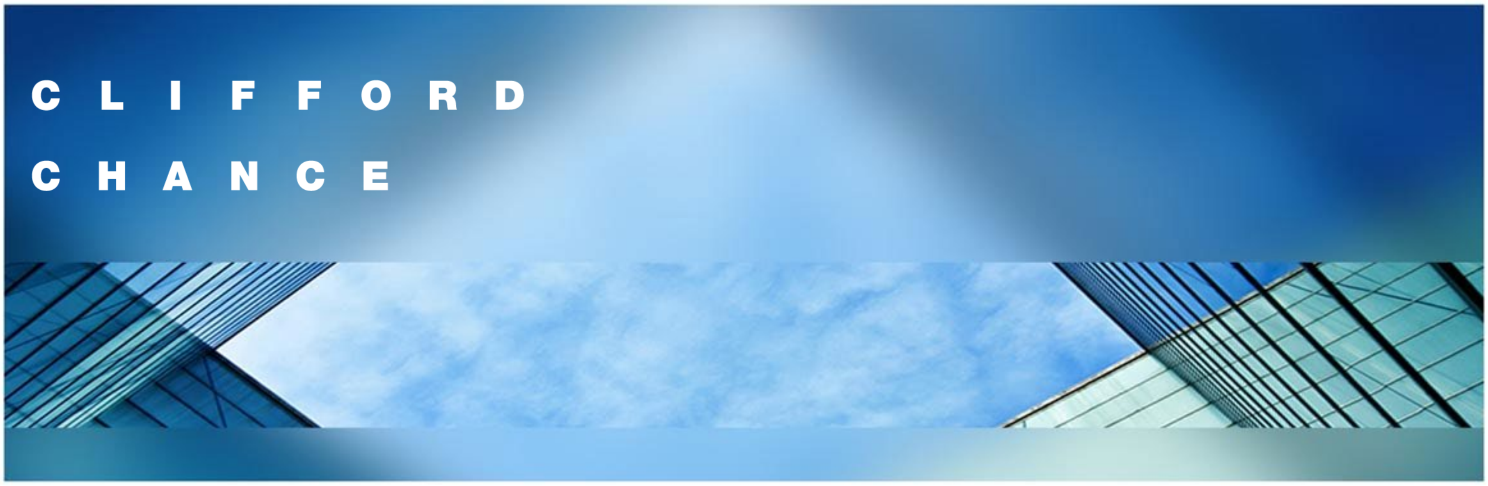

US SEC ADOPTS NEW CLIMATE-RELATED DISCLOSURE REQUIREMENTS

On March 6, 2024, the Securities and Exchange Commission ("**SEC**") adopted long-awaited disclosure requirements to enhance and standardize the climate-related disclosures that SEC-registered issuers provide to investors (the "**Climate Disclosure Rules**", available here). These new disclosure requirements are set out in new Subpart 1500 of Regulation S-K and new Article 14 of Regulation S-X. To comply, SEC registrants will need to provide specified disclosures in registration statements for US public offerings and in annual reports.

The Climate Disclosure Rules are scheduled to become effective 60 days after publication in the Federal Register (which we expect will occur in the near future), subject to phase-in relief that varies by filer status and disclosure requirement. However, immediately after their announcement, several states filed lawsuits challenging the SEC's authority to issue the Climate Disclosure Rules, and additional suits may follow. These challenges may affect the implementation of the Climate Disclosure Rules.

TO WHOM WILL THE NEW CLIMATE DISCLOSURE RULES APPLY?

With certain exclusions, summarized below, the Climate Disclosure Rules will apply to SEC registrants, which generally includes:

- companies listed on a US securities exchange (e.g., NYSE and Nasdaq);
- companies that are not listed but are considered to be widely-held in the United States, unless an exemption[1] applies; and
- companies that register US public offerings of securities with the SEC.

