



Environmental, Social, and Governance (ESG)

What to Watch For

ESG extends beyond commitments to reduce greenhouse gas emissions, but the primary area to watch will be the potential direct impact to use of ESG principles in funds and capital markets.

Climate Disclosures

In March 2022, the Securities and Exchange Commission (SEC) proposed an extensive set of climate-related disclosure requirements for public companies that call for disclosure of greenhouse gas emissions from the companies as well as from products and supply chain. In May 2022, the SEC announced proposed amendments to rules and reporting forms aiming to address disclosures of funds and advisors' incorporation of environmental, social, and governance factors.

The SEC is in the process of evaluating the many comments to its proposed ESG disclosure regulations. In June 2022, a bipartisan group of 117 lawmakers sent a letter to SEC Chair Gary Gensler challenging the impact the proposed rules would have on farmers and the already adversely impacted supply chain. Republicans in both chambers have vowed to use congressional oversight authority and challenge the agency's rules. While we expect Republicans to continue their anti-ESG efforts regardless of which party has control of Congress, Republican control of at least one chamber will give them significantly more influence over the agenda.

Anti-ESG legislation, Increased Scrutiny

Republican lawmakers are not solely focused on the SEC regulations. Texas was the first state to enact what has been labeled anti-ESG legislation, modeled on the anti-boycott format to stop policies the state contends discriminate, exclude, or extend special privileges. Multiple states have since followed suit. As noted above, Republicans have made clear that if they take control of one or both chambers, which they have, Congressional oversight on ESG efforts will be a top priority. Businesses should expect increased scrutiny through Congressional hearings and investigations. Additionally, the Republican majority in at least one chamber will increase the likelihood of various federal legislative endeavors that seek to curtail nationwide the use of ESG practices for capital funds and investments.

Regardless of what happens with SEC disclosures and regulations or anti-ESG statutes, many companies and industries will likely continue to implement strategies tied to business case and performance, whether those programs remain labeled as ESG and tied to disclosures or fall under the more general category of corporate social responsibility. However, businesses and industries should be mindful of the increased scrutiny in the determined Republican led House, and potential Republican-led Senate.

Congressional Leadership Changes

As noted previously, the House Financial Services Committee is expected to be chaired by Patrick McHenry (R-NC), but it is important to note that Rep. McHenry is also the backup candidate for Speaker of the House. Congresswoman Maxine Waters (D-CA) is the likely Ranking Member.

If Democrats retain control of the Senate, Sen. Wyden (D-OR) will be the Democratic leader of the Senate Finance Committee, with Sen. Crapo (R-ID) as the Republican leader. Crapo would become Chairman in a Republican Senate.

As previously noted, Rep. Jim Jordan (R-OH) will likely become the new Chairman of the House Judiciary Committee. Rep. Jerry Nadler (D-NY) can be expected to remain in Democratic leadership on the House Judiciary Committee as the Ranking Member.

In a Democrat-controlled Senate, Sen. Dick Durbin (D-IL) is likely to remain in his post as Chairman of the Senate Judiciary Committee. Sen. Chuck Grassley (R-IA) would become become Chairman in a Republican-controlled Senate.

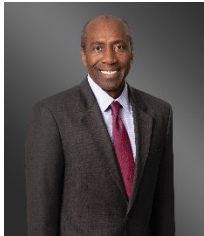
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