

Congressional Democrats Pressure the SEC to Maintain a Robust Climate Disclosure Rule, Including Scope 3 Emissions

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Yesterday, September 26, 2023, Senator Elizabeth Warren (D-MA), along with six other Democratic Senators and eighteen Democratic Congressmen, sent a letter to SEC Chairman Gensler concerning the SEC's proposed climate disclosures. This letter sought to exert pressure on the SEC to maintain a rigorous set of climate disclosures, and, in effect, to signal the presence and extent of a countervailing pressure group on the SEC in response to the various critiques voiced concerning the rule and the various efforts to weaken the impact of the proposed disclosures.

Specifically, Senator Warren and her comrades advocated that Chairman Gensler "expeditiously release a final, strong climate disclosure rule that results in detailed disclosure of firms' transition risk and opportunities, including Scope 1, 2, and 3 greenhouse gas (GHG) emissions, details around energy transition plans, and capital expenditures related to the transition." The letter further

commented that "[f]inalizing a rule without these components could create a regulatory greenlight for public companies to disclose misleading GHG and transition plan information that systematically understates their transition risks." The letter also emphasized that "legal experts have been absolutely clear [that the] SEC [has] authority to promulgate this rule."

It is particularly noteworthy that the letter specifically advocated--at length--for the inclusion of Scope 3 emissions within the climate disclosure rule, as that particular component has been a frequent target of criticism. According to Senator Warren and her colleagues, "Scope 3 emissions are central to credible climate-related risk reporting for certain sectors and companies." Indeed, the letter argues that "Scope 3 financed emissions are [] critical for financial firms--on average, they are more than 700 times larger than the reporting entity's direct emissions according to one study--but many such firms are presenting misleading information to investors by failing to report climate risks associated with debt and equity investments." The letter devotes considerable effort to providing a rationale for the inclusion of Scope 3 GHG emissions within the final climate disclosure rule.

Overall, the critical aspect of this letter from Congressional Democrats is its existence--there is now a group of more than two dozen members of Congress that have adopted the position that "Scope 1, 2, and 3 greenhouse gas emissions, details around net-zero transition plans, and capital expenditures made towards the transition must be included in the final rule to fulfill the SEC's

mandate of investor protections." In contrast to the frequent criticisms leveled at the SEC and its proposed climate disclosure rule, this pressure group is advocating for robust disclosures and for the SEC to stand firm. The ultimate impact of this, and contrary pressures, will be revealed when the SEC unveils the final rule concerning climate disclosures.

Sen. Elizabeth Warren is stepping up the pressure on SEC Chair Gary Gensler to push out a strong climate risk reporting rule, saying voluntary disclosures by Wall Street firms can't be trusted.

In the Massachusetts Democrat's latest plea for the agency to finalize the landmark proposal, Warren pressed Gensler on Tuesday to stand by the SEC's plans to require that certain public companies report data on the greenhouse emissions generated

throughout their supply chains — so-called Scope 3 emissions — along with other disclosures. The rule would cover most publicly traded companies in the U.S., including many private equity firms, which Warren says are failing to properly tally the climate risks tied to their investments.

<https://www.politico.com/news/2023/09/27/warren-gensler-climate-risk-rule-0011828>

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