No. 24-1626

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

TEXAS ALLIANCE OF ENERGY PRODUCERS; AND
DOMESTIC ENERGY PRODUCERS ALLIANCE,

Petitioners,

v.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Respondent.

ON PETITION FOR REVIEW OF AN ORDER OF THE SECURITIES & EXCHANGE COMMISSION

MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF

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MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure, certain Senators and Representatives duly elected to serve in the United States Congress (collectively, "Congressional Amici"[1]) here by move this Court for an order allowing them to file the attached *amici curiae* brief in support of Petitioners. Petitioners have consented to Congressional Amici filing a brief; Congressional Amici have not yet received a response from Respondent regarding consent, but we note that Respondent has consented to the filing of other *amicus* briefs in this and consolidated matters. In support of this motion Congressional Amici state:

MOVANTS' INTEREST AND REASONS AND RELEVANCE OF BRIEF

Respondent's Order entitled, "The Enhancement and Standardization of Climate-Related Disclosures for Investors" Securities Act Release No. 33-11275 (March 6, 2024) (the "Climate Rule"), would greatly expand the burdens placed on publicly traded companies in ways that will ultimately harm investors in those companies. As elected members of Congress, Amici have strong institutional interests in protecting Congress's power to enact legislation governing our nation, including laws addressing securities markets and climate policy.

[1] A complete list of the Congressional Amici appears in the attached proposed Amicus Brief.

Congressional Amici submit that, among other infirmities, the Climate Rule lacks clear Congressional authorization. The SEC, as a securities regulator, is not empowered to impose sweeping climate-related regulations on publicly-traded companies. Congress has demonstrated historical reluctance to pass broad climate legislation, particularly legislation that would dramatically impact federal securities law disclosure requirements. Respondent's overreach into climate regulation does not respect the separation of powers and runs afoul of the major questions doctrine, warranting the rule's invalidation.

Congressional Amici further submit that their *amici curiae* brief will aid the court in offering analysis and perspective from members of Congress in understanding the limitations of Congressional authority provided to Respondent and the public policy ramifications of the Climate Rule.

CONCLUSION

For the foregoing reasons, the Congressional Amici hereby request the Court to grant leave to file its *amici curiae* brief in support of Petitioners, which is attached to this motion.

Dated: June 24, 2024

/s/ Michael Piazza
Michael Piazza

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

In accordance with Fed. R. App. P. 25, I certify that on, June 24, 2024, I electronically filed this motion with the Clerk of Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. All participants in this case are registered CM/ECF users and service will be accomplished through that system.

Dated: June 24, 2024

/s/ Michael Piazza
Michael Piazza
Counsel for Amici Curiae

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CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume, typeface, and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6). To comply with 8th Cir. R. 28A(h)(2), the motion and its attachment were scanned for viruses and determined to be virus free.

Dated: June 24, 2024

/s/ Michael Piazza
Michael Piazza
Counsel for Amici Curiae

No. 24-1626

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

TEXAS ALLIANCE OF ENERGY PRODUCERS; AND DOMESTIC ENERGY PRODUCERS ALLIANCE,

Petitioners,

v.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Respondent.

ON PETITION FOR REVIEW OF AN ORDER OF THE SECURITIES & EXCHANGE COMMISSION

BRIEF OF CERTAIN MEMBERS OF CONGRESS AS AMICI CURIAE IN SUPPORT OF PETITIONERS

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CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eighth Circuit Local Rule 29A, Amici [tbd] states that in addition to the persons listed in Petitioners' opening brief (Doc.) (June 17, 2024) the following persons and entities have an interest in the outcome of this case:

1. Certain Members of Congress, Amici Curiae;
2. Lathrop GPM LLP, *Counsel for Amici Certain Members of Congress*;
3. Investor Choice Advocates Network, *Counsel for Amici Certain Members of Congress;*
4. Morgan, Nicolas, *Counsel for Amici Certain Members of Congress*;
5. Piazza, Michael, *Counsel for Amici Certain Members of Congress;*
6. Bradshaw II, Jean Paul, *Counsel for Amici Certain Members of Congress;*

Amici Certain Members of Congress certify that they are not entities and have no parent company.

