No. 24-1522 and all consolidated cases: Nos. 24-1624, 24-1626, 24-1627, 24-1628, 24-1631, 24-1634, 24-1685, and 24-2173

IN THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

STATE OF IOWA, ET AL.,
Petitioner,

v.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,
Respondent,

DISTRICT OF COLUMBIA, ET AL.,
Intervenors.

On Petitions for Review of an Order and Rule of the Securities and Exchange Commission

BRIEF OF THE STATE OF CALIFORNIA AS *AMICUS CURIAE* IN SUPPORT OF THE SECURITIES AND EXCHANGE COMMISSION

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August 15, 2024

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INTEREST OF AMICUS CURIAE STATE OF CALIFORNIA

In 2024, the U.S. Securities and Exchange Commission adopted disclosure requirements to provide investors with clear, comprehensive information about financial risks associated with climate change. 89 Fed. Reg. 21,668. Specifically, the SEC's Rule requires registrants to disclose certain information about (1) climate-related targets or goals that are reasonably likely to materially affect the registrant's business; (2) costs, expenditures, and losses related to carbon offsets and renewable energy credits or certificates; (3) updated transition plans from certain registrants describing actions intended to mitigate or adapt to climate-related risks; (4) data from certain registrants about their greenhouse gas emissions; and (5) the capitalized costs, expenditures, charges, and losses incurred as a result of severe weather events and other natural weather conditions. 89 Fed. Reg. at 21,674-675.

The State of California has a strong interest in supporting the Rule and its climate-related disclosure requirements. California is home to a large investor population, including two large institutional investors operating employee retirement funds totaling over $800 billion, with

over $360 billion invested in the capital markets.[1] California's residents and businesses also confront numerous and severe physical climate risks, including from wildfires, drought, extreme heat, rising sea levels, and flooding, and the corresponding consequences to industry and public health.[2] These harms "can damage [a company's] assets, disrupt[] [its] operations," and lead to "material changes in a company's business model or strategy." 89 Fed. Reg. at 21,672. The Rule requires the disclosure of information that will provide California's investors, and investors nationwide, with information about the growing financial risks attributable to climate-related events; that will inform investors about transition costs and risks; and that will guard against misleading or false claims that a company is acting in an environmentally responsible manner.

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[1] *See* CalPERS, *Trust Level Review* (March 31, 2024), https://tinyurl.com/CalPERS2024; CalSTRS, *Investment Portfolio* (July 31, 2024), https://tinyurl.com/CalSTRSJuly24.

[2] The federal government's Fifth National Climate Assessment, a 2023 study of the compounding risks and impacts of climate change, notes the severe economic effects from climate-related national disasters that California faces. *See* Cal. Matters, *No Place is Safe: New National Report on Climate Change Details Sweeping Effects* (Nov. 14, 2023), https://tinyurl.com/CalMattersAssessment.

SUMMARY OF ARGUMENT

Climate-related events impose direct and indirect costs on businesses that can threaten financial markets' and investors' financial stability. Investors seek disclosure of material climate-related information, such as that required by the Rule, in order to help them to assess both investment risk and companies' financial health. This purpose is not merely pretext; investors increasingly rely on a business's climate-responsive decision-making to assess investment risk and make sound investment decisions. In addition, the Rule's disclosure requirements can guard against deceptive or misleading claims of environmental responsibility, or "greenwashing," by requiring publication of certain greenhouse gas emissions data. This enables investors to verify that a registrant's emissions disclosures are consistent with its environmental claims.

ARGUMENT

I. CLIMATE-RELATED EFFECTS IMPOSE DIRECT AND INDIRECT COSTS ON BUSINESSES THAT CAN THREATEN THEIR FINANCIAL STABILITY

Climate-related effects threaten not just the natural environment, but individuals' and markets' financial stability. The financial harms arising from the effects of climate change are not speculative, as the

Rule's opponents argue; rather, they are both quantifiable and increasing in frequency and severity.[3]

In California, recent natural disasters illustrate the staggering economic cost of climate change not just to individuals, but to businesses and investors. In the last five years, California suffered nine separate billion-dollar weather- or climate-related disasters, with damages totaling over $100 billion.[4] These disasters included a record-breaking wildfire season that burned over four million acres in 2020; a series of atmospheric rivers that caused severe flooding and mudslides in 2021 through 2023; prolonged drought; and successive extreme heat waves that caused power outages and fatalities over the five-year period.[5]

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[3] *See* Amici Brief of Florida and Kansas, *Iowa et al. v. SEC*, No. 24-1522 ("Amici Br."), at 4; Consolidated Brief of State Petitioners, *Iowa et al. v. SEC*, No. 24-1522 ("Petitioners' Br."), at 5.

