

The Securities and Exchange Commission Finalizes a Narrower Climate-Related Risk Disclosure Rule

By Sara Dewey
March 21, 2024

Takeaways

- On March 6, 2024, the SEC narrowly voted to release its long-awaited [final climate-related risk disclosure rule](#), which requires public companies to report on material climate-related risks that affect the business and, for some large companies, greenhouse gas emissions, if material. [The rule will be effective 60 days after publication in the Federal Register](#).
 - The rule requires public companies to:
 - disclose information about material climate-related risks in SEC filings to elicit comparable, decision-useful information for investors;
 - disclose information about the impact of climate-related risks on the company's strategy, business model, and outlook, if material;
 - report on their governance of climate-related risks, risk management, and climate targets and goals; and
 - disclose financial information about climate-related risks the company faces, including their costs, expenditures, and losses related to severe weather events.
 - A subset of large companies will also be required to disclose their scopes 1 and 2 greenhouse gas emissions, if material.
- The final rule is less prescriptive than the proposal resulting in the SEC projecting lower compliance costs. Changes include:
 - narrowing the greenhouse gas emissions disclosure requirements by (1) requiring reporting of only scope 1 and 2 emissions for large companies, (2) adding a materiality qualifier, and (3) extending the timelines for when emissions reporting must begin;
 - expanding a safe harbor from litigation for transition plans and climate targets and goals; and
 - reducing the specificity of reporting requirements for portions of the rule.
- As anticipated, litigation has already begun. The challengers are expected to argue the SEC lacks the authority to require any disclosures related to climate change and the rule is overly burdensome.
 - On March 15, the Fifth Circuit granted an administrative stay putting the rule on hold at the request of energy companies.
 - Legal challenges have also been filed by states, private industry, and environmental groups in multiple courts. On March 21, nine circuit court challenges were consolidated in the Eighth Circuit.



- The SEC states in the final rule that it has the legal authority to require companies to disclose information that is necessary for protecting investors, including information about a company's climate risks and related planning.

Overview

On March 6, 2024, the Securities and Exchange Commission (SEC or commission) approved its final climate-related risk disclosure rule on a three to two vote.¹ The rule requires public companies to disclose information about material climate-related risks in SEC filings to elicit comparable, decision-useful information for investors. Under the final rule, companies will need to report on the impacts of climate-related risks on the company's strategy, business model, outlook, and steps the company has taken to mitigate or adapt, if material. Additionally, companies will report on their governance of climate-related risks, risk management, and climate targets and goals. Companies will report financial information about climate-related risks the company faces, including their costs, expenditures, and losses related to severe weather events. A subset of large companies will also disclose their scopes 1 and 2 greenhouse gas emissions, if material. The rule also establishes a safe harbor from private litigation for some of the disclosures.

The final rule is narrower and less prescriptive than [the proposal](#).² The SEC explains that it responded to commenter concerns to obtain investor-useful information while limiting the burden of the rule on reporting companies.³ Notably, it narrows the GHG reporting provision to require the largest public companies to report scopes 1 and 2 GHG emissions if material and removes scope 3 reporting entirely.

The SEC developed the rule to ensure that investors have information they need about the business and financial impacts of climate-related risks on companies that may affect the price of securities.⁴ The commission is requiring companies to disclose information about climate-related risks that have materially impacted or are likely to impact the company's strategy, operations, or financial condition; how the company manages those risks; and financial impacts of "severe weather and other natural conditions" in their annual filings.⁵ The SEC states that "[c]limate-related risks, their impacts, and a public company's response to those risks can significantly affect the company's financial performance and position."⁶ Investors are demanding more consistent and comparable information related to climate

¹ Securities and Exchange Commission, The Enhancement and Standardization of Climate-Related Disclosures for Investors (March 6, 2024), <https://www.sec.gov/files/rules/final/2024/33-11275.pdf> ("SEC Final Rule").

² The SEC notes that the final rule reflects the input of a range of stakeholders, including 24,000 comments of which over 4,500 were unique.

³ SEC Final Rule at 18.

⁴ *Id.* at 10-11.

⁵ *Id.* at 11.

⁶ *Id.* at 10-11.



risks to inform their investment decisions.⁷ The final rule creates a new Regulation S-K Subpart 1500 and Regulation S-X Article 14 to require a range of reporting about climate-related risks.

