



Making the Grade on Sustainability & ESG Reporting

Megan Gates, Mintz

SEC's Proposed Rule: “The Enhancement and Standardization of Climate-Related Disclosures for Investors”

- Climate-related risks and their actual or likely material impacts on the registrant’s business, strategy, and outlook;
- The registrant’s governance of climate-related risks and relevant risk management processes;
- The registrant’s greenhouse gas (“GHG”) emissions, which, for accelerated and large accelerated filers and with respect to certain emissions, would be subject to assurance;
- Certain climate-related financial statement metrics and related disclosures in a note to its audited financial statements; and
- Information about climate-related targets and goals, and transition plan, if any.

Proposed Governance Disclosures

- Board of Directors:
 - Information concerning the board's oversight of climate-related risks as well as management's role in assessing and managing those risks
 - Identify any board members or board committees responsible for the oversight of climate-related risks
 - Whether any member of [the] board of directors has **expertise** in climate-related matters
 - The **processes and frequency** by which the board discusses climate-related factors
 - Whether and how the board or board committee considers climate-related risks as part of its business strategy, risk management, and financial oversight
 - Whether and how the board sets **climate-related targets or goals**, and how it oversees progress against those targets or goals, including the establishment of any interim targets or goals

ESG in Context: Responsibilities of Boards of Directors

- Boards and management teams need to be able to demonstrate responsiveness to evolving requirements and standards in the fulfillment of their fiduciary duties
- In the case of ESG issues, must be able to show awareness, understanding and responsiveness, demonstrated by:
 - Oral presentations by experts (counsel, bankers, consultants, or accountants)
 - Supplemental written materials to establish due diligence and the proposed exercise of informed judgement
- These materials will be useful in the event of shareholder or private litigation, or regulatory enforcement, on these topics
- SEC's Proposed Rulemaking sets out some clear (and rigorous) expectations from their perspective

Leaders in ESG Innovation

The Mintz ESG Practice brings together experienced lawyers across a broad spectrum of disciplines who collaborate with one another and with corporate boards, companies, and their investors to deliver cutting edge advice regarding ESG topics, including:

Core Capabilities

- Corporate governance focus on board refreshment practices, securities and disclosure issues
- Social impact investing
- Diversity, equity & inclusion programming
- Executive compensation and pay transparency compliance
- Social justice initiatives
- Social and green bonds for non-profits, governmental and non-governmental entities

Visit our website

<https://www.mintz.com/our-services/specialty-issues/esg>

Pioneering the Industry

Mintz is one of only 13 law firms in the AM Law 100 to receive grades of “A” or “B” for work to combat climate change by Law360.

Clients Include

- Emerging Companies
- Private Equity Funds
- Venture Capital Funds
- Public Companies
- Non-Profits
- Government Entities

