No. 2023-07
12 October 2023

Technical Line

A closer look at California's recently enacted climate disclosure laws

In this issue:

Overview 1
Key considerations for SB-253 and SB-261 2
Scoping considerations 3
Assurance requirements for SB-253 4
Key considerations for AB-1305 4
Comparison with SEC's climate-related disclosure proposal 5
Effective dates 5
Appendix: Key differences between the climate-related disclosures under the SEC proposal, the European Sustainability Reporting Standards (ESRS) of the European Commission (EC) and California climate-disclosure laws SB-253 and SB-261 7

What you need to know

- California enacted two climate-disclosure laws that apply to both public and private entities that do business in the state and meet certain annual revenue thresholds. Both laws require initial disclosures in 2026.
- Entities with more than $1 billion in annual revenue that do business in California will be required to annually disclose their Scope 1, Scope 2 and Scope 3 emissions in accordance with the GHG Protocol and obtain assurance over those disclosures.
- Entities with more than $500 million in annual revenue that do business in California will be required to biennially provide disclosures (1) in accordance with the recommendations of the Task Force on Climate-related Financial Disclosures, which includes Scope 1 and Scope 2 emissions without assurance, and (2) on the measures they adopted to reduce and adapt to identified climate-related risks.
- California also enacted a third climate-disclosure law that requires entities that operate in California and make net zero emissions claims, carbon-neutral claims or significant greenhouse gas emissions reduction claims to disclose – starting in 2024 – information about those claims and the purchase or use of voluntary carbon offsets used to achieve those claims.

Overview

Gov. Gavin Newsom of California signed on 7 October 2023 two climate-disclosure bills[1] into California law that will require entities organized in the US that conduct business in the state and meet certain annual revenue thresholds to provide climate-related disclosures, including

EY
Building a better working world

Scope 1, Scope 2 and Scope 3 greenhouse gas (GHG) emissions in accordance with the Greenhouse Gas Protocol (GHG Protocol)[2] and disclosures in accordance with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD).

These disclosures are similar to those that the Securities and Exchange Commission (SEC) proposed requiring in March 2022, but there are some differences, including the fact that the California requirements apply to both public and private entities. California is the first US state to broadly require climate-related disclosures.

The California Climate Corporate Data Accountability Act (SB-253) applies to entities with more than $1 billion in annual revenue that do business in California, while the California Greenhouse gases: climate-related financial risk law (SB-261) applies to entities with more than $500 million in annual revenue that do business in California. These laws are widely expected to apply to thousands of entities, including subsidiaries of non-US based entities.

Gov. Newsom also signed the California Voluntary carbon market disclosures bill[3] (AB-1305) into California law that requires entities operating in California and that make net zero emissions claims, carbon-neutral or carbon-neutral product claims or significant GHG reduction claims to disclose information about those claims and the purchase or use of voluntary carbon offsets to achieve those claims.

Gov. Newsom stated that his administration wanted "some cleanup" on some of the language in SB-253 and SB-261. For example, he expressed concerns with the implementation periods for each law, the reporting protocol in SB-253 potentially resulting in inconsistent reporting and the overall financial impact of the laws on business entities. This publication discusses the current text of the laws, but the legislative and regulatory process in 2024 and 2025 may result in changes to how and when the laws are applied.

Key considerations for SB-253 and SB-261

SB-253 requires entities that had more than $1 billion in annual revenue in the previous fiscal year and do business in California to annually disclose their Scope 1, Scope 2 and Scope 3 emissions in accordance with the GHG Protocol. The California Air Resources Board (CARB) is required to adopt regulations to implement the requirements of SB-253 by 1 January 2025. It may evaluate the effectiveness of the GHG Protocol in 2033 (and every five years thereafter) and adopt an alternative globally recognized standard if it would more effectively meet the goals of SB-253.

Entities will have to submit their emissions information to an emissions reporting organization that will be designated by the CARB. The organization will develop a publicly accessible digital platform for the emissions data.

The deadline for reporting on Scope 1 and Scope 2 emissions will be determined by the CARB, but Scope 3 emissions will not be initially required to be reported until no later than 180 days after Scope 1 and Scope 2 emissions are reported. However, the CARB may update the Scope 3 emissions deadline in 2029 based on trends in Scope 3 emissions reporting, so that Scope 3 emissions are reported as close in time as practicable to the Scope 1 and Scope 2 emissions deadline. When setting the initial and updated deadlines, the CARB will consider stakeholder input, the time it takes entities to receive emissions data and the capacity of assurance providers to provide an independent assurance report.

