

CLIMATE RISK DISCLOSURE ACT OF 2021

MAY 20, 2021.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2570]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 2570) to amend the Securities Exchange Act of 1934 to require certain disclosures relating to climate change, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Climate Risk Disclosure Act of 2021”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) climate change poses a significant and increasing threat to the growth and stability of the economy of the United States;

(2) many sectors of the economy of the United States and many American businesses are exposed to climate-related risk, which may include exposure to—

(A) the physical impacts of climate change, including the rise of the average global temperature, accelerating sea-level rise, desertification, ocean acidification, intensification of storms, increase in heavy precipitation, more frequent and intense temperature extremes, more severe droughts, and longer wildfire seasons;

(B) the economic disruptions and security threats that result from the physical impacts described in subparagraph (A) including conflicts over scarce resources, conditions conducive to violent extremism, the spread of infectious diseases, and forced migration;

(C) the transition impacts that result as the global economy transitions to a clean and renewable energy, low-emissions economy, including financial impacts as climate change fossil fuel assets becoming stranded and it becomes uneconomic for companies to develop fossil fuel assets as policy-makers act to limit the worst impacts of climate change by keeping the rise in average global temperature to 1.5 degrees Celsius above pre-industrial levels; and

(D) actions by Federal, State, Tribal, territorial, and local governments to limit the worst effects of climate change by enacting policies that keep the global average surface temperature rise to 1.5 degrees Celsius above pre-industrial levels;

(3) assessing the potential impact of climate-related risks on national and international financial systems is an urgent concern;

(4) companies have a duty to disclose financial risks that climate change presents to their investors, lenders, and insurers;

(5) the Securities and Exchange Commission has a duty to promote a risk-informed securities market that is worthy of the trust of the public as families invest for their futures;

(6) investors, lenders, and insurers are increasingly demanding climate risk information that is consistent, comparable, reliable, and clear;

(7) including standardized, material climate change risk and opportunity disclosure that is useful for decision makers in annual reports to the Commission will increase transparency with respect to risk accumulation and exposure in financial markets;

(8) requiring companies to disclose climate-related risk exposure and risk management strategies will encourage a smoother transition to a clean and renewable energy, low-emissions economy and guide capital allocation to mitigate, and adapt to, the effects of climate change and limit damages associated with climate-related events and disasters; and

(9) a critical component in fighting climate change is a transparent accounting of the risks that climate change presents and the implications of continued inaction with respect to climate change.

SEC. 3. DISCLOSURES RELATING TO CLIMATE CHANGE.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

“(s) DISCLOSURES RELATING TO CLIMATE CHANGE.—

“(1) DEFINITIONS.—In this subsection:

“(A) 1.5 DEGREE SCENARIO.—The term ‘1.5 degree scenario’ means a scenario that aligns with greenhouse gas emissions pathways that aim to limit global warming to 1.5 degrees Celsius above pre-industrial levels.

“(B) APPROPRIATE CLIMATE PRINCIPALS.—The term ‘appropriate climate principals’ means—

“(i) the Administrator of the Environmental Protection Agency;

“(ii) the Administrator of the National Oceanic and Atmospheric Administration;

“(iii) the Director of the Office of Management and Budget;

“(iv) the Secretary of the Interior;

“(v) the Secretary of Energy; and

“(vi) the head of any other Federal agency, as determined appropriate by the Commission.

“(C) BASELINE SCENARIO.—The term ‘baseline scenario’ means a widely-recognized analysis scenario in which levels of greenhouse gas emissions, as of the date on which the analysis is performed, continue to grow, resulting in an increase in the global average temperature of 1.5 degrees Celsius or more above pre-industrial levels.

“(D) CARBON DIOXIDE EQUIVALENT.—The term ‘carbon dioxide equivalent’ means the number of metric tons of carbon dioxide emissions with the same global warming potential as one metric ton of another greenhouse gas, as determined under table A–1 of subpart A of part 98 of title 40, Code of Federal Regulations, as in effect on the date of enactment of this subsection.

“(E) CLIMATE CHANGE.—The term ‘climate change’ means a change of climate that is—

“(i) attributed directly or indirectly to human activity that alters the composition of the global atmosphere; and

“(ii) in addition to natural climate variability observed over comparable time periods.

“(F) COMMERCIAL DEVELOPMENT OF FOSSIL FUELS.—The term ‘commercial development of fossil fuels’ includes—

“(i) exploration, extraction, processing, exporting, transporting, refining, and any other significant action with respect to oil, natural gas, coal, or any byproduct thereof or any other solid or liquid hydrocarbons that are commercially produced; and

“(ii) acquiring a license for any activity described in clause (i).

“(G) COVERED ISSUER.—The term ‘covered issuer’ means an issuer that is required to file an annual report under subsection (a) or section 15(d).

“(H) DIRECT AND INDIRECT GREENHOUSE GAS EMISSIONS.—The term ‘direct and indirect greenhouse gas emissions’ includes, with respect to a covered issuer—

“(i) all direct greenhouse gas emissions released by the covered issuer;

“(ii) all indirect greenhouse gas emissions with respect to electricity, heat, or steam purchased by the covered issuer;

“(iii) significant indirect emissions, other than the emissions described in clause (ii), emitted in the value chain of the covered issuer; and

“(iv) all indirect greenhouse gas emissions that are attributable to assets owned or managed, including assets that are partially owned or managed, by the covered issuer.

“(I) FOSSIL FUEL RESERVES.—The term ‘fossil fuel reserves’ has the meaning given the term ‘reserves’ under the final rule of the Commission titled ‘Modernization of Oil and Gas Reporting’ (74 Fed. Reg. 2158; published January 14, 2009).

“(J) GREENHOUSE GAS.—The term ‘greenhouse gas’—

“(i) means carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, sulfur hexafluoride, nitrogen trifluoride, and chlorofluorocarbons;

“(ii) includes any other anthropogenically-emitted gas that the Administrator of the Environmental Protection Agency determines, after notice and comment, to contribute to climate change; and

“(iii) includes any other anthropogenically-emitted gas that the Intergovernmental Panel on Climate Change determines to contribute to climate change.

“(K) GREENHOUSE GAS EMISSIONS.—The term ‘greenhouse gas emissions’ means the emissions of greenhouse gas, expressed in terms of metric tons of carbon dioxide equivalent.

“(L) PHYSICAL RISKS.—The term ‘physical risks’ means financial risks to long-lived fixed assets, locations, operations, or value chains that result from exposure to physical climate-related effects, including—

“(i) increased average global temperatures and increased frequency of temperature extremes;

“(ii) increased severity and frequency of extreme weather events;

“(iii) increased flooding;

“(iv) sea level rise;

“(v) ocean acidification;

“(vi) increased frequency of wildfires;

“(vii) decreased arability of farmland;

“(viii) decreased availability of fresh water; and

“(ix) any other financial risks to long-lived fixed assets, locations, operations, or value chains determined appropriate by the Commission, in consultation with appropriate climate principals.

“(M) SOCIAL COST OF CARBON.—The term ‘social cost of carbon’ means the social cost of carbon, as described in the technical support document entitled ‘Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866’, published by the Interagency Working Group on Social Cost of Greenhouse Gases, United States Government, in August 2016 or any successor or substantially related estimate of the monetized damages associated with an incremental increase in carbon dioxide emissions in a given year.

“(N) TRANSITION RISKS.—The term ‘transition risks’ means financial risks that are attributable to climate change mitigation and adaptation, including efforts to reduce greenhouse gas emissions and strengthen resilience to the impacts of climate change, including—

“(i) costs relating to—

“(I) international treaties and agreements;

“(II) Federal, State, and local policy;

“(III) new technologies;

“(IV) changing markets;

“(V) reputational impacts relevant to changing consumer behavior; and

“(VI) litigation; and

“(ii) assets that may lose value or become stranded due to any of the costs described in subclauses (I) through (VI) of clause (i).

“(O) VALUE CHAIN.—The term ‘value chain’—

“(i) means the total lifecycle of a product or service, both before and after production of the product or service, as applicable; and

“(ii) may include the sourcing of materials, production, transportation, and disposal with respect to the product or service described in clause (i).

“(2) FINDINGS.—Congress finds that—

“(A) short-, medium-, and long-term financial and economic risks and opportunities relating to climate change, and the national and global reduction of greenhouse gas emissions, constitute information that issuers—

“(i) may reasonably expect to affect shareholder decision making; and

“(ii) should regularly identify, evaluate, and disclose; and

“(B) the disclosure of information described in subparagraph (A) should—

“(i) identify, and evaluate—

“(I) material physical and transition risks posed by climate change; and

“(II) the potential financial impact of such risks;

“(ii) detail any implications such risks have on corporate strategy;

“(iii) detail any board-level oversight of material climate related risks and opportunities;

“(iv) allow for intra- and cross-industry comparison, to the extent practicable, of climate-related risk exposure through the inclusion of standardized industry-specific and sector-specific disclosure metrics, as identified by the Commission, in consultation with the appropriate climate principals;

“(v) allow for tracking of performance over time with respect to mitigating climate risk exposure; and

“(vi) incorporate a price on greenhouse gas emissions in financial analyses that reflects, at minimum, the social cost of carbon that is attributable to issuers.

“(3) DISCLOSURE.—Each covered issuer, in any annual report filed by the covered issuer under subsection (a) or section 15(d), shall, in accordance with any rules issued by the Commission pursuant to this subsection, include in each such report information regarding—

“(A) the identification of, the evaluation of potential financial impacts of, and any risk-management strategies relating to—

“(i) physical risks posed to the covered issuer by climate change; and

“(ii) transition risks posed to the covered issuer by climate change;

“(B) a description of any established corporate governance processes and structures to identify, assess, and manage climate-related risks;

“(C) a description of specific actions that the covered issuer is taking to mitigate identified risks;

“(D) a description of the resilience of any strategy the covered issuer has for addressing climate risks when differing climate scenarios are taken into consideration; and

“(E) a description of how climate risk is incorporated into the overall risk management strategy of the covered issuer.

“(4) RULE OF CONSTRUCTION.—Nothing in paragraph (3) may be construed as precluding a covered issuer from including, in an annual report submitted under subsection (a) or section 15(d), any information not explicitly referenced in such paragraph.

