

MEMO# 35690

April 29, 2024

SEC Stays Final Rules on The Enhancement and Standardization of Climate-Related Disclosures for Investors

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TO: ICI Members SUBJECTS: ESG RE: SEC Stays Final Rules on The Enhancement and Standardization of Climate-Related Disclosures for Investors

On March 6, 2024, the Securities and Exchange Commission adopted final rules on The Enhancement and Standardization of Climate-Related Disclosures for Investors.^[1] Following adoption, the Final Rules were subjected to a number of legal challenges.^[2] On April 4, 2024, the Commission issued an order to stay the Final Rules "pending the completion of judicial review of the consolidated Eighth Circuit petitions."^[3]

In the order issuing the stay, the Commission noted that it is "not departing from its view that the Final Rules are consistent with applicable law...." The order stated that "given the procedural complexities accompanying the consolidation and litigation of the large number of petitions for review of the Final Rules, a Commission stay will facilitate the orderly judicial resolution of those challenges and allow the court of appeals to focus on deciding the merits." The order noted that "a stay avoids potential regulatory uncertainty if registrants were to become subject to the Final Rules' requirements during the pendency of the challenges to their validity."

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Notes

^[1] See The Enhancement and Standardization of Climate-Related Disclosures for Investors, Release Nos. 33-11275; 34-99678; File No. S7-10-22 (Mar. 6, 2024) (Final Rules), available at: <https://www.sec.gov/files/rules/final/2024/33-11275.pdf>. ICI's summary memo on the

Final Rules is available at: <https://www.ici.org/memo35645>.

[2] Nat. Res. Def. Council, Inc. v. SEC, No. 24-707 (2d Cir. filed Mar. 12, 2024); Liberty Energy Inc. v. SEC, No. 24-60109 (5th Cir. filed Mar. 6, 2024); Louisiana v. SEC, No. 24-60109 (5th Cir. filed Mar. 7, 2024); Tex. All. of Energy Producers v. SEC, No. 24-60109 (5th Cir. filed Mar. 11, 2024); Chamber of Commerce of U.S. of Am. v. SEC, No. 24-60109 (5th Cir. filed Mar. 14, 2024); Ohio Bureau of Workers' Comp. v. SEC, No. 24-3220 (6th Cir. filed Mar. 13, 2024); Iowa v. SEC, No. 24-1522 (8th Cir. filed Mar. 12, 2024); West Virginia v. SEC, No. 24-10679 (11th Cir. filed Mar. 6, 2024); Sierra Club v. SEC, No. 24-1067 (D.C. Cir. filed Mar. 13, 2024).

[3] See Order Issuing Stay In the Matter of the Enhancement and Standardization of Climate-Related Disclosures for Investors, Release Nos. 11280; 99908; File No. S7-10-22 (Apr. 4, 2024), available at: <https://www.sec.gov/files/rules/other/2024/33-11280.pdf>.

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