of emissions reductions. ACORE recommends that the definition be revised to require disclosure of the type of "legal instrument" that creates the REC associated with the generation and procurement of renewable electricity. By requiring fuller disclosure of the type of REC relied upon by a registrant, the rule will provide a more transparent view of how a company is contributing to durable carbon emission reductions.

Furthermore, as stated in the proposed rule, RECs are distinct from carbon offsets. RECs and carbon offsets have unique purposes and differing impacts. Whereas a REC is an accounting instrument that relates to a company's electricity use and its Scope 2 GHG emissions, a carbon offset is a verified emission reduction subtracted from a company's gross emissions to determine its net emissions. An offset can be applied to an organization's Scope 1, 2 or 3 emissions, [21] but may encourage a company to put off more direct decarbonization actions. The SEC should distinguish between these types of arrangements when establishing disclosure requirements.

Additionally, there are different eligibility rules and restrictions for RECs used for state compliance (i.e., how a utility complies with a state renewable energy target) and voluntary claims (i.e., how a corporation voluntarily purchases RECs to achieve internal goals). Differences in terms of REC vintage, for example, may affect claims. It is important to recognize that, where an eligible REC-generating activity for compliance purposes diverges from eligible REC-generating activity under prevailing voluntary guidance, the impact on reporting requirements may be unclear.[22]

The proposed rule also seems to suggest, with respect to environmental commodities, that RECs and offsets would be the only relevant environmental commodity instruments recognized, when there are a host of crediting instruments present in the environmental markets. For example, there is no guidance on how renewable natural gas credits (also known as Thermal RECs, Renewable Fuel Certificates or Green Gas Certificates) would be treated. The SEC should thoroughly assess the complexity present in the environmental markets and the implications of that complexity on reporting obligations as it works to finalize guidance.

<u>Climate and renewable energy-related targets and goals should be disclosed, but disclosure data on a company's progress in achieving the goal should be phased in over time</u>

The SEC should require registrants to provide certain information about climate-related targets or goals, including renewable energy targets. As proposed, disclosures should include information about action plans and timelines for achieving targets. However, if the SEC requires a registrant to provide data that indicates whether the registrant is making progress toward meeting the target and how much progress has been achieved, it should allow a phase-in period to accommodate the registrant's process in the development and implementation of its target or goal. For example, a company may commit to a renewable energy goal before understanding the renewable energy offtake structures suitable for its business. A company may have a small

[21] "Offsets and RECs: What's the Difference?" U.S. Environmental Protection Agency (EPA). https://www.epa.gov/sites/default/files/2018-03/documents/gpp_guide_recs_offsets.pdf

[22] "Accounting for Standard Delivery Renewable Energy". Center for Resource Solutions. https://resource-solutions.org/document/030921/

energy footprint and may not have the demand or expertise suitable to lock in a long-term PPA for a utility-scale energy project. Requiring data on progress against renewable energy targets from the inception of the target or goal's adoption could have a chilling effect on companies considering renewable energy as a strategic, long-term business decision and/or as part of their climate transition plans.

If RECs are used to help a company achieve a climate-related target or goal, the SEC could require the registrant to disclose certain information about the RECs, as proposed. Disclosures could consider the type of "legal instrument" that creates the REC associated with the generation and procurement of renewable electricity, as described above, and the GHG emissions reduced as a result of REC usage. Those companies achieving 24/7 renewable use, for example, could quantify the associated emissions reductions, while those companies using non-time-stamped RECs could use a less granular (e.g., annual average) emissions factor for their grid location. This transparency will ensure integrity and an equal playing field for registrants. However, we also recognize that existing datasets often lack the granularity necessary to accurately report on carbon reduction. A recent paper, "Hourly accounting of carbon emissions from electricity consumption,"[23] found that existing accounting practices can over or underestimate emissions by 35 percent. The Federal Energy Regulatory Commission ("FERC") should direct jurisdictional entities to release Locational Marginal Emissions data, as was done recently by PJM, to ensure that the data exists to perform this disclosure.