A Fifth Circuit ruling on March 15 put a temporary administrative hold on the rule, which is slated to go into effect 60 days after publication in the Federal Register.⁸ Several additional challenges were filed by states, industry, and environmental petitioners. On March 21, nine circuit court challenges were consolidated in the Eighth Circuit.

In this legal analysis, we review key components of the rule, including its legal authority and changes from the proposal. We also summarize the legal challenges already underway.

Legal Authority

The SEC explains that the final rule falls well within its statutory authority and tradition of requiring disclosure to protect investors. The Securities Act and the Exchange Act create a legal framework to fulfill Congress' requirement of certain disclosures while allowing the commission to require additional disclosures in the public interest or to protect investors.⁹ Specifically, Securities Act section 7(a)(1) empowers the commission to require a public filing of information including “such other information... as the Commission may by rules or regulations require as being necessary or appropriate in the public interest or for the protection of investors.”¹⁰ Exchange Act sections 12(b) and (g) state that the commission may require information and documents “as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security.”¹¹ The final rule outlines the SEC's longstanding use of disclosures as authorized under the statutes,¹² including its 50-year history of requiring disclosures about environmental matters.¹³

Changes in Final Rule

Compared to the [proposed rule](#), the SEC narrowed the scope of the final rule by reducing the GHG reporting requirements to scopes 1 and 2 only and requiring those emissions disclosure for only a smaller subsection of large companies, including a materiality qualifier and less prescriptive reporting requirements for many sections, and reducing the financial reporting requirements. In the table in Appendix A we review provisions of the rule and

⁷ *Id.* at 641.

⁸ *Liberty Energy v. SEC*, Docket No. 24-60109 (5th Cir.).

⁹ 15 U.S.C. 77g; SEC Final Rule at 60-62.

¹⁰ 15 U.S.C. 77j(a) and (c), SEC Final Rule at 60.

¹¹ 15 U.S.C. 78m(a); SEC Final Rule at 60.

¹² SEC Final Rule at 62-65.

¹³ *Id.* at 66-67.



changes from the proposal. As a result of these changes, the estimated compliance cost for reporting companies is expected to be lower.¹⁴

GHG emissions

The GHG reporting requirements are more limited than in the proposed rule. The final rule requires large companies, including large accelerated filers¹⁵ and accelerated filers,¹⁶ to report their scopes 1 and 2 GHG emissions, if material, on a phased-in schedule.¹⁷ Non-accelerated filers, smaller reporting companies, and emerging growth companies will not be required to report their GHG emissions. Companies will need to disclose the methodology and assumptions for their GHG calculations, similar to the proposed rule but with some streamlining of the disclosure provisions.¹⁸ In addition to reporting, the final rule sets out a phased-in attestation requirement.¹⁹

While the SEC notes that GHG reporting, especially scope 3, elicited robust input in the comment period, the final rule states that many commenters cited the need for GHG disclosure to assess a company's transition risks.²⁰ The SEC explains that it balanced the importance of this information as a tool for investors to understand these risks with concerns about compliance costs.²¹ The final rule does not require disclosures related to scope 3 emissions—emissions associated with a company's value chain.²²

¹⁴ See SEC Final Proposal at 646 for extensive discussion of costs and benefits.

¹⁵ A large accelerated filer is “an issuer after it first meets the following conditions as of the end of its fiscal year: (i) the issuer had an aggregate worldwide market value of the voting and non-voting common equity held by its nonaffiliates of \$700 million or more, as of the last business day of the issuer's most recently completed second fiscal quarter; (ii) the issuer has been subject to the requirements of Section 13(a) or 15(d) of the Exchange Act for a period of at least twelve calendar months; (iii) the issuer has filed at least one annual report pursuant to Section 13(a) or 15(d) of the Exchange Act; and (iv) the issuer is not eligible to use the requirements for SRCs.” *Id.* at 29 fn. 65.

¹⁶ An accelerated filer is “an issuer after it first meets the following conditions as of the end of its fiscal year: (i) the issuer had an aggregate worldwide market value of the voting and non-voting common equity held by its nonaffiliates of \$75 million or more, but less than \$700 million, as of the last business day of the issuer's most recently completed second fiscal quarter; (ii) the issuer has been subject to the requirements of Section 13(a) or 15(d) of the Exchange Act for a period of at least twelve calendar months; and (iii) the issuer has filed at least one annual report pursuant to Section 13(a) or 15(d) of the Exchange Act; and (iv) the issuer is not eligible to use the requirements for SRCs.” *Id.* at 29 fn. 66.

