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Investor Alert

The Information Gap: What Institutional Investors Need to Know About the SEC's Proposed Rescission of Climate Disclosure Rules

On May 29, 2026, the Securities and Exchange Commission ("SEC") formally proposed rescinding its climate-related disclosure rules in their entirety.[1] This proposal culminated a process that began on March 27, 2025, when the Republican-led Commission voted 3-2 to stop defending the rules in court, and continues the current Commission's broader prioritization of lessening disclosure requirements for public companies.[2]

For institutional investors who rely on consistent, comparable climate data to evaluate portfolio risk, this decision marks an inflection point. Without a federal disclosure mandate, investors face a fragmented information landscape in which the ability to accurately price climate-related financial risk across public companies is significantly diminished. The following analysis examines what the SEC's decision means for investors, why voluntary disclosure cannot fill the gap, and what strategic steps institutional investors should consider in response.

The SEC originally adopted the climate disclosure rules in March 2024, on a party-line 3-2 vote under the Biden administration. The rules required publicly traded companies to disclose the impact of climate change on their business strategy, their processes for mitigating climate-related risks, their Scope 1 and Scope 2 [3] greenhouse gas emissions (if material), how severe weather events affected annual reports, and expenses tied to climate adaptation or carbon offsets.[4] The rules were immediately challenged by a coalition of Republican state attorneys general, the U.S. Chamber of Commerce, and other business groups, and in April 2024, the SEC voluntarily stayed implementation pending litigation.[5] The rules never took effect.[6]

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[1] SEC moves to repeal rule that requires companies to report greenhouse gas emissions and climate risk, Matthew Daly, Associated Press, KSAT.com (May 29, 2026).

[2] SEC moves to repeal rule that requires companies to report greenhouse gas emissions and climate risk, Matthew Daly, Associated Press, KSAT.com (May 29, 2026); SEC.gov | SEC Votes to End Defense of Climate Disclosure Rules, SEC (Mar. 27, 2025).

[3] Scope 1 emissions include fuel combustion, company vehicles, process emissions, and other sources directly controlled by a company; Scope 2 emissions include energy consumption by a company, such as electricity use; Scope 3 encompasses all other indirect emissions in a company's value chain (*i.e.*, from sources not owned or controlled by the company but related to its activities). This can include supplier activities, logistics, and emissions stemming from product use. Scope 1, 2 and 3 Emissions Explained for Procurement Teams; What are Scope 1, 2, and 3 emissions? | McKinsey.

[4] Ethan C. Rouen, The SEC eliminated climate rules. Other governments are doing the opposite, Harvard Business School (July 1, 2025) The SEC eliminated climate rules. Other governments are doing the opposite. | Institute for Business in Global Society; SEC ends defense of Climate Disclosure Rules - Sweep (Sept. 15, 2025).

[5] *Id.*

[6] *Id.*

The Rescission: What the SEC Said and Why It Matters

SEC Chairman Paul Atkins announced that the Commission would eliminate the rule to "avoid the practical effect of dictating corporate behavior" and to ensure that disclosure requirements are "imposed only when the expected benefits justify the likely costs and burdens."[7] The Commission stated that the rules "impose substantial costs on public companies and their shareholders that are not justified by the informational benefits they may provide to some investors" and "exceed the scope of the agency's statutory authority."[8] A 60-day public comment period will follow publication in the Federal Register, but the direction is clear: the Federal Government will not require standardized climate disclosure from public companies for the foreseeable future.

For investors, the concern is informational, not ideological. Kathy Fallon of the Clean Air Task Force stated that "the rule was an important step toward giving investors consistent information about financially material climate risks, including the use of carbon offsets."[9] Without this framework, investors lose access to uniform, comparable data across public companies, making it substantially harder to evaluate climate exposure from company to company and industry to industry.

