Columbia Center on Sustainable Investment
A JOINT CENTER OF COLUMBIA LAW SCHOOL AND COLUMBIA CLIMATE SCHOOL

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SABIN CENTER FOR CLIMATE CHANGE LAW

The Honorable Michael S. Regan

Environmental Protection Agency

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Re: Request for Information – Low Emissions Electricity Program & GHG Corporate Reporting

Docket 6: https://www.regulations.gov/document/EPA-HQ-OAR-2022-0878-0002

Dear Administrator Regan,

The Columbia Center on Sustainable Investment ("CCSI") and the Sabin Center for Climate Change Law ("Sabin Center") are pleased to submit our joint comments on how appropriations made to the Environmental Protection Agency ("EPA") under the Inflation Reduction Act of 2022 ("IRA") can best be used to enhance the agency's efforts to standardize corporate climate commitments, improve transparency around greenhouse gas reductions, and accelerate progress towards decarbonization in the corporate sphere. This Comment focuses on the funding provided to the EPA under Section 60111, on Greenhouse Gas ("GHG") Reporting.

Corporate climate commitments have been spurred on not just by public pressure, but also by real material risks to the future financial well-being of companies. Transparent and credible climate commitments signal to investors and the public at large which corporations are adopting what level of ambition towards reducing their climate footprints. The material risks of climate change have increasingly become the focus of investor concern, as illustrated by the Commodity Futures Trading Commission's report *Managing Climate Risk in the U.S. Financial* System.[1] Corporate climate disclosures therefore serve a critical role by signaling to markets and society which companies are taking a long-term view towards adapting to a rapidly changing environment and mitigating their own impact.

However, too many corporate climate commitments today cannot be described as credible, reliable, and transparent. This can be attributed to three causes:

First, targets are often poorly defined and misleading. Commitments can be intentionally vague regarding how they apply to company operations. For instance, while ExxonMobil has announced a goal

[1] Climate-Related Market Risk Subcommittee, *Managing Climate Risk in the U.S. Financial System,* (Washington, D.C., Commodity Futures Trading Commission, Market Risk Advisory Committee, September 9, 2020), https://www.cftc.gov/sites/default/files/2020-09/9-9-20%20Report%20of%20the%20Subcommittee%20on%20Climate-Related%20Market%20Risk%20-%20Managing%20Climate%20Risk%20in%20the%20U.S.%20Financial%20System%20for%20posting.pdf.

of attaining net-zero emissions by 2050, its commitment only applies to operated assets, which represent only a small percentage of ExxonMobil's total corporate climate footprint.[2] This commitment also fails to cover sales of highly polluting assets to less discriminating buyers, a common means of meeting climate commitments in the fossil fuel industry which simply outsources emissions rather than reducing them.[3] Likewise, Apple's initial carbon neutrality pledge only covered the company's own corporate operations without including the far greater climate footprint attributable to the company's suppliers and manufacturing partners, although Apple later expanded this pledge to embrace its supply chain.[4] An examination of the corporate climate commitments for 25 major global companies covering 5% of global emissions conducted last year by the NewClimate Institute found that the majority either defined their targets to exclude major controllable sources of emissions, applied accounting practices that obscured their actual environmental impacts, or were not sufficiently ambitious to align with the Paris Agreement.[5]

Pledges are also often intentionally vague regarding how reductions will be achieved. According to a CCSI study of 35 pledges by companies across seven industries jointly representing 64% of global direct GHG emissions, the majority of corporate net-zero pledges rely on offsetting through carbon markets.[6] This delays necessary decisions regarding how business models must adapt from the status quo to meet climate goals and furthers reliance on offsets which research has demonstrated often do not lead to permanent and additional reductions in atmospheric greenhouse gases.[7] Some offset programs are even suspected of increasing GHG emissions due to land use changes and vulnerability to natural disasters such as fires.[8] Additionally, the CCSI study found that only 43% of companies studied successfully set short-term GHG reduction targets and that 83% of companies examined do not state that they take GHG emissions into consideration for future capital expenditures.[9] Under these conditions, climate commitments cannot ultimately be integrated into corporate strategies.

Second, even when companies make an effort to follow best practices in developing their climate commitments, the most common accounting standards in use do not specify rigid enough accounting boundaries to make these commitments transparent. The GHG Protocol does not apply standardized, universal rules for attributing or validating emissions from assets to products, making accountability along supply chains difficult, if not impossible to achieve. The GHG Protocol is explicitly "not designed to support

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[2] Olivia Rosane, "Activists Skeptical of Exxon's Net-Zero Promise," EcoWatch, January 19, 2022, https://www.ecowatch.com/exxon-net-zero-promise.html.

[3] Gabriel Malek, Environmental Defense Fund, *Transferred Emissions: How Risks in Oil and Gas M&A Could Hamper the Energy Transition* (Environmental Defense Fund, May 2022), https://business.edf.org/files/Transferred-Emissions-How-Oil-Gas-MA-Hamper-Energy-Transition.pdf.

[4] Amber Rolt, "Can Apple deliver on its net zero supply chain goals," GreenBiz, November 1, 2022, https://www.greenbiz.com/article/can-apple-deliver-its-net-zero-supply-chain-goals.

[5] "Corporate Climate Responsibility Monitor 2022," NewClimate Institute, February 7, 2022, https://newclimate.org/resources/publications/corporate-climate-responsibility-monitor-2022.

[6] Jack Arnold and Perrine Toledano, "Corporate Net-Zero Pledges: The Bad and the Ugly," Columbia Center on Sustainable Investment, November 30, 2021, https://ccsi.columbia.edu/sites/default/files/content/Corporate%20Net-Zero%20Pledges%20(2).pdf.

