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Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

October 7, 2022

Subject: Request for Information on Climate-Related Financial Risk

Dear Secretary Kirkpatrick,

On behalf of the California Public Employees' Retirement System (CalPERS), I am writing in response to the Commodity Futures Trading Commission's (CFTC or Commission) request for information on climate-related financial risk (RFI).[1] We thank you for the opportunity to comment on the RFI. We write to express our support for the Commission taking steps to better inform its understanding and oversight of climate-related financial risk as pertinent to the derivatives markets and the underlying commodities markets.

CalPERS is the largest public defined benefit pension fund in the United States. CalPERS manages approximately $420 billion in global assets on behalf of more than 2 million members. We seek long-term, sustainable, risk-adjusted returns through efficient capital allocation and stewardship in line with our fiduciary duty. We are guided by CalPERS' Investment Beliefs[2], which recognize that "long-term value creation requires effective management of three forms of capital - Financial, Physical, and Human."[3] Accordingly, we are focused on the risks involved with the three forms of capital and how such risks can be identified, monitored, and mitigated. As a long-term investor, CalPERS must consider risk factors such as climate change and resource availability. CalPERS' motivation to address climate change is to ensure we meet our long-term requirements to provide retirement, disability, and health benefits for our members. We seek

[1] Commodity Futures Trading Commission Request for Information on Climate-Related Financial Risk (June 8, 2022), available at https://www.cftc.gov/PressRoom/PressReleases/8541-22.
[2] CalPERS' Investment Beliefs are available at https://www.calpers.ca.gov/page/about/organization/calpers-story/our-mission-vision#investment-beliefs.
[3] CalPERS, Governance & Sustainability Principles (Sept. 2019), available at https://www.calpers.ca.gov/docs/forms-publications/governance-and-sustainability-principles.pdf.

to integrate climate risk and opportunity into our investment decision-making across our portfolio and welcome the Commission's focus in this area.

The RFI includes 34 questions. Each of those questions involves complex concepts that we are willing to engage on when appropriate. At this time, we will focus on a few of the questions directly.

Question 1

Question 1 requests input on data sources on climate. Potential sources are numerous. We may be able to help with sharing lists of appropriate sources when provided further information of what the Commission may be looking for and what its baseline happens to be. At this point, we did not think it would be helpful to enter a listing exercise or go into depth about data that the Commission is likely already familiar with. We do believe that it is important for the Commission to annually track overall global and U.S.-based emissions from consistent sources.

Question 3

We were supportive of the CFTC's Climate-Related Market Risk Subcommittee of the Market Risk Advisory Committee (MRAC) when it unanimously (34-0) adopted its Managing Climate Risk in the U.S. Financial System Report[4] (CFTC Report) on September 9, 2020.[5] It has been noted by many as the most significant report on climate risk by a U.S. regulator. We now note that the CFTC Market Risk Advisory Committee (MRAC) has taken steps to reestablish the Climate-Related Market Risk Subcommittee. We believe that this could be an important step in addressing many of the issues of concern in the RFI. We look forward to working with the reestablished Climate-Related Market Risk Subcommittee. We believe that the Climate-Related Market Risk Subcommittee could offer an effective way of communicating with the public on climate issues, as mentioned in Question 3 of the RFI.

Questions 22-24

Like many others, we are concerned about the quality and integrity of the market for carbon offsets and believe that the Commission can have a positive impact in improving the market. Offsets will play an increasing role in the strategies of certain market participants, so we welcome the inclusion of Questions 22 through 24. We know that not all offsets or renewable energy certificates (RECs) are equal. For example, the use of unbundled RECs may be the most material mischaracterization of a company's Scope 2 emissions. The purchase of RECs is largely not additive to the transition toward a low-carbon economy, does not lower real economy emissions, and does little to increase the number of renewable generating assets.

