



June 14, 2021

The Honorable Gary Gensler
Chair
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Request for Public Input on Climate Change Disclosures

Dear Chair Gensler,

Microsoft appreciates the opportunity to comment on the request of the Securities and Exchange Commission (the "Commission") for input on climate change disclosures.

We believe our company's long-term value and viability depend on an environmentally sustainable future and have communicated on these topics with investors and other audiences for many years. Microsoft has disclosed information on our carbon emissions and actions related to energy and climate for nearly two decades through the Carbon Disclosure Project (now CDP) and disclosed a wide range of environmental data through our annual Corporate Social Responsibility reporting. In January 2020 we announced commitments to be carbon negative by 2030, and to remove from the environment all the carbon the company emitted since our founding by 2050. Since then, we've announced a series of further commitments to be zero waste and water positive by 2030. We recognize transparency and accountability are fundamental to reaching these goals and in January 2021 we issued our first Environmental Sustainability Report detailing our progress and challenges advancing our environmental sustainability goals. This report included independent verification of a portion of the emissions and water data provided.

To summarize our views as described in more detail below, we believe that:

- Climate change disclosure is an appropriate area for rulemaking because of its increasing significance to investors.
- It will be critical to have a common and well-defined framework for climate change-related metrics and methodologies.
- Any disclosure rules should be principles-based, rooted in established concepts of materiality, and adaptable over time.

We support the Commission’s development and adoption of disclosure rules that will provide material, decision-useful information for investors.

The right time to act

In a January 2021 blog post on *Microsoft on the Issues*, we said addressing the challenges of sustainability and climate change is “a conversation the world needs to have.” That conversation must take place in many public and private forums. Shareholders, customers, employees, regulators, and other stakeholders are all increasingly focused on the importance of effective action on environmental, social, and governance topics. Like many companies, we have been engaged for years in a robust dialog with our investors. It is clear that climate-related issues are becoming more important to our shareholders as they make investment and voting decisions. This includes the impact of our products, services, and operations on the environment, changes in worldwide markets driven by climate change, risks and opportunities those changes present, and concrete actions we are taking in response. In our view, the only viable alternative moving forward is to keep driving better data, better disclosure, and better decisions.

Any disclosure rules should further the SEC’s 3-part mission: protecting investors; maintaining fair, orderly, and efficient markets; and facilitating capital formation.

Materiality is fundamental

Any disclosure rules adopted by the Commission will best serve its stated mission by eliciting material, decision-useful information for investors and other users of financial and non-financial information. As a result, disclosures should be based on a company-specific materiality assessment to identify the issues most relevant to an individual company, particularly the information used to manage the business. We are aware of other proposed materiality definitions around climate change information proposed by different standards setters, regulators, or governing bodies, such as double and nested materiality. The Commission should apply the same definition of “material” that currently applies to financial and non-financial disclosure in SEC filings. This definition is well-established in U.S. securities law and is flexible enough to apply to the entire spectrum of financial and non-financial disclosures. Materiality determinations, particularly qualitative ones, can be challenging to implement consistently and subject to significant judgment even under the existing precedent in U.S. securities law. We believe any alternative materiality framework could cause confusion and inconsistency in its application.

Investors care about governance

We also believe that disclosure of a company’s corporate governance framework serves the goals of protecting investors and maintaining orderly markets. The Commission, Nasdaq, and the NYSE have long recognized the value of corporate governance transparency as demonstrated by, for example, disclosure requirements around risk oversight and director independence and expertise. Our experience discussing sustainability with investors confirms that corporate governance is an important topic of recurring interest and provides the foundation of accountability to ourselves as a company and to shareholders and other stakeholders. Consequently, we support disclosure of the ways in which the Board of Directors has visibility and exercises oversight over climate related risks, opportunities, and initiatives.

Common standards will make climate change data more reliable, comparable, and useful to investors.