“(5) RULEMAKING.—The Commission, in consultation with the appropriate climate principals, shall, not later than 2 years after the date of the enactment of this subsection, issue rules with respect to the information that a covered issuer is required to disclose pursuant to this subsection and such rules shall—

“(A) establish climate-related risk disclosure rules, which shall—

“(i) be, to the extent practicable, specialized for industries within specific sectors of the economy, which shall include—

“(I) the sectors of finance, insurance, transportation, electric power, mining, and non-renewable energy; and

“(II) any other sector determined appropriate by the Commission, in consultation with the appropriate climate principals;

“(ii) include reporting standards for estimating and disclosing direct and indirect greenhouse gas emissions by a covered issuer, and any affiliates of the covered issuer, which shall—

“(I) disaggregate, to the extent practicable, total emissions of each specified greenhouse gas by the covered issuer; and

“(II) include greenhouse gas emissions by the covered issuer during the period covered by the disclosure;

“(iii) include reporting standards for disclosing, with respect to a covered issuer—

“(I) the total amount of fossil fuel-related assets owned or managed by the covered issuer; and

“(II) the percentage of fossil fuel-related assets as a percentage of total assets owned or managed by the covered issuer;

“(iv) specify requirements for, and the disclosure of, input parameters, assumptions, and analytical choices to be used in climate scenario analyses required under subparagraph (B)(i), including—

“(I) present value discount rates; and

“(II) time frames to consider, including 5, 10, and 20 year time frames; and

“(v) include reporting standards and guidance with respect to the information required under subparagraph (B)(iii);

“(B) require that a covered issuer, with respect to a disclosure required under this subsection—

“(i) incorporate into such disclosure—

“(I) quantitative analysis to support any qualitative statement made by the covered issuer;

“(II) the rules established under subparagraph (A);

“(III) industry-specific metrics that comply with the requirements under subparagraph (A)(i);

“(IV) specific risk management actions that the covered issuer is taking to address identified risks;

“(V) a discussion of the short-, medium-, and long-term resilience of any risk management strategy, and the evolution of applicable risk metrics, of the covered issuer under each scenario described in clause (ii); and

“(VI) the total cost attributable to the direct and indirect greenhouse gas emissions of the covered issuer, using, at minimum, the social cost of carbon;

“(ii) consider, when preparing any qualitative or quantitative risk analysis statement contained in the disclosure—

“(I) a baseline scenario that includes physical impacts of climate change;

“(II) a 1.5 degrees scenario; and

“(III) any additional climate analysis scenario considered appropriate by the Commission, in consultation with the appropriate climate principals;

“(iii) if the covered issuer engages in the commercial development of fossil fuels, include in the disclosure—

“(I) an estimate of the total and a disaggregated amount of direct and indirect greenhouse gas emissions of the covered issuer that are attributable to—

- “(aa) combustion;
- “(bb) flared hydrocarbons;
- “(cc) process emissions;
- “(dd) directly vented emissions;
- “(ee) fugitive emissions or leaks; and
- “(ff) land use changes;

“(II) a description of—

“(aa) the sensitivity of fossil fuel reserve levels to future price projection scenarios that incorporate the social cost of carbon;

“(bb) the percentage of the reserves of the covered issuer that will be developed under the scenarios established in clause (ii), as well as a forecast for the development prospects of each reserve under the scenarios established in clause (ii);

“(cc) the potential amount of direct and indirect greenhouse gas emissions that are embedded in proved and probable reserves, with each such calculation presented as a total and in subdivided categories by the type of reserve;

“(dd) the methodology of the covered issuer for detecting and mitigating fugitive methane emissions, which shall include the frequency with which applicable assets of the covered issuer are observed for methane leaks, the processes and technology that the covered issuer uses to detect methane leaks, the percentage of assets of the covered issuer that the covered issuer inspects under that methodology, and quantitative and time-bound reduction goals of the issuer with respect to methane leaks;

“(ee) the amount of water that the covered issuer withdraws from freshwater sources for use and consumption in operations of the covered issuer; and

“(ff) the percentage of the water described in item (ee) that comes from regions of water stress or that face wastewater management challenges; and

“(III) any other information that the Commission determines is—

“(aa) necessary;

“(bb) appropriate to safeguard the public interest; or

“(cc) directed at ensuring that investors are informed in accordance with the findings described in paragraph (2);

“(C) with respect to a disclosure required under section 13(s) of the Securities Exchange Act of 1934, require that a covered issuer include in such disclosure any other information, or use any climate-related or greenhouse gas emissions metric, that the Commission, in consultation with the appropriate climate principals, determines is—

“(i) necessary;

“(ii) appropriate to safeguard the public interest; or

“(iii) directed at ensuring that investors are informed in accordance with the findings described in paragraph (2); and

“(D) with respect to a disclosure required under section 13(s) of the Securities Exchange Act of 1934, establish how and where the required disclosures shall be addressed in the covered issuer’s annual financial filing.

“(6) **FORMATTING.**—The Commission shall require issuers to disclose information in an interactive data format and shall develop standards for such format, which shall include electronic tags for information that the Commission determines is—

“(A) necessary;

“(B) appropriate to safeguard the public interest; or

“(C) directed at ensuring that investors are informed in accordance with the findings described in paragraph (2).

“(7) **PERIODIC UPDATE OF RULES.**—The Commission shall periodically update the rules issued under this subsection.

“(8) **COMPILATION OF INFORMATION DISCLOSED.**—The Commission shall, to the maximum extent practicable make a compilation of the information disclosed by issuers under this subsection publicly available on the website of the Commission and update such compilation at least once each year.

“(9) **REPORTS.**—

“(A) **REPORT TO CONGRESS.**—The Commission shall—

“(i) conduct an annual assessment regarding the compliance of covered issuers with the requirements of this subsection;

“(ii) submit to the appropriate congressional committees a report that contains the results of each assessment conducted under clause (i); and

“(iii) make each report submitted under clause (ii) accessible to the public.

“(B) GAO REPORT.—The Comptroller General of the United States shall periodically evaluate, and report to the appropriate congressional committees on, the effectiveness of the Commission in carrying out and enforcing this subsection.”.

SEC. 4. BACKSTOP.

If, 2 years after the date of the enactment of this Act, the Securities and Exchange Commission has not issued the rules required under section 13(s) of the Securities Exchange Act of 1934, and until such rules are issued, a covered issuer (as defined in such section 13(s)) shall be deemed in compliance with such section 13(s) if disclosures set forth in the annual report of such issuer satisfy the recommendations of the Task Force on Climate-related Financial Disclosures of the Financial Stability Board as reported in June, 2017, or any successor report, and as supplemented or adjusted by such rules, guidance, or other comments from the Commission.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Securities and Exchange Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

PURPOSE AND SUMMARY

On April 15, 2021, Representative Sean Casten introduced H.R. 2570, the Climate Risk Disclosure Act of 2021, which requires public companies to disclose in their annual reports information relating to the financial and business risks associated with climate change. H.R. 2570 also requires the SEC to establish, in consultation with other relevant Federal agencies, climate-related risk disclosure metrics and guidance, which will be industry-specific, and will require companies to make both quantitative and qualitative disclosures.

BACKGROUND AND NEED FOR LEGISLATION

The Securities Exchange Act of 1934 requires public companies to file annual reports with the SEC to publicly disclose company information that investors would find pertinent in making investment decisions.¹ This reporting requirement mandates the disclosure of information related to risk exposure, material financial data, and an analysis performed by management on the company’s financial condition.² Although the effects of climate change pose significant risks to companies and investors, companies are currently not required to report climate-related risk exposure and risk management strategies. This bill is similar to Senator Warren’s Climate Risk Disclosure Act of 2018 (S. 3481) which enjoyed broad support from science advocacy groups such as the Union of Concerned Scientists; investment management firms such as Boston Trust, JSA Financial Group, and Trillium Asset Management; investor advocacy groups including Americans for Financial Reform, Corporate Accountability, and Public Citizen; environmental groups including the Sierra Club, Greenpeace USA, and the Center for International Environmental Law; and religious groups such as the

¹See 15 U.S.C. § 78m(a).

²SEC, Form 10-K, General Instructions, available at <https://www.sec.gov/about/forms/form10-k.pdf>.

Adrian Dominican Sisters, Daughters of Charity, Province of St. Louise, Sisters of St. Francis of Philadelphia, and the Unitarian Universalist Association.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 states that the title of the bill is the Climate Risk Disclosure Act of 2021.

Section 2. Sense of Congress

Section 2 sets forth the sense of Congress. Paragraph (1) states that continued inaction in addressing climate change poses a significant and increasing threat to the growth and stability of the United States. Paragraph (2) states that many sectors of the economy of the United States and American businesses are exposed to multiple channels of climate-related risk, which include exposure to: the physical impacts of climate change; economic disruptions and security threats that result from these physical impacts; the transition impacts that result as the global economy transitions to a clean and renewable energy, low-emissions economy; and actions by Federal, State, Tribal, territorial and local governments to limit the worst effects of climate change by limiting the global average surface temperature rise to 1.5 degrees Celsius above pre-industrial levels.

Paragraph (3) states that Congress finds that assessing the potential impact of climate related risks on national and international financial risks that climate change presents to their investors, lenders, and insurers is an urgent concern. Paragraph (4) states that companies have a duty to disclose financial risks that climate change presents to their investors, lenders, and insurers. Furthermore, Paragraphs (5) through (9) state that the Securities and Exchange Commission has a duty to promote a risk-informed securities market which includes standardized climate change risk and opportunity disclosure that is useful, consistent, reliable and clear for decisionmakers in annual reports to the Commission will increase transparency with respect to risk accumulation and exposure in financial markets.

Section 3. Disclosures relating to climate change

Section 3 adds a new subsection (s) to section 13 to the Securities Exchange Act of 1934. Paragraph (1) of the new subsection (s) provides for a number of new definitions: “1.5 degree scenario”; “appropriate climate principals”; “baseline scenario,” “carbon dioxide equivalent;” “climate change;” “commercial development of fossil fuels;” “covered issuer;” “direct and indirect greenhouse emissions;” “fossil fuel reserves;” “greenhouse gas;” “greenhouse gas emissions;” “physical risks;” “social cost of carbon;” “transition risks;” and “value chain”.

Paragraph (2)(A) of the new subsection (s) states that Congress finds the short-, medium-, and long-term financial and economic risks and opportunities related to climate change and the national and global reduction of greenhouse gas emissions constitute information that issuers may reasonably expect to affect shareholder de-

cisions making and, as such, should regularly identify, evaluate, and disclose such information to investors and relevant regulators.

Paragraph (2)(B) amends the Securities and Exchange Act of 1934 by requiring each covered issuer to identify and evaluate physical and transition risks posed by climate change, along with their potential impact, as well as provide a description of any established corporate governance processes and structures to identify, assess, and manage climate-related risks.

Paragraph (3) of the new subsection (s) explicitly requires a covered issuer to disclose in its annual report information regarding the identification and evaluation of potential financial impacts of, and any risk management strategies relating to: physical and transition risks the covered issuer faces due to climate change; a description of any established corporate governance processes and structures to identify, assess, and manage climate-related risks; a description of the actions the covered issuer is taking to mitigate the identified risks; a description of the resilience of any strategy the covered issuer has for addressing these risks; and description of how climate risk is incorporated into the overall risk management strategy of the covered issuer.

Paragraph (4) of the new subsection establishes a rule of construction explicitly stating an issuer is not precluded from including information in its annual report not explicitly reference in this bill.

Paragraph (5) of the new subsection requires the Commission to engage in a rulemaking within 2 years after the date of the enactment of this bill to issue rules with respect to the information that a covered issuer is required to disclose pursuant to this bill.

Paragraph (6) establishes formatting requirements for covered issuers when disclosing the information required to be disclosed in this bill.

Paragraph (7) requires the Commission to periodically update the rules issued under this subsection.

Paragraph (8) requires the Commission, to the extent practicable, to compile the information required to be disclosed pursuant to this bill and make publicly available on the Commission's website on an annual basis.

Paragraph (9) requires the Commission to conduct an annual compliance assessment pursuant to the requirements of this subsection and to submit to the appropriate Congressional committees a report with the results of each assessment and that this report should be made publicly available. It also requires the Comptroller General of the United States to periodically evaluate and report to the appropriate Congressional committees on the Commission's effectiveness on carrying out and enforcing this subsection.

Section 4. Backstop

Section 4 states that if the Securities and Exchange Commission has not issued rules pursuant to the requirements of this bill within two years of its enactment, a covered issuer may be deemed to be in compliance with this bill if the covered issuer provides a disclosure that satisfies the recommendations of the Task Force on Climate-Related Financial Disclosures of the Financial Stability Board as reported in June 2017, or any successor report.

Section 5. Authorization of appropriations

Section 5 states that funds are authorized to be appropriated as necessary to carry out this Act.

