

News

Bessie Antin Daschbach Reviews Why General Counsel Must Act Now Following the SEC's New Climate Disclosure Rules

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Emma Elizabeth "Bessie" Antin Daschbach was recently quoted in articles published by *Hart Energy* and *Law360*. The stories reviewed the United States Securities and Exchange Commission's (SEC) adopted rules, which will require many public companies to report climate-related risks and disclose their direct and indirect emissions (Scope 1 and Scope 2), but not Scope 3.

Although the final SEC rule doesn't require Scope 3 data, Daschbach noted that the SEC's rules are only one aspect of a broader environmental, social, and governance (ESG) landscape, which includes the European Union's Corporate Sustainability Reporting Directive (CSRD) and regulations in California—both of which include Scope 3 emissions:

"There are legal frameworks coming online all over the world that are requiring companies to make certain ESG disclosures. If the framework is a framework that says you have to go collect your Scope 3 data, then you're going to have to go to entities in your value and supply chain for such data. There are plenty of instances in which these disclosure requirements around the world are still reaching back into value and supply chains, even though the SEC's rules do not."

Given that, Daschbach recommended that general counsel should still consider whether they need to gather such data to comply with legal regulations in other regions. She explained:

"[B]usinesses should continue to analyze whether those existing (and possibly forthcoming) other frameworks impact them directly or, to the extent they are in the value or supply chains of entities reporting under those other frameworks, whether they will be required to collect and relay data up those chains. Businesses should turn to their counsel for help on these fronts."

Daschbach added that she expects legal challenges to be filed against the SEC's rule-making authority in this area. However, she suggested that general counsel should still start (or continue) preparing now to respond to regulatory demands and use the data to manage risks and capture opportunities. She wrote:

"You can't just turn on a light switch — no pun intended — and have this data. Waiting around and hoping that it's going to blow over, I don't think

Service Areas

Environmental

Sustainability & ESG



that that's going to serve any business well."

Media Coverage

- ["Why GCs Shouldn't Sit on Complying With SEC Climate Rule"](#) was published by *Law360* on March 8, 2024.
- ["SEC Adopts Climate Disclosure Rules in 3-2 Vote"](#) was published by *Hart Energy* on March 6, 2024.