

SEC Ends Defense of Climate Disclosure Rules

Update

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In March of 2024, we reported on the US Securities and Exchange Commission's adoption of a comprehensive set of rules governing climate-related disclosures. The rules would require public companies to disclose climate-related risks, including their impact on financial performance, operations, and strategies, along with greenhouse gas emissions data, governance structures and efforts to mitigate climate impacts. To no one's surprise, the adopted rules were met with a flurry of court challenges from states and private parties, which led the SEC to issue a stay of the rules pending resolution of the litigation.

Also unsurprisingly, on March 27, 2025, the SEC, under the new administration, voted to end its defense of the climate-related disclosure rules in court. SEC Acting Chairman Mark T. Uyeda stated, "The goal of today's Commission action and notification to the court is to cease the Commission's involvement in the defense of the costly and unnecessarily intrusive climate change disclosure rules."

The SEC's decision to end its defense of the rules very likely means that companies will never be required to comply with the rules. Despite this decision, however, the rules will remain in effect until a court rules them invalid or the SEC rescinds them through the rulemaking process (although the stay remains in effect for now). For that reason, there is currently some uncertainty regarding the rules' future, and we will continue to follow developments. But, in any case, given the SEC's recent statements, it seems unlikely that the SEC and its staff would seek to enforce compliance with the rules while they remain in effect.

Although it probably is safe for public companies to assume that they do not need to continue planning for compliance with the climate-related disclosure rules adopted in 2024, companies should remember that climate-related

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disclosures may be required under other SEC rules and guidance and, in certain cases, climate disclosure requirements of states or non-US jurisdictions. In particular, the SEC's 2010 guidance on climate-related disclosures remains in effect, requiring public companies to report the impact of climate change on their financial performance, operations, and risks, particularly when such factors are material. While it remains unclear to what extent the SEC under the current administration will enforce, or perhaps even revise, this guidance, companies would be well-advised to be consistent with their climate-related disclosures from period to period.

Additionally, companies may still be required to disclose climate-related risks and greenhouse gas emissions in other jurisdictions, such as California or the European Union, where climate-related disclosure rules are already in place. Other states are also considering similar regulations, potentially expanding the scope of companies subject to such disclosure requirements. Notwithstanding the SEC's recent action, climate-related disclosures appear to be here to stay.