HEARINGS

For the purposes of section 3(c)(6) of House rule XIII, the Committee on Financial Services' Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets held a hearing to consider H.R. 2570 entitled,

In the 117th Congress, the Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets held a hearing to consider similar legislation entitled "Climate Change and Social Responsibility: Helping Corporate Boards and Investors Make Decisions for a Sustainable World," on February 25, 2021. Testifying before the Committee was Andy Green, Senior Fellow, Center for American Progress; Heather McTeer Toney, Environmental Justice Liaison, Environmental Defense Fund and Senior Advisor, Mom's Clean Air Force; Veena Ramani, Senior Program Director, Capital Market Systems, Ceres, James Andrus, Investment Manager, California Public Employees' Retirement System; and Vivek Ramaswamy, Biotech Entrepreneur and Author.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on May 12, 2021, and ordered H.R. 2570 to be reported favorably to the House with an amendment in the nature of a substitute by a vote of 28 yeas and 24 nays, a quorum being present.

COMMITTEE VOTES AND ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 2570:

Present	Representatives	Ayes	Nays	Present	Not Recorded	Committee on Financial Services		
		24	27	0	3	Full Committee - 117th Congress (1st Session)		
	Ms. Waters, <i>Chairwoman</i>		X			Date:	5/12/2021	
	Mrs. Maloney		X			Measure:	The Climate Risk Disclosure Act	
	Ms. Velázquez		X			Amendment No:	1	
	Mr. Sherman		X			Offered by:	Hill & Barr	
	Mr. Meeks		X				Yes/Aye	No/Nay
	Mr. Scott		X				Prsnt	
	Mr. Green		X			Agreed To	24	27
	Mr. Cleaver		X			Voted Vote	3	
	Mr. Perlmutter		X			Record Vote		
	Mr. Himes		X					
	Mr. Foster		X					
	Mrs. Beatty		X					
	Mr. Vargas		X					
	Mr. Gottheimer		X					
	Mr. Gonzalez (TX)							
	Mr. Lawson		X					
	Mr. San Nicolas							
	Ms. Axne		X					
	Mr. Casten		X					
	Ms. Pressley		X					
	Mr. Torres		X					
	Mr. Lynch		X					
	Ms. Adams		X					
	Ms. Tlaib		X					
	Ms. Dean		X					
	Ms. Ocasio-Cortez		X					
	Mr. García (IL)		X					
	Ms. García (TX)		X					
	Ms. Williams		X					
	Mr. Auchincloss							
Democratic Totals		0	27	0	3	Votes Cast	Missed	Total
						0	3	30
	Mr. McHenry, <i>Ranking Member</i>	X						
	Mrs. Wagner	X						
	Mr. Lucas	X						
	Mr. Posey	X						
	Mr. Luetkemeyer	X						
	Mr. Huizenga	X						
	Mr. Stivers	X						
	Mr. Barr	X						
	Mr. Williams	X						
	Mr. Hill	X						
	Mr. Emmer	X						
	Mr. Zeldin	X						
	Mr. Loudermilk	X						
	Mr. Mooney	X						
	Mr. Davidson	X						
	Mr. Budd	X						
	Mr. Kustoff	X						
	Mr. Hollingsworth	X						
	Mr. Gonzalez (OH)	X						
	Mr. Rose	X						
	Mr. Steil	X						
	Mr. Gooden	X						
	Mr. Timmons	X						
	Mr. Taylor	X						
Republican Totals		24	0	0	0	Votes Cast	Missed	Total
						24	0	24
Committee Totals		24	0	0	0	24		54

Present	Representatives	Ayes	Nays	Present	Not Recorded	Committee on Financial Services			
		28	24	0	2	Full Committee - 117th Congress (1st Session)			
	Ms. Waters, <i>Chairwoman</i>	X				Date:	5/12/2021		
	Mrs. Maloney	X				Measure:	The Climate Risk Disclosure Act		
	Ms. Velázquez	X				Amendment No.:			
	Mr. Sherman	X				Offered by:			
	Mr. Meeks	X							
	Mr. Scott	X							
	Mr. Green	X				Agreed To	28	24	2
	Mr. Cleaver	X				Voice Vote			
	Mr. Perlmutter	X				Record Vote			
	Mr. Himes	X							
	Mr. Foster	X							
	Mrs. Beatty	X							
	Mr. Vargas	X							
	Mr. Gotthelmer	X							
	Mr. Gonzalez (TX)								
	Mr. Lawson	X							
	Mr. San Nicolas								
	Ms. Axne	X							
	Mr. Casten	X							
	Ms. Pressley	X							
	Mr. Torres	X							
	Mr. Lynch	X							
	Ms. Adams	X							
	Ms. Tlaib	X							
	Ms. Dean	X							
	Ms. Ocasio-Cortez	X							
	Mr. Garcia (IL)	X							
	Ms. Garcia (TX)	X							
	Ms. Williams	X							
	Mr. Auchincloss	X							
	Democratic Totals	28	0	0	2	Votes Cast	28	Missed	30
	Mr. McHenry, <i>Ranking Member</i>		X						
	Mrs. Wagner		X						
	Mr. Lucas		X						
	Mr. Posey		X						
	Mr. Luetkemeyer		X						
	Mr. Huelskamp		X						
	Mr. Stivers		X						
	Mr. Barr		X						
	Mr. Williams		X						
	Mr. Hill		X						
	Mr. Emmer		X						
	Mr. Zeldin		X						
	Mr. Loudermilk		X						
	Mr. Mooney		X						
	Mr. Davidson		X						
	Mr. Budd		X						
	Mr. Kustoff		X						
	Mr. Hollingsworth		X						
	Mr. Gonzalez (OH)		X						
	Mr. Rose		X						
	Mr. Steil		X						
	Mr. Gooden		X						
	Mr. Timmons		X						
	Mr. Taylor		X						
	Republican Totals	0	24	0	0	Votes Cast	0	Missed	24
	Committee Totals	28	0	0	0		28	Missed	54

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 2570 are to ensure that the Securities and Exchange Commission to require that companies provide more information on the risks they face from climate change.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the following estimate for H.R. 2570 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 19, 2021.

Hon. MAXINE WATERS,
Chairwoman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2570, the Climate Risk Disclosure Act of 2021.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sofia Guo.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

H.R. 2570, Climate Risk Disclosure Act of 2021			
As ordered reported by the House Committee on Financial Services on May 12, 2021			
By Fiscal Year, Millions of Dollars	2021	2021-2026	2021-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Cannot Determine Costs
* = between zero and \$500,000.			

H.R. 2570 would require publicly traded companies to annually disclose certain climate-related information to the public. Under the bill, such companies would need to describe physical and financial risks they would face under different climate change scenarios, explain strategies and corporate governance processes in place to manage those risks, and analyze the social cost associated with the company's greenhouse gas emissions. The Securities and Exchange Commission (SEC) would be required to establish and periodically update rules to implement the climate disclosure requirements. The SEC also would be required to annually assess and report to the Congress on the compliance of these public companies with those rules. The Government Accountability Office would be required to periodically evaluate the SEC's effectiveness in carrying out and enforcing the new climate disclosures.

Using information from the SEC, CBO estimates that implementing H.R. 2570 would have a gross cost of \$10 million over the 2021–2026 period. CBO expects that the SEC would need the services of approximately 20 employees for different periods of time at an average annual rate of \$270,000 per employee to issue and update rules, compile disclosures, and assess compliance. However, the SEC is authorized to collect fees sufficient to offset its annual appropriation; therefore, CBO estimates that the net effect on discretionary spending would be insignificant, assuming appropriation actions consistent with that authority.

H.R. 2570 contains private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO cannot determine whether those mandates' aggregate costs would exceed the UMRA threshold (\$170 million in 2021, adjusted annually for inflation).

By requiring public companies to annually disclose to the SEC the effect of climate change on their operations and finances, H.R. 2570 would impose a mandate as defined in UMRA. The mandate's costs would equal the expenses incurred by those companies to comply with the disclosure requirements as established through SEC rules.

In 2010, the SEC published guidance to clarify how publicly traded corporations should apply existing SEC disclosure rules to the

risk that climate change developments may pose to their businesses. Such guidance did not establish reporting requirements as strict as those set out in H.R. 2570. Based on information from industry sources, CBO estimates that a small portion, about 15 percent, of public companies are currently reporting information related to climate change to investors.

Because the SEC has not issued the rules required by the bill, CBO cannot determine whether the mandates cost would exceed the private-sector threshold. However, given the current low disclosure rate, the aggregate costs for publicly traded companies to comply with the new rules may be substantial.

Furthermore, if the SEC increased fees to offset the costs associated with implementing the bill, H.R. 2570 would increase the cost of an existing mandate on private entities required to pay those assessments. CBO estimates that the incremental cost of the mandate would be roughly \$2 million per year, on average.

H.R. 2570 contains no intergovernmental mandates as defined in UMRA.

The CBO staff contact for this estimate is Sofia Guo (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 2570. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended by Section 101(a)(2) of the *Unfunded Mandates Reform Act*, Pub. L. 104–4), the Committee adopts as its own the estimate of federal mandates regarding H.R. 2570, as amended, prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104–1, H.R. 2570, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2570 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 2570 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CHANGES TO EXISTING LAW

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 2570, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

SECURITIES EXCHANGE ACT OF 1934

TITLE I—REGULATION OF SECURITIES EXCHANGES

* * * * *

PERIODICAL AND OTHER REPORTS

SEC. 13. (a) Every issuer of a security registered pursuant to section 12 of this title shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security—

(1) such information and documents (and such copies thereof) as the Commission shall require to keep reasonably current the information and documents required to be included in or filed with an application or registration statement filed pursuant to section 12, except that the Commission may not require the filing of any material contract wholly executed before July 1, 1962.

(2) such annual reports (and such copies thereof), certified if required by the rules and regulations of the Commission by independent public accountants, and such quarterly reports (and such copies thereof), as the Commission may prescribe.

Every issuer of a security registered on a national securities exchange shall also file a duplicate original of such information, docu-

ments, and reports with the exchange. In any registration statement, periodic report, or other reports to be filed with the Commission, an emerging growth company need not present selected financial data in accordance with section 229.301 of title 17, Code of Federal Regulations, for any period prior to the earliest audited period presented in connection with its first registration statement that became effective under this Act or the Securities Act of 1933 and, with respect to any such statement or reports, an emerging growth company may not be required to comply with any new or revised financial accounting standard until such date that a company that is not an issuer (as defined under section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a))) is required to comply with such new or revised accounting standard, if such standard applies to companies that are not issuers.

(b)(1) The Commission may prescribe, in regard to reports made pursuant to this title, the form or forms in which the required information shall be set forth, the items or details to be shown in the balance sheet and the earnings statement, and the methods to be followed in the preparation of reports, in the appraisal or valuation of assets and liabilities, in the determination of depreciation and depletion, in the differentiation of recurring and nonrecurring income, in the differentiation of investment and operating income, and in the preparation, where the Commission deems it necessary or desirable, of separate and/or consolidated balance sheets or income accounts of any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer; but in the case of the reports of any person whose methods of accounting are prescribed under the provisions of any law of the United States, or any rule or regulation thereunder, the rules and regulations of the Commission with respect to reports shall not be inconsistent with the requirements imposed by such law or rule or regulation in respect of the same subject matter (except that such rules and regulations of the Commission may be inconsistent with such requirements to the extent that the Commission determines that the public interest or the protection of investors so requires).

(2) Every issuer which has a class of securities registered pursuant to section 12 of this title and every issuer which is required to file reports pursuant to section 15(d) of this title shall—

(A) make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer;

(B) devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that—

(i) transactions are executed in accordance with management's general or specific authorization;

(ii) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (II) to maintain accountability for assets;

(iii) access to assets is permitted only in accordance with management's general or specific authorization; and

- (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and
- (C) notwithstanding any other provision of law, pay the allocable share of such issuer of a reasonable annual accounting support fee or fees, determined in accordance with section 109 of the Sarbanes-Oxley Act of 2002.