The registrants required to comply with the Climate Disclosure Rules will depend on filer status and, in many cases, materiality determinations. The following chart

Key takeaways

- Only registrants that are classified as large accelerated filers or accelerated filers and for which Scope 1 or Scope 2 GHG emissions are material will be subject to new emissions reporting requirements.
- Except for asset-backed securities issuers and Canadian companies that use Form 40-F, registrants will be required to provide disclosures related to material climate-related risks, governance and risk management in their registration statements and annual reports.
- Except for asset-backed securities issuers and Canadian companies that use Form 40-F, registrants will be required to provide specified disclosures in a new financial statement note that will be subject to independent audit and internal control over financial reporting.
- Safe harbor protection from private liability will be available for certain climate-related disclosures (excluding historical facts).

1 For example, certain non-US companies that are publicly traded outside the United States and make their reports available in English language on their websites may be exempt from SEC registration pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934, as amended.

summarizes how various parts of the Climate Disclosure Rules will apply to specified categories of registrants after the relevant compliance dates. The SEC declined to adopt any exceptions or accommodations for foreign private issuers, business development companies ("**BDCs**"), collective investment vehicles, such as real estate investment trusts ("**REITs**") and exchange-traded products (i.e., pooled investment vehicles listed on securities exchanges that are not investment companies registered under the Investment Company Act of 1940, as amended).[2]

Disclosure Requirement	Emerging Growth Companies (EGCs) & Smaller Reporting Companies (SRCs)	Accelerated Filers (not EGC or SRC) & Large Accelerated Filers	Asset-backed securities issuers & Canadian companies that use 40-F
Subpart 1500 of Reg. S-K			
Item 1501: Governance	Yes	Yes	No
Item 1502: Strategy	Yes	Yes	No
Item 1503: Risk Management	Yes	Yes	No
Item 1504: Targets and Goals	Yes	Yes	No
Item 1505: GHG emissions metrics (Scope 1 / 2)	No	Yes	No
Item 1506: Attestation	No	Yes	No
Item 1508: XBRL data tagging	Yes	Yes	No
Article 14 of Reg. S-X			
Rule 14-02: Inclusion of financial statement note	Yes	Yes	No

The Climate Disclosure Rules will not apply to private companies that are parties to business combination transactions involving a securities offering registered using Form S-4 or F-4. In addition, these new disclosure requirements will not apply to any non-US companies whose equity securities are deposited into Level 1 ADR programs to facilitate over-the-counter trading in the United States. These companies typically rely on an exception from US registration requirements and are not subject to periodic reporting requirements under relevant SEC rules.

The Climate Disclosure Rules may, however, influence the disclosures included in offering documents used in private placements to US institutional investors pursuant to Rule 144A, which are exempt from US registration requirements but

2 The Climate Disclosure Rules will apply to BDCs and REITs that have a class of securities registered under Exchange Act or when they register public offerings under the Securities Act. It is important to note that those issuers that have a class of securities registered under the Exchange Act without having filed any registration statements under the Securities Act will be subject to these disclosure obligations.

subject to Rule 10b-5 liability for material misstatements and omissions. Participants in these private placements generally have used disclosure requirements that apply to public offerings registered with the SEC as a guide when considering whether they are disclosing all material information to investors in their offering documents.

While the SEC has exempted asset-backed securities issuers from the Climate Disclosure Rules, it has not adopted any equivalent exemption for registrants that are BDCs, REITs, or issuers of registered non-variable insurance contracts, based on the judgment that, like operating companies, these registrants could face material climate-related risks that would impact an investment or voting decision. To the extent that climate-related risks are not material to these registrants, they will have only limited disclosure obligations under the Climate Disclosure Rules.

WHEN WILL REGISTRANTS BE REQUIRED TO COMPLY WITH THE CLIMATE DISCLOSURE RULES?

Compliance dates for the Climate Disclosure Rules vary by filer status and disclosure type.

