

Incoming SEC Chairman Likely To Push For More ESG Disclosure

Written by Matthew E. Miller

January 19, 2021

In a recent [post](#), we examined the growing clash within the SEC over whether to mandate and standardize disclosure by public companies of business impacts and risks associated with Environmental, Social, and Governance (ESG) concerns. Some at the SEC pushed for more standardized, comparable, and reliable disclosure of issuers' exposure ESG risks. Others, including former Chairman Jay Clayton, pushed back, arguing that current disclosure rules, which already require companies to disclose material risks, were sufficient to address ESG concerns. It appears that the person President Biden will tap to lead the SEC going forward is likely to settle the debate in favor of additional regulations aimed at ESG reporting.

Biden is nominating Gary Gensler, former head of the Commodity Futures Trading Commission (CFTC) under the Obama administration, to Chair the SEC. In the wake of the 2008 financial crisis, President Obama tapped Gensler to push for new rules on the over-the-counter derivatives markets. Gensler forged new regulations governing derivatives, and oversaw a series of enforcement actions based on the new regime.

If past is prologue, we should expect Gensler to push for regulations in other emerging areas of growing importance to the markets, including ESG disclosures, as the [New York Times](#) and others have reported. Indeed, [many](#) believe "Gensler would likely be the most active, pro-regulatory SEC chairman" in decades.

RELATED PRACTICES

- [Capital Markets](#)
- [Energy](#)
- [Executive and Employee Compensation](#)
- [Environmental, Social and Governance \(ESG\)](#)
- [Global Business & Human Rights](#)
- [Public Companies](#)
- [Taxation](#)

This communication is intended for general information purposes and as a service to clients and friends of Foley Hoag LLP. This communication should not be construed as legal advice or a legal opinion on any specific facts or circumstances, and does not create an attorney-client relationship.

United States Treasury Regulations require us to disclose the following: Any tax advice included in this document was not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.

Attorney advertising. Prior results do not guarantee a similar outcome. © 2017 Foley Hoag LLP. All rights reserved.