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US SEC Moves on Climate Risk Disclosure Requirement

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In the latest indication of the Biden administration's "whole of government" approach to climate change, the US Securities and Exchange Commission (SEC) on Monday proposed a rule that will require publicly traded companies to disclose the risks from climate change that are reasonably likely to have material impacts on their businesses or financial condition.

In addition, the rule will require the disclosure of certain climate-related financial statement metrics in a note to companies' audited financial statements. As a part of these requirements, companies must disclose their greenhouse gas emissions.

According to an SEC press release and fact sheet, the disclosures required would include information about:

1. The company's governance of climate risks and relevant risk management processes
2. How the climate risks have had or are likely to have impacts on its business, over the short, medium or long term
3. How the climate risks have affected or are likely to affect the company's strategy, business model and outlook
4. The impact of climate-related events and transition activities on the company's financial statements

Climate change has been a concern for many companies for some time, and many of those companies already have in place greenhouse gas-related targets or goals. Some conduct scenario analyses, or have in place transition plans. The SEC's new rule would require disclosures to enable investors to understand those climate risk management tools as well.

Perhaps the most important element of the SEC's proposal is the requirement that companies disclose their greenhouse gas emissions. The requirement would apply to so-called Scope 1 emissions (which the US Environmental Protection Agency describes as emissions that occur from sources that are controlled or owned by an organization, for example emissions associated with fuel combustion in boilers, furnaces or vehicles) and Scope 2 emissions (indirect emissions from purchased electricity or other forms of energy). Scope 3 emissions are those that occur upstream or downstream in the company's value chain.

The proposal would require disclosure of Scope 3 emissions if those emissions are material or if the company has set a greenhouse gas emissions target or goal that includes Scope 3 emissions. These requirements for disclosure of Scope 3 emissions will not apply to smaller companies. In addition, given some of the challenges associated with calculating Scope 3 emissions, the SEC provided safe harbors and exemptions, as well as a longer phase-in period for reporting Scope 3 emissions.

The SEC noted that these disclosure requirements are similar to those that many companies already provide based on programs developed by the Task Force on Climate-Related Financial Disclosures and the Greenhouse Gas Protocol. The SEC will require so-called accelerated filers and large accelerated filers to include an attestation report from an independent attestation service provider covering Scope 1 and 2 emissions disclosures.

The SEC notes that the public comment period on the rule will remain open for 30 days after publication in the Federal Register, or 60 days after the date of issuance and publication on sec.gov, whichever period is longer.

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