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SEC to Require Disclosure of Climate-Related Risks and Greenhouse Gas Emissions, Citing Investor ESG Demand

Publicly traded companies will be required to disclose climate-related risks to investors under a newly announced U.S. Securities and Exchange Commission (SEC) proposed rule. On March 21, 2022, the SEC announced proposed rule amendments regarding disclosure of climate-related risks and impacts from greenhouse gas emissions (GHG). Citing the growing demand from investors regarding environmental, social, and governance (ESG) issues, and what the SEC calls "fragmented and inconsistent" disclosure requirements, the SEC's proposed rule amendments will be issued in the Federal Register in the coming weeks for public comment.

Direct Emissions and Emissions from Electricity / Utilities – Scope 1 and Scope 2

The SEC's proposed disclosures are wide-ranging and will cut across all aspects of a company's business model and financials. For example, according to the SEC's fact sheet, a company would be required to disclose, among other risks:

- "How any climate-related risks identified by the registrant have had or are likely to have a material impact on its business and consolidated financial statements, which may manifest over the short-, medium-, or long-term;
- How any identified climate-related risks have affected or are likely to affect the registrant's strategy, business model, and outlook; [and]
- The registrant's processes for identifying, assessing, and managing climate-related risks and whether any such processes are integrated into the

registrant's overall risk management system or processes;"

Indirect Emissions from Suppliers and Customers – Scope 3

Perhaps the most ambitious and controversial aspect of SEC's proposal relates to a company's obligation to disclose indirect emissions from upstream and downstream activities in a registrant's value chain, if material.

Disclosure Compliance Dates and Filing Requirements

SEC's proposal identifies a compliance deadline in early 2024 for FY 2023 disclosures, but with phase-in of certain filers and a longer compliance period for Scope 3 emissions. The SEC expects that a registrant would provide the climate-related disclosures in its: Regulation S-K disclosures (i.e., Form 10-K) including an appropriately captioned section of its registration statement or annual report; as well as its "Regulation S-X mandated climate-related financial statement metrics and related disclosure in a note to its consolidated financial statements[.]"

Equally important, the SEC's proposal requires certain filers would be required to include an attestation report from an independent attestation service provider covering Scope 1 and Scope 2 emissions.

The comment period will remain open for whichever period is longer: (a) 30 days after publication in the Federal Register, or (b) May 20, 2022, (i.e., 60 days after the date of issuance on sec.gov).

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