

# **EXHIBIT 2**



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**SENT VIA: foia@sec.gov**

June 22, 2022

United States Securities and Exchange Commission  
Office of FOIA Services  
100 F Street NE  
Washington, DC 20549-2465

Dear FOIA Officer,

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing FOIA regulations of the United States Securities and Exchange Commission (SEC), 17 CFR Part 200, I respectfully request the following records (or records containing the following information) regarding the SEC's proposed rule on "The Enhancement and Standardization of Climate-Related Disclosures for Investors" ("Proposed Climate Disclosure Rule").<sup>1</sup>

**PART A:**

- 1) All emails and text messages related to the Proposed Climate Disclosure Rule that were sent between any relevant SEC person<sup>2</sup> and: (1) any individual or entity outside the Executive Branch; (2) any individual in the Executive Office of the President; (3) any individual in an agency that is a member of the Financial Stability Oversight Council; or (4) any individual in the U.S. Environmental Protection Agency.
- 2) All calendar entries (including electronic calendars) associated with any relevant SEC person that relate to the Proposed Climate Disclosure Rule and were created or generated.

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<sup>1</sup> The Enhancement and Standardization of Climate-Related Disclosures for Investors, Proposed Rule of the Securities and Exchange Commission (proposed Mar. 21, 2022), <https://www.sec.gov/rules/proposed/2022/33-11042.pdf>

<sup>2</sup> The term "relevant SEC person" means an: (1) SEC official, employee, contractor, academic or professional fellow, or intern who has served at any point between January 20, 2021 and the present (i) in the Office of the Chairman (during the tenure of Chairman Gensler and/or Acting Chair Allison Herren Lee), including, but not limited to, Chairman Gensler and Acting Chair Lee; or (ii) in the Office of Commissioner Lee, including, but not limited to, Commissioner Lee; and/or (2) any SEC official, employee, contractor, academic or professional fellow, or intern who worked on the proposed climate disclosure rule in the Division of Corporation Finance, the Division of Economic and Risk Analysis, or the Office of the Chief Accountant.



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- 3) All records sent, received, or created by any relevant SEC person that contain any of the following key words or key word combinations:
  - a. “climate” & “disclos!”<sup>4</sup>
  - b. “sustain!” & “disclos!”
  - c. “climate justice”
  - d. “global warming”
  - e. “green new deal”
  - f. “climate” & “close hold”
  - g. “sustain!” & “close hold”
- 4) All analyses<sup>5</sup> related to the costs of the Proposed Climate Disclosure Rule.
- 5) Any records related to the First Amendment and the Proposed Climate Disclosure Rule.

**PART B:**

- 1) Records sufficient to show all SEC persons who have worked on the Proposed Climate Disclosure Rule to date.
- 2) Records sufficient to show the extent of the costs that are expected to occur in connection with the Proposed Climate Disclosure rule, including, but not limited to, the impact that the proposed rule is expected to have on energy prices.
- 3) Records sufficient to show the impact the Proposed Climate Disclosure Rule would have on energy prices or other costs.
- 4) Records sufficient to show all other Federal agencies or entities the SEC coordinated with regarding the Proposed Climate Disclosure Rule.

Please limit the search for this request from January 20, 2021, to the date the search is conducted.

The term “record” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals,

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<sup>4</sup> The symbol “!” denotes a root expander.

<sup>5</sup> The term “analysis” means any document judging, reviewing, evaluating, auditing, assessing, appraising, examining, studying, investigating, inquiring, exploring, or other like activity, of any sort, form, or level of formality or informality, whatsoever, without limitation.



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pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (emails), MMS or SMS text messages, instant messages, messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Telegram, Signal, Google Chat, Twitter direct messages, Lync, Slack, and Facebook Messenger), contracts, cables, telexes, notations of any type of conversation, telephone call, voicemail, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electronic records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A record bearing any notation not a part of the original text is to be considered a separate record. A draft or non-identical copy is a separate record within the meaning of this term.

