

# SEC Climate Disclosure Rules Briefing

Association of Corporate Counsel

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ACC Environmental & Sustainability Network | March Legal Update

# Agenda

- Rule Origins & Global Context
- Substantive Requirements
- Disclosure Mechanics & Timing
- Pending Challenges
- Preparing for Compliance



# Origins of the Rules and Global Context

## 2010 Guidance

- Material climate change risks
- Four subjects:
  - Legislation/regulation
  - International accord
  - Indirect consequences (regulation/trends)
  - Physical impacts
- Positive impacts also considered.

## 2022 Proposal

- Scope 1,2,3 reporting
- More prescriptive approach
- Extensive stakeholder engagement
- Significant comments

## 2024 Final Rule

- Climate Risk
- GHG disclosures
  - No Scope 3
  - LAFS/AFS only
- Targets/goals
- Financial statements (quantitative impacts)

EU: Corporate sustainability reporting (CSRD)

California: Climate Corporate Data Accountability Act (SB 253) & Climate-related financial risk (SB 261)

Other relevant frameworks: GHG Protocol, TCFD, IFRS Sustainability Disclosure Standards, SASB

# Material Climate Risk Disclosures

## Disclosure requirement:

- climate-related risks that *materially* impacted, or reasonably likely to material impact the registrant, its business strategy, results of operations, or financial condition

## “Climate-related risks”:

- the actual and potential negative impacts of climate-related conditions and events on a registrant’s business, results of operations, or financial condition

## Climate-related risks include:

- Physical risks (e.g., risks businesses face as a result of longer-term weather patterns)
- Transition risks (e.g., risk of legal liability and litigation defense costs)
- Consider impacts on: operations, products/services, supply chain

## Other aspects

- Disclose activities to mitigate or adapt (and related material expenditures)
- Disclose strategy for considering risks in strategy, planning
- Disclose any transition plan elements developed to manage material risks (and related material expenditures)



# GHG Disclosures



Scope 1 and Scope 2 emissions, if material, for LAFs and Afs

No Scope 3 emissions

Assurance and attestation



# Targets and Goals

- Disclose target/goal if:
  - *Material impact on business, results, or financial condition*
- Scope and time horizon
- Qualitative description
- Progress
- Material expenditures/financial impacts
- Additional REC/offset disclosures



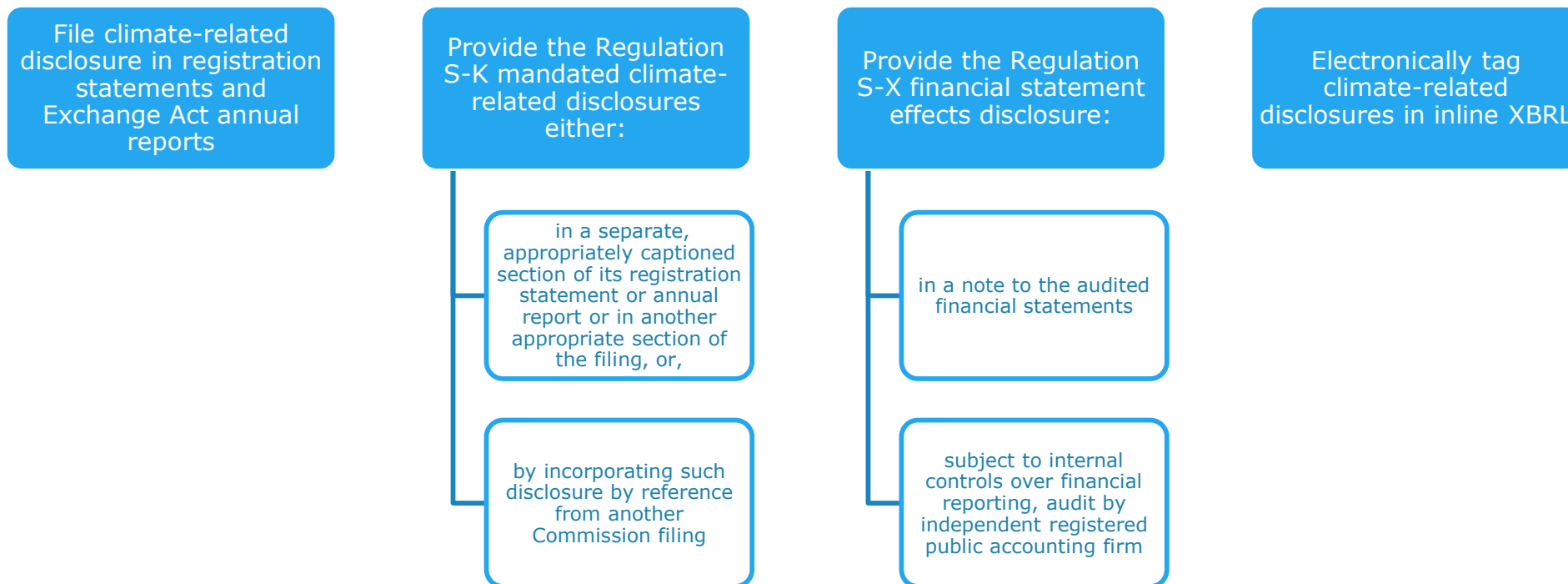
# Financial Statement Effects Disclosures (Regulation S-X)

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Expenditure Effects	Required where severe weather event or other natural condition is “significant contributing factor” in incurring cost (subject to disclosure thresholds)  Must also disclose amount of carbon offsets and RECs expensed, recognized, incurred, if material component of plans to achieve climate-related targets and goals
Impacts on Financial Estimates and Assumptions	Required where estimates / assumptions used to prepare financial statements were materially impacted by severe weather events or other natural conditions, or by registrant’s targets or transition plans
Contextual Information	Significant inputs and assumptions used, significant judgments made, other information important to understand financial statement effect, and policy decisions made by registrant (if any)

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# Mechanics: Where to disclose?





# Mechanics: Disclosure Timeline

Compliance Dates under the Final Rules <sup>1</sup>						
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>	
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
<p><sup>1</sup> As used in this chart, "FYB" refers to any fiscal year beginning in the calendar year listed.</p> <p><sup>2</sup> 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.</p>						

Source: <https://www.sec.gov/files/33-11275-fact-sheet.pdf>



# Legal Challenges

**Litigation**

## **Congressional Review Act**

House Financial Services Hearing  
(March 20)  
"SEC Overreach: Examining the Need for Reform"

## **Emergency Stay**

*Granted Friday, March 15 by 5<sup>th</sup> Circuit  
1-sentence Order*

## **Venue Fight**

5<sup>th</sup> Circuit  
6<sup>th</sup> Cir  
8<sup>th</sup> Cir.  
11<sup>th</sup> Cir.  
2<sup>nd</sup> Circuit (NRDC)  
DC Cir. (Sierra Club)  
→ *Venue drawing imminent*



# Preparing for Compliance

- Update climate risk assessment
- Inventory Scope 1 & 2 GHG emissions
- Revisit targets/goals/transition plans
  - Assess material costs
- Alignment with other disclosures
  - CSRD, TCFD

# Thank You!



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