/s/ Michael Piazza________

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IDENTITY AND INTEREST OF AMICI CURIAE[1]

Amici are Senators and Representatives duly elected to serve in the United States Congress, in which the Constitution vests all legislative powers. Respondent's Order entitled, "The Enhancement and Standardization of Climate-Related Disclosures for Investors" Securities Act Release No. 33-11275 (March 6, 2024) (the "Climate Rule"), would greatly expand the burdens placed on publicly traded companies in ways that will ultimately harm investors in those companies. As elected members of Congress, Amici have strong institutional interests in protecting Congress's power to enact legislation governing our nation, including laws addressing securities markets and climate policy. Amici include:

Senator Kevin Cramer of North Dakota

Senator Dan Sullivan of Alaska

Senator John Barrasso of Wyoming

Senator Shelley Moore Capito of West Virginia

Senator Pete Ricketts of Nebraska

Senator M. Michael Rounds of South Dakota

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[1] Petitioners consented to the filing of this brief; we have not yet received a response from Respondent regarding consent. No party's counsel authored this brief in whole or part, and no party or party's counsel made a monetary contribution to fund preparation or submission of this brief. No person or entity other than Amici made a monetary contribution to the preparation or submission of this brief.

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Senator Mike Braun of Indiana

Senator Cindy Hyde-Smith of Mississippi

Senator Eric Schmitt of Missouri

Senator Ted Cruz of Texas

Senator James E. Risch of Idaho

Senator Tim Scott of South Carolina

Senator Steve Daines of Montana

Senator Marco Rubio of Florida

Senator Marsha Blackburn of Tennessee

Representative Kevin Hern of Oklahoma, 1st Congressional District

Representative August Pfluger of Texas, 11th Congressional District

Representative Morgan Griffith of Virgina, 9th Congressional District

Representative Dan Meuser of Pennsylvania, 9th Congressional District

Representative Tom McClintock of California, 5th Congressional District

Representative Beth Van Duyne of Texas, 24th Congressional District

Representative Jodey Arrington of Texas, 19th Congressional District

Representative Kelly Armstrong of North Dakota

Representative Cory Mills of Florida, 7th Congressional District

Representative Ralph Norman of South Carolina, 5th Congressional District

Representative Rick Allen of Georgia, 12th Congressional District

Representative Keith Self of Texas, 3rd Congressional District

Representative Harriet Hageman of Wyoming

Representative Jason Smith of Missouri, 8th Congressional District

Representative Dan Newhouse of Washington, 4th Congressional District

Representative Ann Wagner of Missouri, 2nd Congressional District

Representative Andy Ogles of Tennessee, 5th Congressional District

Representative John Rose of Tennessee, 6th Congressional District

SUMMARY OF ARGUMENT

The Supreme Court's decision in *West Virginia v. EPA*, 597 U.S. 697 (2022), underscores the requirement for clear Congressional authorization when agencies promulgate rules of significant economic and political consequence. In this precedent, the EPA's climate rule was invalidated due to lack of clear Congressional mandate, as the agency sought to regulate beyond its statutory authority under the Clean Air Act. Similarly, the SEC's Climate Rule lacks clear Congressional authorization. The SEC, as a securities regulator, is not empowered to impose sweeping climate-related regulations on publicly-traded companies. Congress has demonstrated historical reluctance to pass broad climate legislation, particularly legislation that would dramatically impact federal securities law disclosure requirements. The SEC's overreach into climate regulation does not respect the separation of powers and runs afoul of the major questions doctrine, warranting the rule's invalidation.

Further highlighting the absence of authorization for the SEC's Climate Rule is its conflict with fundamental tenets of federal securities law that have existed for decades. Specifically, the Climate Rule contravenes the principle of materiality, a cornerstone of federal securities law. The rule's expansive disclosure obligations risk overwhelming investors with irrelevant information, contrary to judicial precedents which define material information as that which would significantly alter the "total mix" of information available to a reasonable investor. The SEC's historical stance and the Supreme Court's interpretation affirm that immaterial information should not be subject to mandatory disclosure. By focusing on environmental impacts rather than financial materiality, the Climate Rule deviates from the SEC's statutory mandate. Consequently, the Climate Rule's disclosure requirements conflict with established federal securities law precepts and should be vacated.

