

## SEC Continues to Signal its Commitment to ESG Disclosures and Reporting

While there has not been any new rule-making from the Securities and Exchange Commission (SEC) just yet, the agency has sent clear signals over the past six weeks to public companies and investors about its commitment to disclosures and reporting of environmental, social, and governance (ESG) issues.

The precursor to the SEC's actions that are described below are a number of executive orders released from the Biden administration on January 27, 2021, including the "Executive Order on Tackling the Climate Crisis at Home and Abroad." The executive orders address the climate crisis by taking a "whole of government approach" elevating the issue to a national security and foreign policy priority. By establishing a White House Office of Domestic Climate Policy and a National Climate Task Force, the Biden administration intends to bring together federal agencies to jointly address climate change, as well as councils to address equity and environmental justice.

Following the executive orders, the SEC began issuing various press releases and statements from February 1, 2021, to March 15, 2021. On March 22, 2021, the SEC also launched a new webpage dedicated to ESG matters. The new webpage, which can be found [here](#), provides access to information in a central location about the SEC's recent ESG-related actions as well as the latest information on ESG investing.

Below, in chronological order, is a summary of the actions and statements made by the SEC over the last few months relating to ESG, some of which would clearly set the stage for future guidance or rule making.

### Satyam Khanna Named Senior Policy Advisor for Climate and ESG

On February 1, 2021, the SEC announced that Satyam Khanna will serve as senior advisor for climate and ESG in the office of Acting SEC Chair Allison Herren Lee. This new role created by the SEC will allow Senior Advisor Khanna to coordinate the agency's efforts across its offices and divisions relating to climate risk and other ESG developments.

### Statement on the Review of Climate-Related Disclosure

On February 24, 2021, Acting Chair Lee issued a statement directing the Division of Corporation Finance (Corp Fin) to increase its focus on climate-related disclosures in public company filings. In her statement, Acting Chair Lee indicated that Corp Fin will, among other things, (i) review the extent to which public companies are addressing the SEC's 2010 guidance relating to climate change disclosures, (ii) evaluate compliance with disclosure obligations under federal securities laws, (iii) engage with public companies on these issues, and (iv) absorb critical lessons on how the market is currently managing climate-related risks. The information will be used by the SEC to update its 2010 guidance to account for developments over the last decade. We also expect to see an increase in comment letters from the SEC relating to climate change disclosures (or lack thereof) in the filings of public companies.

### SEC Division of Examinations Announces 2021 Examination Priorities

On March 3, 2021, the SEC Division of Examinations announced its priorities for 2021 that include the areas it believes present potential risks to investors and the integrity of the capital markets. Not surprisingly, the priorities for 2021 include an enhanced focus on climate and ESG-related risks by examining proxy voting policies and practices to ensure that voting aligns with investors' best interests and expectations and business continuity plans. The SEC noted that its goal is to integrate climate and ESG considerations into the SEC's broader regulatory framework.



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### Related Practice Areas

- Capital Markets & Securities
- Corporate
- Corporate Governance
- Environmental, Social & Governance

## SEC Announces Enforcement Task Force Focused on Climate and ESG Issues

On March 4, 2021, the SEC announced the formation of a division-wide Climate and ESG Task Force within the Division of Enforcement that will be led by the Acting Deputy Director of Enforcement Kelly L. Gibson and will consist of 22 members from the SEC's headquarters, regional offices and enforcement specialized units. The purpose of the task force is to develop initiatives to proactively identify ESG-related misconduct and disclosure gaps, coordinate the effective use of the Division of Enforcement's resources to identify potential violations. In addition, the task force will assess and pursue tips, referrals, and whistleblower complaints on ESG-related matters.

### Request for Comment on Climate Disclosure

On March 15, 2021, Acting Chair Lee issued a statement requesting public input on whether current climate change disclosures provide adequate information to investors about known material risks, uncertainties, impacts, and opportunities. Acting Chair Lee indicated that she has asked the SEC staff to evaluate current disclosure rules with a view toward facilitating the disclosure of consistent, comparable, and reliable information on climate. To that end, her statement included a list of questions for consideration to solicit public feedback.

While the SEC's activities over the last two months regarding climate change and the increased focus on ESG is clearly significant, we expect this trend to continue under the current Biden administration. We will continue to monitor the actions of the SEC that affect public company governance, management, and ultimately disclosure.

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**To learn more about developments in ESG, visit [Cozen O'Connor's recently launched Environmental, Social & Governance page](#).**