Climate Risk Is Financial Risk

The premise underlying the now-rescinded rules was not novel: Climate-related risks—extreme weather events, regulatory shifts, physical asset impairment, and the transition to a low-carbon economy—can directly affect a company's financial condition, operations, and long-term performance. As Tom Zimpleman, an attorney at the Natural Resources Defense Council, put it: "Climate risk is financial risk."[10]

This is not an abstract proposition. Institutional investors managing trillions in assets have long recognized climate exposure as a material financial variable. CalSTRS, the second-largest pension fund in the United States, expects all companies in which it invests to disclose Scope 1 and Scope 2 emissions.[11] More broadly, 450 financial institutions managing 40% of global capital have committed to net-zero investment strategies—commitments that require robust, reliable climate data to implement.[12]

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[7] SEC.gov | Statement on Proposing Release for Rescission of Climate-Related Disclosure Rules, SEC (May 29, 2026).

[8] Rescission of Climate-Related Disclosure Rules, Release 33-11421, pgs. 15, 129 (May 29, 2026).

[9] SEC's proposed rescission of climate disclosure rule marks disappointing turn for market transparency and carbon offsets – Clean Air Task Force

[10] Financial regulator aims to kill climate disclosure rule | AP News.

[11] Ethan C. Rouen, The SEC eliminated climate rules. Other governments are doing the opposite, Harvard Business School (July 1, 2025) The SEC eliminated climate rules. Other governments are doing the opposite. | Institute for Business in Global Society.

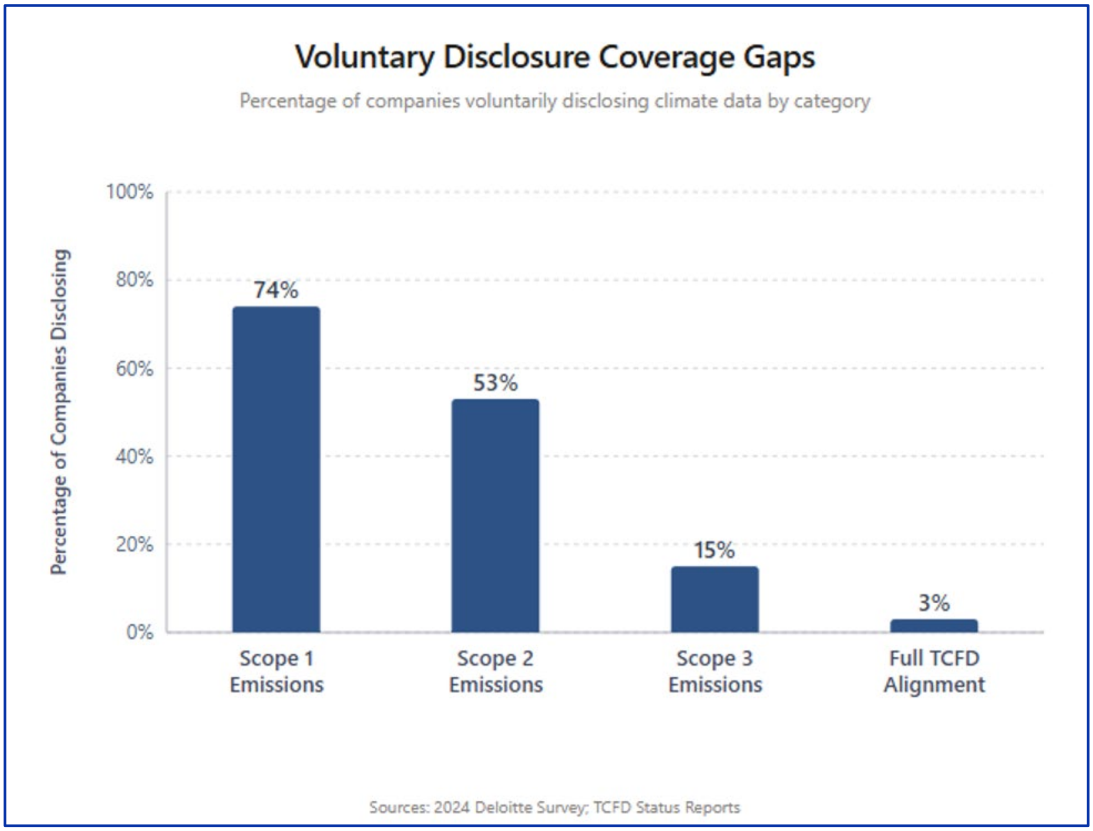
[12] SEC ends defense of Climate Disclosure Rules - Sweep (citing statista, ESG investing - statistics & facts | Statista).

