Ceres | Ceres Accelerator for Sustainable Capital Markets

October 11, 2022

Vanessa A. Countryman, Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

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

RE: File Number S7-22-22: Amendments to Form PF to Amend Reporting Requirements for All Filers and Large Hedge Fund Advisers

Dear Ms. Countryman and Mr. Kirkpatrick:

On behalf of Ceres and our Ceres Accelerator for Sustainable Capital Markets, I am pleased to submit comments on the Commissions' proposed Amendments to Form PF to Amend Reporting Requirements for All Filers and Large Hedge Fund Advisers.

Background: Ceres is a nonprofit organization working with the most influential capital market leaders to solve the world's greatest sustainability challenges. The Ceres Accelerator for Sustainable Capital Markets works to transform the practices and policies that govern capital markets in order to reduce the worst financial impacts of the climate crisis. We also support the Investor Network on Climate Risk and Sustainability, which consists of 220+ investors that collectively own or manage over $60 trillion in assets, who advance leading investment practices, corporate engagement strategies, and policy and regulatory solutions to address sustainability risks and opportunities. Ceres is a founding partner of the Investor Agenda, the Net Zero Asset Managers Initiative and the Paris Aligned Investor Initiative, which includes investors focused on sustainable investments within their portfolios and other assets.

Ceres has a keen interest in the disclosures that private equity firms make about climate issues. Last year, Ceres established a Private Equity Working Group. It has grown to the largest assemblage (based on assets under management) of private equity firms focused on climate change. Ceres supports general partners (GPs) and limited partners (LPs) in their efforts to transition private equity portfolios towards a sustainable net zero economy. Ceres also facilitates monthly meetings that provide GPs and LPs with the latest climate-centric and sustainable investment practices, policies, frameworks and tools to assess, manage and mitigate ESG and climate risks, adopt investment practices in alignment with the Net Zero Investment Framework,

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align environmental and social impacts of investments to support sustainable development, and develop and implement investor climate action plans.

Further, in June last year, Ceres and The SustainAbility Institute by ERM released a detailed report outlining solutions and recommendations to guide the private equity industry in addressing the systemic risk that climate change poses to the global economy. The report, The Changing Climate for Private Equity, assesses the state of private equity with regard to integration of climate issues in investment practices and provides insights to help the industry realize the investment opportunities presented by the transition to a low-carbon future. The report's findings were drawn from research that included interviews with 27 leading private equity GPs and LPs. This included 18 leading GPs with, in the aggregate, over $1.9 trillion total AUM, including Apollo Global Management, Bain Capital, The Carlyle Group, EQT AB, KKR & Co. Inc, Partners Group, and TPG, as well as nine LPs, including the California Public Employees Retirement System, Church of England Pensions Board, and OMERS, with a collective $1.3 trillion total AUM.

Accordingly, we have gained considerable knowledge of two areas that are relevant here – first, the role played by private equity with respect to the systemic risks created by climate change, and second, private equity investors' needs for greater transparency into how climate risks might impact their investment decisions.

On March 21, 2022, Ceres provided comments regarding the SEC's January 26, 2022 proposal, Amendments to Form PF to Require Current Reporting and Amend Reporting Requirements for Large Private Equity Advisers and Large Liquidity Fund Advisers. Our comments below and those in the March letter both focus on the systemic risks posed by climate change, the need for better disclosure of those risks by private funds, and better assessment of those risks by FSOC. While the January SEC proposal focused on current reporting of events, reporting thresholds, and revised reporting requirements for large advisers, the joint SEC/CFTC proposal is focused on:

- Enhanced reporting by large hedge fund advisers on qualifying hedge funds;
- Enhanced reporting on basic information about advisers and the private funds they advise;
- Enhanced reporting concerning hedge funds;
- Amendments to how advisers report complex structures; and
- Removing aggregate reporting for large hedge fund advisers.

