Date: August 17, 2022

Assembly Floor Alert

TO: All members, California State Assembly

FROM: California Bankers Association
American Bankers Association
Bank Policy Institute
Securities Industry and Financial Markets Association

RE: Opposition to Senate Bill 260 (Wiener): Climate Corporate Accountability Act

We are writing to express concern regarding the inclusion of financed emissions in the disclosure requirements contemplated in SB 260, the *Climate Corporate Accountability Act (CCAA),* as well as to highlight the high potential for conflict between the bill and climate disclosure regimes currently pending at the federal and international level.

As currently drafted, SB 260 creates a corporate disclosure regime designed to provide emission information to the general public. The bill would require U.S. companies doing business in California to disclose annually audited amounts of Scope 1, 2, and 3 greenhouse gas emissions (GHGs) in accordance with the Greenhouse Gas Protocol (GHG Protocol).[1] SB 260 differs from, but is being considered at the same time as the Securities and Exchange Commission's (SEC) proposal to require GHG disclosures to help investors assess climate-related risk. In addition, significant efforts are underway internationally through the International Sustainability Standards Board (ISSB) of the International Financial Reporting Standards Foundation (IFRS) – in which the SEC is contributing – to create detailed, global climate disclosure requirements that are consistent and interoperable for public companies in

[1] The GHG Protocol was originally issued in 2001 by the World Business Council for Sustainable Development (WBCSD) and World Resources Institute (WRI).

the United States and other jurisdictions around the world, including those European countries, that already have climate disclosure requirements for public companies. There is a high potential for conflict between California's GHG disclosure requirements and the anticipated final SEC regulations and ISSB standards.

Therefore, we strongly recommend that California requirements align with, or be compatible with, federal standards or other international standards incorporated by U.S. authorities. With the expectation that the SEC will finalize its proposal by year-end, California should defer action until the SEC regime is in place to minimize potential conflict and maximize the value of any required disclosures to the public.

In addition to the significant risk of inconsistency and conflict with anticipated federal climate disclosure requirements, we are concerned that SB 260's inclusion of financed emissions data is counterproductive to the stated goals of the legislation. For emission information to be useful to the public and actionable to policymakers, it must be clear, consistent, and easy to interpret. The information reported from disclosure of Scope 3 financed emissions will not meet that standard without agreed upon methodologies for calculating emissions. Consequently, we urge you to exclude financed emissions from the Scope 3 reporting requirements in the bill until agreed upon methodologies for calculating Scope 3 emissions are established.

Under SB 260, companies would be required to measure not only the GHGs of their own operations (included within classifications known as "Scope 1" and "Scope 2"), but also GHGs that result from the "value chains" of their products and services ("Scope 3"). Scope 3 GHGs measure emissions from suppliers as well as customers, including those emission generated by the way individual consumers obtain, use, and dispose of their products. Scope 3 guidance also measures "financed emissions" of companies through their investment and lending activities. Reported GHGs of banking institutions would therefore include not only the Scope 1, 2, and 3 GHGs of their own operations, but also a portion of Scope 1, 2, and 3 emissions of each borrower or company in their loan portfolios.

Banks are uniquely positioned as intermediaries in our economy – financing everything from the corner store, to the city government, and to the multi-national corporation. Consequently, requiring banks to calculate and report their "financed emissions" could sweep in a tremendous amount of duplicative information. The GHG Protocol acknowledges significant double counting will occur based on where the borrower exists within a value chain – be it a supplier, a customer, or the ultimate consumer. While SB 260 proposes to limit the disclosure requirement to reporting entities with more than $1 billion in annual revenue, bank customers could find it costly and challenging to supply detailed and reliable value chain information to their lenders, especially without an accepted standardized calculation methodology. In addition to large corporations, information from consumers, small businesses, municipal entities, and federal agencies will be needed. Without a standardized calculation methodology, reporting will depend primarily on untimely, inconsistent, and unreliable practices and estimates from this diverse set of entities.

Further, the Scope 3 financed emissions reported by banks are likely to reflect little other than the asset size of a bank. Larger banks will appear to have greater emissions because they report the entire value chain information from more or larger customers. Smaller banks will appear to have lower GHG emissions only because they serve fewer customers. If the goal of the legislation is to identify high GHG emitters, Scope 3 financed emissions will only muddy that picture. Indeed, many banks are working with their customers to assist in climate transition efforts and aggregated financed emissions amounts may distort that positive work.

Certain stakeholders believe that the Scope 3 estimation process can quickly be performed by using public databases of emission factors often used by companies in estimating GHGs. This is false. There are hundreds of possible data sources for GHG emissions, which vary by industry sector and all with different starting points and levels of granularity and accuracy. Methodologies for these emission factor estimates are only just being developed for limited sectors and even where methodologies have been developed, they are not universally accepted by all banks or other businesses. It will take several years before reliance on such factors can be achieved and, due to expected improvements in energy technologies, some question whether such factors will ever provide reliable information on a timely basis.

As a result, at this stage Scope 3 financed emission disclosures could be subject to incomplete reporting and inconsistent application, yielding inaccurate and potentially misleading results. Relying on those results could result in ineffective or even counterproductive policy decisions, undermining the stated purpose of SB 260 to create a comprehensive and actionable view of corporate pollution in California.

The GHG Protocol can eventually be a useful tool for companies to aid their work toward specific targets related to their climate footprints. Because agreed upon methodologies do not yet exist, accurate and actionable public reporting will be difficult and expensive, and the inclusion of financed emissions in the reporting requirements will make it difficult for consumers and policymakers to identify more useful and actionable data, we must oppose SB 260 and urge California legislators not to pass the bill at this time. A delay will also help to ensure that future California GHG emissions requirements can be consistent with, or complimentary to, anticipated federal standards from the SEC or other federal authorities.