AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2570
OFFERED BY MR. CASTEN OF ILLINOIS

[Amendment to the Climate Risk Disclosure Act of 2021]

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Climate Risk Disclosure Act of 2021”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) climate change poses a significant and increasing threat to the growth and stability of the economy of the United States;

(2) many sectors of the economy of the United States and many American businesses are exposed to climate-related risk, which may include exposure to—

(A) the physical impacts of climate change, including the rise of the average global temperature, accelerating sea-level rise, desertification, ocean acidification, intensification of storms, increase in heavy precipitation,
more frequent and intense temperature extremes, more severe droughts, and longer wildfire seasons;

(B) the economic disruptions and security threats that result from the physical impacts described in subparagraph (A) including conflicts over scarce resources, conditions conducive to violent extremism, the spread of infectious diseases, and forced migration;

(C) the transition impacts that result as the global economy transitions to a clean and renewable energy, low-emissions economy, including financial impacts as climate change fossil fuel assets becoming stranded and it becomes uneconomic for companies to develop fossil fuel assets as policymakers act to limit the worst impacts of climate change by keeping the rise in average global temperature to 1.5 degrees Celsius above pre-industrial levels; and

(D) actions by Federal, State, Tribal, territorial, and local governments to limit the worst effects of climate change by enacting policies that keep the global average surface temperature rise to 1.5 degrees Celsius above pre-industrial levels;
(3) assessing the potential impact of climate-related risks on national and international financial systems is an urgent concern;

(4) companies have a duty to disclose financial risks that climate change presents to their investors, lenders, and insurers;

(5) the Securities and Exchange Commission has a duty to promote a risk-informed securities market that is worthy of the trust of the public as families invest for their futures;

(6) investors, lenders, and insurers are increasingly demanding climate risk information that is consistent, comparable, reliable, and clear;

(7) including standardized, material climate change risk and opportunity disclosure that is useful for decision makers in annual reports to the Commission will increase transparency with respect to risk accumulation and exposure in financial markets;

(8) requiring companies to disclose climate-related risk exposure and risk management strategies will encourage a smoother transition to a clean and renewable energy, low-emissions economy and guide capital allocation to mitigate, and adapt to, the effects of climate change and limit damages associated with climate-related events and disasters; and
(9) a critical component in fighting climate change is a transparent accounting of the risks that climate change presents and the implications of continued inaction with respect to climate change.

SEC. 3. DISCLOSURES RELATING TO CLIMATE CHANGE.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

“(s) DISCLOSURES RELATING TO CLIMATE CHANGE.—

“(1) DEFINITIONS.—In this subsection:

“(A) 1.5 DEGREE SCENARIO.—The term ‘1.5 degree scenario’ means a scenario that aligns with greenhouse gas emissions pathways that aim to limit global warming to 1.5 degrees Celsius above pre-industrial levels.

“(B) APPROPRIATE CLIMATE PRINCIPALS.—The term ‘appropriate climate principals’ means—

“(i) the Administrator of the Environmental Protection Agency;

“(ii) the Administrator of the National Oceanic and Atmospheric Administration;
“(iii) the Director of the Office of Management and Budget;

“(iv) the Secretary of the Interior;

“(v) the Secretary of Energy; and

“(vi) the head of any other Federal agency, as determined appropriate by the Commission.

“(C) BASELINE SCENARIO.—The term ‘baseline scenario’ means a widely-recognized analysis scenario in which levels of greenhouse gas emissions, as of the date on which the analysis is performed, continue to grow, resulting in an increase in the global average temperature of 1.5 degrees Celsius or more above pre-industrial levels.

“(D) CARBON DIOXIDE EQUIVALENT.—The term ‘carbon dioxide equivalent’ means the number of metric tons of carbon dioxide emissions with the same global warming potential as one metric ton of another greenhouse gas, as determined under table A–1 of subpart A of part 98 of title 40, Code of Federal Regulations, as in effect on the date of enactment of this subsection.
“(E) CLIMATE CHANGE.—The term ‘climate change’ means a change of climate that is—

“(i) attributed directly or indirectly to human activity that alters the composition of the global atmosphere; and

“(ii) in addition to natural climate variability observed over comparable time periods.