¹⁷ *Id.* at 244-245.

¹⁸ Note that registrants can use a methodology of their choosing, rather than following the widely accepted GHG Protocol. *Id.* at 251-254.

¹⁹ *Id.* at 336.

²⁰ The final rule explains, “As many commenters have indicated, investors view information about a registrant's GHG emissions, including its Scopes 1 and 2 emissions, as a central measure and indicator of the registrant's exposure to transition risk as well as a useful tool for assessing its management of transition risk and understanding its progress towards a registrant's own climate-related targets or goals.” *Id.* at 244.

²¹ *Id.* at 244-245.

²² The SEC explained, “We are not adopting a provision that would require a registrant to disclose its Scope 3 emissions at this time. We are mindful of the potential burdens such a requirement could impose on registrants and



Materiality qualifier and less granular reporting requirements

In several parts of the rule, the SEC adds materiality qualifiers and reduces the specificity of reporting requirements to reduce the burden for reporting companies. The materiality principle, articulated by the Supreme Court in *TSE v Northway*²³ and used by the SEC, is understood as “whether a reasonable investor would consider the disclosure of an item of information [...] important when making an investment or voting decision or such a reasonable investor would view omission of the disclosure as having significantly altered the total mix of information made available.”²⁴ The commission extends materiality qualifiers to a range of disclosures in the final rule, including disclosures of climate-related risk, which is intended to ensure that disclosures focus on information that investors need and may narrow the scope of issues about which a company will disclose.²⁵ The SEC explains that this will allow companies to “tailor the disclosure of material climate-related risks and related management practices to their own particular facts and circumstances”²⁶ and to information “most likely to be decision-useful for investors.”²⁷

The final rule also limits the specificity of reporting requirements for several provisions, which the SEC notes will lessen the reporting burden for companies. For example, in the proposed rule the board oversight disclosure would have required companies to share specific information about board expertise, including the identity of board members responsible for climate-risk oversight, board member expertise related to climate risk, and more, but the final rule instead calls for more general disclosures about board oversight of climate-related risk.²⁸ By removing the burden for reporting companies, less specificity may help the commission demonstrate its agnosticism toward corporate behavior related to

other parties as well as questions about the current reliability and robustness of the data associated with Scope 3 emissions, as noted by commenters. However, we also recognize that, as some commenters indicated, disclosure of a registrant’s Scope 3 emissions, including emissions from its suppliers (i.e., upstream emissions) and its customers or consumers (i.e., downstream emissions), or at least from those parties in its value chain that have significant emissions, may allow investors to develop a fuller picture of the registrant’s transition risk exposure and evaluate and compare investment risks across registrants more thoroughly. [...] Moreover, because many registrants will be required to disclose their Scope 3 emissions under foreign or state law or regulation, Scope 3 calculation methodologies may continue to evolve, mitigating many of the concerns noted by commenters about the disclosure of Scope 3 emissions. While such developments may encourage more registrants to disclose their Scope 3 emissions in Commission filings, at the present time, because of the potential costs and difficulties related to Scope 3 emissions reporting, the disclosure of Scope 3 emissions in Commission filings will remain voluntary.” *Id.* at 256-257.

²³ *TSC Industries, Inc. v. Northway, Inc.*, 426 U. S. 438, 449 (1977).

²⁴ SEC Final Rule at 246.

²⁵ *Id.* at 31.

²⁶ *Id.* at 192.

²⁷ *Id.* at 210.

²⁸ For example, the SEC removed proposed requirements to disclose “The identity of specific board members responsible for climate-risk oversight; Whether any board member has expertise in climate-related risks and the nature of the expertise; How frequently the board is informed of such risks; and Information regarding whether and how the board sets climate-related targets or goals, including interim targets or goals.” SEC Final Rule, p. 169.



climate change and emphasize that this is a disclosure rule, not a rule intended to shape climate policy.²⁹