Petitioners Texas Alliance of Energy Producers and Domestic Energy Producers Alliance (collectively, "Petitioners") set forth compelling arguments supporting an order setting aside the Climate Rule as contrary to law. (Petitioners' Opening Brief, Dkt. #5404026). Amici will not repeat those arguments here; rather as members of the United States Congress, Amici emphasize their full support of the legislative process and together recognize that Congress is the constitutionally appropriate forum for addressing the major policy questions addressed in the Climate Rule.

ARGUMENT

I. The Climate Rule Violates the Major Questions Doctrine

In 2022, the Supreme Court overturned another overreaching rule related to greenhouse gas emissions that had been developed by the Environmental Protection Agency ("EPA") on the basis that the rule violated the major questions doctrine.

West Virginia v. EPA, 597 U.S. 697 (2022). Now the SEC seeks to impose its own sweeping climate-related regulation without a clear Congressional mandate. Just as its sister environmental agency could not unilaterally enact an extraordinary rule, neither can the SEC. Indeed, as the securities and capital markets regulator, one strains to understand the basis for an SEC rule focused on climate change.[2]

The SEC Climate Rule has no clear mandate from Congress. Separation of powers principles and a plain reading of legislative intent require that an agency must have "clear congressional authorization" for the authority they claim when promulgating a rule of "economic and political significance." *Id*. at 721,723. That authorization is manifestly absent in this matter. As noted by Petitioners, "the Commission seeks to 'transform' the authority Congress deleted to restore investor confidence in the aftermath of the stock market crash of 1929, into a never imagined power to confront climate change." (Petitioners' Opening Brief at 51).Thus, in accordance with governing legal principles and controlling Supreme Court precedent, the SEC Climate Rule must be stricken as void because it violates the major questions doctrine.

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[2] As SEC Commissioner Hester M. Peirce pointedly noted in her March 21, 2022 statement against the climate rule proposal titled "We are Not the Securities and Environment Commission – At Least Not Yet."

The *West Virginia* case is instructive. There the EPA was attempting to regulate and cap carbon dioxide emissions from coal and natural gas power plants. However, the rule that agency promulgated would have done more than simply regulate emissions within the fence-line of existing power plants; its goal was to achieve "a sector-wide shift in electricity production from coal to natural gas and renewables." *West Virginia* at 698. As the Supreme Court noted:

> The Government projected that the rule would impose billions in compliance costs, raise retail electricity prices, require the retirement of dozens of coal plants, and eliminate tens of thousands of jobs.[3]

Id.

Like the SEC in the instant case, the EPA in *West Virginia* could point to no clear Congressional authorization for such sweeping regulation, because there was none. Indeed, the Court pointed out that the statute relied upon by the agency, the Clean Air Act, did not empower the EPA to make a decision of such "magnitude and consequence [which] rests with Congress itself, or an agency acting pursuant to a

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[3] *West Virginia* presents the curious situation where the agency itself did an analysis of its proposed rule and came to adverse conclusions, as demonstrated in this cite. The reason for this is that the Obama-era EPA first proposed the rule, then the Trump-era EPA analyzed and withdrew it, in favor of a less invasive rule. The Obama-era rule, however, got fresh life when the Biden-era EPA took power at the agency which then resulted in the *West Virginia* litigation and Supreme Court decision.

clear delegation from that representative body." *Id*. at 735. The EPA could not demonstrate such clear delegation and lost the case.

Further emphasizing the importance of an agency staying within its scope of authority, the Supreme Court struck down the Biden Administration's attempt to cancel $430 billion in student debt through administrative action taken by the Department of Education. In *Biden v. Nebraska,* 600 U.S. ___, 143 S. Ct. 2355 (2023), the Supreme Court struck down the 2023 mass debt cancellation program the Secretary of Education attempted to implement purportedly under the authority of the HEROES Act.[4] Analyzing the HEROES Act and focusing on what Congress actually authorized in that legislation, the Court observed that "[f]rom a few narrowly delineated situations specified by Congress, the Secretary has expanded forgiveness to nearly every borrower in the country." *Id*. at 2369.

