

The US Chamber of Commerce's Campaign Against SEC Climate Disclosure Rules

The industry group is “at the forefront of fighting” the rules, at odds with its members

April 2024

On March 6, 2024, the US Securities and Exchange Commission (SEC) *adopted* final rules “to enhance and standardize climate-related disclosures.” On March 14, 2024, the US Chamber of Commerce (the Chamber) *filed a petition* to challenge the rules in the Fifth Circuit Court of Appeals. This lawsuit is the latest in the Chamber’s ongoing campaign against the SEC rules that began before the rules were proposed in March 2022. This briefing will summarize the Chamber’s *multi-pronged opposition* to the SEC’s efforts to mandate any form of climate disclosure, at odds with many of its members who have outlined varying degrees of support for the rulemaking.

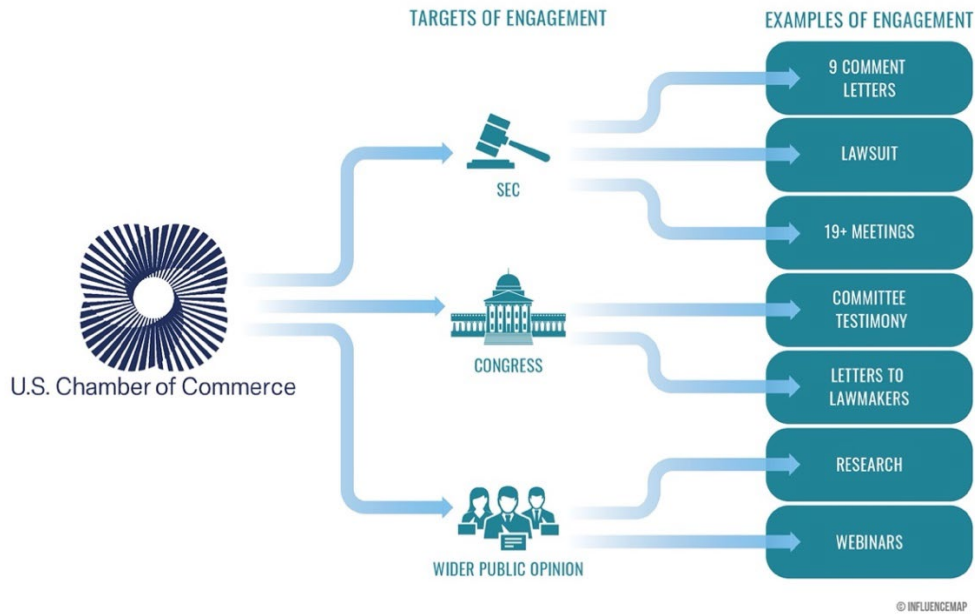
The Chamber’s Opposition

The Chamber has, *in its own words*, been “at the forefront of fighting” the SEC’s climate disclosure rule. Years before the rule’s introduction, the Chamber was opposing the need for regulated corporate climate disclosure: In a 2019 *press release*, the Chamber asserted that “Congress and the SEC should reject proposals for one-size-fits all disclosure mandates.” After the rule was proposed in 2022, the Chamber *wrote* to the Commission in opposition to the proposal, suggesting it exceeded statutory authority and raised “serious constitutional questions” by “violat[ing] the First Amendment.” The Chamber submitted several supplemental comment letters on the proposal, each bringing forth an additional explanation for its opposition to the rulemaking. The Chamber *argued* that the “major questions doctrine” outlined by the Supreme Court in *West Virginia v. EPA* “confirms the Commission’s lack of statutory authority” to bring the rules. It *asserted* that the assumption that environmental considerations are important to investment decisions “is not accurate” and *cautioned* the Commission against factoring California disclosure laws into its own decision making, stating that the laws “suffer serious legal flaws” and “burden[] interstate and foreign commerce.”