Massachusetts Senator Ed Markey warned that the SEC's withdrawal could put Americans' retirement security, union pensions, and savings at risk "by companies that are exposed to climate risks" they are not required to disclose.[13]

Without mandatory federal disclosure, investors are left to piece together climate information from inconsistent voluntary reports, varied state and international regulatory regimes, and company-selected frameworks that resist meaningful comparison.

Voluntary Disclosure Cannot Fill the Gap

Voluntary climate reporting has grown, but it cannot substitute for a federal mandate. A 2024 Deloitte survey found that 74% of responding companies disclose Scope 1 emissions and 53% disclose Scope 2 emissions—figures that, while representing growth, still leave significant portions of the market unreported.[14] Only 15% of companies disclose Scope 3 emissions.[15]



[13] SEC moves to repeal rule that requires companies to report greenhouse gas emissions and climate risk, Matthew Daly, Associated Press, KSAT.com (May 29, 2026).

[14] Ethan C. Rouen, The SEC eliminated climate rules. Other governments are doing the opposite, Harvard Business School (July 1, 2025) The SEC eliminated climate rules. Other governments are doing the opposite. | Institute for Business in Global Society.

[15] *Id.*

The structural deficiencies of voluntary disclosure run deeper than coverage gaps. Voluntary ESG information is "characterised by limited standards and comparability," with companies free to choose their own frameworks, boundaries, and methodologies.[16] Firms that adopt greenwashing strategies can "obscure their less impressive overall ESG performance by disclosing large quantities of ESG data to mislead their stakeholders."[17] Without mandatory requirements, companies can adopt their own reporting style—or none at all.

Perhaps most critically, voluntary disclosure creates no accountability for negative outcomes. A 2025 study published in *Nature Climate Change* found that 30.7% of firms with climate targets simply "disappeared" those targets without disclosing outcomes.[18] Among firms that failed their targets, only 33.3% acknowledged the failure.[19] Under a mandatory regime, such omissions would be subject to SEC enforcement and securities fraud liability. Under voluntary disclosure, they carry virtually no consequences.

Harvard Business School Professor Ethan Rouen succinctly described the impact to investors: "Instead of reliable, comparable disclosures, there will be a patchwork due to regulatory requirements that apply to different companies in different ways. For investors and others who care about data, it will make it harder to get solid information that can be analyzed and compared."[20]

The Emerging Regulatory Patchwork

The SEC's withdrawal does not eliminate all climate disclosure obligations; it merely fragments them. Approximately half of the companies that would have been covered by the SEC's rules will still face disclosure requirements in other jurisdictions, but the other half may face no mandatory requirements at all.[21]

California has enacted two significant laws: the Climate Corporate Data Accountability Act, which requires companies with $1 billion or more in revenue to report Scope 1, 2, and 3 emissions, and the Climate-Related Financial Risk Act, applicable to companies with over $500 million in revenue.[22] Both apply to public and private companies doing business in the state, though enforcement has been delayed and legal challenges

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[16] Khamisu, M. S., Paluri, R. A., & Sonwaney, V. (2024). Environmental social and governance (ESG) disclosure motives for environmentally sensitive industry: an emerging economy perspective. *Cogent Business & Management*, *11*(1).

[17] Ellen Pei-yi Yu, Bac Van Luu, Catherine Huirong Chen, Greenwashing in environmental, social and governance disclosures, Research in International Business and Finance, Volume 52, 2020, 101192, ISSN 0275-5319.

[18] Limited accountability and awareness of corporate emissions target outcomes | Nature Climate Change.