[4] National Oceanic and Atmospheric Admin. Nat'l Ctr. for Env't Info., *U.S. Billion-Dollar Weather and Climate Disasters: California Summary* (2024), https://tinyurl.com/NOAADisastersSummaryCA. This study looked at only large weather and climate disasters that caused at least $1 billion in damages.

[5] *Id.*

The United States experienced 28 "billion-dollar" disasters in 2023 alone, resulting in financial losses of $94.5 billion.[6] Data compiled by the National Oceanic and Atmospheric Administration reflects that these events are increasing in frequency and severity,[7] and are associated with costs arising from physical damage to property; "time element" losses, such as business interruption costs; agricultural costs, such as lost crops and livestock; and infrastructure losses, such as damage to power lines and resulting productivity delays.[8]

Wildfires alone have inflicted severe economic costs on businesses and investors in the western United States, and California in particular. Not only have wildfires led to physical damage estimated in the billions of dollars,[9] and put property valued at trillions of dollars at

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[6] National Oceanic and Atmospheric Admin. Nat'l Ctr. for Env't Info., *U.S. Billion-Dollar Weather and Climate Disasters: United States Summary* (2024), https://tinyurl.com/NOAADisastersSummary.

[7] The National Oceanic and Atmospheric Administration's study measured events including drought, flooding, wildfires, and severe storms. The 28 events that occurred in 2024 showed a marked increase from earlier measured periods; for example, there were only 33 events spanning the decade from 1980-1989. *Id.*

[8] *Id.*

[9] *Id.*

risk,[10] but wildfires have also created massive market risk and instability, with insurance carriers raising rates or pulling out of California altogether.[11] And in the utility sector, California's largest utility, Pacific Gas & Electric, experienced the first "climate-change bankruptcy" after incurring huge costs and liabilities resulting from multiple wildfires.[12]

The economic harms arising from climate-related events extend beyond wildfires. The California Department of Insurance has studied the long-term effects of extreme heat in California, and has concluded

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[10] CERES, *Addressing Climate Risk as a Systemic Risk: A Call to Action for U.S. Financial Regulators* 6 (2020), https://tinyurl.com/uuv7v9zn; *see also* Yaling Jiang, *Wildfires Might Erase $2 Trillion Worth of Housing Value in California*, BARRON'S (Nov. 4, 2019), https://tinyurl.com/BarronsWildfires (analyzing total value of homes at risk of wildfires in California).

[11] Don Jergler, Insurance Journal, *How California's Homeowners Insurance Crisis Is Affecting Brokers* (July 23, 2024), https://tinyurl.com/InsJournalWildfires.

[12] Russell Gold, *PG&E: The First Climate-Change Bankruptcy, Probably Not the Last*, WALL ST. J. (Jan. 18, 2019), https://tinyurl.com/WSJWildfires; *see also* Madison Condon, Sarah Ladin, Jack Lienke, Michael Panfil, and Alexander Song, *Mandating Disclosure of Climate-Related Financial Risk*, 23 N.Y.U. J. LEGIS. & PUB. POL'Y 745, 756–57 (2021) (noting that along with PG&E, an analysis of 17 other energy companies estimates they could face billions of dollars of costs and liability related to climate change).

that chronic high temperatures and summer heat waves result in quantifiable adverse economic effects in multiple industries, including agriculture and manufacturing.[13] In the agriculture industry, the study reports that dairy producers in California can lose as much as $44 million in revenue from a single extreme-heat event.[14] And because California is the largest dairy producer in the United States, such a loss can have ripple effects downstream in the agriculture industry throughout the country.[15] In the manufacturing industry, power outages caused by extreme heat can result in physical damages to equipment, and high energy demand can lead to increased energy costs and unreliable access to electricity.[16]

Climate-change-related effects can also impose indirect, but enormous, economic costs on businesses, including from reduced labor

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[13] Industrial Economics, Inc., prepared for Cal. Dep't of Insurance, *Impacts of Extreme Heat to California's People, Infrastructure, and Economy* (Jun. 28, 2024), https://tinyurl.com/CDICReport.

