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NCLA Asks Eighth Circuit to Vacate SEC’s Unconstitutional New Climate Disclosure Rules

National Center for Public Policy Research v. Securities and Exchange Commission

Washington, DC (June 17, 2024) – The New Civil Liberties Alliance has filed a joint opening [brief](#) in *National Center for Public Policy Research v. SEC*, urging the U.S. Eighth Circuit Court of Appeals to set aside new SEC rules requiring public companies to make extensive climate-related disclosures. NCLA’s challenge to the SEC rules is consolidated with *U.S. Chamber of Commerce, et al. v. SEC*, in which Gibson Dunn & Crutcher LLP represents the petitioners. Representing the National Center for Public Policy Research in a brief alongside the U.S. Chamber of Commerce, Texas Association of Business, and Longview Chamber of Commerce, NCLA demands an end to SEC’s unconstitutional pursuit of climate activism at the cost of civil liberties.

SEC’s new rules mandate disclosures that include forward-looking estimates of business risks, reports of greenhouse-gas emissions made by each company and the company’s utility provider, and descriptions of any steps the company takes to mitigate climate-related risks. The rules would force companies to make a variety of forward-looking guesses, including about how the government will regulate, how consumers will respond to hypothetical future government regulations, and how courts will rule with respect to those theoretical regulations.

SEC lacks legal authority to issue these rules, which are an attempt to make climate policy by way of mandated financial disclosures. In doing so, the agency did not comply with the requirements for issuing rules. The new rules also violate the First Amendment, which limits compelled disclosures to “purely factual and uncontroversial information.” These costly requirements also damage the economy—cutting against SEC’s assigned mission, which is to protect investors, foster fair financial markets, and facilitate capital formation. The Eighth Circuit must recognize that SEC simply does not have the power to regulate the environment by dressing up environmental policy in the guise of financial regulation.

NCLA released the following statements:

“The court should set aside these rules and require the SEC to stay in its lane, which is limited to regulation of specific financial matters involving the securities markets.”

—**Andrew Morris, Senior Litigation Counsel, NCLA**

“Congress created the SEC to regulate securities transactions, not to address climate change nor any other environmental issue. The agency once again has stepped way outside its statutory lane, this time to compel costly climate-related disclosures that have nothing to do with fair and honest transactions in securities.”

—**Sheng Li, Litigation Counsel, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA's public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans' fundamental rights.

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