“(F) COMMERCIAL DEVELOPMENT OF FOSSIL FUELS.—The term ‘commercial development of fossil fuels’ includes—

“(i) exploration, extraction, processing, exporting, transporting, refining, and any other significant action with respect to oil, natural gas, coal, or any by-product thereof or any other solid or liquid hydrocarbons that are commercially produced; and

“(ii) acquiring a license for any activity described in clause (i).

“(G) COVERED ISSUER.—The term ‘covered issuer’ means an issuer that is required to file an annual report under subsection (a) or section 15(d).
“(H) DIRECT AND INDIRECT GREENHOUSE GAS EMISSIONS.—The term ‘direct and indirect greenhouse gas emissions’ includes, with respect to a covered issuer—

“(i) all direct greenhouse gas emissions released by the covered issuer;

“(ii) all indirect greenhouse gas emissions with respect to electricity, heat, or steam purchased by the covered issuer;

“(iii) significant indirect emissions, other than the emissions described in clause (ii), emitted in the value chain of the covered issuer; and

“(iv) all indirect greenhouse gas emissions that are attributable to assets owned or managed, including assets that are partially owned or managed, by the covered issuer.

“(I) FOSSIL FUEL RESERVES.—The term ‘fossil fuel reserves’ has the meaning given the term ‘reserves’ under the final rule of the Commission titled ‘Modernization of Oil and Gas Reporting’ (74 Fed. Reg. 2158; published January 14, 2009).
“(J) GREENHOUSE GAS.—The term ‘greenhouse gas’—

“(i) means carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, sulfur hexafluoride, nitrogen trifluoride, and chlorofluorocarbons;

“(ii) includes any other anthropogenically-emitted gas that the Administrator of the Environmental Protection Agency determines, after notice and comment, to contribute to climate change; and

“(iii) includes any other anthropogenically-emitted gas that the Intergovernmental Panel on Climate Change determines to contribute to climate change.

“(K) GREENHOUSE GAS EMISSIONS.—The term ‘greenhouse gas emissions’ means the emissions of greenhouse gas, expressed in terms of metric tons of carbon dioxide equivalent.

“(L) PHYSICAL RISKS.—The term ‘physical risks’ means financial risks to long-lived fixed assets, locations, operations, or value
chains that result from exposure to physical climate-related effects, including—

“(i) increased average global temperatures and increased frequency of temperature extremes;

“(ii) increased severity and frequency of extreme weather events;

“(iii) increased flooding;

“(iv) sea level rise;

“(v) ocean acidification;

“(vi) increased frequency of wildfires;

“(vii) decreased arability of farmland;

“(viii) decreased availability of fresh water; and

“(ix) any other financial risks to long-lived fixed assets, locations, operations, or value chains determined appropriate by the Commission, in consultation with appropriate climate principals.

Executive Order 12866’, published by the Inter-agency Working Group on Social Cost of Green-house Gases, United States Government, in Au-gust 2016 or any successor or substantially re-lated estimate of the monetized damages associ-ated with an incremental increase in carbon di-oxide emissions in a given year.

“(N) TRANSITION RISKS.—The term ‘tran-sition risks’ means financial risks that are at-tributable to climate change mitigation and ad-aptation, including efforts to reduce greenhouse gas emissions and strengthen resilience to the impacts of climate change, including—

“(i) costs relating to—

“(I) international treaties and agreements;

“(II) Federal, State, and local policy;

“(III) new technologies;

“(IV) changing markets;

“(V) reputational impacts rel-evant to changing consumer behavior;

and

“(VI) litigation; and
“(ii) assets that may lose value or become stranded due to any of the costs described in subclauses (I) through (VI) of clause (i).

“(O) VALUE CHAIN.—The term ‘value chain’—

“(i) means the total lifecycle of a product or service, both before and after production of the product or service, as applicable; and

“(ii) may include the sourcing of materials, production, transportation, and disposal with respect to the product or service described in clause (i).