[14] *Id.* at 28.

[15] *Id.*

[16] *Id.* at 42.

productivity, higher healthcare costs, and higher insurance costs.[17] In the agriculture, manufacturing, and construction sectors, extremely hot days reduce indoor and outdoor workers' productivity (not to mention significantly negatively affecting their well-being[18]), with total lost working time for one extreme heat event estimated to result in a loss of productivity of as much as $210 million.[19] The productivity losses, combined with physical interruptions, led to manufacturing output losses as high as $310 million per event.[20] This is consistent with studies about the economic effects of extreme heat events throughout the United States; those studies reflect that labor productivity losses

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[17] *Id*. at 22, 33 (studying the impacts of extreme heat on healthcare costs and productivity); U.S. Env't Prot. Agency, *Research Shows Health Impacts & Economic Costs of Wildland Fires* (Sept. 28, 2017), https://tinyurl.com/EconomicCostsofWildfires (noting that nationwide healthcare costs following wildfires between 2008 and 2012 exceeded $500 billion).

[18] Between 2001 and 2018 there were approximately 20,000 workplace injuries per year associated with episodes of extreme heat in California. Industrial Economics, Inc., *supra*, at 25.

[19] *Id*. at 33.

[20] *Id*. at 32.

related to extreme heat affect "all regions and sectors" of the U.S. economy, with such losses projected to increase over time.[21]

Droughts, which occur with increasing frequency in California,[22] impose similar costs across various business sectors. One recent study reports that droughts can lead to a decrease in the total number of businesses in the recreation, service, and trade sectors; can cause a "negative and statistically significant" drop in crop production; and can result in higher insurance costs because of increased indemnity payments and an increased number of indemnity policies written across several sectors.[23]

In addition to physical risks, climate change can present transition costs and risks to investors that arise as businesses adapt to changing technology and market demands.[24] As the physical impacts of

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[21] Atl. Council, *Extreme Heat: The Economic & Social Consequences for the U.S.* 2 (Aug. 2021), https://tinyurl.com/ExtremeHeatReport2021.

[22] *See* Nat'l Integrated Drought Info. Sys., *Current California Drought Maps*, https://tinyurl.com/CADroughtMaps..

[23] Dale Manning, et al., *An Analysis of the Impact of Drought on Agriculture, Local Economies, Public Health, & Crime Across the Western U.S.* 2 (Sept. 2021), https://tinyurl.com/DroughtAnalysis.

[24] The Rule defines transition risk as "the actual or potential negative impacts on a registrant's business, results of operations, or financial

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climate change become more apparent, and as lower-emission technology has improved in terms of both efficiency and cost, market preferences have increasingly shifted to low- or zero-carbon options. For example, in California, statewide adoption of electric vehicles has increased significantly in the past several years: in 2024, multiple auto manufacturers reported year-over-year growth of electric vehicle sales as high as 61%.[25] In the utility sector, development of new clean-energy generation has greatly increased the percentage of California's power mix that comes from renewable sources; over half of all retail electricity sales in the State are now from non-fossil fuel sources.[26] Data collected by the State further indicates a statewide transition to resources with lower carbon intensities has increased dramatically over the past

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condition attributable to regulatory, technological, and market changes to address the mitigation of, or adaptation to, climate-related risks." 89 Fed. Reg. at 21,692.

[25] Veloz, *California New EV Sales Continue to Grow and Market Share Rises Again* (Aug. 6, 2024), https://tinyurl.com/VelozEV; Cal. Energy Comm'n, *New ZEV Sales in California* (2024), https://tinyurl.com/CECZEVData.

[26] Cal. Energy Comm'n, *New Data Shows Investments to Build California's Clean Energy Grid of the Future are Paying Off* (May 9, 2024), https://tinyurl.com/CECGridData.

decade, with businesses often "over-compl[ying]" with regulatory requirements.[27]

As these examples reflect, market shifts—in California and elsewhere—in response to changing consumer demands and new low-carbon technology will have effects on registrants in multiple sectors of the economy. Together with the clear physical risks posed by climate change and extreme weather, these changes and their impacts on businesses render the Rule's disclosures crucial to evaluating the financial stability and market competitiveness of regulated entities.