Financial reporting

The financial reporting requirements, which call for financial statement effects disclosed in a note to the financial statements, are “significantly narrower” than in the proposed rule.³⁰ The final rule requires registrants to disclose “capitalized costs, expenditures expensed, charges, and losses incurred as a result of severe weather events and other natural conditions, and capitalized costs, expenditures expensed, and losses related to carbon offsets and renewable energy credits (RECs),³¹ subject to disclosure thresholds,” as well as “where on the balance sheet and income statement these capitalized costs, expenditures expensed, charges, and losses are presented.”³² The commission explains that this more limited requirement will “appropriately balance the need for enhanced financial statement disclosures with the potential costs”³³ and “help mitigate concerns about the potential burdens” of reporting.³⁴ In addition, the final rule does not include the proposed financial impact metrics requirements, which the SEC notes will “reduce the burden” to reporting companies.³⁵

Safe harbor

The SEC extends the proposed safe harbor from private litigation to a broader set of disclosures, including transition plans, scenario analysis, internal carbon pricing, and targets and goals, to encourage more complete disclosures.³⁶ Under its Private Securities Litigation Reform Act (PSLRA) authority, the commission has authority to exempt “statements based

²⁹ For example, the SEC explains that “[d]espite the concerns expressed by several commenters, the proposed rules were not intended to shift governance behaviors, including board composition or board practices. Similarly, the final rules neither seek to influence registrants’ decisions about how to manage climate-related risks nor does their design incorporate, reflect, or favor any governance structure.” *Id.* at 168.

³⁰ *Id.* at 407.

³¹ “Registrants are required to disclose the aggregate amounts of (1) carbon offsets and RECs expensed, (2) carbon offsets and RECs capitalized, and (3) losses incurred on the capitalized carbon offsets and RECs during the fiscal year.” *Id.* at 465.

³² In the final rule, the one-percent disclosure threshold will apply to two sets of aggregate amounts, “(1) expenditures expensed as incurred and losses; and (2) capitalized costs and charges, in both cases incurred as a result of severe weather events and other natural conditions, and uses “different denominators for the disclosure thresholds as compared to the proposal and include de minimis thresholds to help respond to commenters’ concerns about burdens.” It includes “de minimis thresholds of: (1) \$100,000 for expenditures expensed as incurred and losses in the income statement, and (2) \$500,000 for capitalized costs and charges recognized on the balance sheet.” *Id.* at 472; 408-409.

³³ *Id.* at 411.

³⁴ *Id.* at 407, 473.

³⁵ *Id.* at 447-448.

³⁶ The safe harbor also extends to “entities, such as partnerships and limited liability companies, and to transactions, such as IPOs, all of which are currently excluded from the PSLRA statutory safe harbor for forward-looking statements, because such entities may be subject to material climate-related risks that will require them to provide the disclosures pursuant to Items 1502(e), (f), or (g), or Item 1504.” *Id.* at 397-398.



on projections or other forward-looking information” from liability if consistent with the public interest and investor protection.³⁷

The SEC explains that because these disclosures will include “a complex mixture of both forward-looking and factual information, [...] we are providing a safe harbor for these disclosures to avoid having to disentangle the information to claim protection for forward-looking statements under the PSLRA safe harbors, which would increase the compliance burden under the final rule and potentially reduce the usefulness of those disclosures for investors.”³⁸ Importantly, the SEC states that it believes a safe harbor will incentivize more thorough disclosures by reducing litigation risk.³⁹

California, European Union, and other disclosure regime development

In issuing the final rule, the SEC notes developments in climate-related disclosure in the US and abroad.⁴⁰ For example, [California passed three laws in late 2023 requiring climate-related risk reporting](#), disclosure of scopes 1, 2, and 3 GHG emissions, and other requirements for companies meeting certain thresholds, and the European Union (EU) continues to move forward with its sustainability reporting requirements.⁴¹ Table 1 shows the number of US public companies registered with the SEC that could also be subject to California and EU regulations.

Table 1. Approximate Number of US Public Companies Reporting to Climate Disclosure Regimes

United States (SEC)⁴²	California (SB 253, SB 261)⁴³	European Union (CSRD)⁴⁴
6,870 US companies 920 foreign private issuers	1,980 US companies registered with the SEC for GHG disclosures (SB 253) 2,520 US companies for climate risk disclosure (SB 261) Applies to private companies not subject to SEC reporting as well	3,700 US companies registered with the SEC traded on European exchange

³⁷ *Id.* at 397-398.

³⁸ Historical facts are not included in the safe harbor. *Id.* at 397-398.

³⁹ While some commenters asked the SEC to extend the safe harbor provision to GHG emissions reporting, the Commission declined to do so. *Id.* at 397-398.

