
SEC Climate & ESG Risk Disclosures Rulemaking

VIA ELECTRONIC DELIVERY

June 17, 2022

U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: EMA Comments on S7-10-22 / RIN 3235-AM87 Securities and Exchange Commission (“SEC”), Proposed Rule: The Enhancement and Standardization of Climate-Related Disclosures for Investors (“Proposed Rule”)

Dear SEC:

The Environmental Markets Association (“EMA”) appreciates this opportunity to provide input on the Proposed Rule related to enhanced environmental, social, and governance (“ESG”) disclosures for publicly traded corporations. Celebrating the 25th anniversary of our founding, the EMA is an industry trade association focused on promoting market-based solutions that utilize environmental instruments to solve environmental challenges. The EMA represents a diverse membership including large energy companies, project developers, and environmental commodity brokers, traders, and exchanges. **Our mission is to foster open, competitive, and tradable markets that deliver sustainable economic development in a cost-effective manner. In many ways, our organizational principles align quite closely with the SEC’s stated mission of “protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation.”¹ While our comments generally pertain to the whole proceeding at large, questions 2, 3, 15, 24, 75, 77, 79, 81, 88, 93, 98, 100, 101, 115, 124, 159, 168, 170, and 173 are particularly connected to this discussion.**

Requiring the disclosure of greenhouse gas emissions (“carbon emissions”) and other ESG-related information is very likely to have an increasingly significant impact on allocation decisions made by capital markets and specific investments made by regulated entities within the overall pursuit towards decarbonization. More transparent information on the physical and transition risks, challenges, and opportunities companies face will provide investors and management alike with an evolved framework in which to underwrite investments and conduct operations. An old saying in environmental markets is that you can’t manage what you don’t measure. Once participants have more information in which to measure ESG risks, it is EMA’s belief that companies will naturally accelerate the steps that they can take to reduce direct and indirect carbon emissions. However, since it can be difficult for numerous reasons to cost-effectively reduce carbon emissions in certain timeframes, it is essential that corporations be permitted to maintain as much regulatory flexibility as possible when it comes to the options and choices at their disposal. **Therefore, it is paramount that environmental instruments remain one such tool to reduce Scope 1, Scope 2, and Scope 3 emissions and that this SEC rulemaking does not inadvertently harm or constrain the ability of corporations to achieve and claim progress toward ESG goals through the purchase of environmental instruments.**

¹ <https://www.sec.gov/about/what-we-do>



Environmental instruments (also known as environmental attribute certificates or environmental commodities) provide revenue to sustainable infrastructure and ecosystem service projects and have evolved over many decades to become an increasingly critical part of project finance. Project-based instruments such as renewable energy certificates (“RECs”), renewable thermal certificates (“RTCs”), and carbon offsets (“Offsets”) serve as proven and successful ways to price, convey and transfer environmental attributes for representation purposes and are being used to mitigate Scope 1, Scope 2, and Scope 3 emissions today. In well-designed compliance and voluntary markets, carbon emission reductions are real, additional, and verifiable. Large markets exist today that transfer these environmental instruments from renewable energy and carbon emission reduction projects to entities that seek to comply with environmental goals or targets. Environmental commodities thus serve multiple functions: (1) the definition, standardization, and commodification of environmental attributes; (2) an institutional-grade instrument to track and facilitate cash flow for sustainable economic activities; and (3) a flexible regulatory and reporting tool used by businesses to obtain and claim emission reductions more cost-effectively when internal abatement opportunities are not feasible. **As such, tradable environmental instruments unlock market efficiency and cost-effective decarbonization opportunities that give corporations more flexibility to pursue a combination of physical and environmental investment strategies throughout time to achieve ESG targets.**

The EMA was formed in 1997, the same year that the Kyoto Protocol was adopted, and three years before the first voluntary REC transaction was completed. We have a long history with the use of environmental instruments, which have been well defined by both various state and federal laws as well as stakeholder associations that have crafted voluntary standards widely in use for RECs, RTCs, and Offsets. The environmental credit markets have succeeded in directing tremendous amounts of capital into sustainable projects and technologies and have been a major contributor to the rapid decline of low-carbon technology cost curves. **In the spirit of “maintaining fair, orderly and efficient markets” as well as “facilitating capital formation” we recommend that the SEC refrain from re-“defining” these instruments; there is simply no need and doing so would only serve to create confusion among investors and conflict with the many agencies and programs who have been involved with this effort for the past several decades. Nor should the required environmental credit disclosures be so onerous as to discourage their use to offset Scope 1, Scope 2, or Scope 3 emissions when reported.** Industry groups are constantly at work on promulgating and improving standards to increase the transparency and credibility associated with these credits, combining enhanced data reporting with science-based practices to provide ever increasing levels of transparency and assurance in the attributes being transferred.

When it comes to greenhouse gas inventory accounting, the EMA strongly encourages the SEC to finalize a rule that makes it permissible and straightforward for corporations to use environmental instruments to reduce reported carbon emissions in their disclosures and in a manner that cultivates confidence by corporations to use purchased credits for the fulfillment of their ESG targets. Even if more information is ultimately required to be disclosed, the structure of the climate disclosures and reporting framework should allow corporations to report net emissions as a primary carbon metric that accounts for reduced carbon emissions via the purchase of environmental instruments.



The EMA strongly supports the utilization of markets that incorporate environmental instruments. Well-designed markets yield many benefits including, but not limited to, transparent price signals determined through competition, risk mitigation opportunities, incentives for technological innovation, efficient allocation of capital and resources, investor certainty, and consumer protection. The Proposed Rule has the potential to significantly encourage or constrain the evolution and development of environmental markets. The EMA implores the SEC to ensure that the full power of market-based solutions is pursued in line with the SEC's stated mission. The benefits of economic efficiency and regulatory flexibility will help enable the most cost-effective carbon reduction solutions.

Thank you for your consideration of our comments. The EMA is ready to offer any additional assistance or analysis as needed by the SEC.

Sincerely,

Lauren LeMunyan

Lauren LeMunyan

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