II. Climate-Related Disclosure Requirements Provide Important Information to Investors Evaluating Investment Risks

In light of these realities, the Rule's requirement that registrants disclose "climate-related risks, their impacts, [the registrant's] response to those risks," and greenhouse gas emissions information is well supported. 89 Fed. Reg. at 21,669-670. Information about the types of risks identified above, and a company's exposure to them, allows

[27] Cal. Air Res. Bd., *LCFS Data Dashboard* (2024), https://tinyurl.com/LCFS-Data-Dashboard.

investors to evaluate a company's market and financial stability and to make informed investment decisions.[28]

The financial risks arising from climate change already threaten registered companies and their operations. As noted above, extreme weather events, changes in temperature and weather patterns, and legislative efforts to adapt to changes caused or exacerbated by climate change have led to material effects on companies' operations and bottom lines. As those climate-related changes escalate, their effects on businesses will only intensify. Climate-related disclosures will help investors make informed decisions to protect their investments in the face of this reality.

California's largest institutional investors have already voiced support for climate-related disclosures and the SEC's Rule. The State's largest institutional investors are the California Public Employees' Retirement System ("CalPERS"), with assets totaling $495.3 billion,

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[28] *See* Financial Stability Oversight Council, *Report on Climate-Related Financial Risk* 4 (2021), https://tinyurl.com/FSOCClimate; CERES, *Climate Risk Management in the U.S. Insurance Sector: An Analysis of Climate Risk Disclosures* 23 (July 2023), https://tinyurl.com/CERESClimateRisk ("Climate risk assessment and awareness is essential for strong risk management strategies for insurance businesses.")

and the California State Teachers' Retirement System ("CalSTRS"), with assets totaling $344.9 billion.[29] Both entities have noted the importance of climate-related information in securing their investments, and expressed their intent to integrate climate-related risks into their investment decision-making.[30] Beyond California, a recent study reported that 77% of global investors are interested in incorporating environmental, social, and governance (ESG) metrics in their investment decisions, with 70% of investors indicating they believe strong ESG practices by businesses are important to delivering financial returns.[31]

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[29] CalPERS, *Trust Level Review* (March 31, 2024), https://tinyurl.com/CalPERS2024; CalSTRS, *Investment Portfolio* (July 31, 2024), https://tinyurl.com/CalSTRSJuly24.

[30] Letter from Marcie Frost, CEO, CalPERS, to Vanessa Countryman, Sec'y, SEC (June 15, 2022), s71022-20131391-301546.pdf (sec.gov); Letter from Kirsty Jenkinson, Inv. Dir., and Aeisha Mastagni, Portfolio Manager, to Vanessa Countryman, Sec'y, SEC (June 17, 2022), s71022-20132337-302902.pdf (sec.gov).

[31] Morgan Stanley, *Sustainable Signals: Understanding Individual Investors' Interests and Priorities* 2 (2024), https://tinyurl.com/MorganStanleySustainable; *see also* GlobeScan, *Retail Investors Show Strong & Growing Interest in ESG* (Dec. 14, 2021), https://tinyurl.com/GlobeScanReport (showing 51% of American retail investors said they have been influenced by ESG factors in making investments in 2021, versus 26% in 2003).

Petitioners and other opponents challenge the Rule by claiming that disclosure of climate-related risks has very little bearing on investment and voting decisions.[32] That premise is unsupported, and it ignores both the abundance of data on climate change's financial effects and investors' demand for such disclosures. The Rule's climate-related-risks disclosure requirement is necessary to ensure that investors, and the market broadly, can "price in" climate-related risks and make informed investment decisions. 89 Fed. Reg. at 21,779. Likewise, the Rule's greenhouse gas emissions disclosure requirement allows investors to assess how susceptible a registrant may be to the transition risks discussed above. *See* 89 Fed. Reg. at 21,733. Such disclosures are not markers of a registrant's climate "reputation[]"; they are key to a registrant's financial outlook.[33]

Amici States Florida and Kansas specifically attack the Rule's greenhouse gas emissions disclosure requirement as "a pretextual

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[32] *See, e.g.*, Petitioners' Br. at 23 (arguing that the Rule requires "excessive disclosures" not conducive to decision-making); Amici Br. at 12 (describing disclosures as focusing on "reputational" impacts not material to investors).