The term “communication” means each manner or means of disclosure or exchange of information (in the form of facts, ideas, inquiries, or otherwise), regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in an in-person meeting, by telephone, facsimile, e-mail (desktop or mobile device), MMS or SMS text message, instant messages, messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Telegram, Signal, Google Chat, Twitter direct messages, Lync, Slack, and Facebook Messenger), regular mail, telexes, releases, or otherwise.

For calendar entries created in Outlook, Teams, Zoom, WebEx or similar programs, the documents should be produced in “memo” form to include all invitees, any notes, and all attachments. All calendar and calendar entries include any calendars maintained on behalf of these individuals (e.g., by an administrative assistant). Please do not limit your search to Outlook calendars—we request the production of any calendar—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business. We request that you include calendars and invitations created in Outlook, Teams, Zoom, WebEx, or similar programs.

This request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.



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In the interest of expediency and to minimize the research and/or duplication burden on your staff, please send records electronically if possible. If this is not possible, please notify me before sending to the mailing address listed below. If access to this request will take longer than seven (20) business days, please let me know when I might receive records or be able to inspect the requested records. Please produce responsive documents as soon as they become available. In all cases, please communicate with me at the below email address.

Please comply fully with 5 U.S.C. § 552 (b). Accordingly, without limitation to the foregoing, if any portion of this request is denied for any reason, please provide written notice of the records or portions of records that are being withheld and cite each specific exemption of the Freedom of Information Act on which the agency relies. Moreover, to the extent that responsive records may be withheld in part produce all reasonably segregable portions of those records. Additionally, please provide all responsive documents even if they are redacted in full.

#### Fee Waiver Request

This request is primarily and fundamentally for non-commercial purposes. As a 501(c)(3) nonprofit, Heritage Foundation does not have a commercial purpose and the release of the information requested is not in Heritage Foundation's commercial interest. Heritage Foundation's mission is to formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense. Heritage Foundation uses the information requested and analyzes it in order to educate the public through social media,<sup>6</sup> broadcast media<sup>7</sup> (traditional and nontraditional) and press releases.<sup>8</sup> The requested information is in the public interest there are multiple articles<sup>9</sup> regarding this proposal.

Because this is a request by a member of the news media for information of public interest, made in my capacity as an author for the Daily Signal<sup>5</sup> (a major news outlet<sup>6</sup>), I actively gather information of potential interest to our Daily Signal audience, and I use my editorial skills to turn raw materials into a distinct work, and I distribute that work to our Daily Signal audience through podcasts<sup>7</sup> or articles. I request that you waive all applicable fees associated with this request.

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<sup>6</sup> Heritage Foundation. [@ Heritage] (Accessed: 2022, February 18). 626.8K Followers Twitter. <https://twitter.com/Heritage>

<sup>7</sup> Fox News. (Accessed: 2022, February 18). Heritage Foundation launches Conservative Oversight Project aimed at 'exposing' Biden admin, leftist policies. <https://www.foxnews.com/politics/heritage-conservative-oversight-project-biden-admin-leftist-policies>

<sup>8</sup> Heritage Foundation. (Accessed: 2022, February 18). Press. <https://www.heritage.org/press> .

<sup>9</sup> Yahoo! Finance. BlackRock Urges SEC to Change Climate-Risk Disclosure Plan. (Accessed: 2022, June 22). <https://finance.yahoo.com/news/blackrock-calls-sec-change-climate-183542721.html>; Wall Street Journal. (Accessed: 2022, June 22). Companies Skewer SEC's Climate-Disclosures Plan in Comment Letters. [https://www.wsj.com/articles/companies-skewer-secs-climate-disclosures-plan-in-comment-letters-11655834912?mod=hp\\_minor\\_pos7](https://www.wsj.com/articles/companies-skewer-secs-climate-disclosures-plan-in-comment-letters-11655834912?mod=hp_minor_pos7)



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If you deny this request for a fee waiver, please advise me in advance of the estimated charges if they are to exceed \$50. Please send me a detailed and itemized explanation of those charges.

Thank you in advance for considering my request. If you have any questions, or feel you need clarification of this request please contact me at [oversightproject@heritage.org](mailto:oversightproject@heritage.org).

Sincerely,

Mike Howell  
Senior Advisor and Author at The Daily Signal  
The Heritage Foundation  
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