⁴⁰ The economic analysis includes extensive discussion of existing state, federal, and international disclosure requirements. *Id.* at 601-628.

⁴¹ Directive 2022/2464 of the European Parliament and of the Council amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (Dec. 14, 2022), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022L2464>.

⁴² Estimates are based on 2022 filers. The SEC noted that, “Among domestic registrants, approximately 34 percent were LAFs, 10 percent were AFs, and 56 percent were NAFs. In addition, we estimate that approximately 57 percent of domestic registrants and 37 percent of foreign private issuers were either SRCs, EGCs, or both.” SEC Final Rule at 599.

⁴³ *Id.* at 605-606.

⁴⁴ *Id.* at 609-610.



The final rule draws from the approach proposed by the Task Force on Climate-related Financial Disclosure, as do the California and EU policies.⁴⁵ However, SEC Chair Gensler emphasized at the commission meeting approving the vote that it is important for the US to have its own requirements that work for US markets and investors. The preamble notes that laws in other jurisdictions “may reduce the compliance burden of the final rules to the extent they impose similar requirements for registrants that are subject to them.”⁴⁶ However, these laws may serve different purposes and contain different requirements.⁴⁷

Legal Challenges to Final Rule

Immediately following the SEC’s release of the rule, Republican state attorneys general, private companies, and environmental groups filed lawsuits challenging it.⁴⁸ Challenges have been filed in the US Courts of Appeals for the District of Columbia Circuit,⁴⁹ Second Circuit,⁵⁰ Fifth Circuit,⁵¹ Sixth Circuit,⁵² Eighth Circuit,⁵³ and Eleventh Circuit.⁵⁴ On March 15, the Fifth Circuit granted an administrative stay of the rule, which puts the rule on pause until the court is able to consider the petitioners’ request for a stay pending judicial review.⁵⁵ The SEC argued that the stay request was premature since the rule has not been published in the Federal Register and [companies do not need to comply until 2026 at the earliest](#) (see Appendix B for a compliance timeline). On March 21, the Judicial Panel on Multidistrict Litigation selected the Eighth Circuit via lottery to hear a case consolidating nine circuit court challenges.

As anticipated, the challenges focus on the SEC’s statutory authority, the major questions doctrine, First Amendment, and the Administrative Procedure Act (APA). Litigation is just getting underway so we do not know the full sweep of challengers’ arguments, but the final rule responds to many of the anticipated legal critiques of the rule, as described below.

⁴⁵ *Id.* at 24.

⁴⁶ *Id.* at 54.

⁴⁷ *Id.*

⁴⁸ The Securities Act of 1933 requires litigation to be filed in the courts of appeals while the Securities Exchange Act of 1934 act requires initial review at the district court level.

⁴⁹ *Sierra Club, et al v. SEC*, Docket No. 24-01067 (D.C. Cir. Mar 13, 2024).

⁵⁰ *Natural Resources Defense Council v. SEC*, Docket No. 41-707 (2nd Cir. March 12, 2024).

⁵¹ *Liberty Energy v. SEC*, Docket No. 24-60109 (5th Cir. Mar 06, 2024); consolidated with *Texas et al. v. SEC*; *Texas Alliance of Energy Producers and Domestic Energy Producers Alliance v. SEC*; *US Chamber of Commerce v. SEC*.

⁵² *Ohio Bureau of Workers' Compensation, et al v. SEC*, Docket No. 24-03220 (6th Cir. Mar 13, 2024).

⁵³ *State of Iowa, et al v. SEC*, Docket No. 24-01522 (8th Cir. Mar 12, 2024).

⁵⁴ *State of West Virginia, et al v. SEC*, Docket No. 24-10679 (11th Cir. Mar 06, 2024).

⁵⁵ *Liberty Energy v. SEC*, Docket No. 24-60109 (5th Cir.).