Invoking the major questions doctrine, Justice Roberts highlighted the staggering "economic and political significance" of the Secretary's proposed forgiveness and concluded that there "is no serious dispute that the Secretary claims the authority to exercise control over a significant portion of the American economy." *Id*. at 2373, citing *Utility Air Regulatory Group v. EPA*, 573 U.S. 302, 324 (2014) and *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 159

[4] Higher Education Relief Opportunities for Students Act of 2003, 117 Stat. 904.

(2000). The Chief Justice then refuted the dissent's assertion that the Court was substituting its judgment for the expert agency's analysis, concluding that:

> "The dissent is correct that this is a case about one branch of government arrogating to itself power belonging to another. But it is the Executive seizing the power of the Legislature. The Secretary's assertion of the administrative authority has 'conveniently enabled [him] to enact a program' that Congress has chosen not to enact itself."

Biden v. Nebraska, 143 S. Ct. 2373. Accordingly, the Court held that the Secretary acted beyond his authority rendering his student debt cancellation action void.

Similarly, the SEC Climate Rule does not survive a major questions analysis. When Congress enacted the Securities Act of 1933 and the Securities Exchange Act of 1934, "Congress deliberately enumerated categories of information for company disclosure and did not give the SEC or its predecessor a general power to order disclosures."[5] To be sure, the SEC cites to a number of ambiguous statutory provisions purportedly empowering it to promulgate the Climate Rule. But as the Supreme Court notes, Congress only "speak[s] clearly" when it intends to confer

[5] Andrew N. Vollmer, *Does the SEC Have Legal Authority to Adopt Climate-Change Disclosure Rules?* at 7 (Aug. 2021) (citing among other things reports from the House of Representatives, including one "of the reports states that Congress did not want an administrative agency to have "unconfined authority to elicit any information whatsoever." (https://www.mercatus.org/research/policy-briefs/does-sec-have-legal-authority-adopt-climate-change-disclosure-rules#:~:text=Conclusion,requiring%20companies%20to%20disclose%20it.)

sweeping regulatory power upon a federal agency. *Utility Air Regulatory Grp.*, 573 U.S. at 324.

As noted in *West Virginia*, there have been numerous attempts to pass sweeping climate legislation in Congress, and to date all such attempts have failed. Yet the SEC through its Climate Rule would compel disclosure of non-economic climate factors concerning an area over which the SEC has no expertise nor any clear authorization from the legislature to regulate in this manner. While it may seem axiomatic, one obvious reason Congress limited the SEC's rule-making authority is that the SEC lacks the requisite expertise to oversee special interest disclosures like the Climate Rule, and thus only a specific mandate from Congress should put it "in the business of facilitating the disclosure of information not clearly related to financial returns."[6] Lacking that Congressional mandate, the Climate Rule does not adhere to the limited authority Congress has delegated. Here, the SEC exceeded its authority in violation of the major questions doctrine. Thus, the Climate Rule must be vacated.

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[6] SEC Commissioner Hester M. Peirce, "Green Regs and Spam: Statement on the Enhancement and Standardization of Climate-Related Disclosures for Investors," (March 6, 2024), available at https://www.sec.gov/news/statement/peirce-statement-mandatory-climate-risk-disclosures-030624#_ftn20.

II. The Climate Rule's Disclosure Requirements Cannot Withstand Judicial Scrutiny Based on Fundamental Principles of Materiality

The SEC purports to justify the Climate Rule by suggesting that the massive amount of information compelled to be disclosed will benefit investors. But as the Fifth Circuit recognized recently in deciding that the Commission acted arbitrarily and capriciously in an unrelated rulemaking, "More disclosure isn't always better."[7]

The Climate Rule threatens to flood the marketplace with immaterial information, inundating investors with information that is not material to their investment making decisions. In a bit of rulemaking sleight-of-hand, the Climate Rule uses the word "material" hundreds of times, compelling disclosure of certain climate-related financial risks that "have had or are reasonably likely to have a material impact on the registrant, including on its strategy, results of operations, or financial condition." The Climate Rule even references the materiality standard set forth by the Supreme Court as the proper method for determining materiality. (Final Rule fn. 381 and accompanying text). Importantly, as Petitioners' note, the Climate Rule does not "explicitly define what it means for emissions to be 'material.'" (Petitioners' Opening Brief at 12).