Lage Accelerated Filers. Registrants that are classified as "large accelerated filers" will need to start complying with the Climate Disclosure Rules for disclosures related to fiscal years that begin in **2025**, except that compliance with the following items will be phased in later:

- One year later – compliance with Item 1502(d)(2) (material expenditures and impacts directly resulting from activities to mitigate or adapt to climate related risks), Item 1502(e)(2) (transition plan related material expenditures and impacts), Item 1504(c)(2) (target or goal related material expenditures and impacts), Item 1505 (Scope 1 and/or 2 GHG emissions reporting) and Item 1508 (XBRL data tagging) of Regulation S-K;
- Four years later – compliance with Item 1506 of Regulation S-K (limited assurance attestation for GHG emissions reporting); and
- Eight years later – compliance with Item 1506 of Regulation S-K (reasonable assurance attestation for GHG emissions reporting).

Accelerated Filers. Registrants that are classified as "accelerated filers" (but not smaller reporting companies or emerging growth companies) will need to start complying with the Climate Disclosure Rules for disclosures related to fiscal years that begin in **2026**, except that compliance with the following items will be phased in later:

- One year later – compliance with Item 1502(d)(2) (material expenditures and impacts directly resulting from activities to mitigate or adapt to climate related risks), Item 1502(e)(2) (transition plan related material expenditures and impacts), and Item 1504(c)(2) (target or goal related material expenditures and impacts) of Regulation S-K;
- Two years later – compliance with Item 1505 of Regulation S-K (Scope 1 and/or 2 GHG emissions reporting); and
- Five years later – compliance with Item 1506 of Regulation S-K (limited assurance attestation for GHG emissions reporting).

Other Registrants. Registrants that qualify as "smaller reporting companies" or "emerging growth companies" as well as other registrants that are not classified as accelerated filers will need to start complying with applicable parts of the Climate Disclosure Rules for disclosures related to fiscal years that begin in **2027**, except that compliance with Item 1502(d)(2) (material expenditures and impacts directly resulting from activities to mitigate or adapt to climate related risks), Item 1502(e)(2) (transition plan related material expenditures and impacts), and Item 1504(c)(2) (target or goal related material expenditures and impacts) will be required one year later.

WHAT DISCLOSURES WILL BE REQUIRED PURSUANT TO NEW SUBPART 1500 OF REG. S-K?

The Climate Disclosure Rules will apply to registration statements for public offerings of securities pursuant to Section 5 of the Securities Act of 1933, as amended (the "**Securities Act**"), and annual reports on Form 10-K or Form 20-F filed with the SEC to comply with periodic reporting obligations under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"). The following new climate-related narrative disclosures may be presented in a separate section under the caption "Climate-Related Disclosure" or be presented in other relevant sections of the filing.

Item 1501: Governance

Board oversight of climate-related risks. Registrants will be required to provide a description of their board of directors' oversight of climate-related risks, to identify, if applicable, any board committee or subcommittee responsible for the oversight of climate-related risks, and to describe the processes by which the board or such committee or subcommittee is informed about such risks. Further, if a registrant discloses a climate-related target or goal pursuant to Item 1504 of Regulation S-K or a transition plan pursuant to Item 1502(e)(1) of Regulation S-K, the registrant will also be required to disclose whether and how the board oversees progress against such target, goal, or transition plan.

If a registrant's board does not exercise oversight of any climate-related risks, the registrant will not be required to provide these board oversight-related disclosures.

Management oversight of climate-related risks. Registrants will be required to describe management's role in assessing and managing material climate-related risks. They should address, as applicable, the following non-exclusive list of disclosure items when describing management's role:

- Whether and which management positions or committees are responsible for assessing and managing climate-related risks, and the relevant expertise of such position holders or committee members in such detail as necessary to fully describe the nature of the expertise;
- The processes by which such positions or committees assess and manage climate-related risks; and
- Whether such positions or committees report information about such risks to the board of directors or a committee or subcommittee of the board of directors.

