

LEGAL UPDATES AND NEWS

SEC Finalizes Climate Disclosure Rules

On March 6, 2024, the U.S. Securities and Exchange Commission (the “SEC”) adopted a series of final [rules](#) that standardize and enhance the framework for disclosure of climate-related risks and data required in SEC filings. The SEC contemporaneously issued a [press release](#) and a [fact sheet](#) detailing the final rules.

Overview of Key Disclosures – Content

- **Relevant Expertise of Management:** The relevant expertise of position holders or members responsible for assessing and managing climate-related risks, which may include: prior work experience in climate-related matters; any relevant degrees or certifications; any knowledge, skills, or other background in climate-related matters.
 - The proposed requirement to disclose climate-related risk expertise among the board of directors was removed from the final rules.
- **Risk Management:** Any processes the company has for identifying, assessing, and managing material climate-related risks.
 - Any oversight by the board of directors of climate-related risks and any role by management in assessing and managing the company’s material climate-related risks.
- **Material Impact on Strategy and Operations:** Climate-related risks that are causing or are reasonably likely to cause a material impact on the company, including on its strategy, results of operations, or financial condition, along with a description of such impacts (including, e.g., the use of internal carbon pricing).
- **Targets and Goals:** Climate-related targets or goals that have materially affected or are reasonably likely to materially affect the company’s business, results of operations or financial condition, including: (1) material expenditures and impacts on financial estimates and assumptions as a direct result of the targets or goals; and (2) the use and cost of carbon offsets and renewable energy credits or certificates that the company has used as a material part of its plans to achieve its climate-related goals or targets.
- **Greenhouse Gas (“GHG”) Emissions Metrics:** For accelerated and large accelerated filers only, Scope 1¹ and Scope 2² emissions data collection and disclosures, including a description of the methodology, significant inputs and significant assumptions used to calculate the company’s emissions.

¹ Direct GHG emissions from operations owned or controlled by a registrant.

² Indirect GHG emissions from the generation of purchased or acquired electricity, steam, heat, or cooling that is consumed by operations owned or controlled by a registrant.

- Attestation of Scope 1 and Scope 2 Emissions Disclosure. A third-party attestation report covering Scope 1 and Scope 2 emissions data collection and disclosures. Attestation reports for both accelerated and large accelerated filers must initially be at the limited assurance level, but large accelerated filers will be required to obtain attestation reports at the reasonable assurance level after a four-year transition period.
- The proposed requirement to provide Scope 3 emissions (*i.e.*, those resulting from activities in the registrant’s value chain) disclosures was removed from the final rules.
- **Severe Weather Events:** Climate-related financial statement disclosures, including a footnote in a company's consolidated financial statements disclosing capitalized costs, expenditures, charges and losses incurred due to severe weather events if the aggregate amount exceeds certain dollar amounts or 1% thresholds³.

Overview of Key Disclosures – Presentation

Companies must file (and electronically tag in Inline XBRL) climate-related disclosures in its registration statements and annual reports, except for accelerated and large accelerated filers electing to report their emissions data in the second quarterly report following their fiscal year end.

The climate-related disclosures mandated under Items 1500-1508 of Regulation S-K may be presented either as a stand-alone section, appropriately captioned, or within another section, such as Risk Factors, Description of Business, or Management’s Discussion and Analysis. Alternatively, companies may incorporate the disclosure by reference from another SEC filing, if the disclosure meets the electronic tagging requirements of the final rules.

Compliance Dates

The final rules are effective 60 days after publication in the Federal Register. The final rules include a phased-in compliance period for all registrants, with the compliance date dependent on the registrant’s filer status and the content of the disclosure.

³ For income statement effects, the greater of 1% threshold of the absolute value of pre-tax income (loss) or \$100,000 is used. For balance sheet effects, the greater of 1% of the absolute value of stockholders’ equity or deficit or \$500,000 is used.

Compliance Dates under the Final Rules ¹						
Registrant Type	Disclosure and Financial Statement Effects Audit		GHG Emissions/Assurance			Electronic Tagging
	<i>All Reg. S-K and S-X disclosures, other than as noted in this table</i>	<i>Item 1502(d)(2), Item 1502(e)(2), and Item 1504(c)(2)</i>	<i>Item 1505 (Scopes 1 and 2 GHG emissions)</i>	<i>Item 1506 - Limited Assurance</i>	<i>Item 1506 - Reasonable Assurance</i>	<i>Item 1508 - Inline XBRL tagging for subpart 1500²</i>
LAFs	FYB 2025	FYB 2026	FYB 2026	FYB 2029	FYB 2033	FYB 2026
AFs (other than SRCs and EGCs)	FYB 2026	FYB 2027	FYB 2028	FYB 2031	N/A	FYB 2026
SRCs, EGCs, and NAFs	FYB 2027	FYB 2028	N/A	N/A	N/A	FYB 2027
¹ As used in this chart, "FYB" refers to any fiscal year beginning in the calendar year listed. ² Financial statement disclosures under Article 14 will be required to be tagged in accordance with existing rules pertaining to the tagging of financial statements. See Rule 405(b)(1)(i) of Regulation S-T.						

*"LAF" means large accelerated filer; "AF" means accelerated filer; "SRC" means smaller reporting company; "EGC" means emerging growth company; "NAF" means non-accelerated filer.

**Regulation S-K Items 1502(d)(2), 1502(e)(2), and 1504(c)(2) each relate to quantitative and qualitative disclosures about material expenditures and material impacts to financial estimates and assumptions resulting from a company's acts in furtherance of a disclosed target or goal. The SEC opted to phase-in the corresponding compliance dates until the fiscal year immediately following the fiscal year of the company's initial compliance date for subpart 1500 disclosures based on its filer status.

Legal Challenges

On March 15, the Fifth Circuit Court of Appeals granted petitioners' Liberty Energy and Nomad Proppant Services request for an immediate administrative stay of the SEC's final climate disclosure rules. The order did not proffer any rationale for the stay, which pauses the rules' applicability until the Court makes a final decision. The U.S. Chamber of Commerce and a coalition of 10 states have each also filed lawsuits against the SEC's final rules, in the Fifth Circuit and Eleventh Circuit, respectively.

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