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[7] *Chamber of Com. of the USA v. SEC*, No. 23-60255, at n.18 (5th Cir. Oct. 31, 2023) (citing Eugene G. Chewning, Jr. & Adrian M. Harrell, The Effect of Information Load on Decision Makers' Cue Utilization Levels and Decision Quality in a Financial Distress Decision Task, 15 Acct. Org. & Soc'y 527, 539–40 (1990) and Kevin Lane Keller & Richard Staelin, Effects of Quality and Quantity of Information on Decision Effectiveness, 14 J. Consumer Res. 200, 211–12 (1987)).

However, as SEC Commissioner Mark Uyeda recently put it, the Climate Rule's "invocation of the term 'material' is a red herring." The Climate Rule's use of the term "material" is misleading because it applies to an entirely different, non-economic, subject matter than what Congress authorized with the federal securities laws, namely "climate related risks." Or, as one former Deputy General Counsel of the SEC put it:

> Does the SEC have the power and discretion to impose disclosure obligations related to securities on any topic and any subject as long as an acceptable case on public interest, investor protection, efficiency, and capital formation can be made? If so, the SEC's ability to require disclosures is nearly limitless because of the facial appeal of the claim that more information is better for investors. The SEC could approve a rule ordering filing companies to disclose the locations of dog parks near corporate properties or the average number of sunny days each year at corporate offices. The SEC could insert itself into areas regulated by other federal agencies, requiring, for example, the disclosures needed in a consumer credit transaction other than a mortgage transaction or the disclosure of policies against sex discrimination in federally supported education programs.[8]

Equally instructive is former SEC Chair Mary Jo White's warning about the adverse consequences that can result when companies provide too much information to investors:

> When disclosure gets to be "too much" or strays from its core purpose, it could lead to what some have called "information overload" – a phenomenon in which ever-increasing amounts of disclosure make it difficult for an investor to wade through the volume of information she receives to ferret out the information that is most relevant.

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[8] *See* Vollmer, supra n. 5 at 4.

See Mary Jo White, The Path Forward on Disclosure (Oct. 15, 2013), *available at* https://www.sec.gov/news/speech/spch101513mjw#_ftn9; *see also* David A. Katz & Laura A. McIntosh*, Corporate Governance Update: "Materiality" in America and Abroad*, Harvard Law School Forum on Corporate Governance (May 1, 2021) ("[a]s Former Commissioner Karmel observed nearly a half-century ago, requiring disclosure of information that some investors—but not 'average, prudent' investors—might deem important to their investment decisions would not be in the best interests of investors or the public interest"), *available at* https://corpgov.law.harvard.edu/2021/05/01. In sum, this problem of "information overload" harming rather than helping investors has long been a concern, and the Climate Rule only exacerbates that harm. *See* George S. Georgiev, *Too Big to Disclose: Firm Size and Materiality Blindspots in Securities Regulation*, UCLA Lew Review 602-682 (2017); Troy A. Paredes, *Blinded by the Light: Information Overload and its Consequences for Securities Regulation*, Wash. Univ. L. Q., 417-485 (2003).

"Materiality" has long been the foundation of federal securities law. Nearly a half-century ago, the Supreme Court explained that the "question of materiality" is "an objective one, involving the significance of an omitted or misrepresented fact to a reasonable investor." *See TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438, 445 (1976). Information is material under this well-settled standard when a "substantial likelihood" exists that "the omitted fact would have assumed actual significance in the deliberations of the reasonable shareholder" or, stated otherwise, "the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available." *Id*. Because the "motivation" to earn a profit is the sole incentive for a reasonable investor to consider corporate disclosures, their contents are irrelevant if they have no bearing on whether an investment decision will result in a profit or loss. *See Basic Inc. v. Levinson*, 485 U.S. 224, 246 n.23 (1988).