If a registrant's management does not engage in any oversight of material climate-related risks, the registrant will not be required to provide these management oversight-related disclosures.

Item 1502: Strategy

Description and categorization of material climate-related risks. A registrant will be required to provide disclosures that describe any climate-related risks that have materially impacted or are reasonably likely to have a material impact on its business strategy, results of operations, or financial condition. For this purpose, "climate-related risk" refers to actual or potential negative impacts of climate-related conditions and events on a registrant's business, results of operations, or financial condition. In describing these material risks, a registrant must describe whether a risk is reasonably likely to manifest in the short term (i.e., over the next 12 months) or the long term (i.e., beyond the next 12 months). In addition, a registrant must disclose whether a risk is a physical risk or a transition risk. Examples of physical risks include as extreme weather events, sea level rise, and water scarcity. Examples of transition risks include those attributable to changes in regulation, technology, market demand associated with mitigation of, or adaptation to climate-related risks. Registrants will be required to provide information necessary to understand of the nature of the risk presented and the extent of the registrant's exposure to the risk. Disclosure of a physical risk will require a registrant to describe the nature of the properties, processes, or operations subject to the material risk (and the extent of the exposure) and to specify whether the risk is an acute or a chronic risk. In the case of a transition risk, registrants will be required to disclose whether it relates to regulatory, technological, market, or other transition-related factors and how those factors impact the registrant.

Material impacts. Registrants will be required to disclose actual and potential material impacts of any identified climate-related risks on the registrant's strategy, business model, and outlook, including, as applicable, any material impacts on a non-exclusive list of items. If, as part of its strategy, a registrant has undertaken activities to mitigate or adapt to a material climate-related risk, the registrant will be required to provide a quantitative and qualitative description of material expenditures incurred and material impacts on financial estimates and assumptions directly resulting from those activities.[3]

Transition plan. The SEC has not mandated which actions a registrant should take to manage climate-related risk. However, if a registrant chooses to adopt a transition plan as part of its climate-related risk management strategy, the registrant will be required to provide specified disclosures. This will include a description of the transition plan, and updated disclosures in subsequent years describing the actions taken during the year under the plan, including how the actions have impacted the registrant's business, results of operations, or financial condition, and quantitative and qualitative disclosure of material expenditures incurred and material impacts on financial estimates as assumptions.

---

[3] A description of activities to mitigate risk is generally inconsistent with the SEC's general position that risk factor discussions should not include identification of mitigating factors. Accordingly, this type of disclosure should not be presented in the "Risk Factors" section of a filing.

Scenario analysis. The SEC has not mandated the use of scenario analysis to assess the resilience of a registrant's business strategy to climate-related risks. However, if a registrant chooses to use scenario analysis and, in doing so, determines that a climate-related risk is reasonably likely to have a material impact on its business, results of operations, or financial condition, the registrant will be required to provide specified disclosures regarding its use of scenario analysis.

Internal carbon price. The SEC has not mandated the use of an internal carbon price to evaluate or manage climate-related risks. However, if a registrant's use of an internal carbon price is material to how it evaluates and manages a material climate-related risk, certain disclosures about the internal carbon price will be required.

Item 1503: Risk management

New Item 1503 of Regulation S-K will require registrants to disclose their processes for the identification, assessment, and management of material climate-related risks. In particular, it will require a registrant to address, as applicable, how it identifies whether it has incurred or is reasonably likely to incur a material physical or transition risk. A registrant will be required to describe:

- how it decides whether to mitigate, accept, or adapt to a particular climate-related risk; and
- how it prioritizes whether to address the climate-related risk.

If a registrant is managing a material climate-related risk, it must disclose whether and how any of the processes it has described in the risk management disclosures have been integrated into the registrant's overall risk management system or processes.

Registrants will not be required to disclose how they determine the relative significance of climate-related risks compared to other risks, nor will they be required to speculate in disclosures about future restructurings, write-downs, or impairments related to climate risk management. Registrants will also not be required to disclose how any separate board or management committee tasked with climate risk management interacts with the registrant's board or management committee governing risks.

