News Alert

SEC Seeks Public Input on Potential Changes to Climate Risk Reporting

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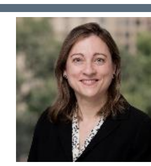

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On March 15th, the SEC issued a detailed request for public comments on potential changes to climate risk reporting, and Environmental, Social, and Governance (ESG) disclosures more generally. Comments must be submitted by June 14, 2021. The SEC issued this request following other recent SEC announcements indicating increased scrutiny of existing corporate disclosures of climate-related risks. The request likely forecasts a revisiting of the SEC's 2010 guidance on climate risk disclosure.

Request for Public Input

The SEC's March 15 announcement requested public input on a list of fifteen questions. The questions cover a range of topics including:

- The advantages and disadvantages of incorporating existing frameworks into SEC reporting requirements, such as those developed by the Task Force on Climate-Related Financial Disclosures, the Sustainability Accounting Standards Board, and the Climate Disclosure Standards Board.
- The relationship between climate-related disclosures and the broader spectrum of corporate ESG disclosure issues.
- The best framework for regulating, monitoring, reviewing, and guiding climate change disclosures, while also providing clarity for registrants.
- The advantages and disadvantages of allowing investors, registrants, and other industry participants to develop mutually agreeable disclosure standards and what those standards would look like.

In addition to or in lieu of responding to the SEC's specific questions, entities may also provide comments as to climate change

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disclosures generally, including whether new rules are needed. The SEC also encouraged the submission of empirical data and other information to support any comments submitted.

GOP Concern Over SEC's Actions

Republican lawmakers have expressed concern over the SEC's recent efforts related to climate change and ESG disclosures. Senator Pat Toomey sent a letter to the SEC Acting Chair requesting a briefing no later than the week of April 5, 2021 "to better understand the scope and intention" of the SEC's "enhanced focus on climate and ESG-related priorities." Additionally, at a recent SEC Asset Management Advisory Committee meeting, SEC Commissioners Peirce and Roisman questioned whether the new focus on ESG disclosures was premature and would distract the agency from more relevant questions.

Broader Impacts

Climate risk disclosure—and climate risks in general—are emerging as a focus for financial regulators under the Biden Administration. In addition to the SEC, the Commodity Futures Trading Commission announced that it is establishing a Climate Risk Unit to assess how financial markets assess and price climate risk, while the U.S. Federal Reserve has created a Financial Stability Climate Committee to identify, assess, and address climate-related risks to financial stability more broadly. At the SEC, revised climate risk reporting guidance, increased enforcement of existing reporting obligations with respect to climate change disclosures, and, potentially, new climate risk reporting regulations are all on the horizon. Public companies and other stakeholders should take advantage of the SEC's solicitation for comments to provide input on what disclosure requirements are most appropriate and effective for a range of stakeholders, potentially guiding future regulatory approaches by the SEC and other U.S. financial institutions.

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