Ceres' Views on the rule proposal:

The Proposal: The joint SEC and CFTC proposal would amend the SEC's Form PF, the form that certain SEC registered investment advisers, including those that also are registered with the CFTC as a Commodity Pool Operator (CPO) or Commodity Trading Advisor (CTA), use to report confidential information about the private funds that they advise. The purpose of Form PF is "to provide the Commissions and FSOC with data that regulators can deploy in their

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regulatory and oversight programs directed at assessing and managing systemic risk and protecting investors."[1]

The existing form requires information about the basic operations and strategies of private funds. The joint proposal's amendments also are designed to collect additional data for use in the Commissions' regulatory programs, including examinations, investigations and investor protection efforts relating to private fund advisers. In addition, the proposed amendments are designed to improve the usefulness of this data.[2]

We wish to make clear that Ceres' comments are focused solely on the disclosure of systemic risks. Our concern is that the Commissions are missing an opportunity to address important disclosure issues relating to systemic climate risks, an area of significant risk and opportunity to the marketplace overall and to the private equity sector specifically.

Systemic Risks Related to Climate Change: The Commission's proposing release explains the principal reason for the proposal: "The proposed amendments are designed to enhance FSOC's [Financial Stability Oversight Council] monitoring and assessment of systemic risk and to provide additional information for FSOC's use in determining whether and how to deploy its regulatory tools."[3] Since better information on systemic risk is the main objective of the rulemaking, then additional disclosure on a vital set of risks relating to climate change is merited.

On October 21, 2021, the FSOC issued its "Report on Climate-Related Financial Risk," which stated its conclusion that climate change is an "emerging threat to financial stability."[4] And there is substantial support in the investment community and the scientific community for that conclusion. For example, the CFTC's report, "Managing Climate Risk in the U.S. Financial System," (September 2020), stated: "A central finding of this report is that climate change could pose systemic risks to the U.S. financial system." The report further stated: "A sudden revision of market perceptions about climate risk could lead to a disorderly repricing of assets, which could in turn have cascading effects on portfolios and balance sheets and therefore systemic implications for financial stability."[5]

These systemic climate risks are exacerbated because of the continued strong growth of private markets (which provide less transparency about climate risks than public markets) and their growth in size compared to public markets. The SEC has stated, "In 2019, registered offerings accounted for $1.2 trillion (30.8 percent) of new capital, compared to approximately $2.7 trillion (69.2 percent) that we estimate was raised through exempt offerings."[6] From 2017 to 2021,

[1] CFTC and SEC, Release No. IA-6083; File No. S7-22-22, Joint proposed rules: Form PF; Reporting Requirements for All Filers and Large Hedge Fund Advisers (August 10, 2022) at 144; see also pp. 182-183.
[2] *Id.* at 5.
[3] *Id.* at 6.
[4] "Report on Climate-Related Financial Risk," *Financial Stability Oversight Council* (2021).
[5] "Managing Climate Risk in the U.S. Financial System," *U.S. Commodity Futures Trading Commission* (2020).
[6] See Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets, Proposed Rule, Release No. 33-10763, Securities and Exchange Commission (Mar. 4, 2020) at 8.

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assets in global private markets grew five-fold, to $10 trillion; while public markets are far bigger, they only doubled in size in the same time period.[7]

In reviewing the proposed changes to Form PF, it is striking that information about the systemic impact of climate change is bypassed entirely in the proposal even though systemic risk is a central and critical consideration in Form PF reporting. The Commissions should take another look at how to improve available information about the systemic impacts of climate change and require additional reporting on a confidential basis pursuant to Form PF.

Specifically, investment advisers of hedge funds, liquidity funds and private equity funds should specify, in a sub-question to Form PF's Section 2 Item B, Section 3 Item B or Section 4 Item B, if and how the impact of climate change on the relevant private fund's investments is taken into account as part of the private fund's investment strategy. Disclosures should include quantitative metrics and qualitative information about governance, strategy, and risk management. This information can then be used by FSOC to assess systemic risks and by the Commissions to monitor potential violations of fiduciary duties, such as potential greenwashing of investment products through misleading policies or disclosure.