Item 1504: Targets and goals

Whether a registrant will be required to provide target or goal related disclosures pursuant to new Item 1504 of Regulation S-K will depend on whether any climate-related target or goal has materially affected or is reasonably likely to materially affect the registrant's business, results of operations, or financial condition. When a registrant discloses this type of climate-related target or goal, it will be required to provide additional information or an explanation necessary to understand the material impact or reasonably likely material impact of the target or goal, including, as applicable:

- the scope of the activities included in the target or goal;
- the unit of measurement;

- the defined time horizon by which the target or goal is intended to be achieved, and whether the time horizon is based on one or more goals established by a climate-related treaty, law, regulation, policy, or organization;
- if the registrant has established a baseline for the target or goal, the defined baseline time period and the means by which progress will be tracked; and
- a qualitative description of how the registrant intends to meet its climate-related targets or goals.

Subsequently, these registrants will be required to:

- disclose any progress toward meeting the target or goal in subsequent annual reports, including a description of how such progress has been achieved; and
- provide a discussion of any material impacts to their business, results of operations, or financial condition as a direct result of the target or goal or the actions taken to make progress toward meeting the target or goal.

If a registrant uses carbon offsets or RECs[4] as a material component of its plan to achieve climate-related targets or goals, then the following information will also need to be disclosed:

- the amount of carbon avoidance, reduction, or removal represented by the offsets or the amount of generated renewable energy represented by the RECs;
- the nature and source of the offsets or RECs;
- a description and location of the underlying projects; any registries or other authentication of the offsets or RECs; and
- the cost of the offsets or RECs.

Item 1505: GHG emissions metrics

Large Accelerated Filers and Accelerated Filers (not SRCs or EGCs) will be required to disclose their Scope 1 emissions and/or Scope 2 emissions of greenhouse gases[5], if such emissions are material. In a significant departure from the originally proposed rule, the SEC has not mandated disclosures of Scope 3 emissions. Item 1500 of Regulation S-K provides relevant definitions[6]:

- **Scope 1 emissions** are the direct GHG emissions from operations that are owned or controlled by a registrant.
- **Scope 2 emissions** are the indirect GHG emissions from the generation of purchased or acquired electricity, steam, heat, or cooling that is consumed by operations owned or controlled by a registrant.

---

4 A renewable energy credit or certificate ("**REC**") is defined in Item 1500 of Reg. S-K as a credit or certificate representing each megawatt-hour of renewable electricity generated and delivered to a power grid.

5 The SEC has defined greenhouse gases ("**GHG**") to include all seven greenhouse gases covered by the Kyoto Protocol: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and nitrogen trifluoride.

6 The SEC intends for these definitions to include substantially similar emissions as those measured pursuant to ISO standards. Registrants will have flexibility to leverage standards of their choice in calculating and disclosing GHG emissions metrics, including the GHG Protocol or relevant ISO standards, or other standards that may be established over time.

Materiality determinations. The guiding principle for a materiality determination under US federal securities law is whether a reasonable investor would:

- consider the disclosure of an item of information (Scope 1 emissions and/or Scope 2 emissions) important when making an investment or voting decision; or
- view omission of the disclosure as having significantly altered the total mix of information made available.

Accordingly, materiality should not be determined merely by the amount of emissions. Rather, registrants will want to consider other factors as well, such as whether their emissions could subject them to a material transition risk or additional regulatory burdens (e.g., increased taxes or penalties). In addition, a registrant's GHG emissions could be material if their calculation and disclosure are necessary to enable investors to understand whether the registrant has made progress toward achieving a climate-related target or goal.