(3)(A) With respect to matters concerning the national security of the United States, no duty or liability under paragraph (2) of this subsection shall be imposed upon any person acting in cooperation with the head of any Federal department or agency responsible for such matters if such act in cooperation with such head of a department or agency was done upon the specific, written directive of the head of such department or agency pursuant to Presidential authority to issue such directives. Each directive issued under this paragraph shall set forth the specific facts and circumstances with respect to which the provisions of this paragraph are to be invoked. Each such directive shall, unless renewed in writing, expire one year after the date of issuance.

(B) Each head of a Federal department or agency of the United States who issues a directive pursuant to this paragraph shall maintain a complete file of all such directives and shall, on October 1 of each year, transmit a summary of matters covered by such directives in force at any time during the previous year to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection except as provided in paragraph (5) of this subsection.

(5) No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2).

(6) Where an issuer which has a class of securities registered pursuant to section 12 of this title or an issuer which is required to file reports pursuant to section 15(d) of this title holds 50 per centum or less of the voting power with respect to a domestic or foreign firm, the provisions of paragraph (2) require only that the issuer proceed in good faith to use its influence, to the extent reasonable under the issuer's circumstances, to cause such domestic or foreign firm to devise and maintain a system of internal accounting controls consistent with paragraph (2). Such circumstances include the relative degree of the issuer's ownership of the domestic or foreign firm and the laws and practices governing the business operations of the country in which such firm is located. An issuer which demonstrates good faith efforts to use such influence shall be conclusively presumed to have complied with the requirements of paragraph (2).

(7) For the purpose of paragraph (2) of this subsection, the terms "reasonable assurances" and "reasonable detail" mean such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their own affairs.

(c) If in the judgment of the Commission any report required under subsection (a) is inapplicable to any specified class or classes of issuers, the Commission shall require in lieu thereof the submis-

sion of such reports of comparable character as it may deem applicable to such class or classes of issuers.

(d)(1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940 or any equity security issued by a Native Corporation pursuant to section 37(d)(6) of the Alaska Native Claims Settlement Act, or otherwise becomes or is deemed to become a beneficial owner of any of the foregoing upon the purchase or sale of a security-based swap that the Commission may define by rule, and is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition or within such shorter time as the Commission may establish by rule, file with the Commission, a statement containing such of the following information, and such additional information, as the Commission may by rules and regulations, prescribe as necessary or appropriate in the public interest or for the protection of investors—

(A) the background, and identity, residence, and citizenship of, and the nature of such beneficial ownership by, such person and all other persons by whom or on whose behalf the purchases have been or are to be effected;

(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 3(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make any other major change in its business or corporate structure;

(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the background, identity, residence, and citizenship of each such associate; and

(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such con-

tracts, arrangements, or understandings have been entered into, and giving the details thereof.

(2) If any material change occurs in the facts set forth in the statement filed with the Commission, an amendment shall be filed with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(3) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a "person" for the purposes of this subsection.

(4) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

(5) The Commission, by rule or regulation or by order, may permit any person to file in lieu of the statement required by paragraph (1) of this subsection or the rules and regulations thereunder, a notice stating the name of such person, the number of shares of any equity securities subject to paragraph (1) which are owned by him, the date of their acquisition and such other information as the Commission may specify, if it appears to the Commission that such securities were acquired by such person in the ordinary course of his business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer nor in connection with or as a participant in any transaction having such purpose or effect.

(6) The provisions of this subsection shall not apply to—

(A) any acquisition or offer to acquire securities made or proposed to be made by means of a registration statement under the Securities Act of 1933;

(B) any acquisition of the beneficial ownership of a security which, together with all other acquisitions by the same person of securities of the same class during the preceding twelve months, does not exceed 2 per centum of that class;

(C) any acquisition of an equity security by the issuer of such security;

(D) any acquisition or proposed acquisition of a security which the Commission, by rules or regulations or by order, shall exempt from the provisions of this subsection as not entered into for the purpose of, and not having the effect of, changing or influencing the control of the issuer or otherwise as not comprehended within the purposes of this subsection.

(e)(1) It shall be unlawful for an issuer which has a class of equity securities registered pursuant to section 12 of this title, or which is a closed-end investment company registered under the Investment Company Act of 1940, to purchase any equity security issued by it if such purchase is in contravention of such rules and regulations as the Commission, in the public interest or for the protection of investors, may adopt (A) to define acts and practices which are fraudulent, deceptive, or manipulative, and (B) to prescribe means reasonably designed to prevent such acts and practices. Such rules and regulations may require such issuer to pro-

vide holders of equity securities of such class with such information relating to the reasons for such purchase, the source of funds, the number of shares to be purchased, the price to be paid for such securities, the method of purchase, and such additional information, as the Commission deems necessary or appropriate in the public interest or for the protection of investors, or which the Commission deems to be material to a determination whether such security should be sold.

(2) For the purpose of this subsection, a purchase by or for the issuer or any person controlling, controlled by, or under common control with the issuer, or a purchase subject to control of the issuer or any such person, shall be deemed to be a purchase by the issuer. The Commission shall have power to make rules and regulations implementing this paragraph in the public interest and for the protection of investors, including exemptive rules and regulations covering situations in which the Commission deems it unnecessary or inappropriate that a purchase of the type described in this paragraph shall be deemed to be a purchase by the issuer for purposes of some or all of the provisions of paragraph (1) of this subsection.

(3) At the time of filing such statement as the Commission may require by rule pursuant to paragraph (1) of this subsection, the person making the filing shall pay to the Commission a fee at a rate that, subject to paragraph (4), is equal to \$92 per \$1,000,000 of the value of securities proposed to be purchased. The fee shall be reduced with respect to securities in an amount equal to any fee paid with respect to any securities issued in connection with the proposed transaction under section 6(b) of the Securities Act of 1933, or the fee paid under that section shall be reduced in an amount equal to the fee paid to the Commission in connection with such transaction under this paragraph.

(4) ANNUAL ADJUSTMENT.—For each fiscal year, the Commission shall by order adjust the rate required by paragraph (3) for such fiscal year to a rate that is equal to the rate (expressed in dollars per million) that is applicable under section 6(b) of the Securities Act of 1933 for such fiscal year.

(5) FEE COLLECTIONS.—Fees collected pursuant to this subsection for fiscal year 2012 and each fiscal year thereafter shall be deposited and credited as general revenue of the Treasury and shall not be available for obligation.

(6) EFFECTIVE DATE; PUBLICATION.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (4) shall be published and take effect in accordance with section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)).

(7) PRO RATA APPLICATION.—The rates per \$1,000,000 required by this subsection shall be applied pro rata to amounts and balances of less than \$1,000,000.

(f)(1) Every institutional investment manager which uses the mails, or any means or instrumentality of interstate commerce in the course of its business as an institutional investment manager and which exercises investment discretion with respect to accounts holding equity securities of a class described in section 13(d)(1) of this title having an aggregate fair market value on the last trading

day in any of the preceding twelve months of at least \$100,000,000 or such lesser amount (but in no case less than \$10,000,000) as the Commission, by rule, may determine, shall file reports with the Commission in such form, for such periods, and at such times after the end of such periods as the Commission, by rule, may prescribe, but in no event shall such reports be filed for periods longer than one year or shorter than one quarter. Such reports shall include for each such equity security held on the last day of the reporting period by accounts (in aggregate or by type as the Commission, by rule, may prescribe) with respect to which the institutional investment manager exercises investment discretion (other than securities held in amounts which the Commission, by rule, determines to be insignificant for purposes of this subsection), the name of the issuer and the title, class, CUSIP number, number of shares or principal amount, and aggregate fair market value of each such security. Such reports may also include for accounts (in aggregate or by type) with respect to which the institutional investment manager exercises investment discretion such of the following information as the Commission, by rule, prescribes—

(A) the name of the issuer and the title, class, CUSIP number, number of shares or principal amount, and aggregate fair market value or cost or amortized cost of each other security (other than an exempted security) held on the last day of the reporting period by such accounts;

(B) the aggregate fair market value or cost or amortized cost of exempted securities (in aggregate or by class) held on the last day of the reporting period by such accounts;

(C) the number of shares of each equity security of a class described in section 13(d)(1) of this title held on the last day of the reporting period by such accounts with respect to which the institutional investment manager possesses sole or shared authority to exercise the voting rights evidenced by such securities;

(D) the aggregate purchases and aggregate sales during the reporting period of each security (other than an exempted security) effected by or for such accounts; and

(E) with respect to any transaction or series of transactions having a market value of at least \$500,000 or such other amount as the Commission, by rule, may determine, effected during the reporting period by or for such accounts in any equity security of a class described in section 13(d)(1) of this title—

(i) the name of the issuer and the title, class, and CUSIP number of the security;

(ii) the number of shares or principal amount of the security involved in the transaction;

(iii) whether the transaction was a purchase or sale;

(iv) the per share price or prices at which the transaction was effected;

(v) the date or dates of the transaction;

(vi) the date or dates of the settlement of the transaction;

(vii) the broker or dealer through whom the transaction was effected;

(viii) the market or markets in which the transaction was effected; and

(ix) such other related information as the Commission, by rule, may prescribe.

(2) The Commission shall prescribe rules providing for the public disclosure of the name of the issuer and the title, class, CUSIP number, aggregate amount of the number of short sales of each security, and any additional information determined by the Commission following the end of the reporting period. At a minimum, such public disclosure shall occur every month.

(3) The Commission, by rule or order, may exempt, conditionally or unconditionally, any institutional investment manager or security or any class of institutional investment managers or securities from any or all of the provisions of this subsection or the rules thereunder.

(4) The Commission shall make available to the public for a reasonable fee a list of all equity securities of a class described in section 13(d)(1) of this title, updated no less frequently than reports are required to be filed pursuant to paragraph (1) of this subsection. The Commission shall tabulate the information contained in any report filed pursuant to this subsection in a manner which will, in the view of the Commission, maximize the usefulness of the information to other Federal and State authorities and the public. Promptly after the filing of any such report, the Commission shall make the information contained therein conveniently available to the public for a reasonable fee in such form as the Commission, by rule, may prescribe, except that the Commission, as it determines to be necessary or appropriate in the public interest or for the protection of investors, may delay or prevent public disclosure of any such information in accordance with section 552 of title 5, United States Code. Notwithstanding the preceding sentence, any such information identifying the securities held by the account of a natural person or an estate or trust (other than a business trust or investment company) shall not be disclosed to the public.

(5) In exercising its authority under this subsection, the Commission shall determine (and so state) that its action is necessary or appropriate in the public interest and for the protection of investors or to maintain fair and orderly markets or, in granting an exemption, that its action is consistent with the protection of investors and the purposes of this subsection. In exercising such authority the Commission shall take such steps as are within its power, including consulting with the Comptroller General of the United States, the Director of the Office of Management and Budget, the appropriate regulatory agencies, Federal and State authorities which, directly or indirectly, require reports from institutional investment managers of information substantially similar to that called for by this subsection, national securities exchanges, and registered securities associations, (A) to achieve uniform, centralized reporting of information concerning the securities holdings of and transactions by or for accounts with respect to which institutional investment managers exercise investment discretion, and (B) consistently with the objective set forth in the preceding subparagraph, to avoid unnecessarily duplicative reporting by, and minimize the compliance burden on, institutional investment managers. Federal authorities which, directly or indirectly, require reports

from institutional investment managers of information substantially similar to that called for by this subsection shall cooperate with the Commission in the performance of its responsibilities under the preceding sentence. An institutional investment manager which is a bank, the deposits of which are insured in accordance with the Federal Deposit Insurance Act, shall file with the appropriate regulatory agency a copy of every report filed with the Commission pursuant to this subsection.

(6)(A) For purposes of this subsection the term “institutional investment manager” includes any person, other than a natural person, investing in or buying and selling securities for its own account, and any person exercising investment discretion with respect to the account of any other person.