The role and value of the standard setter

As we stated in our 2020 Environmental Sustainability Report, Standards and globally accepted definitions drive efficiency, clarity, and interoperability. For corporate sustainability commitments to be meaningful, we must ensure that everyone is working from the same taxonomy. Without standards we won't be able to compare one company's commitment to any other, and more time will be spent trying to assess whether a commitment is meaningful than will be in making meaningful progress on sustainability. Solving this means that society needs to make rapid advances on agreeable sustainability standards.

Investors and other stakeholders value clear and transparent communication of important information about our climate initiatives, risks, and opportunities. A single harmonized climate framework would be the most effective way to achieve this. We devote significant resources to aligning our non-financial sustainability disclosures to reflect the perspectives of multiple voluntary standard setting organizations, including the Global Reporting Initiative (GRI), the Task Force on Climate-related Financial Disclosures (TCFD) and the Sustainability Accounting Standards Board (SASB). We are encouraged that organizations such as SASB, TCFD, the Climate Disclosure Standards Board (CDSB), the World Economic Forum, and the International Financial Reporting Standards (IFRS) Foundation have announced a broad collaboration to reduce fragmentation in sustainability disclosure standards.

Such a harmonized framework would have a number of benefits. It would enhance comparability in the climate change disclosures made by separate companies, permitting investors to make better informed investment decisions, encourage faster and more widespread adoption, and conserve companies' resources in developing climate change reporting and communications. For example, the development of universally understood and calculated measures for Scope 1, 2, and 3 emissions would allow investors to easily compare the performance of similarly situated companies. Additionally, as Microsoft and others go beyond carbon reduction to carbon removal, it is important to have common measures for negative consumption. Just as we have well-understood, precise metrics for currency in finance, kilowatt hours in energy, and calories in food products, precise measures of emissions would allow investors and other stakeholders to make meaningful comparisons and informed decisions. The Commission should, while adhering to established U.S. materiality standards, engage with and encourage this multi-stakeholder effort as the Commission develops climate disclosure rules for U.S. public registrants.

Industry segmentation will improve clarity

SASB and other organizations have recognized that industry-based segmentation of disclosure frameworks enhances comparability of data within each industry. We share this view. Whether it's the availability of resources, market shifts, transition risk, reputational issues, regulatory oversight, or a host of other dimensions, the impacts of climate change will have different impacts on different industry sectors. It is evident that the climate risk profile of Microsoft, for example, differs from a company in the energy, transportation, or pharmaceutical industry. While the basic vocabulary underlying data collection and disclosure should be consistent, a global framework that establishes industry-specific areas of emphasis will enhance transparency and usefulness.

A whole-government approach to leverage climate data

We believe the Commission's ability to influence the development of a well-defined, uniform, and universal disclosure framework serves broader goals of the executive branch. In his January 27, 2021 *Executive Order on Tackling the Climate Crisis at Home and Abroad*, President Biden articulated the administration's goal of using a coordinated, multi-stakeholder approach in deploying the capacity of federal government agencies "to combat the climate crisis to implement a government-wide approach that reduces climate pollution in every sector of the economy" as well as other related objectives. Further, in his May 20, 2021 *Executive Order on Climate-Related Financial Risk*, the President called for, among other things, the advancement of "consistent, clear, intelligible, comparable, and accurate disclosure of climate-related financial risk." Such disclosure would further the executive order's goal of requiring federal suppliers to provide information on greenhouse gas emissions and climate-related financial risk and committing to reduction targets, and allow the federal procurement process to account for "the social cost of greenhouse gas emissions...in procurement decisions." As a result, the same data taxonomy the Commission can leverage for the benefit of investors could be applied to federal contracting and enable the government to leverage its own balance sheet to support its stated policy goals.

How the parts fit together

Effective climate disclosure is, at its core, telling an understandable and useful story. As stated above, we support a unified standard-setting body, which may be a third party outside the Commission but over which the Commission retains sufficient authority to ensure accountability, due process, and effective governance. The standard setter's role would be to establish the basic building blocks of a common vocabulary, grammar, and syntax – in other words, develop a precise set of definitions and methodologies. The Commission's disclosure rules would outline the various elements – the universe of plot points – that might go into a comprehensive story. Individual companies would tell their climate change story using the elements that are relevant to their circumstances and material to their investors. We suggest the Commission not grant authority for this important area of disclosure to any unaccountable third party that may advance objectives that are outside of the Commission's core mission. Individual companies will always retain the option to disclose additional information in a variety of media available to them, including websites, blogs, press releases, and comprehensive sustainability reports.