Reporting requirements. If a registrant is subject to Scope 1 and/or Scope 2 emissions reporting requirements, it will need to disclose those emissions as expressed in the aggregate in terms of CO_2e.[7] If any constituent gas of the disclosed emissions is individually material, it must also disclose such constituent gas disaggregated from the other gases. These emissions must be disclosed in gross terms, excluding the impact of any purchased or generated offsets. In addition, registrants will be required to describe the methodology, significant inputs, and significant assumptions used to calculate their disclosed GHG emissions.

Timing. Recognizing that registrants may not be able to prepare GHG emissions disclosures by the due date for annual reports, the SEC will permit registrants more time to file GHG emissions disclosures:

- Registrants that file their annual reports on Form 10-K may provide their emissions disclosures in its Form 10-Q for the second fiscal quarter in the fiscal year immediately following the year to which the emissions disclosures relate (incorporated by reference into its Form 10-K), or directly in an amendment to the Form 10-K that is filed no later than the due date for the Form 10-Q for the second fiscal quarter.
- Registrants that file their annual reports on Form 20-F may provide their emissions disclosures in an amendment to their Form 20-F that is filed no later than 225 days after the end of the fiscal year to which the emissions disclosures relate.

When a registrant takes advantage of the ability to file its GHG emissions disclosure later than the due date for its annual report, the registrant must include an express statement in its annual report to notify investors of its intention to incorporate by reference or amend its filing to provide this disclosure.

7 Item 1500 of Regulation S-K defines "Carbon dioxide equivalent" or "CO_2e" as the common unit of measurement to indicate the global warming potential ("**GWP**") of each greenhouse gas, expressed in terms of the GWP of one unit of carbon dioxide.

In addition, GHG emissions disclosures in registration statements must be provided as of the most recently completed fiscal year that is at least 225 days prior to the date of effectiveness of the registration statement.

Item 1506: Attestation of Scope 1 and Scope 2 emissions disclosure

New GHG emissions disclosures will be subject to attestation requirements. The following attestation levels will be required:

- "Limited assurance" attestation (usually expressed as a conclusion in the form of negative assurance) required starting with respect to disclosures for fiscal year 2029 for Large Accelerated Filers and for fiscal year 2031 for Accelerated Filers; and
- "Reasonable assurance" attestation (the same level of assurance provided in an audit of a registrant's consolidated financial statements) required beginning in Fiscal year 2033 for Large Accelerated Filers, not applicable to Accelerated Filers.

Attestation providers will be required to meet certain minimum qualifications and independence requirements. If a previously engaged attestation provider resigns, declines to stand for re-appointment, or is dismissed, a registrant will be required to provide related disclosures.

The SEC has amended Rule 436 under the Securities Act to specify that a report with a limited assurance level will not be considered a part of a registration statement prepared or certified by such person within the meaning of sections 7 and 11 of the Securities Act. When an attestation provider only provides a "limited assurance" type of attestation, registrants will be required to file as an exhibit to a relevant registration statement a letter from the attestation provider acknowledging awareness of the use in a registration statement of their GHG emissions attestation report. Only attestation providers who provide a "reasonable assurance" level of attestation will be considered experts for purposes of liability under Section 11 of the Securities Act. For these types of attestations, registrants will be required to obtain a standard expert consent for inclusion of the attestation report in a registration statement that will be filed as an exhibit to the registration statement.

WHAT WILL NEED TO BE DISCLOSED PURSUANT TO NEW ARTICLE 14 OF REG. S-X?

New Article 14 of Regulation S-X will require registrants to provide disclosures in a note to the audited financial statements that they file with the SEC regarding certain financial impacts on a disaggregated basis, including the following:

- Capitalized costs, expenditures expensed, charges and losses incurred as a result of severe weather events and other natural conditions, such as hurricanes, tornadoes, flooding, drought, wildfires, extreme temperatures, and sea level rise (with separate disclosure of aggregate recoveries, if any, recognized), subject to specified bright-line disclosure thresholds (discussed below in more detail);

- If carbon offsets or RECs are used as a material component of a registrant's plans to achieve its disclosed climate-related targets or goals, the registrant will be required to disclose in a note to the financial statements:
  - the capitalized costs, expenditures expensed, and losses related to any such carbon offsets or RECs; and
  - the beginning and ending balances of capitalized carbon offsets and RECs on the balance sheet for the fiscal year; and
- If the estimates and assumptions a registrant uses to produce the financial statements were materially impacted by risks and uncertainties associated with severe weather events and other natural conditions or any disclosed climate-related targets or transition plans, the registrant will be required to provide in a note to the financial statements a qualitative description of how the development of such estimates and assumptions was impacted.