(B) The Commission shall adopt such rules as it deems necessary or appropriate to prevent duplicative reporting pursuant to this subsection by two or more institutional investment managers exercising investment discretion with respect to the same amount.

(g)(1) Any person who is directly or indirectly the beneficial owner of more than 5 per centum of any security of a class described in subsection (d)(1) of this section or otherwise becomes or is deemed to become a beneficial owner of any security of a class described in subsection (d)(1) upon the purchase or sale of a security-based swap that the Commission may define by rule shall file with the Commission a statement setting forth, in such form and at such time as the Commission may, by rule, prescribe—

(A) such person’s identity, residence, and citizenship; and

(B) the number and description of the shares in which such person has an interest and the nature of such interest.

(2) If any material change occurs in the facts set forth in the statement filed with the Commission, an amendment shall be filed with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(3) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a “person” for the purposes of this subsection.

(4) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

(5) In exercising its authority under this subsection, the Commission shall take such steps as it deems necessary or appropriate in the public interest or for the protection of investors (A) to achieve centralized reporting of information regarding ownership, (B) to avoid unnecessarily duplicative reporting by and minimize the compliance burden on persons required to report, and (C) to tabulate and promptly make available the information contained in any report filed pursuant to this subsection in a manner which will, in the view of the Commission, maximize the usefulness of the information to other Federal and State agencies and the public.

(6) The Commission may, by rule or order, exempt, in whole or in part, any person or class of persons from any or all of the report-

ing requirements of this subsection as it deems necessary or appropriate in the public interest or for the protection of investors.

(h) LARGE TRADER REPORTING.—

(1) IDENTIFICATION REQUIREMENTS FOR LARGE TRADERS.—For the purpose of monitoring the impact on the securities markets of securities transactions involving a substantial volume or a large fair market value or exercise value and for the purpose of otherwise assisting the Commission in the enforcement of this title, each large trader shall—

(A) provide such information to the Commission as the Commission may by rule or regulation prescribe as necessary or appropriate, identifying such large trader and all accounts in or through which such large trader effects such transactions; and

(B) identify, in accordance with such rules or regulations as the Commission may prescribe as necessary or appropriate, to any registered broker or dealer by or through whom such large trader directly or indirectly effects securities transactions, such large trader and all accounts directly or indirectly maintained with such broker or dealer by such large trader in or through which such transactions are effected.

(2) RECORDKEEPING AND REPORTING REQUIREMENTS FOR BROKERS AND DEALERS.—Every registered broker or dealer shall make and keep for prescribed periods such records as the Commission by rule or regulation prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, with respect to securities transactions that equal or exceed the reporting activity level effected directly or indirectly by or through such registered broker or dealer of or for any person that such broker or dealer knows is a large trader, or any person that such broker or dealer has reason to know is a large trader on the basis of transactions in securities effected by or through such broker or dealer. Such records shall be available for reporting to the Commission, or any self-regulatory organization that the Commission shall designate to receive such reports, on the morning of the day following the day the transactions were effected, and shall be reported to the Commission or a self-regulatory organization designated by the Commission immediately upon request by the Commission or such a self-regulatory organization. Such records and reports shall be in a format and transmitted in a manner prescribed by the Commission (including, but not limited to, machine readable form).

(3) AGGREGATION RULES.—The Commission may prescribe rules or regulations governing the manner in which transactions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control.

(4) EXAMINATION OF BROKER AND DEALER RECORDS.—All records required to be made and kept by registered brokers and dealers pursuant to this subsection with respect to transactions effected by large traders are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the

Commission deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

(5) FACTORS TO BE CONSIDERED IN COMMISSION ACTIONS.—In exercising its authority under this subsection, the Commission shall take into account—

(A) existing reporting systems;

(B) the costs associated with maintaining information with respect to transactions effected by large traders and reporting such information to the Commission or self-regulatory organizations; and

(C) the relationship between the United States and international securities markets.

(6) EXEMPTIONS.—The Commission, by rule, regulation, or order, consistent with the purposes of this title, may exempt any person or class of persons or any transaction or class of transactions, either conditionally or upon specified terms and conditions or for stated periods, from the operation of this subsection, and the rules and regulations thereunder.

(7) AUTHORITY OF COMMISSION TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

(8) DEFINITIONS.—For purposes of this subsection—

(A) the term “large trader” means every person who, for his own account or an account for which he exercises investment discretion, effects transactions for the purchase or sale of any publicly traded security or securities by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of a national securities exchange, directly or indirectly by or through a registered broker or dealer in an aggregate amount equal to or in excess of the identifying activity level;

(B) the term “publicly traded security” means any equity security (including an option on individual equity securities, and an option on a group or index of such securities) listed, or admitted to unlisted trading privileges, on a national securities exchange, or quoted in an automated interdealer quotation system;

(C) the term “identifying activity level” means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by rule or regulation, specifying the time interval during which such transactions shall be aggregated;

(D) the term “reporting activity level” means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by rule, regulation, or order, specifying the time interval during which such transactions shall be aggregated; and

(E) the term “person” has the meaning given in section 3(a)(9) of this title and also includes two or more persons acting as a partnership, limited partnership, syndicate, or other group, but does not include a foreign central bank.

(i) **ACCURACY OF FINANCIAL REPORTS.**—Each financial report that contains financial statements, and that is required to be prepared in accordance with (or reconciled to) generally accepted accounting principles under this title and filed with the Commission shall reflect all material correcting adjustments that have been identified by a registered public accounting firm in accordance with generally accepted accounting principles and the rules and regulations of the Commission.

(j) **OFF-BALANCE SHEET TRANSACTIONS.**—Not later than 180 days after the date of enactment of the Sarbanes-Oxley Act of 2002, the Commission shall issue final rules providing that each annual and quarterly financial report required to be filed with the Commission shall disclose all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the issuer with unconsolidated entities or other persons, that may have a material current or future effect on financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses.

(k) **PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.**—

(1) **IN GENERAL.**—It shall be unlawful for any issuer (as defined in section 2 of the Sarbanes-Oxley Act of 2002), directly or indirectly, including through any subsidiary, to extend or maintain credit, to arrange for the extension of credit, or to renew an extension of credit, in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of that issuer. An extension of credit maintained by the issuer on the date of enactment of this subsection shall not be subject to the provisions of this subsection, provided that there is no material modification to any term of any such extension of credit or any renewal of any such extension of credit on or after that date of enactment.

(2) **LIMITATION.**—Paragraph (1) does not preclude any home improvement and manufactured home loans (as that term is defined in section 5 of the Home Owners’ Loan Act (12 U.S.C. 1464)), consumer credit (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), or any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), or a charge card (as defined in section 127(c)(4)(e) of the Truth in Lending Act (15 U.S.C. 1637(c)(4)(e))), or any extension of credit by a broker or dealer registered under section 15 of this title to an employee of that broker or dealer to buy, trade, or carry securities, that is permitted under rules or regulations of the Board of Governors of the Federal Reserve System pursuant to section 7 of

this title (other than an extension of credit that would be used to purchase the stock of that issuer), that is—

(A) made or provided in the ordinary course of the consumer credit business of such issuer;

(B) of a type that is generally made available by such issuer to the public; and

(C) made by such issuer on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such extensions of credit.

(3) RULE OF CONSTRUCTION FOR CERTAIN LOANS.—Paragraph (1) does not apply to any loan made or maintained by an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), if the loan is subject to the insider lending restrictions of section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).

(l) REAL TIME ISSUER DISCLOSURES.—Each issuer reporting under section 13(a) or 15(d) shall disclose to the public on a rapid and current basis such additional information concerning material changes in the financial condition or operations of the issuer, in plain English, which may include trend and qualitative information and graphic presentations, as the Commission determines, by rule, is necessary or useful for the protection of investors and in the public interest.

(m) PUBLIC AVAILABILITY OF SECURITY-BASED SWAP TRANSACTION DATA.—

(1) IN GENERAL.—

(A) DEFINITION OF REAL-TIME PUBLIC REPORTING.—In this paragraph, the term “real-time public reporting” means to report data relating to a security-based swap transaction, including price and volume, as soon as technologically practicable after the time at which the security-based swap transaction has been executed.

(B) PURPOSE.—The purpose of this subsection is to authorize the Commission to make security-based swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery.

(C) GENERAL RULE.—The Commission is authorized to provide by rule for the public availability of security-based swap transaction, volume, and pricing data as follows:

(i) With respect to those security-based swaps that are subject to the mandatory clearing requirement described in section 3C(a)(1) (including those security-based swaps that are excepted from the requirement pursuant to section 3C(g)), the Commission shall require real-time public reporting for such transactions.

(ii) With respect to those security-based swaps that are not subject to the mandatory clearing requirement described in section 3C(a)(1), but are cleared at a registered clearing agency, the Commission shall require real-time public reporting for such transactions.

(iii) With respect to security-based swaps that are not cleared at a registered clearing agency and which are reported to a security-based swap data repository or the Commission under section 3C(a)(6), the Com-

mission shall require real-time public reporting for such transactions, in a manner that does not disclose the business transactions and market positions of any person.

(iv) With respect to security-based swaps that are determined to be required to be cleared under section 3C(b) but are not cleared, the Commission shall require real-time public reporting for such transactions.

(D) REGISTERED ENTITIES AND PUBLIC REPORTING.—The Commission may require registered entities to publicly disseminate the security-based swap transaction and pricing data required to be reported under this paragraph.

(E) RULEMAKING REQUIRED.—With respect to the rule providing for the public availability of transaction and pricing data for security-based swaps described in clauses (i) and (ii) of subparagraph (C), the rule promulgated by the Commission shall contain provisions—

(i) to ensure such information does not identify the participants;

(ii) to specify the criteria for determining what constitutes a large notional security-based swap transaction (block trade) for particular markets and contracts;

(iii) to specify the appropriate time delay for reporting large notional security-based swap transactions (block trades) to the public; and

(iv) that take into account whether the public disclosure will materially reduce market liquidity.

(F) TIMELINESS OF REPORTING.—Parties to a security-based swap (including agents of the parties to a security-based swap) shall be responsible for reporting security-based swap transaction information to the appropriate registered entity in a timely manner as may be prescribed by the Commission.

(G) REPORTING OF SWAPS TO REGISTERED SECURITY-BASED SWAP DATA REPOSITORIES.—Each security-based swap (whether cleared or uncleared) shall be reported to a registered security-based swap data repository.

(H) REGISTRATION OF CLEARING AGENCIES.—A clearing agency may register as a security-based swap data repository.

(2) SEMIANNUAL AND ANNUAL PUBLIC REPORTING OF AGGREGATE SECURITY-BASED SWAP DATA.—

(A) IN GENERAL.—In accordance with subparagraph (B), the Commission shall issue a written report on a semi-annual and annual basis to make available to the public information relating to—

(i) the trading and clearing in the major security-based swap categories; and

(ii) the market participants and developments in new products.

(B) USE; CONSULTATION.—In preparing a report under subparagraph (A), the Commission shall—

(i) use information from security-based swap data repositories and clearing agencies; and

(ii) consult with the Office of the Comptroller of the Currency, the Bank for International Settlements, and such other regulatory bodies as may be necessary.

(C) AUTHORITY OF COMMISSION.—The Commission may, by rule, regulation, or order, delegate the public reporting responsibilities of the Commission under this paragraph in accordance with such terms and conditions as the Commission determines to be appropriate and in the public interest.

(n) SECURITY-BASED SWAP DATA REPOSITORIES.—

(1) REGISTRATION REQUIREMENT.—It shall be unlawful for any person, unless registered with the Commission, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a security-based swap data repository.

(2) INSPECTION AND EXAMINATION.—Each registered security-based swap data repository shall be subject to inspection and examination by any representative of the Commission.