“(2) FINDINGS.—Congress finds that—

“(A) short-, medium-, and long-term financial and economic risks and opportunities relating to climate change, and the national and global reduction of greenhouse gas emissions, constitute information that issuers—

“(i) may reasonably expect to affect shareholder decision making; and

“(ii) should regularly identify, evaluate, and disclose; and
“(B) the disclosure of information described in subparagraph (A) should—

“(i) identify, and evaluate—

“(I) material physical and transition risks posed by climate change; and

“(II) the potential financial impact of such risks;

“(ii) detail any implications such risks have on corporate strategy;

“(iii) detail any board-level oversight of material climate related risks and opportunities;

“(iv) allow for intra- and cross-industry comparison, to the extent practicable, of climate-related risk exposure through the inclusion of standardized industry-specific and sector-specific disclosure metrics, as identified by the Commission, in consultation with the appropriate climate principals;

“(v) allow for tracking of performance over time with respect to mitigating climate risk exposure; and
“(vi) incorporate a price on greenhouse gas emissions in financial analyses that reflects, at minimum, the social cost of carbon that is attributable to issuers.

“(3) DISCLOSURE.—Each covered issuer, in any annual report filed by the covered issuer under subsection (a) or section 15(d), shall, in accordance with any rules issued by the Commission pursuant to this subsection, include in each such report information regarding—

“(A) the identification of, the evaluation of potential financial impacts of, and any risk-management strategies relating to—

“(i) physical risks posed to the covered issuer by climate change; and

“(ii) transition risks posed to the covered issuer by climate change;

“(B) a description of any established corporate governance processes and structures to identify, assess, and manage climate-related risks;

“(C) a description of specific actions that the covered issuer is taking to mitigate identified risks;
“(D) a description of the resilience of any strategy the covered issuer has for addressing climate risks when differing climate scenarios are taken into consideration; and

“(E) a description of how climate risk is incorporated into the overall risk management strategy of the covered issuer.

“(4) RULE OF CONSTRUCTION.—Nothing in paragraph (3) may be construed as precluding a covered issuer from including, in an annual report submitted under subsection (a) or section 15(d), any information not explicitly referenced in such paragraph.

“(5) RULEMAKING.—The Commission, in consultation with the appropriate climate principals, shall, not later than 2 years after the date of the enactment of this subsection, issue rules with respect to the information that a covered issuer is required to disclose pursuant to this subsection and such rules shall—

“(A) establish climate-related risk disclosure rules, which shall—

“(i) be, to the extent practicable, specialized for industries within specific sectors of the economy, which shall include—
“(I) the sectors of finance, insurance, transportation, electric power, mining, and non-renewable energy; and

“(II) any other sector determined appropriate by the Commission, in consultation with the appropriate climate principals;

“(ii) include reporting standards for estimating and disclosing direct and indirect greenhouse gas emissions by a covered issuer, and any affiliates of the covered issuer, which shall—

“(I) disaggregate, to the extent practicable, total emissions of each specified greenhouse gas by the covered issuer; and

“(II) include greenhouse gas emissions by the covered issuer during the period covered by the disclosure;

“(iii) include reporting standards for disclosing, with respect to a covered issuer—
“(I) the total amount of fossil fuel-related assets owned or managed by the covered issuer; and

“(II) the percentage of fossil fuel-related assets as a percentage of total assets owned or managed by the covered issuer;

“(iv) specify requirements for, and the disclosure of, input parameters, assumptions, and analytical choices to be used in climate scenario analyses required under subparagraph (B)(i), including—

“(I) present value discount rates; and

“(II) time frames to consider, including 5, 10, and 20 year time frames; and

“(v) include reporting standards and guidance with respect to the information required under subparagraph (B)(iii);

“(B) require that a covered issuer, with respect to a disclosure required under this subsection—

“(i) incorporate into such disclosure—
“(I) quantitative analysis to support any qualitative statement made by the covered issuer;

“(II) the rules established under subparagraph (A);

“(III) industry-specific metrics that comply with the requirements under subparagraph (A)(i);

“(IV) specific risk management actions that the covered issuer is taking to address identified risks;

“(V) a discussion of the short-, medium-, and long-term resilience of any risk management strategy, and the evolution of applicable risk metrics, of the covered issuer under each scenario described in clause (ii); and

“(VI) the total cost attributable to the direct and indirect greenhouse gas emissions of the covered issuer, using, at minimum, the social cost of carbon;
“(ii) consider, when preparing any qualitative or quantitative risk analysis statement contained in the disclosure—

“(I) a baseline scenario that includes physical impacts of climate change;

“(II) a 1.5 degrees scenario; and

“(III) any additional climate analysis scenario considered appropriate by the Commission, in consultation with the appropriate climate principals;