Compliance with these new Article 14 disclosure requirements will be required regardless of whether a registrant applies U.S. GAAP, IFRS, or home country GAAP. In all cases, the new note disclosure will be subject to independent audit and a registrant's internal control over financial reporting.

Attribution principle for severe weather events and other natural conditions. Registrants will be required to attribute a cost, expenditure, charge, loss, or recovery to a severe weather event or other natural condition and disclose the entire amount of the expenditure or recovery when the event or condition is a significant contributing factor in incurring the cost, expenditure, charge, loss, or recovery.

Registrants will have the flexibility to determine what constitutes a severe weather event or other natural condition based on the particular risks they face, taking into consideration geographic location, historical experience, and the financial impact of the event, among other factors. For example, a particular type of weather event may be "severe" in one region but not in another region. Registrants will not be required to make any determination as to whether a severe weather event or other natural condition is climate related. Accordingly, events covered by Rule 14-02 may include severe weather events and other natural conditions that are not necessarily related to climate or climate change.

Bright-line disclosure thresholds. Under Rule 14-02(b) of Regulation S-X, expenditures expensed as incurred and losses resulting from severe weather events and other natural conditions will not need to be disclosed if the aggregate amount is less than the greater of:

- one percent of the absolute value of the registrant's income or loss before income tax expense or benefit; or
- $100,000 for the relevant fiscal year.

In addition, capitalized costs and charges resulting from severe weather events and other natural conditions will not need to be disclosed if the aggregate amount is less than the greater of:

- one percent of the absolute value of stockholders' equity or deficit at year end; or
- $500,000 for the relevant fiscal year.

WHAT SAFE HARBORS WILL BE AVAILABLE FOR CERTAIN CLIMATE-RELATED DISCLOSURES THAT ARE NOT STATEMENTS OF HISTORIC FACT?

Disclosures about transition plans, scenario analysis, internal carbon pricing, and targets or goals in response to the new disclosure requirements of Items 1502 and 1504 of Reg. S-K will likely involve a complex mixture of estimates and assumptions, some of which may be based on a combination of facts and projections. In light of this complexity, the SEC has adopted new safe harbor protections to avoid registrants having to disentangle disclosed information to claim protection for forward-looking statements under the Private Securities Litigation Reform Act ("**PSLRA**") safe harbors. Specifically, new Item 1507 will provide that all information, except for historical facts, required by paragraphs (e), (f), or (g) of Item 1502 (disclosures related to transition plans, scenario analysis or internal carbon pricing) or pursuant to Item 1504 of Regulation S-K (disclosures related to targets or goals) will be considered forward-looking statements for purposes of the safe harbors provided in Section 27A of the Securities Act and Section 21E of the Exchange Act (the "**PSLRA safe harbors**"). In addition to issuers, this safe harbor protection will be available to:

- a person acting on behalf of the issuer;
- an outside reviewer retained by the issuer making a statement on behalf of the issuer; or
- an underwriter, with respect to information provided by the issuer or information derived from information provided by the issuer.

This new safe harbor protection will apply to specified disclosures even when they would otherwise be excluded from the PSLRA based on type of issuer or type of transaction (e.g., in the context of registration statements for initial public offerings or business combination transactions involving special purpose acquisition companies). All other conditions of the PSLRA safe harbors will apply, including the requirement for a forward-looking statement to be accompanied by a meaningful cautionary statement that identifies important factors that could cause actual results to differ materially from those in the forward-looking statement.