[33] *See* Amici Br. at 12.

attempt to motivate companies to act on a public policy issue, disguised as a disclosure requirement." Amici Br. at 17. They support their argument by referencing the SEC's analysis of the potential economic effects of the Rule. *See* Amici Br. at 16-17 (citing 89 Fed. Reg. at 21,888). But the Securities Act of 1933, 15 U.S.C. §§ 77a–77bbbb, and the Securities Exchange Act of 1934, 15 U.S.C. §§78a–78rrr, *require* the SEC, when engaging in rulemaking, to consider whether the rule will promote efficiency, competition, and capital formation, and to consider the impact of the rule on competition. *See* 89 Fed. Reg. at 21,829, n.2567 (citing 15 U.S.C. §§ 77b(b), 78c(f), 78w(a)(2)). In so doing, the SEC considered the Rule's economic effects on regulated entities, including whether the Rule might prompt changes in corporate behavior. But this analysis does not establish that the rationale for the disclosure obligation is pretextual. While "courts need not '[a]ccept[] contrived reasons [for agency action],'" *Dep't of Com. v. New York*, 588 U.S. 752, 785 (2019) (challenge to reinstating of a citizenship question on the census),[34] it is equally true that a reviewing court "must judge

[34] *Dep't of Com.* involved a starkly different circumstance, in which the Court invoked the "narrow exception to the general rule against

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the propriety of [an administrative agency] action solely by the grounds invoked by the agency." *SEC v. Chenery Corp.*, 332 U.S. 194, 196 (1947)).[35]

Here, as the SEC explained, "the disclosure of GHG emissions can help investors understand whether those emissions are likely to subject the registrant to a transition risk that will materially impact its business," including its "management of those risks, as a part of assessing the registrant's overall business and financial condition." 89 Fed. Reg. at 21,858. Thus, "disclosure of GHG emissions can be helpful to assess the registrants' exposure to climate-related risks, particularly to material transition risks." *Id.* Therefore, as markets shift and consumers move toward demanding environmentally-responsible products, a business's greenhouse gas emissions data serves as an

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inquiring into 'the mental processes of administrative decisionmakers'" because there was "a 'strong showing of bad faith or improper behavior.'" *Dep't of Com.*, 588 U.S. at 781 (citing *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 420 (1971)).

[35] Nor may the court "reject an agency's stated reasons for acting simply because the agency might also have had other unstated reasons." *Dep't. of Com.*, 588 U.S. at 781.

important tool to enable investors to evaluate a company's transition risk and economic health within this landscape.

Moreover, the preexisting regulatory regime leaves critical gaps in the type of climate-related disclosures that investors seek. Existing disclosure data supports the SEC's view that its current disclosure rules, including existing general risk disclosure regulations, have not provided investors with information on climate-related risks and their financial impacts at a sufficient level of detail. 89 Fed. Reg. at 21,691. For example, current disclosure requirements leave gaps in information provided about wildfire risks; between 1996 and 2018, only 6.1% of firms with headquarters located in counties that experience wildfires included data on wildfire risks, losses, or risk management in their SEC filings.[36] More broadly, a 2023 status report issued by the Task Force on Climate-Related Financial Disclosures indicates that only 35% of public companies in North America reporting on any climate-related

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[36] P.A. Griffin, Y. Jiang, and E.Y. Sun, *Threatened by Wildfires: What Do Firms Disclose in Their 10-Ks?* 15 J. OF BUS. FIN. & ACCT. (Dec. 1, 2022), https://doi.org/10.1111/jbfa.12674.

metrics in their public filings.[37] Thus, although the current system has elicited climate-related information disclosures, the information provided is often incomplete and lacking uniformity, making it difficult for investors to evaluate a registrant's risks.[38] The Rule will change the regulatory landscape to narrow current disclosure gaps and ensure that investors have access to this vital information.

III. Climate-Related Disclosure Requirements Can Guard Against Misleading or Deceptive Claims of Environmental Responsibility

Finally, by mandating certain types of disclosures, the Rule also protects California's investors from "greenwashing," or misleading or deceptive claims of environmental responsibility.[39] While the Rule does

[37] TCFD, *2023 Status Report* 8 (Sept. 13, 2023), https://tinyurl.com/TCFD2023. Climate-related metrics, as measured by the report, include disclosure of climate-related risks and opportunities, risk management processes, and emissions information. *Id*. at 4.