(3) COMPLIANCE WITH CORE PRINCIPLES.—

(A) IN GENERAL.—To be registered, and maintain registration, as a security-based swap data repository, the security-based swap data repository shall comply with—

(i) the requirements and core principles described in this subsection; and

(ii) any requirement that the Commission may impose by rule or regulation.

(B) REASONABLE DISCRETION OF SECURITY-BASED SWAP DATA REPOSITORY.—Unless otherwise determined by the Commission, by rule or regulation, a security-based swap data repository described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the security-based swap data repository complies with the core principles described in this subsection.

(4) STANDARD SETTING.—

(A) DATA IDENTIFICATION.—

(i) IN GENERAL.—In accordance with clause (ii), the Commission shall prescribe standards that specify the data elements for each security-based swap that shall be collected and maintained by each registered security-based swap data repository.

(ii) REQUIREMENT.—In carrying out clause (i), the Commission shall prescribe consistent data element standards applicable to registered entities and reporting counterparties.

(B) DATA COLLECTION AND MAINTENANCE.—The Commission shall prescribe data collection and data maintenance standards for security-based swap data repositories.

(C) COMPARABILITY.—The standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on clearing agencies in connection with their clearing of security-based swaps.

(5) DUTIES.—A security-based swap data repository shall—

(A) accept data prescribed by the Commission for each security-based swap under subsection (b);

(B) confirm with both counterparties to the security-based swap the accuracy of the data that was submitted;

(C) maintain the data described in subparagraph (A) in such form, in such manner, and for such period as may be required by the Commission;

(D)(i) provide direct electronic access to the Commission (or any designee of the Commission, including another registered entity); and

(ii) provide the information described in subparagraph (A) in such form and at such frequency as the Commission may require to comply with the public reporting requirements set forth in subsection (m);

(E) at the direction of the Commission, establish automated systems for monitoring, screening, and analyzing security-based swap data;

(F) maintain the privacy of any and all security-based swap transaction information that the security-based swap data repository receives from a security-based swap dealer, counterparty, or any other registered entity; and

(G) on a confidential basis pursuant to section 24, upon request, and after notifying the Commission of the request, make available security-based swap data obtained by the security-based swap data repository, including individual counterparty trade and position data, to—

- (i) each appropriate prudential regulator;
- (ii) the Financial Stability Oversight Council;
- (iii) the Commodity Futures Trading Commission;
- (iv) the Department of Justice; and
- (v) any other person that the Commission determines to be appropriate, including—

- (I) foreign financial supervisors (including foreign futures authorities);
- (II) foreign central banks;
- (III) foreign ministries; and
- (IV) other foreign authorities.

(H) CONFIDENTIALITY AGREEMENT.—Before the security-based swap data repository may share information with any entity described in subparagraph (G), the security-based swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 24 relating to the information on security-based swap transactions that is provided.

(6) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

(A) IN GENERAL.—Each security-based swap data repository shall designate an individual to serve as a chief compliance officer.

(B) DUTIES.—The chief compliance officer shall—

- (i) report directly to the board or to the senior officer of the security-based swap data repository;
- (ii) review the compliance of the security-based swap data repository with respect to the requirements and core principles described in this subsection;
- (iii) in consultation with the board of the security-based swap data repository, a body performing a func-

tion similar to the board of the security-based swap data repository, or the senior officer of the security-based swap data repository, resolve any conflicts of interest that may arise;

(iv) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

(v) ensure compliance with this title (including regulations) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;

(vi) establish procedures for the remediation of non-compliance issues identified by the chief compliance officer through any—

- (I) compliance office review;
- (II) look-back;
- (III) internal or external audit finding;
- (IV) self-reported error; or
- (V) validated complaint; and

(vii) establish and follow appropriate procedures for the handling, management response, remediation, re-testing, and closing of noncompliance issues.

(C) ANNUAL REPORTS.—

(i) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

(I) the compliance of the security-based swap data repository of the chief compliance officer with respect to this title (including regulations); and

(II) each policy and procedure of the security-based swap data repository of the chief compliance officer (including the code of ethics and conflict of interest policies of the security-based swap data repository).

(ii) REQUIREMENTS.—A compliance report under clause (i) shall—

(I) accompany each appropriate financial report of the security-based swap data repository that is required to be furnished to the Commission pursuant to this section; and

(II) include a certification that, under penalty of law, the compliance report is accurate and complete.

(7) CORE PRINCIPLES APPLICABLE TO SECURITY-BASED SWAP DATA REPOSITORIES.—

(A) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this title, the swap data repository shall not—

(i) adopt any rule or take any action that results in any unreasonable restraint of trade; or

(ii) impose any material anticompetitive burden on the trading, clearing, or reporting of transactions.

(B) GOVERNANCE ARRANGEMENTS.—Each security-based swap data repository shall establish governance arrangements that are transparent—

- (i) to fulfill public interest requirements; and
- (ii) to support the objectives of the Federal Government, owners, and participants.

(C) CONFLICTS OF INTEREST.—Each security-based swap data repository shall—

- (i) establish and enforce rules to minimize conflicts of interest in the decision-making process of the security-based swap data repository; and
- (ii) establish a process for resolving any conflicts of interest described in clause (i).

(D) ADDITIONAL DUTIES DEVELOPED BY COMMISSION.—

(i) IN GENERAL.—The Commission may develop 1 or more additional duties applicable to security-based swap data repositories.

(ii) CONSIDERATION OF EVOLVING STANDARDS.—In developing additional duties under subparagraph (A), the Commission may take into consideration any evolving standard of the United States or the international community.

(iii) ADDITIONAL DUTIES FOR COMMISSION DESIGNATEES.—The Commission shall establish additional duties for any registrant described in section 13(m)(2)(C) in order to minimize conflicts of interest, protect data, ensure compliance, and guarantee the safety and security of the security-based swap data repository.

(8) REQUIRED REGISTRATION FOR SECURITY-BASED SWAP DATA REPOSITORIES.—Any person that is required to be registered as a security-based swap data repository under this subsection shall register with the Commission, regardless of whether that person is also licensed under the Commodity Exchange Act as a swap data repository.

(9) RULES.—The Commission shall adopt rules governing persons that are registered under this subsection.

(o) BENEFICIAL OWNERSHIP.—For purposes of this section and section 16, a person shall be deemed to acquire beneficial ownership of an equity security based on the purchase or sale of a security-based swap, only to the extent that the Commission, by rule, determines after consultation with the prudential regulators and the Secretary of the Treasury, that the purchase or sale of the security-based swap, or class of security-based swap, provides incidents of ownership comparable to direct ownership of the equity security, and that it is necessary to achieve the purposes of this section that the purchase or sale of the security-based swap, or class of security-based swap, be deemed the acquisition of beneficial ownership of the equity security.

(p) DISCLOSURES RELATING TO CONFLICT MINERALS ORIGINATING IN THE DEMOCRATIC REPUBLIC OF THE CONGO.—

(1) REGULATIONS.—

(A) IN GENERAL.—Not later than 270 days after the date of the enactment of this subsection, the Commission shall promulgate regulations requiring any person described in

paragraph (2) to disclose annually, beginning with the person's first full fiscal year that begins after the date of promulgation of such regulations, whether conflict minerals that are necessary as described in paragraph (2)(B), in the year for which such reporting is required, did originate in the Democratic Republic of the Congo or an adjoining country and, in cases in which such conflict minerals did originate in any such country, submit to the Commission a report that includes, with respect to the period covered by the report—

(i) a description of the measures taken by the person to exercise due diligence on the source and chain of custody of such minerals, which measures shall include an independent private sector audit of such report submitted through the Commission that is conducted in accordance with standards established by the Comptroller General of the United States, in accordance with rules promulgated by the Commission, in consultation with the Secretary of State; and

(ii) a description of the products manufactured or contracted to be manufactured that are not DRC conflict free ("DRC conflict free" is defined to mean the products that do not contain minerals that directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo or an adjoining country), the entity that conducted the independent private sector audit in accordance with clause (i), the facilities used to process the conflict minerals, the country of origin of the conflict minerals, and the efforts to determine the mine or location of origin with the greatest possible specificity.

(B) CERTIFICATION.—The person submitting a report under subparagraph (A) shall certify the audit described in clause (i) of such subparagraph that is included in such report. Such a certified audit shall constitute a critical component of due diligence in establishing the source and chain of custody of such minerals.

(C) UNRELIABLE DETERMINATION.—If a report required to be submitted by a person under subparagraph (A) relies on a determination of an independent private sector audit, as described under subparagraph (A)(i), or other due diligence processes previously determined by the Commission to be unreliable, the report shall not satisfy the requirements of the regulations promulgated under subparagraph (A)(i).

(D) DRC CONFLICT FREE.—For purposes of this paragraph, a product may be labeled as "DRC conflict free" if the product does not contain conflict minerals that directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo or an adjoining country.

(E) INFORMATION AVAILABLE TO THE PUBLIC.—Each person described under paragraph (2) shall make available to the public on the Internet website of such person the information disclosed by such person under subparagraph (A).

(2) PERSON DESCRIBED.—A person is described in this paragraph if—

(A) the person is required to file reports with the Commission pursuant to paragraph (1)(A); and

(B) conflict minerals are necessary to the functionality or production of a product manufactured by such person.

(3) REVISIONS AND WAIVERS.—The Commission shall revise or temporarily waive the requirements described in paragraph (1) if the President transmits to the Commission a determination that—

(A) such revision or waiver is in the national security interest of the United States and the President includes the reasons therefor; and

(B) establishes a date, not later than 2 years after the initial publication of such exemption, on which such exemption shall expire.

(4) TERMINATION OF DISCLOSURE REQUIREMENTS.—The requirements of paragraph (1) shall terminate on the date on which the President determines and certifies to the appropriate congressional committees, but in no case earlier than the date that is one day after the end of the 5-year period beginning on the date of the enactment of this subsection, that no armed groups continue to be directly involved and benefitting from commercial activity involving conflict minerals.

(5) DEFINITIONS.—For purposes of this subsection, the terms “adjoining country”, “appropriate congressional committees”, “armed group”, and “conflict mineral” have the meaning given those terms under section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(q) DISCLOSURE OF PAYMENTS BY RESOURCE EXTRACTION ISSUERS.—

(1) DEFINITIONS.—In this subsection—

(A) the term “commercial development of oil, natural gas, or minerals” includes exploration, extraction, processing, export, and other significant actions relating to oil, natural gas, or minerals, or the acquisition of a license for any such activity, as determined by the Commission;

(B) the term “foreign government” means a foreign government, a department, agency, or instrumentality of a foreign government, or a company owned by a foreign government, as determined by the Commission;

(C) the term “payment”—

(i) means a payment that is—

(I) made to further the commercial development of oil, natural gas, or minerals; and

(II) not de minimis; and

(ii) includes taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the Extractive Industries Transparency Initiative (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals;

(D) the term “resource extraction issuer” means an issuer that—

(i) is required to file an annual report with the Commission; and

(ii) engages in the commercial development of oil, natural gas, or minerals;

(E) the term “interactive data format” means an electronic data format in which pieces of information are identified using an interactive data standard; and

(F) the term “interactive data standard” means standardized list of electronic tags that mark information included in the annual report of a resource extraction issuer.

(2) DISCLOSURE.—

(A) INFORMATION REQUIRED.—Not later than 270 days after the date of enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Commission shall issue final rules that require each resource extraction issuer to include in an annual report of the resource extraction issuer information relating to any payment made by the resource extraction issuer, a subsidiary of the resource extraction issuer, or an entity under the control of the resource extraction issuer to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals, including—

(i) the type and total amount of such payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals; and

(ii) the type and total amount of such payments made to each government.

(B) CONSULTATION IN RULEMAKING.—In issuing rules under subparagraph (A), the Commission may consult with any agency or entity that the Commission determines is relevant.

