Blogs
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Public Chatter

The Coming Climate Disclosure Rules: Should You Be Tweaking Your Disclosure Committee?

With the SEC's final climate disclosure rules just around the bend, it's fair to be asking yourself whether it's perhaps time to reconsider the composition of your disclosure committee. Nearly all public committees have disclosure committees, even though the SEC doesn't require one — the SEC just recommends that they do. Most companies have not changed the composition of their disclosure committees much since they were first formed back in 2002. Sure, the actual members of the committees have changed as employees come and go, but the titles of those on the committee largely have remained the same.

The SEC's 2002 adopting release indicated that committee could include the principal accounting officer (or the controller), the general counsel or other senior legal official with responsibility for disclosure matters, the risk management officer, the chief investor relations officer, and others deemed appropriate, including business unit people. And for most disclosure committees, the half dozen or so members hone to these titles.

Input for disclosures that might require some specialized knowledge are circulated to those within a company with that expertise, even if they're not on the disclosure committee. While knowledge experts can and, on occasion, do serve on the committee, it's not a practice followed by many companies. Indeed, Chief Information Security Officers (or the equivalent) serve on roughly 20% of disclosure committees.

So far, the challenges of disclosing more about cybersecurity, DEI and climate haven't led the majority of companies to alter their disclosure committee composition. So that leads us to our initial question: "Does a once-in-a-lifetime humdinger like the SEC's new climate disclosure rules prompt a renewed look at the disclosure committee?"

My answer is: "Probably not now, but maybe down the line." My rationale is that disclosure lawyers are going to need to bone up on their climate change knowledge — become a new breed of climate disclosure lawyer — and so will others on the disclosure committee. Sustainability experts within the company can still be tasked to review disclosures and otherwise provide help, but I'm not sure we're at the point yet where they should serve on the disclosure committee.

My thinking might change once we see the final rules and the impact they have on how disclosure processes and controls get changed as a result. My hard truth about disclosure committees remains the same, as **I blogged** a few years ago: "Disclosure committees are not much of a committee at most companies."

Note that many companies — at least the larger companies — have formed management-level ESG steering committees which are tasked to identify and address ESG risks and opportunities. Hopefully, one or more persons on the disclosure committee sits on this ESG steering committee as that would be useful in determining what public disclosures should emanate from those discussions.

While the composition of disclosure committees might not (yet) need to change, companies should review their disclosure policies and controls to ensure they adequately capture the coming expansion of disclosure as a result of the SEC's proposed cybersecurity and climate disclosure rules. We'll have a blog about that soon enough.

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