To allow FSOC to assess private funds in the context of systemic climate risks, we also recommend the Commissions require disclosure on Form PF of:

- Whether a fund has set emissions targets,
- If yes, what are the targets, and
- If yes, periodic updates regarding progress toward those targets.

As the Commissions consider whether disclosure of emissions targets is important, we ask you to consider FSOC's finding that investors in private issuers may need to negotiate directly with the private issuers or their owners for the provision of ESG information, which "would most likely not be made public."[8] Most important, "if data on private issuer emissions were not comprehensively available through disclosure by the private issuers or regulatory filings by registered entities, regulators and market participants *would potentially lack the information needed to perform comprehensive assessments of the climate-related risks to regulated entities and the financial system*."[9] (emphasis added)

If the Commissions require disclosure related to emissions targets, including progress towards those targets, that would allow FSOC to monitor whether Form PF filers are not just assessing climate risk, but taking steps to mitigate it. This step is especially important because more public companies are selling off dirty assets, more often than in the past, to entities that are not required publicly to disclose climate-related risks.[10] A May 2022 report analyzed over 3,000 oil and gas transactions over five years, finding that assets are flowing from public to private markets at a significant rate, and assets are "increasingly moving away from companies with environmental

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[7] See Dawn Lim and David Brooke | Bloomberg, The Boom in Private Markets Has Transformed Finance. Here's How, Washington Post (June 15, 2022).

[8] "Report on Climate-Related Financial Risk," Financial Stability Oversight Council (2021) at 85.

[9] *Id.* at 86.

[10] See Emile Hallez, 'Net zero' oil firms are selling their dirty assets to private market, InvestmentNews (May 16. 2022).

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commitments."[11] Specifically, in 2021, 15% of transactions moved assets aways from companies with environmental commitments (vs. 10% in 2018), and during that time period, "more than twice as many deals moved assets away from operators with net zero commitments than the reverse."[12]

Such a requirement is also aligned with the work of The Investor Agenda, which is focused on accelerating investor action for a net-zero emissions economy, a step that helps reduce the systemic risks posed by climate change. The initiative has released guidance for investor action to address climate risks in their portfolios, which notes: "Robust and comprehensive disclosure by investors enable clients, beneficiaries, and other stakeholders to understand how climate-related risks and opportunities are being assessed and managed by investors."[13] The guidance continues by recommending that investors first publish information on their commitments related to climate change, and once they are in place, disclose portfolio emissions reduction objectives and targets. Over time, investors should report progress against targets and detailed analysis describing the progress they have made against these targets.

As the Commissions consider this proposed disclosure requirement, we note that institutional investors have begun measuring portfolio carbon, setting reduction targets to assess climate risks they face, and disclosing this information publicly. They do this by developing Investor Climate Action Plans (ICAPs), which include an element of investor disclosure. The New York State Common fund, one of the largest public pension funds in the US, and the San Francisco Employees' Retirement System have released ICAPs,[14] adding to 10 ICAPs released earlier this year.

Hedge funds have trailed other investors in their efforts to consider climate risks or other ESG risks in their investments. According to a 2021 survey of 256 asset owners, "only 7% of all investors (and 13% of large investors with more than $25 billion in assets under management) reported that their hedge fund and liquid alternatives managers currently offer "high integration" of ESG principles in their investment processes."[15] This 7% figure was the lowest of all thirteen asset classes considered in the survey.

There are signs of change, however. The ESG Data Convergence Initiative (EDCI), founded in 2021, has developed "a standardized set of ESG metrics for private markets[, which] can allow GPs and portfolio companies to benchmark their current position and generate progress toward ESG improvements, while enabling greater transparency and more comparable portfolio information for LPs / Investment Managers."[16] The Initiative now has over 215 members,

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[11] Gabriel Malek, et. al., Transferred Emissions: How Risks in Oil and Gas M&A Could Hamper the Energy Transition, EDF (May 2022) at 7.
[12] *Id.*
[13] "Investor Climate Action Plans: Guidance on Using the Expectations Ladder," *The Investor Agenda*, p. 38 (July 2022).
[14] Rev. Kirsten Snow Spalding, How four institutional investors use climate action plans to map their paths to net zero (August 9, 2022).
[15] Chris Stevens, "From Laggards to Leaders? Hedge Funds Slowly Embrace ESG," bfinance (April 2021).
[16] "Our goal," ESG Data Convergence Initiative.