In addition to comment letters, per the *SEC’s disclosures* the Chamber met with the Commission 19 times after the rules were proposed. Representatives from the Chamber, in congressional testimony, *urged* lawmakers to “exercis[e] oversight of financial regulators” requiring climate disclosure and *supported* legislation that would limit the SEC’s authority to mandate climate disclosure. The Chamber has hosted *webinars* and produced *research* to assert that the SEC’s rules “impose costs” and are not necessary given the widespread nature of voluntary corporate ESG disclosure. Figure 1 shows the different targets of and avenues for the Chamber’s opposition.

Figure 1: The Chamber’s Opposition to SEC Climate Disclosure Rules

The US Chamber’s Opposition to SEC Climate Disclosure Rules 2021 to Present



Misalignment Between the Chamber and its Members

The Chamber’s strong opposition to the SEC’s rules is at odds with the positions of many of its members, including both financial and non-financial companies. Additionally, the Chamber’s decision to pursue litigation even after the final rule was significantly weakened calls into question the Chamber’s *stated commitment* to “work constructively with the SEC to develop clear and workable rules for climate disclosures.”

The graphic below shows the misalignment between the Chamber’s position on climate disclosure policies and the positions of some of its members. Members’ positions along the spectrum are determined by their stances on climate disclosure policies at the SEC, in California, and in the EU (Corporate Sustainability Reporting Directive (CSRD)). Where members have not engaged on one or more of these policies, their position is only determined by the policies on which they have engaged. In addition to its opposition to SEC disclosure rules, the Chamber *brought a lawsuit* against the California climate disclosure laws and *asserted* that it was trying to “ward off” the EU rules from taking effect.

Figure 2: US Chamber of Commerce vs. Members on Climate Disclosure Policies



The table below highlights comments about the SEC’s climate disclosure rule from select members of the US Chamber. These supportive comments demonstrate examples of members’ own positions diverging from the Chamber’s strong opposition to the rule.

Table 1: US Chamber Members’ Comments on SEC Rule

Entity	Comments on SEC Climate Disclosure Rule
<i>Bank of Montreal</i>	“We therefore support the SEC’s Proposed Rule requiring all public companies to file climate-related financial information with the Commission including TCFD-aligned mandatory Scope 1, Scope 2, and material Scope 3 reporting” (Comment to SEC, June 2022).
<i>Capital Group</i>	“We commend the Commission for its engagement in this important and complicated matter, and for what we believe is, on the whole, a balanced proposal [...] While some investors believe it is premature to mandate Scope 3 GHG emissions disclosure, and we recognize the challenges involved in measuring the same, we strongly believe – as described more fully below – that larger companies should disclose this information to the extent material” (Comment to SEC, June 2022).
<i>Salesforce</i>	“We sorely need a standard approach for companies to produce climate information that investors and markets need. That is what the U.S. Securities and Exchange Commission (SEC) is working to create. [...] Now, it’s time for corporate America to vocally support a regulatory framework and close a critical gap between investment decisions and key insights into a company’s exposure to climate-related risks and positioning to succeed in the transition” (Insight, June 2022).

Scope 3

Several commenters objected to the Scope 3 disclosure requirements in the March 2022 proposed rule. For example, *Devon Energy* wrote “we request the SEC omit any requirements to disclose Scope 3 emissions;” *BlackRock* suggested the Commission allow “material Scope 3 disclosures to be furnished in

the New Form on a “comply or explain” basis, which allows issuers to either disclose material Scope 3 emissions or explain why certain emissions categories are not relevant to the issuer or not subject to reasonable estimation;” and [Uber](#) wrote “Scope 3 emissions disclosure requirement should in all cases be limited to the Scope 3 emissions categories that are themselves material for a particular company, irrespective of whether a company has set targets or goals in relation to Scope 3 emissions in their totality.”

The Chamber’s decision to pursue litigation even after the SEC removed Scope 3 disclosure requirements from the final rule calls into question the Chamber’s *stated commitment* to work “constructively” with the SEC to “develop clear and workable rules” around climate disclosure.