(C) INTERACTIVE DATA FORMAT.—The rules issued under subparagraph (A) shall require that the information included in the annual report of a resource extraction issuer be submitted in an interactive data format.

(D) INTERACTIVE DATA STANDARD.—

(i) IN GENERAL.—The rules issued under subparagraph (A) shall establish an interactive data standard for the information included in the annual report of a resource extraction issuer.

(ii) ELECTRONIC TAGS.—The interactive data standard shall include electronic tags that identify, for any payments made by a resource extraction issuer to a foreign government or the Federal Government—

(I) the total amounts of the payments, by category;

(II) the currency used to make the payments;

(III) the financial period in which the payments were made;

(IV) the business segment of the resource extraction issuer that made the payments;

(V) the government that received the payments, and the country in which the government is located;

(VI) the project of the resource extraction issuer to which the payments relate; and

(VII) such other information as the Commission may determine is necessary or appropriate in the public interest or for the protection of investors.

(E) INTERNATIONAL TRANSPARENCY EFFORTS.—To the extent practicable, the rules issued under subparagraph (A) shall support the commitment of the Federal Government to international transparency promotion efforts relating to the commercial development of oil, natural gas, or minerals.

(F) EFFECTIVE DATE.—With respect to each resource extraction issuer, the final rules issued under subparagraph (A) shall take effect on the date on which the resource extraction issuer is required to submit an annual report relating to the fiscal year of the resource extraction issuer that ends not earlier than 1 year after the date on which the Commission issues final rules under subparagraph (A).

(3) PUBLIC AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—To the extent practicable, the Commission shall make available online, to the public, a compilation of the information required to be submitted under the rules issued under paragraph (2)(A).

(B) OTHER INFORMATION.—Nothing in this paragraph shall require the Commission to make available online information other than the information required to be submitted under the rules issued under paragraph (2)(A).

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this subsection.

(r) DISCLOSURE OF CERTAIN ACTIVITIES RELATING TO IRAN.—

(1) IN GENERAL.—Each issuer required to file an annual or quarterly report under subsection (a) shall disclose in that report the information required by paragraph (2) if, during the period covered by the report, the issuer or any affiliate of the issuer—

(A) knowingly engaged in an activity described in subsection (a) or (b) of section 5 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note);

(B) knowingly engaged in an activity described in subsection (c)(2) of section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513) or a transaction described in subsection (d)(1) of that section;

(C) knowingly engaged in an activity described in section 105A(b)(2) of that Act; or

(D) knowingly conducted any transaction or dealing with—

(i) any person the property and interests in property of which are blocked pursuant to Executive Order No. 13224 (66 Fed. Reg. 49079; relating to blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism);

(ii) any person the property and interests in property of which are blocked pursuant to Executive Order

No. 13382 (70 Fed. Reg. 38567; relating to blocking of property of weapons of mass destruction proliferators and their supporters); or

(iii) any person or entity identified under section 560.304 of title 31, Code of Federal Regulations (relating to the definition of the Government of Iran) without the specific authorization of a Federal department or agency.

(2) INFORMATION REQUIRED.—If an issuer or an affiliate of the issuer has engaged in any activity described in paragraph (1), the issuer shall disclose a detailed description of each such activity, including—

(A) the nature and extent of the activity;

(B) the gross revenues and net profits, if any, attributable to the activity; and

(C) whether the issuer or the affiliate of the issuer (as the case may be) intends to continue the activity.

(3) NOTICE OF DISCLOSURES.—If an issuer reports under paragraph (1) that the issuer or an affiliate of the issuer has knowingly engaged in any activity described in that paragraph, the issuer shall separately file with the Commission, concurrently with the annual or quarterly report under subsection (a), a notice that the disclosure of that activity has been included in that annual or quarterly report that identifies the issuer and contains the information required by paragraph (2).

(4) PUBLIC DISCLOSURE OF INFORMATION.—Upon receiving a notice under paragraph (3) that an annual or quarterly report includes a disclosure of an activity described in paragraph (1), the Commission shall promptly—

(A) transmit the report to—

(i) the President;

(ii) the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives; and

(iii) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) make the information provided in the disclosure and the notice available to the public by posting the information on the Internet website of the Commission.

(5) INVESTIGATIONS.—Upon receiving a report under paragraph (4) that includes a disclosure of an activity described in paragraph (1) (other than an activity described in subparagraph (D)(iii) of that paragraph), the President shall—

(A) initiate an investigation into the possible imposition of sanctions under the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note), section 104 or 105A of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, an Executive order specified in clause (i) or (ii) of paragraph (1)(D), or any other provision of law relating to the imposition of sanctions with respect to Iran, as applicable; and

(B) not later than 180 days after initiating such an investigation, make a determination with respect to whether

sanctions should be imposed with respect to the issuer or the affiliate of the issuer (as the case may be).

(6) **SUNSET.**—The provisions of this subsection shall terminate on the date that is 30 days after the date on which the President makes the certification described in section 401(a) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(a)).

(s) **DISCLOSURES RELATING TO CLIMATE CHANGE.**—

(1) **DEFINITIONS.**—*In this subsection:*

(A) **1.5 DEGREE SCENARIO.**—*The term “1.5 degree scenario” means a scenario that aligns with greenhouse gas emissions pathways that aim to limit global warming to 1.5 degrees Celsius above pre-industrial levels.*

(B) **APPROPRIATE CLIMATE PRINCIPALS.**—*The term “appropriate climate principals” means—*

(i) *the Administrator of the Environmental Protection Agency;*

(ii) *the Administrator of the National Oceanic and Atmospheric Administration;*

(iii) *the Director of the Office of Management and Budget;*

(iv) *the Secretary of the Interior;*

(v) *the Secretary of Energy; and*

(vi) *the head of any other Federal agency, as determined appropriate by the Commission.*

(C) **BASELINE SCENARIO.**—*The term “baseline scenario” means a widely-recognized analysis scenario in which levels of greenhouse gas emissions, as of the date on which the analysis is performed, continue to grow, resulting in an increase in the global average temperature of 1.5 degrees Celsius or more above pre-industrial levels.*

(D) **CARBON DIOXIDE EQUIVALENT.**—*The term “carbon dioxide equivalent” means the number of metric tons of carbon dioxide emissions with the same global warming potential as one metric ton of another greenhouse gas, as determined under table A–1 of subpart A of part 98 of title 40, Code of Federal Regulations, as in effect on the date of enactment of this subsection.*

(E) **CLIMATE CHANGE.**—*The term “climate change” means a change of climate that is—*

(i) *attributed directly or indirectly to human activity that alters the composition of the global atmosphere; and*

(ii) *in addition to natural climate variability observed over comparable time periods.*

(F) **COMMERCIAL DEVELOPMENT OF FOSSIL FUELS.**—*The term “commercial development of fossil fuels” includes—*

(i) *exploration, extraction, processing, exporting, transporting, refining, and any other significant action with respect to oil, natural gas, coal, or any byproduct thereof or any other solid or liquid hydrocarbons that are commercially produced; and*

(ii) *acquiring a license for any activity described in clause (i).*

(G) *COVERED ISSUER.*—The term “covered issuer” means an issuer that is required to file an annual report under subsection (a) or section 15(d).

(H) *DIRECT AND INDIRECT GREENHOUSE GAS EMISSIONS.*—The term “direct and indirect greenhouse gas emissions” includes, with respect to a covered issuer—

(i) all direct greenhouse gas emissions released by the covered issuer;

(ii) all indirect greenhouse gas emissions with respect to electricity, heat, or steam purchased by the covered issuer;

(iii) significant indirect emissions, other than the emissions described in clause (ii), emitted in the value chain of the covered issuer; and

(iv) all indirect greenhouse gas emissions that are attributable to assets owned or managed, including assets that are partially owned or managed, by the covered issuer.

(I) *FOSSIL FUEL RESERVES.*—The term “fossil fuel reserves” has the meaning given the term “reserves” under the final rule of the Commission titled “Modernization of Oil and Gas Reporting” (74 Fed. Reg. 2158; published January 14, 2009).

(J) *GREENHOUSE GAS.*—The term “greenhouse gas”—

(i) means carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, sulfur hexafluoride, nitrogen trifluoride, and chlorofluorocarbons;

(ii) includes any other anthropogenically-emitted gas that the Administrator of the Environmental Protection Agency determines, after notice and comment, to contribute to climate change; and

(iii) includes any other anthropogenically-emitted gas that the Intergovernmental Panel on Climate Change determines to contribute to climate change.

(K) *GREENHOUSE GAS EMISSIONS.*—The term “greenhouse gas emissions” means the emissions of greenhouse gas, expressed in terms of metric tons of carbon dioxide equivalent.

(L) *PHYSICAL RISKS.*—The term “physical risks” means financial risks to long-lived fixed assets, locations, operations, or value chains that result from exposure to physical climate-related effects, including—

(i) increased average global temperatures and increased frequency of temperature extremes;

(ii) increased severity and frequency of extreme weather events;

(iii) increased flooding;

(iv) sea level rise;

(v) ocean acidification;

(vi) increased frequency of wildfires;

(vii) decreased arability of farmland;

(viii) decreased availability of fresh water; and

(ix) any other financial risks to long-lived fixed assets, locations, operations, or value chains determined

appropriate by the Commission, in consultation with appropriate climate principals.

(M) *SOCIAL COST OF CARBON.*—The term “social cost of carbon” means the social cost of carbon, as described in the technical support document entitled “Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866”, published by the Interagency Working Group on Social Cost of Greenhouse Gases, United States Government, in August 2016 or any successor or substantially related estimate of the monetized damages associated with an incremental increase in carbon dioxide emissions in a given year.

(N) *TRANSITION RISKS.*—The term “transition risks” means financial risks that are attributable to climate change mitigation and adaptation, including efforts to reduce greenhouse gas emissions and strengthen resilience to the impacts of climate change, including—

(i) costs relating to—

- (I) international treaties and agreements;
- (II) Federal, State, and local policy;
- (III) new technologies;
- (IV) changing markets;
- (V) reputational impacts relevant to changing consumer behavior; and
- (VI) litigation; and

(ii) assets that may lose value or become stranded due to any of the costs described in subclauses (I) through (VI) of clause (i).

(O) *VALUE CHAIN.*—The term “value chain”—

(i) means the total lifecycle of a product or service, both before and after production of the product or service, as applicable; and

(ii) may include the sourcing of materials, production, transportation, and disposal with respect to the product or service described in clause (i).

(2) *FINDINGS.*—Congress finds that—

(A) short-, medium-, and long-term financial and economic risks and opportunities relating to climate change, and the national and global reduction of greenhouse gas emissions, constitute information that issuers—

(i) may reasonably expect to affect shareholder decision making; and

(ii) should regularly identify, evaluate, and disclose; and

(B) the disclosure of information described in subparagraph (A) should—

(i) identify, and evaluate—

(I) material physical and transition risks posed by climate change; and

(II) the potential financial impact of such risks;

(ii) detail any implications such risks have on corporate strategy;

(iii) detail any board-level oversight of material climate related risks and opportunities;

(iv) allow for intra- and cross-industry comparison, to the extent practicable, of climate-related risk exposure through the inclusion of standardized industry-specific and sector-specific disclosure metrics, as identified by the Commission, in consultation with the appropriate climate principals;

(v) allow for tracking of performance over time with respect to mitigating climate risk exposure; and

(vi) incorporate a price on greenhouse gas emissions in financial analyses that reflects, at minimum, the social cost of carbon that is attributable to issuers.