representing over $24T USD of AUM worldwide.[17] It has developed metrics in six ESG disclosure categories, one of which is greenhouse gas emissions.[18] This is an important initiative, but voluntary disclosure and risk assessment cannot be expected to provide the type of comprehensive risk assessment that FSOC can provide. Currently the EDCI makes an anonymized benchmark available only to its members, and aggregate data can only be published with permission from the EDCI Steering Committee.[19]

This reasonable baseline of reporting to the Commissions—whether a fund has GHG emissions reduction targets and, if so, what they are and periodic update on progress—will enable FSOC and the Commissions to understand the extent to which climate risks have been assessed at all by private funds. As reporting improves, FSOC will be able to more accurately assess the true extent of systemic climate risks.

Investment Decisions: The risks and opportunities created by climate change are enormously important to the capital markets as a whole, to investors in private funds, and to investment advisers of private funds. There is substantial support for this view.

The Ceres/ERM report cited above explored this issue in depth. Ceres cited one estimate that more than $3.06 trillion in combined assets has been raised by private capital funds that integrate ESG principles since 2011, and that amount is expected to steadily grow. Further, according to a 2020 survey of 150 GPs, 88 percent expected to increase ESG focus over the next one to two years. The report's authors stated that "our interviews and research affirm the central status of climate" in private equity's investment decisions. They further stated that "[i]ndustry participants including the GPs and LPs interviewed for this report agree that the next few years will see rapidly accelerating integration of climate thinking by private equity."[20]

Why this interest in climate? The report explained: "Climate is now recognized not only as presenting risks, but also as an opportunity to boost returns and gain competitive advantage." A top official at one firm stated: "We strongly believe that anything related to climate and ESG is closely linked to performance."[21]

However, investors lack detailed information about what private fund managers are doing, and this creates significant risks for investors.

The SEC's request for information on climate change disclosure last year (the "Request for Information") raised this issue by asking: "What climate-related information is available with respect to private companies, and how should the Commission's rules address private companies' climate disclosures, such as through exempt offerings, or its oversight of certain

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[17] "Current EDCI Members," ESG Data Convergence Initiative.
[18] "Our ESG categories and metrics," ESG Data Convergence Initiative.
[19] "Our yearly cycle"; "Our goal," ESG Data Convergence Initiative.
[20] "The Changing Climate for Private Equity," *Ceres & The SustainAbility Institute* (June 2021).
[21] Ibid.

investment advisers and funds?"[22] In response, the Private Equity Stakeholder Project stated that "the disclosures of climate-related risk are subjective, inconsistent, vague and rarely quantitative." The organization's comment letter further stated: "For members of the public and investors, there is no way to discern which companies have greater climate impacts, which are engaged in greenwashing through misleading ESG policies, and which may be genuinely working to disclose and mitigate climate impacts and emissions."[23]

The Institutional Limited Partners Association (ILPA) also raised these concerns. ILPA comprises over 500 member institutions representing more than $2 trillion of private equity assets under management. ILPA is "the only global organization dedicated exclusively to advancing the interests of LPs and their beneficiaries through best-in-class education, research, advocacy and events."[24] In its 2021 submission to the SEC on climate related risks, the ILPA made the following statements:

> "In ever increasing numbers, limited partners view environmental, social and governance considerations as an integral part of their investment decision making processes. In a recent survey of 100 U.S.-based institutional investors, 96% expect their firm to increase prioritization of ESG considerations as an investment criterion. For many LPs, this means considering the climate-related risks and opportunities associated with their current portfolio and potential future investments. However, the climate-related information available today for private funds is not sufficiently advanced nor reliably available to support informed due diligence or portfolio monitoring. When data is provided by general partners on underlying portfolio companies, it lacks both consistency and comparability. This presents a fundamental challenge to LPs that have made target-based commitments to their stakeholders, such as the Net-Zero Asset Owner Alliance, which ultimately require that LPs have data that allows for an evaluation of progress against such commitments. To that end, ILPA members have indicated that when compiling a cross-portfolio analysis of carbon emissions, spanning all underlying portfolio companies in which they are invested, as much as 90% of their private funds emissions data must be estimated given reporting gaps and inconsistencies. … Minimum, mandated climate reporting disclosures for SEC registrants, if aligned with globally recognized standards and calibrated for relevance to private markets, will provide LPs with more abundant, consistent information that is required to assess climate related risks and opportunities across their portfolios."[25]

[22] Acting Chair Allison Herren Lee, "Public Input Welcomed on Climate Change Disclosures," *U.S. Securities and Exchange Commission* (March 15, 2021).
[23] Alyssa Giachino, Comment Letter, "Re: Public Input Welcomed on Climate Change Disclosures, Acting Chair Allison Herren Lee, March 15, 2021," *Private Equity Stakeholder Project* (June 14, 2021).
[24] "Who We Are," *Institutional Limited Partners Association*.
[25] Steve Nelson, Comment Letter, "Re: Public Input Welcomed on Climate Change Disclosures (March 15, 2021)," *ILPA* (June 11, 2021).

Ceres' comment letter in response to the Request for Information also expressed concern about the lack of transparency and supported a regulatory requirement that large private companies and funds disclose information in line with TCFD requirements. The letter stated: "As with public companies, the lack of 'decision-useful, consistent and comparable climate risk disclosure data creates significant risks for investors."[26]

The Commission's staff itself has provided support for our view that more transparency is needed. An April 9, 2021 Risk Alert issued by the SEC's Division of Examinations stated: "The staff noted, despite claims to have formal processes in place for ESG investing, a lack of policies and procedures related to ESG investing; policies and procedures that did not appear to be reasonably designed to prevent violations of law or that were not implemented; documentation of ESG-related investment decisions that was weak or unclear; and compliance programs that did not appear to be reasonably designed to guard against inaccurate ESG-related disclosures and marketing materials."[27]

Thus, we agree with the recommendation of the Private Equity Shareholder Project that "private funds must provide comprehensive disclosures in order for investors and the public to evaluate the risks and contributions to climate change."[28] Investors want climate-related disclosures that cover both physical risks and transition risks that affect enterprise value, including information about governance, management, and risk strategy. Further, the Project urged disclosures that would cover climate risks for the equity firm overall; sectoral exposure, in particular energy and fossil fuels; fund-level exposures; and individual portfolio companies' risks, leverage and contributions to climate change.

Appropriately, Section 204(b) of the Investment Advisers Act of 1940 as amended (the Advisers Act) provides for confidential treatment of the information contained on Form PF. However, we ask that the Commissions consider which climate-related disclosures should be provided through an amendment to an investment adviser's reporting obligations on Form ADV, which is publicly available. Also, because a significant portion of private funds is managed by investment advisers that are exempt from SEC registration, Ceres believes that the additional, publicly available reporting on climate change impacts should apply to both registered investment advisers and to "exempt reporting advisers" under the Advisers Act.

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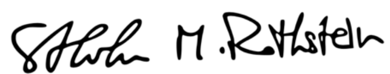
We appreciate the opportunity to share our views with the Commissions and your staffs on these important issues. For further information, please contact the undersigned at srothstein@ceres.org.

[26] Mindy S. Lubber, Comment Letter, "Re: Public Input on Climate Change Disclosures," *Ceres* (June 10, 2021).
[27] "Risk Alert: The Division of Examinations' Review of ESG Investing," *U.S. Securities and Exchange Commission* (April 9, 2021).
[28] Alyssa Giachino, Comment Letter, "Re: Public Input Welcomed on Climate Change Disclosures, Acting Chair Allison Herren Lee, March 15, 2021," *Private Equity Stakeholder Project* (June 14, 2021).

Respectfully submitted,



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