How we see it

The staggered deadlines may reduce the burden of reporting Scope 3 emissions for certain entities because they will be able to collect Scope 1 and Scope 2 information from entities in their value chain that can be used in calculating Scope 3 emissions.

The revenue thresholds are based on the entity's total revenue, not only revenue from California.

SB-253 includes a safe harbor from penalties for reporting Scope 3 emissions. That is, entities will not be assessed penalties for any misstatements of the disclosure of Scope 3 emissions if the disclosures were made with a reasonable basis and provided in good faith.

SB-261 requires entities that had more than $500 million in revenue in the previous fiscal year and do business in California (including those entities subject to SB-253) to biennially disclose on their website (1) climate-related information in accordance with the TCFD's recommendations and (2) measures they have adopted to reduce and adapt to the climate-related risks disclosed under the TCFD's recommendations. The TCFD's recommendations include disclosures about climate-related governance, strategy, risk management, and metrics and targets, including Scope 1 and Scope 2 emissions without assurance.

Insurance companies are exempt from SB-261 because they are already required to report under the TCFD's recommendations in accordance with the Climate Risk Disclosure Survey of the National Association of Insurance Commissioners.

If an entity is not able to provide all of the disclosures under the TCFD's recommendations, it should make the disclosures to the best of its ability and provide a detailed explanation of any reporting gaps and the steps it will take to prepare complete disclosures. This relief does not apply to the requirement to disclose adopted measures to reduce and adapt to climate-related financial risks under the TCFD's recommendations.

A subsidiary that is included in a report of a parent entity does not have to provide a separate climate-related financial risk report. However, a similar exception is not provided in SB-253.

To avoid duplication of effort, an entity may satisfy its reporting requirements under the two laws using disclosures prepared to comply with other reporting requirements (e.g., the Corporate Sustainability Reporting Directive (CSRD), the International Sustainability Standards Board standards, any SEC rule), if those disclosures satisfy all of the requirements of the laws.

Both laws require in-scope entities to pay an annual fee to the CARB to fund the administration and implementation of the laws. The CARB is responsible for enforcing the new requirements and may impose penalties for late filings, non-filings and other failures to meet the requirements of SB-253 and SB-261, but the penalties may not exceed $500,000 for SB-253 and $50,000 for SB-261 in a given year. When imposing penalties, the CARB must consider the entity's past and present compliance and whether the entity made a good faith effort to comply with the requirements and when it undertook those efforts.

Scoping considerations

Entities in the scope of SB-253 and SB-261 include partnerships, corporations, limited liability companies and other business entities formed under the laws of any state in the US (or District of Columbia) or under an act of US Congress. Subsidiaries of non-US entities located in the US that meet this definition are also in scope.

The revenue thresholds noted above apply to the entity's total revenue, not only its revenue from California, and are based on revenue from the previous fiscal year.

The laws do not define the term "does business" in California. However, the state senate floor analysis[4] of SB-253 uses the definition of "doing business" from the California tax code. The California Franchise Tax Board considers an entity to be "doing business" if it (1) engages in any transaction for the purpose of financial gain in California, (2) is organized or commercially domiciled in California or (3) has California sales, property or payroll exceeding specified amounts,[5] which are adjusted annually.

Assurance requirements for SB-253

SB-253 requires an entity to annually obtain limited assurance on Scope 1 and Scope 2 emissions disclosures, including in the first year of reporting (i.e., in 2026 on 2025 data). Reasonable assurance on Scope 1 and Scope 2 emissions disclosures will be required starting in 2030 (on 2029 data). Limited assurance on Scope 3 emissions disclosures will also be required starting in 2030 (on 2029 data). However, the CARB can modify the dates based on trends in third-party assurance requirements for Scope 3 emissions.

Assurance providers need to be independent and have significant experience in measuring, analyzing, reporting or attesting to GHG emissions. The CARB is required to establish regulations regarding the assurance requirement by 1 January 2025.

The CARB is required to review the qualifications for third-party assurance providers in 2029 based on an evaluation of trends in education related to emissions and the qualifications of third-party assurance providers.

An entity will need to submit a copy of the assurance report and the name of the assurance provider to the emissions reporting organization. SB-261 does not include any assurance requirements.