S&P Global reported that, though there are a number of companies that own generating renewable assets or buy a large amount of their renewable electricity through power purchase agreements, most companies prefer to meet their clean energy goals through the less effective

[4] Climate-Related Market Risk Subcommittee, Market Risk Advisory Committee of the U.S. Commodity Futures Trading Commission, Managing Climate Risk in the U.S. Financial System (Sept. 9, 2020) (CFTC Report).
[5] *See* CFTC's Climate-Related Market Risk Subcommittee Releases Report, Press Release Number 8234-20 (Sept. 9, 2020), available at https://www.cftc.gov/PressRoom/PressReleases/8234-20.

route of buying unbundled RECs.[6] The report further stated that little or no additionality is created when a company buys unbundled RECs because the operator of a wind or solar farm is under no obligation to use the proceeds to expand its renewable energy generation capacity.[7] Consequently, the purchase of unbundled RECs does not contribute to the development of new renewable energy assets or the decarbonization of the electricity grid.

According to Lazard Asset Management, the reason many companies pursue the use of unbundled RECs is because of how inexpensive they are.[8] Some of these unbundled RECs can add as little as a 2% premium to the underlying non-renewable electricity cost.[9] We believe that anything identified as an offset or substitute needs to be able to show a corresponding reduction in carbon emissions to be valid. However, that is not the case in the carbon offsets markets currently. We believe that the CFTC can take actions to improve the current market.

Question 33

In question 33, the Commission focuses on capacity and coordination. As stated earlier, CalPERS must consider risk-factors such as climate change. We seek greater transparency about the risk involved in the companies and products in which we invest. We note also that the CFTC Report itself highlighted significant issues that would prevent the markets from accurately assessing and pricing climate change-related risks.[10] Addressing climate change is no small task. In her article, "Market Myopia's Climate Bubble," Madison Condon described the problem as follows:

> Evaluating climate risk involves forecasting macroeconomic energy demand, guessing on the success of carbon regulation and future technologies, modeling the relationship between atmospheric gas concentrations and global temperatures, predicting how temperature rise will change the earth's climate systems, and calculating how those changes impact physical economic assets. The task requires skills beyond that of typical financial analyst, colossal amounts of data, and models that have only begun to be built.[11]

Given the importance of addressing climate-related risks and the size of the problem, it is critically important to coordinate and work with others both in the U.S. and around the world. In order to do this effectively, the Commission needs its own stable of experts; as such, we

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[6] *See* Gautam Naik, Problematic Corporate Purchases of Clean Energy Credits Threaten Net Zero Goals (May 5, 2021), available at https://www.spglobal.com/esg/insights/problematic-corporate-purchases-of-clean-energy-credits-threaten-net-zero-goals.
[7] *Id*.
[8] *See* Lazard Asset Management, Renewable Energy Credits' Carbon Secret (Nov. 2020), available at https://www.lazardassetmanagement.com/references/fundamental-focus/renewable-energy-credits-carbon-secret; Naik, *supra* note 7.
[9] *See* Lazard Asset Management, *supra* note 9.
[10] For example, the CFTC Report noted that while "some financial institutions may have asset-level data to overlay with physical risk data, for example, a bank providing project finance loans…most finance use cases will not have direct access to asset-level data for counterparty analysis, let alone analysis of multiple counterparties in a portfolio (such as a listed equities portfolio)." CFTC Report, *supra* note 5, at 58. The CFTC Report further stated that "while an ecosystem of climate data is emerging, much of the advances in measuring and evaluating asset exposure have not been accompanied by corresponding advances in evaluating the sensitivity of exposed assets or the adaptive capacity of firms to manage sensitivity and exposure." *Id*.
[11] Madison Condon, *Market Myopia's Climate Bubble,* 2022 Utah Law Review 63, 72 (2021).

believe it is appropriate for the Commission to enhance capacity. In fact, building out the Commission's capacity should be given significant priority and deserves the expenditure of resources extending well beyond reestablishing the critical Climate-Related Market Risk Subcommittee.

We support the Commission in this important work. We appreciate the opportunity to share our feedback and welcome the opportunity to engage with the Commission. Please contact James Andrus, Interim Managing Investment Director, at [redacted], or at [redacted], if you have any questions or would like to discuss our response.

Sincerely,

Marcie Frost
Chief Executive Officer