

DON'T DELAY: SEC WANTS YOUR TWO CENTS ON CLIMATE CHANGE DISCLOSURE

Mar 25, 2021

The SEC recently issued a [public statement](#) asking investors, companies and other market participants to share their views on climate change disclosure. Comments are due by **June 13, 2021** and can be submitted via the SEC [webform](#) or [email](#). In addition to, or in lieu of, written submissions, the SEC staff is also willing to meet with members of the public to discuss their feedback.

The SEC generally will post submissions on www.sec.gov, so personal identifying information should not be included in written feedback. The SEC encouraged commenters to include empirical data and other information in support of their comments. Original data may assist the SEC in assessing the materiality of climate-related disclosures, and the costs and benefits of different regulatory approaches to climate disclosure.

The public statement contains 15 multipart questions for consideration, including the key excerpts set out below. Please refer to the [public statement](#) for the full text of the questions.

1. How can the Commission best regulate, monitor, review, and guide climate change disclosures in order to provide more consistent, comparable, and reliable information for investors while also providing greater clarity to companies as to what is expected of them? Where and how should such disclosures be provided?
2. What information related to climate risks can be quantified and measured? Are there specific metrics on which all companies should report? How have companies or investors analyzed risks and costs associated with climate change? What are companies doing internally to evaluate or project climate scenarios, and what information from or about such internal evaluations should be disclosed to investors to inform investment and voting decisions?
3. What are the advantages and disadvantages of permitting investors, companies and other industry participants to develop disclosure standards mutually agreed by them? Should those standards satisfy minimum disclosure requirements established by the SEC?

4. What are the advantages and disadvantages of establishing different climate change reporting standards for different industries, such as the financial sector, oil and gas, transportation, etc.? How should any such industry-focused standards be developed and implemented?
5. What are the advantages and disadvantages of rules that incorporate or draw on existing frameworks, such as, for example, those developed by the Task Force on Climate-Related Financial Disclosures (TCFD), the Sustainability Accounting Standards Board (SASB), and the Climate Disclosure Standards Board (CDSB)? Are there any specific frameworks that the SEC should consider? If so, which frameworks and why?
6. How should any disclosure requirements be updated, improved, augmented, or otherwise changed over time? Should the SEC itself carry out these tasks, or should it adopt or identify criteria for identifying other organization(s) to do so?
7. What is the best approach for requiring climate-related disclosures? Should any such disclosures be filed with or furnished to the SEC?
8. How, if at all, should registrants disclose their internal governance and oversight of climate-related issues?
9. What are the advantages and disadvantages of developing a single set of global standards applicable to companies around the world, including registrants under the SEC's rules, versus multiple standard setters and standards? If the SEC were to endorse or incorporate a global standard, what are the advantages and disadvantages of having mandatory compliance?
10. How should disclosures under any such standards be enforced or assessed? If there is an audit or assurance process or requirement, what organization(s) should perform such tasks?
11. Should the SEC consider other measures to ensure the reliability of climate-related disclosures? Should the Commission consider requiring a certification by the CEO, CFO, or other corporate officer relating to climate disclosures?
12. What are the advantages and disadvantages of a "comply or explain" framework for climate change that would permit registrants to either comply with, or if they do not comply, explain why they have not complied with the disclosure rules?
13. How should the SEC craft rules that elicit meaningful discussion of the company's views on its climate-related risks and opportunities?
14. What climate-related information is available with respect to private companies, and how should the SEC's rules address private companies' climate disclosures, such as through exempt offerings, or its oversight of certain investment advisers and funds?

15. In addition to climate-related disclosure, the SEC is evaluating a range of disclosure issues under the heading of environmental, social, and governance, or ESG, matters. Should climate-related requirements be one component of a broader ESG disclosure framework? How should the SEC craft climate-related disclosure requirements that would complement a broader ESG disclosure standard? How do climate-related disclosure issues relate to the broader spectrum of ESG disclosure issues?

To the extent that you are responding to a particular question(s) above, the SEC asks that you please identify the question numbers in your submission.

RELATED CAPABILITIES

- Securities & Corporate Governance

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.