

Climate Change Disclosures: Securities and Exchange Commission Publishes Sample Letter to Companies



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The Securities and Exchange Commission (“SEC”) published a September 22nd announcement (“Announcement”) that includes a sample letter (“Sample Letter”) to companies regarding climate change disclosures.

The Sample Letter was prepared by the SEC’s Division of Corporation Finance (“Division”).

The SEC has rules in place that generally require public companies to disclose (among other things) known trends, events, and uncertainties reasonably likely to have a material effect on the company’s financial condition or operating performance through annual and other periodic filings. Information is generally considered material if there is a substantial likelihood that a reasonable investor would consider it important in making an investment decision.

The SEC provides guidance on some topics of general interest to the business investment communities through interpretive releases. 2010 guidance was published addressing the SEC’s view on how existing disclosure requirements apply to companies in regards to climate-related matters. This guidance identified four items in Regulation S-K deemed most likely to require climate-related disclosure in companies’ annual filings.

The four items addressed included:

- Description of business
- Legal proceedings
- Risk factors
- Management’s discussion and analysis

The September 22nd SEC Announcement, including the Sample Letter, notes in part that:

. . . Companies also must disclose, in addition to the information expressly required by Commission regulation, “such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.”

Further, it notes that the Division “selectively reviews filings” made under the Securities Act and the Exchange Act:

. . . to monitor and enhance compliance with applicable disclosure requirements.

The Sample Letter prepared by the Division is characterized as containing sample comments that it may issue to companies regarding their climate-related disclosure or the absence of such disclosure. The sample comments are, however, not deemed an exhaustive list of the issues companies should consider.

A copy of the Announcement and Sample Letter can be downloaded [here](#).