Consistent with these principles, the Commission has long recognized that its mandatory disclosure rules should not apply to immaterial information. The report issued by the Commission's Advisory Committee on Corporate Disclosure in November 1977, which recommended against compelling the broad disclosure of social and environmental information, is an early example of this approach:

> The Committee recommends that the Commission require disclosure of social and environmental information only when the information in question is material to informed investment or corporate suffrage decision-making or required by laws other than the securities laws. Generally information is material to investors ***only*** when it relates significantly to future financial performance or when a corporation's activities in these areas reflects a management engaged in a consistent pattern of violations of law.
>
> The Advisory Committee also endorses the Commission's conclusion reached after its hearings on this issue that there are ***no broad categories*** of social and environmental information not now covered by mandatory disclosure requirements that should be made the subject of new requirements.

See Report of the Advisory Committee On Corporate Disclosure to the SEC, at D-21 (Nov. 3, 1977) (emphasis added). This recommendation reflects the Commission's longstanding definition of "material," which complies with Supreme Court precedent. As defined by the Commission, "[t]he term "material," when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters to which there is a substantial likelihood that a reasonable investor would attach importance in determining whether to buy or sell the securities registered." *See* SEC General Rules and Regulations, 17 C.F.R. § 240.12b-2 (2024).

The Climate Rule violates these basic tenets of federal securities law by misguidedly mandating expansive disclosures about the "impact of a company on the climate," such as the effects of a company's greenhouse gas emissions, in addition to material disclosures about the "impact of climate on a company." *See* Letter to SEC from Lawrence A. Cunningham, Corresponding Author, at 2 (June 17, 2022). This error results from the Commission's misapplication of the "simple rubric for separating disclosures focused on investor protection from those focused on social goals." *Id*. By adopting a regulatory framework that emphasizes the amelioration of climate risks instead of the protection of investors, the Commission seeks to regulate beyond its statutory authority, which Congress has expressly limited to "protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation." *See* SEC Mission, https://www.sec.gov/about/mission. While the Commission "may not exercise its authority 'in a manner that is inconsistent with the administrative structure that Congress enacted into law,'" that is precisely what it purports to do through the Climate Rule. *See F.D.A. v Brown & Williamson Tobacco*, 529 U.S. 120, 133 (2000) (quoting *ETSI Pipeline Project v. Missouri*, 484 U.S. 495, 517 (1988)).

No matter how stridently the Commission argues otherwise, its characterization of the Climate Rule as an investor protection regulation is patently erroneous. To be sure, the disclosures regarding corporate emissions now mandated by the Climate Rule might benefit advocates for or against environmental causes, but such interest says nothing about whether a reasonable investor has interest in them. As several former SEC Chairs and Commissioners have observed, "climate risks could conceivably be material to a particular company's financial performance," and if the Commission concludes that its current rules do not lead to adequate disclosure of such risks, "it should address those specific circumstances" by adhering to the standard of materiality rather than by taking the "blunderbuss approach" reflected in the Climate Rule. *See* Letter to SEC from Former Chairs and Commissioners, at 3-4 (June 17, 2022). On these grounds alone, the Court should grant the Petition and vacate the Climate Rule in its entirety.

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CONCLUSION

For the foregoing reasons and the reasons set forth in Petitioners' Opening Brief, the Court should grant Petitioners' petition and vacate the Climate Rule.

Dated: June 24, 2024

/s/ Jean Paul Bradshaw II
Jean Paul Bradshaw II

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

I certify that on, June 24, 2024, I served a copy of the foregoing on all counsel of record by CM/ECF.

Dated: June 24, 2024

/s/ Michael Piazza
Michael Piazza
Counsel for Amici Curiae

Appellate Case: 24-1626 Page: 28 Date Filed: 06/24/2024 Entry ID: 5406598

CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume, typeface, and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) & (7)(B), and Eighth Circuit Rule 32A. Excluding the parts of the document exempted by Federal Rule of Appellate Procedure 32(f), the brief contains 3,038 words and was prepared using Microsoft Word and produced in Times New Roman Standard 14-point font. To comply with 8th Cir. R. 28A(h)(2), the brief was scanned for viruses and determined to be virus free.

Dated: June 24, 2024

/s/ Michael Piazza
Michael Piazza
Counsel for Amici Curiae

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