Any disclosure rules should be principles-based and not excessively prescriptive.

Leaving room for evolution

No one should expect the end state of public company climate change disclosure to emerge fully realized in the beginning. Reaching full consensus among standard-setters and the Commission may take years. The understanding of the magnitude and impacts of climate change will evolve. Companies will adapt and transition. New technologies will emerge. This process must move with urgency, but also requires collaboration between multiple stakeholders to develop, test, and refine what works best. Between now and the middle of the decade, we should expect effective disclosures to mature, and as this happens, it may be appropriate for the Commission to revisit and refine its reporting requirements.

Adapting to variability and change

As stated above, we support a uniform framework and taxonomy. At the same time, the Commission's rules should be principles-based and sufficiently flexible to adapt to a range of variables, including market and scientific developments the size, scope, industry, and maturity of companies, and evolving investor priorities. For example, like the Commission's recent rule change on human capital management disclosure, companies should focus disclosures on material measures used to manage the business and other data useful to investors. This may include risks and opportunities relating to climate impacts of the company's operations, as well as their products, and services. As with the Commission's Regulation S-K Item 303 (Management's Discussion and Analysis) and Item 402 (Compensation Discussion and Analysis), a principles-based narrative accompanying numerical data may be necessary to provide context, establish the magnitude of risks and opportunities, and explain management's priorities. The length and detail of the narrative should be flexible. A principles-based disclosure framework also adapts readily to issuers of different sizes, potentially conserving the resources of small- and mid-sized companies whose climate risks and impact footprints may be less significant.

The role of private ordering

Consistent with a principles-based disclosure framework, the Commission's rule should leave room for "private ordering" – the ongoing development of appropriate disclosures through interactions and negotiations between issuers, shareholders, and other stakeholders. Market forces can be at least as powerful as regulation. We have learned from years of active dialog with our investors that, just as a company's strategies and market position evolve, so do the priorities of investors. While issuers and shareholders agree that the creation of long-term shareholder value is paramount, the consensus on what it takes to grow value adapts as our understanding of markets matures and external circumstances shift. For example, increasingly our conversations with investors involve not only periodic financial performance, but how we operate our business with a view to the interests of the entire range of relevant stakeholders, including employees, customers, suppliers, communities, and societies in which we operate, and the planet we share. Institutional investors are increasingly creating Environmental, Social, and Governance (ESG)-screened funds or filtering companies depending on whether they meet climate-based criteria. The influence and insights of our shareholders inform many of our initiatives and the information we disclose. This will continue. Accordingly, well-designed principles-based disclosure rules will leave room for – and foster -- this kind of iterative, open communication-based private ordering.

As the data taxonomy continues to mature and new disclosure rules are implemented, the Commission should allow flexibility for the timing and location of climate-related disclosures.

As the Commission considers the appropriate timing and location for any climate-related disclosures, we recommend that there be flexibility for issuers to provide climate-related disclosures outside of the Form 10-K reporting cycle. Companies have different existing cycles for compiling climate change related information. Constraints on when data is available could present substantial challenges if additional climate-related disclosures are required as part of regular financial reporting timelines. If all audit or other assurance activities had to be performed at the same time as the year-end financial statements of the Form 10-K, for example, this could lead to pressure on systems and resource constraints, especially with small and mid-sized companies.

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Microsoft appreciates the Commission's thoughtful and deliberate process on this critical topic and the opportunity to provide our input as we work to address climate change and help our customers and partners around the world reduce their carbon, water, waste, and land footprints. We further welcome the opportunity to discuss our comments and recommendations with the Commission or the Commission staff, and we look forward to opportunities to remain actively engaged in this topic with government and civil society organizations. Thank you for your consideration.

Sincerely,



By

Keith R. Dolliver

Vice President and Deputy General Counsel
Microsoft Corporation