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ESG Alert

Incoming SEC Chairman Likely To Push For More ESG Disclosure

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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 heard 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.

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