In brief

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First look at the SEC's climate disclosure proposal

At a glance

The SEC has proposed sweeping new rules to enhance public company disclosures related to the risks and impact of climate change. New disclosures will be required for all public companies and would include certain climate-related financial metrics in the audited financial statements. They will also be required to disclose information about carbon emissions, which would be subject to a phased-in assurance requirement.

What happened?

On March 21, the SEC proposed new rules that would significantly increase required disclosures about climate-related risks that are reasonably likely to have a material impact on a company's business or consolidated financial statements. In voting in favor of issuing the proposal, SEC Chair Gary Gensler highlighted the extent of investor demand for enhanced disclosure in this area. He noted that "the SEC has a role to play when there's this level of demand for consistent and comparable information that may affect financial performance." The decision to issue the proposal, however, was not unanimous, with one of the four current commissioners dissenting.

Commissioner Allison Herren Lee supports the proposal and called it "a watershed moment for investors and financial markets." Commissioner Caroline Crenshaw is also supportive and believes it is a "long-awaited step forward" for the SEC. However, reiterating concerns expressed in her prior public statements, Commissioner Hester Peirce dissented to the issuance of the proposal. Citing an existing regulatory framework that requires the disclosure of material risks, she believes that the proposal lacks a compelling explanation of how it will generate comparable, consistent, and reliable disclosures.

Proposed disclosure highlights

As proposed, the new rules would require disclosures in registration statements and periodic reports, such as Form 10-K and Form 20-F. Some of the proposed disclosures are based on the disclosure framework developed by the Task Force on Climate-related Financial Disclosures (TCFD).

The proposal would require disclosures for domestic registrants and foreign private issuers as follows:

- Climate-related physical and transition risks and their actual or likely material impacts on the registrant's business, strategy, and outlook
- The registrant's governance of climate-related risks and relevant risk management processes
- Scope 1 and Scope 2 greenhouse gas (GHG) emissions

- Scope 3 GHG emissions would be phased in and required for all companies (except smaller reporting companies) if material or if they are included in the registrant's emission reduction targets or goal. A safe harbor from certain forms of liability under the Federal securities laws would be provided for Scope 3 emission disclosures.
- In addition to the disclosure of GHG emissions in gross terms, a registrant would also be required to disclose a GHG intensity measure, calculated based on emissions per unit of economic value (such as revenue or per unit of production).
- Accelerated and large accelerated filers would be required to obtain assurance on their Scope 1 and Scope 2 GHG disclosures (on a phased basis).

- Information about climate-related targets and goals, and transition plans, if any.

In addition to the disclosures required by the above proposed additions to Regulation S-K, registrants would be required to include certain climate-related financial statement metrics and related disclosures in a note to the audited financial statements. The disclosures would include the financial impacts of severe weather events and other natural conditions and identified climate-related risks on the consolidated financial statements. Disclosure would not be required if the aggregated impact is less than 1% of the total line item for the relevant fiscal year.

For more details about the new disclosure requirements, refer to the SEC's proposed rule or three-page fact sheet. We take a deeper dive into the proposal in our In the loop, *The SEC wants me to disclose what?*, which covers key themes and FAQs related to the proposal. And, to learn more, listen to our podcasts, *The new SEC climate proposal* and *SEC climate proposal: A closer look*.

Transition

If the rules are finalized and effective by December 2022, calendar year-end large accelerated filers would be required to include all climate-related disclosures and Scope 1 and Scope 2 GHG metrics for 2023 (filed in 2024), with additional disclosures related to Scope 3 emissions required the following year. Limited assurance on their GHG emission information would be required in 2024 (filed in 2025) with reasonable assurance required two years later (2026, filed in 2027). Accelerated filers and non-accelerated filers would have the same progression beginning with 2024 (filed in 2025). Smaller reporting companies would include disclosures under the proposal for 2025 (filed in 2026).

Why is this important?

The proposal calls for a dramatic change in the nature and extent of disclosures companies would be required to make about the impact of climate change. The gathering and reporting of these incremental disclosures will likely require changes to a registrant's systems, processes, and controls.

The proposal is over 500 pages and asks over 200 questions about the specific provisions. In their public statements, each of the commissioners encouraged active participation in the rule-making process. While asking for detailed feedback on all areas, the commissioners expressed specific interest in feedback on the provisions related to the GHG disclosures and related assurance.

What's next?

Comments on the proposal are due the later of May 20 or 30 days after the proposed rules are published in the Federal Register.

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