Statutory authority

Challengers argue that the rule is outside the scope of the SEC's statutory authority. The SEC explains in its final rule that the requirements fall within its Congressional mandate and reflects the history and tradition of the commission's disclosure requirements. Specifically, the commission has authority under its enabling statutes to prescribe additional disclosures needed for investor protection.⁵⁶ Additionally, it has mandated a variety of new disclosures over many decades, including environmental disclosures starting in the 1970s and most recently in its 2010 guidance.⁵⁷

Major questions doctrine and nondelegation

Challengers argue that the major questions doctrine should apply. Liberty Energy argues in its filing that “the Rule checks every box to trigger the major-questions doctrine” by purporting to “derive[] its authority from an old statute employed in a novel manner” while imposing compliance costs and focusing on climate change, which is an issue outside the SEC's traditional area of expertise and which it characterizes as a “hotly debated” political issue.⁵⁸

The SEC emphasizes throughout the final rule that this is not a climate rule, but rather a disclosure rule, explaining repeatedly that “[t]he Commission has been and remains agnostic about whether or how registrants consider or manage climate-related risks.”⁵⁹ Addressing the major questions doctrine directly, the SEC argues that it is basing the final rule on its “long standing authority to require disclosures that provide investors with information that is important to their investment and voting decisions.”⁶⁰ As a disclosure rule rather than a regulation requiring companies to take any affirmative actions with respect to climate policy, the commission argues that the rule is consistent with its tradition of disclosure requirements.

As for nondelegation, it argues that “the long-standing statutory authority that we rely on provides intelligible principles to which the Commission must conform in its rulemaking” and “the well-tested delegation of rulemaking authority that we exercise here likewise falls comfortably within” Supreme Court precedent on SEC authority.⁶¹

Relatedly, challengers are likely to argue that EPA, not the SEC, has the authority to regulate GHG disclosures. In anticipation of that critique, the SEC explains why the GHG emissions reporting provisions of the rule are distinct from and additional to existing reporting to EPA

⁵⁶ SEC Final Rule at 60-62.

⁵⁷ *Id.* at 66-67.

⁵⁸ Liberty Energy Petition at 8.

⁵⁹ SEC Final Rule at 19; 168.

⁶⁰ *Id.* at 71-72.

⁶¹ *Id.*



under the Greenhouse Gas Reporting Program (GHGRP), arguing that the GHGRP data “is generally not suited to help investors understand how a registrant’s exposure and approach to managing climate-related risks may impact its future cash flows and profitability for several reasons.”⁶²

First Amendment

Challengers to the rule argue that the SEC rule violates First Amendment rights because it mandates disclosures about a controversial topic, climate change.⁶³ The SEC responds to First Amendment objections in the preamble by arguing that the required disclosures are factual, serve important purposes, and are appropriately tailored.

The SEC states that the disclosures are “factual information about certain risks companies face to their businesses, finances, and operations—the type of information that companies routinely disclose when seeking investments from the public.”⁶⁴ In addition, the commission argues that the disclosures “advance crucial interests: the final rules respond to the growing investor need for more reliable information regarding climate-related risks by providing investors with information that is important to their investment and voting decisions.”⁶⁵ Finally, it contends that the rule is “appropriately tailored to serve those interests,” including by reducing some of the burdens on companies contained in the proposal.⁶⁶

Administrative Procedure Act

In addition, challengers will argue that the rule is arbitrary and capricious. Republican commissioners opposing the rule stated that the rule differed enough from the proposal it should have been repropounded. However, the final rule discusses how the rule is grounded in the commission’s legal authority, tradition of disclosure regulation, responsive to the thousands of comments received in response to the proposed rule, and a logical outgrowth of the proposed rule.⁶⁷

Looking Ahead

The rule, which the Fifth Circuit stayed on March 15, was expected to go into effect 60 days after publication in the Federal Register. Regardless of the hold, [public companies will likely be preparing to comply with the rule](#) and larger companies will also be preparing for the upcoming California reporting requirements. In the meantime, challengers will seek to obtain a stay of the rule as litigation unfolds.

⁶² *Id.* at 682.

⁶³ Liberty Energy Petition at 3.

⁶⁴ SEC Final Rule at 72.

⁶⁵ *Id.* at 7.

⁶⁶ *Id.* at 72.

⁶⁷ The SEC included a robust severability provision described in preamble. *See* SEC Final Rule at 592.



EELP will be tracking these developments on our [Financial Regulation, Climate Change, and Climate-related Risk Disclosure](#) Regulatory Tracker page.