[19] *Id.*

[20] Ethan C. Rouen, The SEC eliminated climate rules. Other governments are doing the opposite, Harvard Business School (July 1, 2025) The SEC eliminated climate rules. Other governments are doing the opposite. | Institute for Business in Global Society

[21] *Id.*

[22] *Id.*

are ongoing.[23] Other states—including New York, Illinois, New Jersey, and Washington—may follow with their own requirements.[24]

Internationally, the European Union's Corporate Sustainability Reporting Directive ("CSRD") requires companies with significant EU revenues to disclose ESG information, including Scope 3 emissions, under a "double materiality" standard.[25] While the EU has exempted approximately 80% of originally covered companies and pushed back deadlines, roughly 3,000 companies remain subject to CSRD requirements.[26]

For institutional investors with diversified portfolios, this patchwork means that comparable climate data will be available for some holdings, partially available for others, and entirely absent for the rest—causing blind spots precisely where visibility is most needed.

What Mandatory Disclosure Provides That Voluntary Reporting Cannot

The distinction between mandatory and voluntary disclosure is not merely one of coverage; it is structural. A federal mandate would have provided: (1) uniform scope across all public registrants by filing category; (2) standardized methodology; (3) legal liability for material misstatements under securities fraud standards; and (4) required disclosure of negative outcomes in annual filings. Voluntary reporting provides none of these benefits at scale. Voluntary ESG data is often unaudited, and companies may not apply the same rigor to voluntary disclosures as they would to SEC-mandated filings.

The Trajectory Ahead

Despite the SEC's withdrawal, the long-term direction of climate disclosure appears irreversible. After the 2024 U.S. presidential election, 85% of 1,601 global business leaders surveyed said they would move forward with climate disclosure plans regardless of political shifts.[27] Steven Rothstein, managing director of the Ceres Accelerator for Sustainable Capital Markets, summarized the trajectory: despite the SEC's action, "there is an inevitable march toward more information."[28]

But "inevitable" does not mean "immediate." In this interim period, which may last years, institutional investors face a degraded information environment for pricing climate-related financial risk.

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[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] Securities and Exchange Commission Climate Disclosure Rule FAQ | Ceres: Sustainability is the bottom line.

[28] Ethan C. Rouen, The SEC eliminated climate rules. Other governments are doing the opposite, Harvard Business School (July 1, 2025) The SEC eliminated climate rules. Other governments are doing the opposite. | Institute for Business in Global Society.

The message is clear: Investors cannot rely on the Federal Government to ensure access to the climate data they need to fulfill fiduciary obligations and manage portfolio risk. Proactive strategies for securing climate information and protecting against climate-related losses are now essential.

Strategic Recommendations for Institutional Investors

- **Demand Climate Disclosure Through Shareholder Engagement.** In the absence of a federal mandate, institutional investors should use available governance channels (*e.g.*, shareholder proposals, direct engagement, and proxy voting) to press portfolio companies for standardized climate disclosures aligned with recognized frameworks such as the International Sustainability Standards Board ("ISSB").

- **Monitor State and International Regulatory Developments.** California's climate disclosure laws, the EU's CSRD, and potential legislation in other states will create disclosure obligations for many portfolio companies. Investors should track which holdings are subject to which regimes and identify gaps in coverage.

- **Assess Climate Risk Exposure Across Portfolios.** Without uniform federal data, investors should work with experienced advisors to conduct independent assessments of climate risk exposure, including physical risk, transition risk, and regulatory risk across their portfolios.

- **Evaluate Greenwashing and Disclosure Failures as Litigation Risks.** Companies that make voluntary climate commitments but fail to deliver, or that selectively disclose favorable information while omitting material risks, may face securities fraud claims, state attorney general enforcement, or fiduciary/corporate governance litigation. Institutional investors should monitor disclosure failures that give rise to actionable losses.

- **Preserve Private Litigation as a Recovery Mechanism.** As with the broader SEC enforcement pullback, the withdrawal of mandatory climate disclosure increases the importance of private securities litigation and Delaware fiduciary duty actions as mechanisms for investor protection and loss recovery.

- **Engage with the Comment Period.** The SEC's proposed rescission is subject to a 60-day public comment period following Federal Register publication. Institutional investors with fiduciary obligations to beneficiaries should consider submitting comments articulating the investor need for standardized, comparable climate risk data.

Labaton Keller Sucharow's lawyers are available to address any questions you may have regarding these developments. Please contact the Labaton Keller Sucharow lawyer with whom you usually work or the contacts below.

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