Key considerations for AB-1305

AB-1305 requires entities operating in California, which is undefined in the law, that make (1) net zero emissions claims, (2) carbon-neutral or carbon-neutral product claims or (3) significant GHG emissions reduction claims in California to disclose the following:

- Information about how the claim was determined to be accurate or actually accomplished and how interim progress toward that goal is being measured (e.g., verification of the entity's emissions, identification of the entity's science-based targets and related verification, relevant sector methodology)
- Whether there is independent third-party verification of the entity's data and claims

AB-1305 also requires these entities to disclose the following information about any voluntary carbon offsets purchased or used in California:

- The name of the entity selling the offset and the offset registry or program
- The project identification number
- The project name listed in the registry or program
- The offset project type (e.g., carbon removal, avoided emissions, combination of both)
- The site location of the offset project
- The protocol used to estimate emissions reductions or removal benefits
- Whether the claim and data have been independently verified

AB-1305 also requires entities that market or sell voluntary carbon offsets within California to disclose the following:

- Information about the carbon offset project (e.g., including the protocol used to estimate emissions reductions or removal benefits, the location of the project, the project timeline, the date the project started or will start, the type of project, whether the project meets any established standards, whether the project has been independently verified, the annual number of emissions reduced or carbon removed)

- Details about accountability measures if a project is not completed or does not meet the projected emissions reductions or removal benefits (e.g., what actions the entity will take in those situations)
- The data and calculation methods needed to independently reproduce and verify the number of carbon offsets issued

Disclosures under AB-1305 are required to be updated annually.

The penalty for violating AB-1305 is $2,500 for each day that information is not available on the entity's website or is inaccurate, with a limit of $500,000 for each violation.

Comparison with SEC's climate-related disclosure proposal

There is significant overlap between the SEC proposal to require climate-related disclosures and SB-253 and SB-261, but there are some key differences.

SB-253 applies to both public and private entities that conduct business in California and meet certain annual revenue thresholds, while the SEC proposal would only apply to SEC registrants.

The SEC proposal would allow an entity to apply the GHG Protocol but not require its use, unlike SB-253. For organizational boundaries, SB-253 requires the use of the GHG Protocol to calculate emissions, which allows an entity to select the operational control, financial control or equity share consolidation approaches. The SEC's proposed GHG emissions disclosures would follow the same organizational boundaries as the financial statements. That means an entity would be required to include its proportionate share of the Scope 1 and Scope 2 emissions of entities in which it holds equity method investments and entities that it proportionately consolidates.

SB-253 requires an entity to disclose Scope 3 emissions, while the SEC proposal would only require disclosure if Scope 3 emissions are material or if the entity has set a GHG emissions reduction target or goal that includes Scope 3 emissions. Both SB-253 and the SEC proposal would provide a safe harbor for Scope 3 emissions disclosures. However, the scope of the safe harbors would not be the same (e.g., SB-253 provides a safe harbor from penalties imposed by the state other than those for failing to provide the information, while the SEC proposal would provide a safe harbor from certain forms of liability under the federal securities laws).

Both SB-253 and the SEC proposal would require entities to disclose and obtain assurance on Scope 1 and Scope 2 emissions disclosures. Limited assurance is required in the first year of reporting under SB-253, and it would be delayed by a year under the SEC proposal. In addition, SB-253 requires limited assurance on Scope 3 emissions disclosures, while the SEC proposal wouldn't. The qualifications of assurance providers would be similar under both SB-253 and the SEC proposal.

SB-261 requires an entity to submit a TCFD-compliant report, and the SEC proposal is based on the disclosures recommended by the TCFD, with certain differences. For example, the TCFD's recommendations require an entity to use a climate-related scenario analysis to assess the resilience of its business strategy, whereas the SEC proposal would not require the use of scenario analysis.

Effective dates

SB-253 requires entities to report Scope 1 and Scope 2 emissions in 2026, based on fiscal year 2025 data, on a date to be determined by the CARB. Entities will have to start reporting on Scope 3 emissions in 2027, no later than 180 days after reporting Scope 1 and Scope 2 emissions.

SB-261 requires entities to post a TCFD-compliant report on their websites by 1 January 2026. Entities will have to update that report biennially thereafter.

AB-1305 is effective on 1 January 2024.

Upon signing SB-253 into law, Gov. Newsom stated[6] that the implementation deadlines are likely infeasible and the reporting protocol specified could result in inconsistent reporting across entities. Additionally, he noted that SB-261 wouldn't allow the CARB sufficient time to carry out the requirements of the law. Therefore, he directed his administration to work with the bill's authors and California legislature in the next year to address these issues.

All impacted entities should continue to monitor the activities of the CARB and the California legislature for additional changes and clarifications to the laws.

