

SEC Acting Chair Pauses Legal Defense of Climate Disclosure Rules

Posted in: Litigation, SEC Climate Disclosure Rules

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On February 11, 2025, SEC Acting Chair Mark Uyeda released a [statement](#) announcing that he has directed the SEC staff to request that the Eighth U.S. Circuit Court of Appeals not schedule oral arguments in the consolidated litigation associated with the SEC's final climate disclosure rules adopted in March 2024 in order "to provide time for the Commission to deliberate and determine the appropriate next steps," after which the SEC "will promptly notify the Court of its determination about its positions in the litigation." The rules had previously been stayed by the SEC in April 2024, pending the completion of that litigation.

The SEC's appellate counsel subsequently filed a letter to the court's acting clerk requesting that the court refrain from scheduling oral arguments before the SEC submits a status report within 45 days.

Incoming SEC chair designee Paul Atkins (still awaiting confirmation) has been a vociferous opponent of the climate disclosure rules and has urged the agency to retract them, arguing at the time of their adoption that the SEC exceeded its authority under the "major questions" doctrine. It is widely expected that the SEC under his leadership may eventually move to rescind the rules or amend them.

In explaining why he is taking this action, Acting Chair Uyeda noted that:

- The rules are "deeply flawed and could inflict significant harm on the capital markets and our economy";

- Both he and fellow Republican Commissioner Hester Peirce (who now comprise the majority of the current SEC commissioners) voted against adoption of the rules;
- He believes the SEC was “without statutory authority or expertise” to address climate change issues and that “this [R]ule is climate regulation promulgated under the Commission’s seal”;
- During the public comment period, many submissions urged that the rules not be adopted, contending they overstep the SEC’s regulatory authority and would require disclosure of a large volume of financially immaterial information;
- The SEC’s previously submitted briefs defend the adoption of the rules but “do not reflect [his] views”; moreover, he continues to “question the statutory authority of the Commission to adopt the Rule, the need for the Rule, and the evaluation of costs and benefits. I also question whether the agency followed the proper procedures under the Administrative Procedure Act to adopt the Rule”; and
- The court and parties to the litigation should be notified of certain “changed circumstances,” including “the recent change in the composition of the Commission, and the recent Presidential Memorandum regarding a Regulatory Freeze” (referencing President Trump’s January 20, 2025 Executive Order, *Regulatory Freeze Pending Review*).

In response, Commissioner Caroline Crenshaw, the agency’s lone Democrat, released a *separate statement* sharply criticizing Acting Chair Uyeda’s action, highlighting that his statement was issued “without the input of the full Commission.” She also asserted that “[i]f, as it appears to be, the acting Chairman’s true intent is to constructively deauthorize the Commission’s pursuit of the appeal to align with his policy preferences, then his statement is an end-run around Commission authority.”

Commissioner Crenshaw also reiterated her position that:

- “Investors, for years, have been calling for consistent, comparable and reliable climate risk disclosures”; and
- The SEC has “clear authority” to require disclosures that are in the public interest: “[W]e are in the business of requiring public company disclosure about risk. We have done it myriad times without having our authority questioned.” Not doing so “would harm the markets and investors.”

“I dispute with equal vigor the notion that the agency acted outside of its remit. It did not,” she concluded. “The only things that have changed since the Rule was passed

have been matters of politics and not substance. As such, I disagree with the position unilaterally taken today by the acting Chairman.”

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