SEC Indicates Greater Interest in Climate Change Disclosures

March 4, **2021**

On February 24, 2021, Allison Herren Lee, acting chair of the U.S. Securities and Exchange Commission (SEC), issued a statement directing the SEC's Division of Corporation Finance to review climate-related disclosures in public company filings and determine the extent to which companies are addressing the topics identified in "Commission Guidance Regarding Disclosure Related to Climate Change," originally issued in 2010, regarding the potential financial effects of climate change on their performance and operations. The full statement can be found here.

Specifically, per the statement, the Division of Corporation Finance staff will be:

- Reviewing the extent to which public companies address the topics identified in the 2010 guidance;
- Assessing compliance with disclosure obligations under federal securities laws;
- Assessing company engagement on these issues; and
- Absorbing/evaluating critical lessons on how the market is currently managing climate-related risks.

SEC staff will use insights from this review to consider whether updates to the 2010 guidance are necessary, taking into account developments of the past decade as well as current circumstances and market expectations.

Why is this happening?

Climate change is a top priority for the Biden administration. One of the president's first actions on his first day in office was to sign an executive order reaffirming the country's commitment to the provisions of the Paris Agreement. Climate matters were central to his campaign.

The administration's prioritization of climate change appears likely to extend into the SEC, which is evidenced not only by Lee's recent statement on climate change disclosures, but also in comments from the Biden administration's SEC chair nominee, Gary Gensler. During his March 2, 2021, confirmation hearing before the Senate Banking Committee, Gensler expressed his support for additional climate change-related disclosures, stating, "… there are tens of trillions of dollars of invested assets that are looking for more information about climate risk." He also noted that issuers will benefit from additional climate change and risk disclosures, as well. Gensler added that he thinks climate disclosures should be based on materiality and that individual disclosures should be considered within the context of the "total mix of information" that a reasonable investor might use to make an informed investment decision.

The current SEC staff review will help to ensure that disclosure guidance aligns with current material risks and concerns.

Changes underway

Environmental, social and governance (ESG) issues have been a growing priority for companies, both public and private, in recent years, but the COVID-19 global pandemic really drove the point home as investors, boards and the public took note of bluer skies, cleaner air and reduced carbon footprints resulting from shelter-in-place directives.

Even without an immediate regulatory requirement for disclosures, institutional investors are likely to double down on prepandemic calls for a stronger emphasis on ESG issues. Look no further than BlackRock CEO Larry Fink's 2021 letter to shareholders, in which he states, "… the pandemic has presented such an existential crisis – such a stark reminder of our fragility – that it has driven us to confront the global threat of climate change more forcefully and to consider how, like the pandemic, it will alter our lives."

Such views should make climate change an integral part of business planning and elevate its importance to board members and C-suite executives. Funds have emerged that are solely focused on clean energy and other similar initiatives. Considering financial reporting requirements, the group of engaged board members and executive management certainly includes CFOs and finance leaders. In fact, more than eight in 10 finance leaders in a recent Protiviti survey indicated that they plan to increase the frequency of their organization's environmental reporting as part of an increased focus on ESG-related issues. More than half of those leaders expect the magnitude of those enhancements to be substantial.

What companies should be doing now

CFOs – of both public companies and private companies, including but not limited to those looking to go public – and their C-suite peers should monitor how marketplace expectations are evolving and evaluate how their climate-related disclosures measure up. According to the SEC's 2010 guidance, which we anticipate to carry into recommendations as part of current studies, proactive steps might include:

- Comparing any and all climate-related disclosures in upcoming quarterly and annual financial statements to the recommendations outlined in "Commission Guidance Regarding Disclosure Related to Climate Change." These might include, for example, information related to the discharge of materials into the environment, any environmental-related legal proceedings, capital expenditures for environmental control facilities, or other mitigation efforts. Disclosures should not be limited to potential negative consequences but should also include material information about potential climate-related opportunities.
- Reviewing all company climate disclosures, official and unofficial, in any medium, and considering whether they are material and should be included in SEC filings.
- Considering the consequences of severe weather, including physical damage and operational disruptions to facilities and supply chains concentrated on coastlines, and other potential climate-related hazards.
- Assessing geopolitical risks – organizations with a global footprint need to be mindful of changing environmental laws around the world.
- Understanding and taking into consideration the expectations of institutional investors regarding ESG disclosures and initiatives.

What started out decades ago as a "green" initiative has become a sustainability imperative. As part of that journey, companies that may have once been stuck on the question of "How much is this going to cost?" are now coming around to the idea that this is a stakeholder mandate in which certain actions are expected as table stakes to retain market permission to do business. The Division of Corporation Finance's recent announcement puts companies on notice that the SEC is making ESG a priority. Gensler's comments double down on that announcement. Companies need to take the hint and act now to prepare for the regulatory and reporting updates that are sure to follow.

About Protiviti

Protiviti (www.protiviti.com) is a global consulting firm that delivers deep expertise, objective insights, a tailored approach and unparalleled collaboration to help leaders confidently face the future. Protiviti and our independent and locally owned Member Firms provide clients with consulting and managed solutions in finance, technology, operations, data, analytics, governance, risk and internal audit through our network of more than 85 offices in over 25 countries.

Named to the 2020 Fortune 100 Best Companies to Work For® list, Protiviti has served more than 60% of *Fortune* 1000 and 35% of *Fortune* Global 500 companies. The firm also works with smaller, growing companies, including those looking to go public, as well as with government agencies. Protiviti is a wholly owned subsidiary of Robert Half (NYSE: RHI). Founded in 1948, Robert Half is a member of the S&P 500 index.

© 2021 Protiviti Inc. An Equal Opportunity Employer M/F/Disability/Veterans.
Protiviti is not licensed or registered as a public accounting firm and does not issue opinions on financial statements or offer attestation services.

protiviti®