Securities Regulation Daily Wrap Up, PUBLIC COMPANY REPORTING AND DISCLOSURE—Investors want comparability in ESG disclosures, GAO report finds, (Jul. 7, 2020)

Securities Regulation Daily Wrap Up

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A report from the Government Accountability Office finds that companies' ESG-related disclosures vary widely, while investors want more, and more comparable, disclosure.

An 18-month-long study by the Government Accountability Office culminated in a report that analyzes environmental, social, and governance (ESG) disclosures by public companies, SEC requirements, and investor interest. Senator Mark Warner (D-Va.) had asked GAO to report on the matter to help Congress determine if, and how, it should require the SEC to modify ESG disclosure requirements. GAO studied company disclosures, interviewed institutional investors, and spoke to other industry participants to gauge the ESG disclosure landscape.

Investors seek further disclosure. GAO interviewed representatives from 14 institutional investors. All seven private asset managers, and five of the seven public pension funds, said that ESG information helps them understand risks that can affect companies' value. The information also helps inform their shareholder votes, and a handful of investors said ESG disclosure helps them to create ESG funds or make divestiture decisions. All but three said they seek additional disclosures from companies to address gaps and inconsistencies in qualitative and narrative disclosure. Nearly all do so via direct engagement with the companies, while a smaller number use the shareholder proposal process. GAO found that last year, 5 percent of companies received shareholder proposals related to increasing ESG disclosures, none of which received majority shareholder support.

GAO posited that line-item disclosure requirements may increase comparability of information, a major pain point for investors. This in turn may reduce investor demands on companies for additional or more detailed information. Requiring ESG disclosures be made in regulatory filings may also reduce information disparities between large and small investors, as the latter group cannot afford to buy information compiled by third-party data providers.

Corporate disclosure is scattered. Investors' concerns about information availability and comparability were borne out by GAO's analysis of SEC filings. GAO looked at four companies in each of eight industries and found that the amount and type of disclosure varied widely. Of the 33 specific disclosure topics GAO examined, most companies addressed board governance and data security risks. The least frequently disclosed topics related to self-identified human rights violations and the number of data security incidents. In general, companies leaned more towards narrative topics and less on quantitative topics.

GAO observes that some topics may not be material to a company or otherwise relevant to its business operations. A chart in the report (fig. 3) shows that all four airlines included disclosure on all six climate-change topics, for example, while next to no internet media companies did. Nearly all companies across all industries disclosed information pertaining to board accountability. This tracks with recent observations by SEC Chairman Jay Clayton that the E, S, and G factors are all very different and that governance disclosure is about as robust as it can get.

Policy options and SEC response. The report concludes with a range of options for improving the quality and usefulness of ESG disclosure. These include issue-specific rulemaking, such as an SEC rule requiring climate-change disclosure; an ESG regulatory framework; industry-developed frameworks; and stock exchange listing requirements.

The SEC told GAO that it generally concurred with the findings and that the report would contribute to the ongoing discussion around ESG disclosures. The agency also reiterated that materiality is the foundational principle for disclosure requirements.

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