

SEC Issues Guidance Regarding Climate Change

On January 27, 2010, the Securities and Exchange Commission ("SEC") issued an interpretative release that provides guidance on existing disclosure requirements for business or legal developments dealing with climate change. The SEC stated that world-wide and domestic debates and decisions regarding climate change may have implications under current disclosure requirements. As such, the interpretative release is intended to provide reporting companies with a roadmap for disclosure issues related to climate change.

While the SEC release does not create new legal requirements or modify the traditional standards of materiality, it does highlight several areas where climate change may trigger disclosure requirements. These areas are as follows:

- **Impact of Legislation and Regulation:** When assessing potential disclosure obligations, a company should consider whether the impact of certain existing laws and regulations regarding climate change is material. In certain circumstances, a company should also evaluate the potential impact of pending legislation and regulation.
- **Impact of International Accords:** A company should consider, and disclose when material, the risks or effects on its business of international accords and treaties relating to climate change.
- **Indirect Consequences of Regulation or Business Trends:** Legal, technological, political and scientific developments regarding climate change may create new opportunities or risks for companies. For instance, a company may face decreased demand for goods that produce significant greenhouse gas emissions or increased demand for goods that result in lower emissions than competing products. Accordingly, a company should consider, for disclosure purposes, the actual or potential indirect consequences it may face due to climate change-related regulatory or business trends.
- **Physical Impacts of Climate Change:** Companies should also evaluate, for disclosure purposes, the actual and potential material impacts of environmental matters on their business.

Companies should incorporate this guidance and include additional disclosures, if necessary, in their next SEC report.

If you have any questions regarding the release, please contact [John Henry](mailto:jhenry@millermartin.com) at jhenry@millermartin.com, [Clint Cromwell](mailto:ccromwell@millermartin.com) at ccromwell@millermartin.com or any other member of Miller & Martin's [Securities Practice Group](#).

The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.

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