Appendix A. Key Changes in Final Rule

Provision	Type of Disclosure (Item)	Requirements	Change from Proposal
Climate-related Risk Impacts to Strategy, Business Model, and Outlook	Material Impacts (Items 1502(b), (c), (d))	<p>Disclose climate-related risks that had or are reasonably likely to have material impact on strategy, operation, or financials in short and long term</p> <p>Disclose actual and potential material impacts of climate-related risks on strategy, business model, and outlook</p> <p>Disclose material expenditures incurred, material impacts on financial estimates, and assumptions of any mitigation or adaptation activities</p>	<p>Added materiality qualifier</p> <p>Less prescriptive disclosure</p> <p>Added reporting of financial impacts</p>
	Transition Plan (Items 1500 and 1502(e))	<p>Description of transition plan, if adopted, to manage material transition risk, impact of actions under plan on business, operations, and financials</p> <p>Disclose material expenditures incurred, material impacts on financial estimates and assumptions from transition activities</p>	<p>Less prescriptive disclosure</p> <p>Added reporting of financial impacts</p>
	Scenario Analysis (Items 1500 and 1502(f))	<p>Disclosure of material climate-related risks to business, operations, and financials identified during scenario analysis, if used</p>	<p>Added materiality qualifier</p> <p>Less prescriptive disclosure</p>
	Maintained Internal Carbon Price (Item 1502(g))	<p>Disclosure about internal carbon price if used and material</p>	<p>Added materiality qualifier</p> <p>Less prescriptive disclosure</p>



Provision	Type of Disclosure (Item)	Requirements	Change from Proposal
Governance Disclosure	Board Oversight (Item 1501(a))	Disclosure of board oversight of climate-related risks	Less prescriptive disclosure
	Management Oversight (Item 1501(b))	Disclosure of management's role in assessing and managing material climate-related risks	Added materiality qualifier Less prescriptive disclosure
Risk Management	Risk Management (Item 1503)	Disclosure of processes for identifying, assessing, and managing material climate-related risks and how processes are integrated into overall risk management	Added materiality qualifier Less prescriptive disclosure
Targets and Goals	Targets and Goals (Item 1504(a), (b), (c))	Disclosure of climate target or goal if it materially affects or is reasonably likely to affect business, operations, financials Disclosure of material expenditures and material impacts on financials due to target or goal	Added materiality qualifier Less prescriptive disclosure
	Use of Carbon Offsets or RECs (Item 1504(d))	Disclosure of information about offsets and RECs if used as material component of transition plan, targets or goals	Added materiality qualifier
GHG Disclosure	Scope 1 and 2 Disclosure (Item 1505)	Large accelerated filers and accelerated filers report scope 1 and/or scope 2 emissions, if material Disclose methodology for calculating	Only large companies, with smaller companies exempted Only scope 1 and 2, no scope 3 Delayed reporting



Provision	Type of Disclosure (Item)	Requirements	Change from Proposal
	Attestation Requirement (Item 1506)	<p>Phased in limited and then reasonable assurance for large accelerated filers</p> <p>Phased in limited assurance for accelerated filers</p>	<p>Only large companies</p> <p>Phased-in timing</p>
Financial Statement Effects	Financial Impact Metrics (Article 14)	No disclosure required	No line item reporting on impact of natural conditions and transition activities required
	Expenditure Effects (Rule 14-02(c)-(g))	<p>Disclosure of financial statement effects on capitalized costs, expenditures expensed, charges, and losses incurred as a result of severe weather events and other natural conditions in the notes to the financial statements, subject to one percent and de minimis thresholds</p> <p>Disclosure of capitalized costs, expenditures and losses related to carbon offsets and RECs if material part of plan to achieve targets or goals</p> <p>Disclosure of estimates and assumptions used for financial statements materially impacted by risk related to severe weather events or, other natural conditions or target or plan</p>	Narrowed scope to remove transition activities
	Financial Estimates and Assumptions (Rule 14-02(h))	Disclose whether estimates and assumptions used to produce the consolidated financial statements were impacted by risks or impacts related to transition plan and targets and goals	<p>Added materiality qualifier</p> <p>Narrowed scope from reporting on impacts of transition to lower carbon economy</p>



Provision	Type of Disclosure (Item)	Requirements	Change from Proposal
Safe Harbor	Item 1507	Safe harbor from private liability for some disclosures, including transition plans, scenario analysis, internal carbon price, targets and goals, other than historical facts	Expanded scope of safe harbor
Structured Data	Item 1508	Tag climate-related disclosures in Inline eXtensible Business Reporting Language	Phased in timing

Appendix B. Timeline for Compliance with SEC Final Rule

