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Shining a Spotlight on ESG Disclosures in the Biden Administration

Corporate Defense and Disputes Blog on **January 20, 2021**

In a period where almost nothing seems certain, it is inevitable that ESG issues will be on the front of the incoming SEC Chair's mind. Jay Clayton, who resigned as SEC Chairman in December 2020, has urged that one-size-fits-all metrics for environmental disclosures aren't appropriate given the varied impacts of climate change on different industries. However, President-elect Biden has made clear that climate change will be a high priority for his administration: he has vowed to rejoin the Paris Climate Agreement on his first day of office. Thus, the five-member SEC, where three seats are controlled by the President's party, can be expected to make ESG disclosures a high priority.

Investors are also in part to thank (or blame) for the growing significance of ESG topics in public disclosures. An SEC advisory committee that advocates for investors urged last May that the SEC establish disclosure policies regarding ESG topics, arguing that investors want reliable information on these matters before making investment and voting decisions. And in its 2019 "Statement on the Purpose of a Corporation," even the Business Roundtable—a former champion of "shareholder primacy"—agreed that the purpose of corporations is to promote "an economy that serves *all Americans.*" While this document has been criticized for not providing more palpable sustainability goals, Rep. Joe Kennedy (D-Mass.) called it "a welcome step toward a more moral capitalism" and the U.S. Chamber of Commerce said it "agreed wholeheartedly with the renewed focus." With the changing of the guard at the SEC, all signs point in the direction of further steps toward "moral capitalism" in the months to come.

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