



Making Waves - The SEC Final Rule on Climate Disclosure

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Note: *Subsequent to publishing our client alert, at least four lawsuits have been filed in federal courts challenging the SEC's final climate risk disclosure rule. On Friday, March 15th, a three-judge panel for the U.S. Court of Appeals for the Fifth Circuit granted a motion for an administrative order temporarily staying the effectiveness of the agency's final rule. As predicted in our alert, litigation over the final rule is expected to be lengthy and it is impossible to know when such litigation will be concluded.*

The Securities and Exchange Commission (SEC) has published its final rule on climate disclosure requirements for public companies. The rule, titled "The Enhancement and Standardization of Climate-Related Disclosures for Investors," aims to provide more consistent and reliable information about the financial effects of climate-related risks and how companies manage those risks. The rule requires companies to disclose certain climate-related information in their registration statements and annual reports.

The rule is modeled in part on the Task Force on Climate-Related Financial Disclosures (TCFD) framework and focuses on materiality as a threshold for disclosure requirements. It covers several key areas including governance, strategy, risk management, targets and goals, greenhouse gas (GHG) emissions metrics, attestation of emissions disclosure, carbon offsets and financial statement metrics.

Notably, the SEC decided to omit the requirement for companies to disclose indirect emissions from upstream and downstream activities in their value chain (Scope 3 emissions).

This departure from the proposed rule and European regulators' disclosure rules has drawn criticism.

The rule will go into effect 60 days after publication in the *Federal Register*, and compliance will be phased in. Companies will be required to tag their climate-related disclosures in Inline XBRL format and file them rather than furnish them.

The SEC received extensive public comments on the proposed rule, with over 4,500 unique comment letters and over 18,000 form letters. The final rule reflects modifications that aim to balance the need for additional disclosures with the burden on registrants.

This alert provides an overview of the SEC's final rule on climate disclosure requirements, highlights the key areas covered by the rule and discusses the omission of Scope 3 emissions disclosure requirement.

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