(3) *DISCLOSURE.*—Each covered issuer, in any annual report filed by the covered issuer under subsection (a) or section 15(d), shall, in accordance with any rules issued by the Commission pursuant to this subsection, include in each such report information regarding—

(A) the identification of, the evaluation of potential financial impacts of, and any risk-management strategies relating to—

(i) physical risks posed to the covered issuer by climate change; and

(ii) transition risks posed to the covered issuer by climate change;

(B) a description of any established corporate governance processes and structures to identify, assess, and manage climate-related risks;

(C) a description of specific actions that the covered issuer is taking to mitigate identified risks;

(D) a description of the resilience of any strategy the covered issuer has for addressing climate risks when differing climate scenarios are taken into consideration; and

(E) a description of how climate risk is incorporated into the overall risk management strategy of the covered issuer.

(4) *RULE OF CONSTRUCTION.*—Nothing in paragraph (3) may be construed as precluding a covered issuer from including, in an annual report submitted under subsection (a) or section 15(d), any information not explicitly referenced in such paragraph.

(5) *RULEMAKING.*—The Commission, in consultation with the appropriate climate principals, shall, not later than 2 years after the date of the enactment of this subsection, issue rules with respect to the information that a covered issuer is required to disclose pursuant to this subsection and such rules shall—

(A) establish climate-related risk disclosure rules, which shall—

(i) be, to the extent practicable, specialized for industries within specific sectors of the economy, which shall include—

(I) the sectors of finance, insurance, transportation, electric power, mining, and non-renewable energy; and

(II) any other sector determined appropriate by the Commission, in consultation with the appropriate climate principals;

(ii) include reporting standards for estimating and disclosing direct and indirect greenhouse gas emissions by a covered issuer, and any affiliates of the covered issuer, which shall—

(I) disaggregate, to the extent practicable, total emissions of each specified greenhouse gas by the covered issuer; and

(II) include greenhouse gas emissions by the covered issuer during the period covered by the disclosure;

(iii) include reporting standards for disclosing, with respect to a covered issuer—

(I) the total amount of fossil fuel-related assets owned or managed by the covered issuer; and

(II) the percentage of fossil fuel-related assets as a percentage of total assets owned or managed by the covered issuer;

(iv) specify requirements for, and the disclosure of, input parameters, assumptions, and analytical choices to be used in climate scenario analyses required under subparagraph (B)(i), including—

(I) present value discount rates; and

(II) time frames to consider, including 5, 10, and 20 year time frames; and

(v) include reporting standards and guidance with respect to the information required under subparagraph (B)(iii);

(B) require that a covered issuer, with respect to a disclosure required under this subsection—

(i) incorporate into such disclosure—

(I) quantitative analysis to support any qualitative statement made by the covered issuer;

(II) the rules established under subparagraph (A);

(III) industry-specific metrics that comply with the requirements under subparagraph (A)(i);

(IV) specific risk management actions that the covered issuer is taking to address identified risks;

(V) a discussion of the short-, medium-, and long-term resilience of any risk management strategy, and the evolution of applicable risk metrics, of the covered issuer under each scenario described in clause (ii); and

(VI) the total cost attributable to the direct and indirect greenhouse gas emissions of the covered issuer, using, at minimum, the social cost of carbon;

(ii) consider, when preparing any qualitative or quantitative risk analysis statement contained in the disclosure—

(I) a baseline scenario that includes physical impacts of climate change;

(II) a 1.5 degrees scenario; and

(III) any additional climate analysis scenario considered appropriate by the Commission, in consultation with the appropriate climate principals;
 (iii) if the covered issuer engages in the commercial development of fossil fuels, include in the disclosure—

(I) an estimate of the total and a disaggregated amount of direct and indirect greenhouse gas emissions of the covered issuer that are attributable to—

- (aa) combustion;
- (bb) flared hydrocarbons;
- (cc) process emissions;
- (dd) directly vented emissions;
- (ee) fugitive emissions or leaks; and
- (ff) land use changes;

(II) a description of—

(aa) the sensitivity of fossil fuel reserve levels to future price projection scenarios that incorporate the social cost of carbon;

(bb) the percentage of the reserves of the covered issuer that will be developed under the scenarios established in clause (ii), as well as a forecast for the development prospects of each reserve under the scenarios established in clause (ii);

(cc) the potential amount of direct and indirect greenhouse gas emissions that are embedded in proved and probable reserves, with each such calculation presented as a total and in subdivided categories by the type of reserve;

(dd) the methodology of the covered issuer for detecting and mitigating fugitive methane emissions, which shall include the frequency with which applicable assets of the covered issuer are observed for methane leaks, the processes and technology that the covered issuer uses to detect methane leaks, the percentage of assets of the covered issuer that the covered issuer inspects under that methodology, and quantitative and time-bound reduction goals of the issuer with respect to methane leaks;

(ee) the amount of water that the covered issuer withdraws from freshwater sources for use and consumption in operations of the covered issuer; and

(ff) the percentage of the water described in item (ee) that comes from regions of water stress or that face wastewater management challenges; and

(III) any other information that the Commission determines is—

- (aa) necessary;
- (bb) appropriate to safeguard the public interest; or

(cc) directed at ensuring that investors are informed in accordance with the findings described in paragraph (2);

(C) with respect to a disclosure required under section 13(s) of the Securities Exchange Act of 1934, require that a covered issuer include in such disclosure any other information, or use any climate-related or greenhouse gas emissions metric, that the Commission, in consultation with the appropriate climate principals, determines is—

- (i) necessary;
- (ii) appropriate to safeguard the public interest; or
- (iii) directed at ensuring that investors are informed in accordance with the findings described in paragraph (2); and

(D) with respect to a disclosure required under section 13(s) of the Securities Exchange Act of 1934, establish how and where the required disclosures shall be addressed in the covered issuer's annual financial filing.

(6) *FORMATTING.*—The Commission shall require issuers to disclose information in an interactive data format and shall develop standards for such format, which shall include electronic tags for information that the Commission determines is—

- (A) necessary;
- (B) appropriate to safeguard the public interest; or
- (C) directed at ensuring that investors are informed in accordance with the findings described in paragraph (2).

(7) *PERIODIC UPDATE OF RULES.*—The Commission shall periodically update the rules issued under this subsection.

(8) *COMPILATION OF INFORMATION DISCLOSED.*—The Commission shall, to the maximum extent practicable make a compilation of the information disclosed by issuers under this subsection publicly available on the website of the Commission and update such compilation at least once each year.

(9) *REPORTS.*—

(A) *REPORT TO CONGRESS.*—The Commission shall—

- (i) conduct an annual assessment regarding the compliance of covered issuers with the requirements of this subsection;
- (ii) submit to the appropriate congressional committees a report that contains the results of each assessment conducted under clause (i); and
- (iii) make each report submitted under clause (ii) accessible to the public.

(B) *GAO REPORT.*—The Comptroller General of the United States shall periodically evaluate, and report to the appropriate congressional committees on, the effectiveness of the Commission in carrying out and enforcing this subsection.

* * * * *

MINORITY VIEWS

Committee Republicans believe H.R. 2570 is another Democrat-driven, unnecessary, mandatory disclosure requirement on public companies. This bill will increase the cost of compliance for public companies, discourage private companies from going public, and encourage public companies to go private. This will result in fewer investment opportunities for everyday Americans participating in our capital markets to save for retirement, a college education or to build a better life.

This bill represents yet another attempt to hijack our securities laws and backdoor a partisan social agenda that progressives have long sought but cannot achieve in other sectors. In fact, Senator Elizabeth Warren’s (D–MA) press release announcing the introduction of her Senate companion to this bill proudly acknowledges that intent.

By stating this bill will “accelerate the market transition from fossil fuels to cleaner and more sustainable energy sources that mitigate climate change,” Senator Warren emphasizes that the purpose of this bill is to reduce greenhouse gas emissions, not enhance shareholder value.¹ As expected, like so many of the Democrat-sponsored mandatory disclosure bills, the bill is intended to appease social activists and “woke” corporations not help everyday investors.

The Securities Exchange Act of 1934 currently requires public companies to file annual reports with the Securities and Exchange Commission (SEC) to publicly disclose information that investors would find important to making investment decisions. If information related to climate change and climate risk is *material* to the investors of a public company—that is, provides investment decision-useful information—those companies are already required to make those disclosures under current law and are already disclosing it.

H.R. 2570’s approach is misguided because:

- The materiality standard has served as the basis for America’s public company disclosure regime for eight decades. This standard has helped the U.S. public markets become the best in the world.
- It is irresponsible for Congress to mandate a disclosure with a laundry list of technical data points without first examining all of the various climate change disclosure frameworks voluntarily used by many companies.

¹See Senator Elizabeth Warren, “Warren, Casten, Colleagues Reintroduce Bill Requiring Public Companies to Disclose Climate-Related Risks” (April 15, 2021), *available at* <https://www.warren.senate.gov/newsroom/press-releases/warren-casten-colleagues-reintroduce-bill-requiring-public-companies-to-disclose-climate-related-risks#:~:text=Senator%20Warren%20and%201%20introduced,massive%20and%20rapidly%20growing%20risk.>

- H.R. 2570's disclosures are intended to name and shame carbon-heavy industries.
 - This is evident from the required disclosure of "total cost of carbon attributable to the direct and indirect greenhouse gas emissions."
- It is unclear how companies are able to reasonably and accurately identify "*indirect*" greenhouse gas emissions or make accurate forecasts for a 20-year time frame, yet any misstatement or falsity would trigger liability for securities fraud under the bill.
- H.R. 2570 will discourage companies from pursuing economically productive opportunities like acquiring other companies or going public just to avoid having to report seemingly undesirable surface-level information.
 - This is evident by the broad definition of "indirect" greenhouse gas emissions.
- The SEC does not have expertise in environmental, climate change, or energy issues. The SEC is not the appropriate entity for determining reporting metrics, industry standards, and formatting. Efforts aimed at encouraging environmental or climate-related disclosures for public companies are best left to experts within those industries and individual company shareholders.

Committee Republicans asked a series of questions to which the bill sponsor could not answer, including:

- How many shareholder resolutions requiring the information mandated by H.R. 2570 have won a shareholder vote? For example, have any shareholder resolutions requiring annual disclosure of a company's "social cost of carbon" won a shareholder vote? If so, how many resolutions have won, and what percentage of such resolutions does that number represent?
- In order to properly write regulations per H.R. 2570, the SEC staff will need a high fluency in climate and environmental science. As such, how many climate and environmental scientists are currently employed by the SEC?
- Under H.R. 2570, the SEC is to consult with federal agencies that possess climate and environmental expertise, but these agencies do not specialize in financial or investment disclosures. How frequently does the SEC write financial disclosure regulations in consultation with federal agencies that have no expertise in financial disclosures?

In addition, Committee Republicans offered two amendments. The first would ensure the materiality standard remains in place by only requiring companies to make H.R. 2570's disclosures if there is a substantial likelihood that a reasonable shareholder would consider such information important to making an investment decision. The second amendment would require SEC staff to analyze and report to this Committee on the various voluntary climate change disclosure frameworks, including the differences and conflicting factors between the reporting frameworks. Both amendments were rejected by Democrats on a party line vote.

In conclusion, this misguided bill simply piles on unnecessary, costly, and potentially confusing disclosures on companies that do not need to make them. H.R. 2570 will make being a public com-

pany less appealing in America. It will prevent or cut off everyday Americans' access to those companies and investment opportunities. Instead of attacking companies and reducing investment options, Committee Republicans want to support American businesses and everyday Americans trying to save their hard-earned money.

For these reasons, Committee Republicans are opposed to the bill.

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 BILL POSEY.
 BILL HUIZENGA.
 ANDY BARR.
 J. FRENCH HILL.
 LEE M. ZELDIN.
 ALEXANDER X. MOONEY.
 TED BUDD.
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 BLAINE LUETKEMEYER.
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 ROGER WILLIAMS.
 TOM EMMER.
 BARRY LOUDERMILK.
 WARREN DAVIDSON.
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