GHG disclosures should reflect the needs of investors

Scope 1 and 2 emissions reporting is well-developed and already disclosed by many market participants through the GHG Protocol's framework. We support the proposed rule's required Scope 1 and 2 disclosures that are modeled on the GHG Protocol's standards. However, while the proposed rule modifies the GHG Protocol's standards to suit the U.S. market, market-based Scope 2 disclosures should be required. Market-based disclosures encompass supplier-specific data, which provides more granularity on the environmental impacts of purchased power compared with the location-based method of Scope 2 emissions reporting.[24]

While the proposed rule requires gross GHG emissions disclosures, investors also should be permitted to separately disclose the avoided emissions associated with their investments in renewable energy while avoiding concerns around double counting. Banks and capital providers are accelerating their investments in renewable energy, and these investments extend beyond the operational carbon footprint of the investing company and contribute to GHG reductions in other sectors of the economy. The downstream impacts of their investment activity could provide tremendous future GHG savings in the form of avoided carbon emissions. Other investors could benefit from avoided emissions information if they seek to invest in companies that are driving capital to renewable energy. The Partnership for Carbon Accounting Financials ("PCAF") has

[23] "Hourly accounting of carbon emissions from electricity consumption". Environmental Research Letters. https://iopscience.iop.org/article/10.1088/1748-9326/ac6147

[24] "Scope 2 Market-Based Accounting Has Huge Potential Along with Data Challenges". Scope 5. https://www.scope5.com/wp-content/uploads/2021/04/Scope5_Scope2-Market-based-Accounting.pdf

proposed guidance for investors on how to consistently disclose avoided emissions as part of Scope 3 Category 15 emissions reporting.[25]

As financial institutions set financed emission targets in the electricity sector, they have identified the need for more consistent emissions data from load-serving entities (or electric utilities or competitive electricity retailers) about both their owned generation and purchased electricity. It is currently challenging for an investor to assess client procurements in the electric utility and competitive electricity retail sector in a holistic way. Some institutions have provided GHG information voluntarily and do not consistently report on purchased generation through power purchase agreements. Many major utilities and competitive electricity retailers procure renewable power through PPAs, but their emissions data may or may not reflect it, and municipal utilities and rural co-ops often decarbonize through PPAs and not through their owned assets. Investors do not have the data they need to show how utility strategies would translate to their own financed emission targets. Through more consistent disclosures of the GHG emissions of generator-owned and purchased electricity, financial institutions can better account for the emissions attributable to their financing beyond the current voluntary, patchwork disclosure environment.

<u>The SEC should allow registrants to retain their current GHG Protocol-based GHG inventory boundaries</u>

Concerning GHG inventory boundaries, the proposal suggests that registrants should depart from the existing practice of aligning their GHG inventory accounting with GHG Protocol definitions of operational or financial control, and instead use U.S. Generally Accepted Accounting Principles ("GAAP") definitions to structure inventories. The GHG Protocol is currently the mostly widely accepted and used accounting standard companies use to calculate GHG inventory boundaries. Presumably, use of GAAP definitions would require companies to restructure GHG inventory approaches or reclassify emissions sources, and create discontinuity from historical reporting. Their use may also significantly impact prevailing mitigation approaches and goal pathways. We therefore recommend allowing registrants to retain their current GHG Protocol-based GHG inventory boundaries.

Thank you for the opportunity to submit these comments. Please do not hesitate to contact ACORE's Senior Vice President of Programs and Content Strategy, Lesley Hunter, at hunter@acore.org with any additional questions you may have.

Sincerely,

/s/ *Lesley Hunter*
Lesley Hunter
Senior Vice President of Programs and Content Strategy
American Council on Renewable Energy

[25] "New Methods for Public Consultation: For financial institutions measuring and reporting scope 3 category 15 emissions". PCAF. https://carbonaccountingfinancials.com/files/consultation-2021/pcaf-draft-new-methods-public-consultation.pdf