

SEC Stays Climate Disclosure Rule

April 5, 2024

On April 4, 2024, the Securities and Exchange Commission (the “SEC”) [stayed](#) *The Enhancement and Standardization of Climate-Related Disclosures for Investors* (the “Rule”) pending judicial review in the Eighth Circuit. In its order issuing the stay, the SEC reiterated its view that the Rule is “consistent with applicable law” and the SEC’s “long-standing authority to require the disclosure of information important to investors in making investment and voting decisions.” The SEC underscored that it would continue “vigorously defending” the Rule in court and that a stay would “allow the court of appeals to focus on deciding the merits” and “avoid[] potential regulatory uncertainty” for registrants that must begin taking steps toward compliance in the midst of ongoing legal challenge.

This stay followed the numerous legal challenges filed after the Rule’s adoption on March 6, 2024, including suits in the Second, Fifth, Sixth, Eighth, Eleventh and D.C. Circuits. The Fifth Circuit had granted a stay on March 15, 2024 after several petitioners argued they would suffer irreparable harm in the form of unrecoverable compliance costs and constitutional injury. Then, on March 21, 2024, the pending actions were consolidated in the Eighth Circuit, and several parties moved for a stay there. The SEC requested a consolidated briefing schedule to encompass all motions seeking a stay, which 31 petitioners opposed, urging the court to expedite briefing.

It is unusual for the SEC to stay its own rule pending judicial review. Part of the motivation may be to slow the judicial timeline, ensuring appropriate time for full briefing and lessening potential pressure on the Eighth Circuit to accelerate its decision.

In its recent order, the SEC noted that this voluntary stay did not encompass “any other Commission rules or guidance,” referring specifically to the [Guidance Regarding Disclosure Related to Climate Change](#) from February 2010 on the SEC’s existing disclosure requirements as applicable to climate change matters. Even while the Rule is stayed, the SEC could continue to review filings for compliance with the 2010 guidance, as they have done frequently since releasing a “[Sample Letter to Companies Regarding Climate Change Disclosures](#)” in September 2021.

It is not yet clear whether or how the SEC's stay will impact the compliance timeline for the Rule. As discussed in our previous Debevoise In Depth, "[Potential Legal Challenges to the SEC's Climate Disclosure Rule](#)," the future and ultimate scope of the Rule remain uncertain. Under the Rule, the [deadline](#) for compliance varies by the type of registrant and type of disclosure, with the earliest disclosure, for large accelerated filers, occurring in 2026 for fiscal year 2025. Judicial review and the November presidential election ultimately could change that timeline or even prevent the Rule from taking effect.

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Read more about the Rule in our Debevoise In Depth "[An In-Depth Analysis of the SEC's Climate-Related Disclosure Rules](#)" and our Debevoise In Depth "[Potential Legal Challenges to the SEC's Climate Disclosure Rule](#)." We will continue to provide updates on legal challenges to the Rule and their impact on the timeline for compliance. Please do not hesitate to contact us with any questions.



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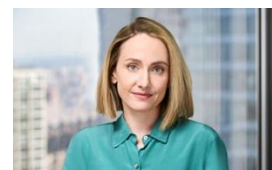
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