Responses to other portions of the new Subpart 1500 disclosure requirements could also include forward-looking statements. As forward-looking statements, these will generally also be eligible for the PSLRA safe harbors, so long as all applicable conditions are satisfied and no exclusions apply. Depending on specific facts and circumstances, other safe harbors (such as Rule 175 under the Securities Act and Rule 3b-6 under the Exchange Act as well as pursuant to the bespeaks caution doctrine) could also apply to forward-looking disclosures made in response to new Subpart 1500 of Regulation S-K.

PSLRA safe harbors do not apply to forward-looking statements included in a registrant's consolidated financial statements. If any forward-looking statements are incorporated by reference from the financial statements into a registrant's climate-related disclosures in respect to Subpart 1500 of Regulation S-K, such statements will not be eligible for protection under the PSLRA safe harbors.

CONCLUSION

The SEC's new climate-related disclosure requirements aim to provide investors with more consistent, comparable and reliable information on how companies are managing risks posed by climate change. These requirements are likely to impose significant new disclosure burdens on companies seeking to register a public offering with the SEC or that are subject to the SEC's periodic reporting requirements. Registrants that are classified as "large accelerated filers" will need to start complying with these new rules with respect to disclosures that relate to their fiscal year that begins during 2025. Other types of registrants will have the benefit of longer phase-in periods.

Registrants that will become subject to the Climate Disclosure Rules will want to consider developing new disclosure controls and procedures to ensure timely and accurate reporting of required disclosures well in advance of the first annual report in which such disclosures will be required. Registrants that are likely to become subject to GHG emissions reporting will also want to consider any related staffing needs and selection of an independent attestation provider.

Although these regulations are framed as disclosure requirements, it is possible that they will have the practical effect of impacting public companies' policies and procedures involving climate-related risk management. Companies may be judged against their competitors and against external standards on how they are managing climate risks.

As market practice evolves in the wake of these new rules, consideration will need to be given to the appropriate diligence and comfort procedures to be undertaken by offering participants in both SEC registered and Rule 144A securities offerings where climate-related disclosure is provided to investors.

In addition, registrants that have significant operations in other jurisdictions that also impose climate-related disclosure obligations risk being subject to more than one set of climate-related disclosure requirements. They will need to consider whether they will be able to meet those obligations by complying with the SEC's new climate-related disclosure requirements and to what extent they will need to provide additional disclosures to satisfy those disclosure obligations. Similarly, as market practice evolves, issuers of securities under Rule 144A who are subject to non-US climate-related disclosure requirements will likely consider how to reconcile divergent SEC and home jurisdiction requirements.

CLIFFORD CHANCE

CONTACTS

Vadim Avdeychik
Partner

T +1 212 878 3055
E vadim.avdeychik
@cliffordchance.com

Steven Gatti
Partner

T +1 202 912 5095
E steven.gatti
@cliffordchance.com

Steve Nickelsburg
Partner

T +1 202 912 5108
E steve.nickelsburg
@cliffordchance.com

Ty'Meka Reeves-Sobers
Partner

T +1 713 821 2837
E tymeka.reevessobers
@cliffordchance.com

Michelle Williams
Partner

T +1 202 912 5011
E michelle.williams
@cliffordchance.com

Jonathan Zonis
Partner

T +1 212 878 3250
E jonathan.zonis
@cliffordchance.com

Olivier Plessis
Counsel

T +33 1 4405 5487
E olivier.plessis
@cliffordchance.com

Julia Krusen
Associate

T +1 212 878 8290
E julia.krusen
@cliffordchance.com

Liz Wangu
Associate

T +1 202 912 5180
E liz.wangu
@cliffordchance.com

Rebecca Hoskins
Professional Suport
Lawyer

T +1 212 878 3118
E rebecca.hoskins
@cliffordchance.com