[7] Raphael Calel, Jonathan Colmer, Antoine Dechezlepretre, and Matthieu Glachant, "Do Carbon Offsets Offset Carbon?", (London School of Economics: Grantham Research Institute on Climate Change and the Environment, November 2021), https://eprints.lse.ac.uk/112803/1/GRI_do_carbon_offsets_offset_carbon_paper_371.pdf.

[8] Grayson Badgley et al, "Systematic over-crediting in California's forest carbon offsets program," *Global Change Biology* 28.4 (October 20, 2021), 1433-45, https://doi.org/10.1111/gcb.15943.

[9] Arnold and Toledano, "Corporate Net-Zero Pledges: The Bad and the Ugly."

comparisons between companies based on their Scope 3 emissions," [10] since decisions on which approaches to take and which aspects of Scope 3 are financially significant are often left up to the company's discretion. This means that reported value chain emissions will differ substantially as companies make their own decisions on which Scope 3 emissions are worth reporting without adequately communicating the rationale behind these decisions. As products and emissions become more complex across borders and value chains, systematizing an approach to value chain emissions will become essential to ensuring credible and transparent decarbonization commitments.

Third, companies either lack or fail to obtain actionable data on their Scope 1 and 2 emissions. Under frameworks such as the GHG Protocol, reporting companies are not required to disclose how they calculated their emissions estimates, if they measured the data themselves, if they spoke to other companies in their supply chain, or what type of research they did to prepare for their reporting. Lack of regulation will lock companies into using low-quality secondary data to estimate their emissions by providing a competitive disincentive for companies to invest in the emissions measurement infrastructure which would yield insights on how to effectively decarbonize their own operations. Furthermore, the high degree of flexibility around how Scope 2 emissions can be measured serves as a further roadblock to transparency, as companies can variously apply regional values, supplier-specific values, or values artificially constructed through market-based accounting techniques to calculate their indirect emissions from electricity consumption[11].

Even as much of the debate around climate commitments and disclosures has revolved around how to include Scope 3 emissions, this lack of detailed, granular data on direct emissions and indirect emissions from electricity arguably presents a much more significant roadblock to transparency. Scope 3 emissions are always another party's Scope 1 or 2 emissions, so the Scope 3 debate is moot unless Scope 1 and 2 emissions can be measured accurately and transparently. The EPA is ideally situated to facilitate this by extending existing regulations for continuous emissions monitoring to cover a broader range of GHG emissions scenarios and by imposing strict rules on the use of renewable energy certificates ("RECs"), adjusting location-based emissions factors to account for purchase agreements associated with RECs and supporting the reporting of time-sensitive electricity emissions factors to account for shifts in the mode of power generation throughout the day and year.

In combination, these three factors facilitate the intentional and unintentional greenwashing which has come to characterize corporate climate commitments, undermining faith in the credibility of the entire corporate decarbonization ecosystem. In this context, the drafters of the IRA are to be commended for providing funding to remedy this problem. The appropriation also clearly acknowledges that the EPA is well-positioned to promote a standardized GHG accounting system for corporate stakeholders. The agency's access and exposure to multiple streams of data on GHG emissions at both general and granular levels affords it a unique opportunity to assess and provide recommendations on how best to streamline

[10] Greenhouse Gas Protocol, "Corporate Value Chain (Scope 3) Accounting and Reporting Standard: Supplement to the GHG Protocol Accounting and Reporting Standard," https://ghgprotocol.org/sites/default/files/standards/Corporate-Value-Chain-Accounting-Reporing-Standard_041613_2.pdf#page=8

[11] Shannon Hughes and Samuel Huestis, "Clean Energy 101: The REC Market," RMI, June 2, 2022, https://rmi.org/clean-energy-101-the-rec-market/.

emissions accounting standards, and to ensure that publicly-reported information reflects meaningful efforts by corporate entities to decarbonize and to adhere to high standards of transparency and accuracy.

As the EPA determines how best to use this funding, **CCSI and the Sabin Center recommend the following**:

- The EPA should exert pressure towards **developing and implementing a harmonized GHG accounting system** which bridges the ambiguities within and between existing frameworks. This accounting system should accommodate differences between corporate structures and flexibility between value chains by imposing strict system boundaries regarding which processes must be integrated into the climate footprints for each class of product and service. A system such as the e-liability framework[12] offers one potential solution by requiring emissions from the production of any good or service to be packaged with that product as it proceeds down the value chain for further processing. This approach allows for flexibility while ensuring that critical upstream contributions to the corporate climate footprint are not ignored. Standard-setters such as the International Aluminium Institute ("IAI") have already released product carbon footprint guidelines which align with an e-liability approach.
- The EPA should **invest in elevating the quality of Scope 1 and 2 data**. This can be done by expanding regulatory requirements for direct emissions measurement and refining regulatory guidelines regarding measurement of emissions from the grid. Particular attention should be paid to strengthening guardrails around the use of market-based accounting mechanisms such as RECs which offer ways to report emissions reductions without empirically resulting in lower emissions.
- The EPA should **impose stricter guidelines on what shall be included in corporate climate commitments**, including stricter constraints on using offsets to claim emissions reductions. In particular, the EPA should require that corporate entities report offsets separately from reductions in emissions, to ensure transparency and differentiation between offsets purchased through carbon markets that may have limited impact on atmospheric GHG, and meaningful business model adaptations. While corporate commitments are ultimately voluntary, this guidance can still shape how commitments are reported by creating a government-sanctioned framework private auditors can apply in the process of validating these commitments.

Sincerely yours,

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[12] Robert S. Kaplan and Karthik Ramanna, "Accounting for Climate Change: The first rigorous approach to ESG reporting," Harvard Business Review, November-December 2021, https://hbr.org/2021/11/accounting-for-climate-change.