[38] *See* 89 Fed. Reg. at 21,680 (noting investors have stated they found much of the voluntary climate-related reporting to be "lacking in quality and completeness.").

[39] *See* Miriam Cherry, *The Law & Economics of Corporate Social Responsibility & Greenwashing*, 14 UC Davis Bus. L. J. 281, 284-87 (2014) (attempting to define greenwashing); *see also* U.S. Sec. and Exch. Comm'n, *Proposed Rule: Enhanced Disclosures by Certain Investment Advisors & Investment Companies About Environmental, Social, &*

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not define greenwashing, the SEC notes that, "[a]s a general matter, others have defined greenwashing to mean the set of activities conducted by firms or funds to *falsely* convey to investors that their investment products or practices are aligned with environmental or other [environmental, social, and governance] principles." 89 Fed. Reg. at 21,677, n.104 (emphasis added). Petitioners, Rule opponents, and Rule proponents alike agree that it is the SEC's role to protect investors against misleading information—and registered companies that overstate their commitment to reducing their greenhouse gas emissions mislead investors by suggesting that they are better positioned to manage climate-change-related transition risks than they actually are.

Greenwashing has accelerated in recent years, with nearly one in three public companies having been linked to the misleading business practice.[40] Greenwashing is particularly pervasive in the banking and financial services sectors: from September 2022 to September 2023,

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Governance Investment Practices 8 (May 25, 2022) (describing greenwashing in investment funds).

[40] *See* RepRisk, *On the Rise: Navigating the Wave of Greenwashing and Social Washing* (Oct. 2023), https://tinyurl.com/RepRiskStudy ["RepRisk Study"]. This study is also cited in the Rule. *See* 89 Fed. Reg. at 21,861, n.2861.

these sectors saw a 70% increase in the number of climate-related greenwashing incidents compared to the year prior.[41] This kind of market manipulation confuses investors by inflating the value of greenwashers and comparatively undermining the value of registrants that actually follow through on their environmental commitments.[42]

The Rule's disclosure requirements will combat greenwashing and dispel confusion about registrants' fulfillment of their environmental commitments. Specifically, the Rule's disclosure requirements about important environmental metrics such as the use of carbon offsets, renewable energy credits, and internal carbon pricing will provide investors with insight into the degree to which registered companies are meaningfully changing their operations.

In addition, the Rule requires a registrant to describe its transition plan if it has adopted the plan to manage a material transition risk. 89 Fed. Reg. at 21,703. The requirement that registered companies

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[41] In this context, RepRisk defines "climate-related greenwashing incidents" to mean events when companies are involved in "misleading communication" on the environment. *See* RepRisk Study.

[42] Daniel C. Esty and Quentin Karpilow, *Harnessing Investor Interest in Sustainability: The Next Frontier in Environmental Information Regulation*, 36 YALE J. ON REG. 625, 664-65 (2019).

disclose their transition plans is a meaningful way to provide investors with details about how those plans are affecting the companies' operations and financial status. Similarly, the Rule requires a registrant to disclose any climate-related target or goal if such a target or goal has materially affected or is reasonably likely to materially affect the registrant's business, results of operations, or financial condition. 89 Fed. Reg. at 21,856. These disclosure requirements will help reduce greenwashing by making investors less likely to over- or under-estimate the potential impact of a registrant's targets or goals on its business strategy, results of operations, or financial condition. 89 Fed. Reg. at 21,857.

CONCLUSION

The petition for review should be denied.

Dated: August 15, 2024

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the type-volume limitations set forth in Fed. R. App. P. 29(a)(5). This brief contains **3783** words, including all headings, footnotes, and quotations, and excluding the parts of the brief exempted under Fed. R. App. P. 32(f).

In addition, this brief complies with the typeface and type style requirements of Fed. R. App. P. 32(a)(5) and (6) because it has been prepared in a proportionally spaced typeface using Microsoft Word for Office 365 in 14-point Century Schoolbook font.

This brief complies with the technical requirements of Local R. 28A(h) because it has been scanned for viruses and is virus-free.

/s/ Mitchell Rishe

MITCHELL RISHE

CERTIFICATE OF SERVICE

The undersigned certifies that on the 15th day of August 2024, this brief was electronically filed with the Clerk of Court using the CM/ECF system, which will serve all counsel of record.

/s/ Ryan Mallard
____
RYAN MALLARD

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