“(iii) if the covered issuer engages in the commercial development of fossil fuels, include in the disclosure—

“(I) an estimate of the total and a disaggregated amount of direct and indirect greenhouse gas emissions of the covered issuer that are attributable to—

“(aa) combustion;

“(bb) flared hydrocarbons;

“(cc) process emissions;

“(dd) directly vented emissions;
“(ee) fugitive emissions or leaks; and
“(ff) land use changes;
“(II) a description of—
“(aa) the sensitivity of fossil fuel reserve levels to future price projection scenarios that incorporate the social cost of carbon;
“(bb) the percentage of the reserves of the covered issuer that will be developed under the scenarios established in clause (ii), as well as a forecast for the development prospects of each reserve under the scenarios established in clause (ii);
“(cc) the potential amount of direct and indirect greenhouse gas emissions that are embedded in proved and probable reserves, with each such calculation presented as a total and in subdivided categories by the type of reserve;
“(dd) the methodology of the covered issuer for detecting and mitigating fugitive methane emissions, which shall include the frequency with which applicable assets of the covered issuer are observed for methane leaks, the processes and technology that the covered issuer uses to detect methane leaks, the percentage of assets of the covered issuer that the covered issuer inspects under that methodology, and quantitative and time-bound reduction goals of the issuer with respect to methane leaks;

“(ee) the amount of water that the covered issuer withdraws from freshwater sources for use and consumption in operations of the covered issuer; and

“(ff) the percentage of the water described in item (ee) that comes from regions of water
stress or that face wastewater management challenges; and

“(III) any other information that the Commission determines is—

“(aa) necessary;
“(bb) appropriate to safeguard the public interest; or
“(cc) directed at ensuring that investors are informed in accordance with the findings described in paragraph (2);

“(C) with respect to a disclosure required under section 13(s) of the Securities Exchange Act of 1934, require that a covered issuer include in such disclosure any other information, or use any climate-related or greenhouse gas emissions metric, that the Commission, in consultation with the appropriate climate principals, determines is—

“(i) necessary;
“(ii) appropriate to safeguard the public interest; or
“(iii) directed at ensuring that investors are informed in accordance with the findings described in paragraph (2); and
“(D) with respect to a disclosure required under section 13(s) of the Securities Exchange Act of 1934, establish how and where the required disclosures shall be addressed in the covered issuer’s annual financial filing.

“(6) FORMATTING.—The Commission shall require issuers to disclose information in an interactive data format and shall develop standards for such format, which shall include electronic tags for information that the Commission determines is—

“(A) necessary;

“(B) appropriate to safeguard the public interest; or

“(C) directed at ensuring that investors are informed in accordance with the findings described in paragraph (2).

“(7) PERIODIC UPDATE OF RULES.—The Commission shall periodically update the rules issued under this subsection.

“(8) COMPILATION OF INFORMATION DISCLOSED.—The Commission shall, to the maximum extent practicable make a compilation of the information disclosed by issuers under this subsection publicly available on the website of the Commission and update such compilation at least once each year.
“(9) REPORTS.—

“(A) REPORT TO CONGRESS.—The Commission shall—

“(i) conduct an annual assessment regarding the compliance of covered issuers with the requirements of this subsection;

“(ii) submit to the appropriate congressional committees a report that contains the results of each assessment conducted under clause (i); and

“(iii) make each report submitted under clause (ii) accessible to the public.

“(B) GAO REPORT.—The Comptroller General of the United States shall periodically evaluate, and report to the appropriate congressional committees on, the effectiveness of the Commission in carrying out and enforcing this subsection.”.

SEC. 4. BACKSTOP.

If, 2 years after the date of the enactment of this Act, the Securities and Exchange Commission has not issued the rules required under section 13(s) of the Securities Exchange Act of 1934, and until such rules are issued, a covered issuer (as defined in such section 13(s)) shall be deemed in compliance with such section 13(s) if disclo-
sures set forth in the annual report of such issuer satisfy
the recommendations of the Task Force on Climate-re-
lated Financial Disclosures of the Financial Stability
Board as reported in June, 2017, or any successor report,
and as supplemented or adjusted by such rules, guidance,
or other comments from the Commission.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secu-
rities and Exchange Commission such sums as may be
necessary to carry out this Act and the amendments made
by this Act.