Next steps

- Entities should begin considering how they will gather the information to meet the requirements of the California disclosure laws and whether they will need to set up new processes, systems and controls.
- Entities should also consider whether the requirements may be met by reports prepared to comply with other climate reporting requirements.

Endnotes:

1 Refer to https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB253 for SB-253 and https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB261 for SB-261.

2 The definitions of Scope 1, Scope 2 and Scope 3 emissions are based on the GHG Protocol. Scope 1 emissions result directly from sources that are owned or controlled by an entity; Scope 2 emissions result from the generation of electricity, heat or steam purchased by an entity; and Scope 3 emissions result from sources not owned or controlled by an entity but that exist in an entity's value chain.

3 Refer to https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1305 for AB-1305.

4 Refer to https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202320240SB253# for analysis of SB-253.

5 For 2022, sales: $690,144; property: $69,015; payroll: $69,015.

6 Refer to https://www.gov.ca.gov/wp-content/uploads/2023/10/SB-253-Signing.pdf for SB-253 and https://www.gov.ca.gov/wp-content/uploads/2023/10/SB-261-Signing.pdf for SB-261.

EY | Building a better working world

© 2023 Ernst & Young LLP.
All Rights Reserved.

SCORE No. 21228-231US

ey.com/en_us/assurance/accountinglink

EY exists to build a better working world, helping to create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

Ernst & Young LLP is a client-serving member firm of Ernst & Young Global Limited operating in the US.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax or other professional advice. Please refer to your advisors for specific advice.

Appendix: Key differences between the climate-related disclosures under the SEC proposal, the European Sustainability Reporting Standards (ESRS) of the European Commission (EC) and California climate-disclosure laws SB-253 and SB-261

SEC	EC	California
	Scope — Entities	
‣ Would apply to: ‣ SEC registrants, including foreign registrants and emerging growth companies ‣ Companies entering the US capital markets for the first time by conducting initial public offerings or being acquired by public companies	‣ Applies to: ‣ All entities with securities (equity or certain debt) listed on EU-regulated markets, except for micro companies ‣ A "large undertaking" that is an EU entity, meaning an entity that meets at least two of the following three criteria: (1) more than €40 million in net turnover, (2) more than €20 million in balance sheet total and (3) more than an average of 250 employees during the year ‣ Insurance entities and credit institutions regardless of their legal form, except for micro companies ‣ These criteria need to be applied on both a legal entity basis (i.e., an individual EU subsidiary basis) and a consolidated basis for the EU entity, including any non-EU subsidiaries of the EU entity (i.e., the EU entity needs to evaluate whether it, together with its EU and non-EU subsidiaries, meet the thresholds above on a consolidated basis), regardless of whether the EU entity has financial reporting requirements at that level ‣ A subsidiary of an EU entity is exempt from issuing a standalone report if the EU parent entity includes the subsidiary in its consolidated report that fully complies with the ESRS ‣ A subsidiary located in the EU that does not have an EU parent and that meets the thresholds in the bullets above is required to comply with either the ESRS, unless it is included in the non-EU parent's sustainability report that fully complies with the ESRS or standards the EC deems equivalent to those of the EU (until 2030, a non-EU parent can select an EU subsidiary to consolidate all of its EU subsidiaries, including those that are not consolidated by the subsidiary for accounting purposes, for sustainability reporting purposes, but the subsidiary selected must be one of the EU subsidiaries that generated the greatest turnover in the EU in at least one of the preceding five financial years, on a consolidated basis where applicable) ‣ Any large and listed subsidiaries (i.e., those that meet the criteria in the first two bullet points above) must report on their own and cannot apply the subsidiary exemption	‣ SB -253 applies to public and private US entities (including subsidiaries of non-US entities) with more than $1 billion in annual revenue that do business in California ‣ SB-261 applies to public and private US entities (including subsidiaries of non-US entities) with more than $500 million in annual revenue that do business in California ‣ Under both laws, "doing business" means an entity (1) engages in any transaction for the purpose of financial gain in California, (2) is organized or commercially domiciled in California or (3) has California sales, property or payroll exceeding specified amounts, which are adjusted annually

SEC	EC	California
	‣ Separately, a non-EU company that generates €150 million in net turnover in the EU and has at least one subsidiary in the scope of the CSRD (as defined in the bullets above) or, if the non-EU company has no EU subsidiary, a branch with net turnover of more than €40 million in the EU is required (starting in 2028) to apply at the consolidated level either separate EU sustainability reporting standards that the European Financial Reporting Advisory Group will develop, the ESRS or standards that are deemed equivalent to those of the EU	
Scope — Type of disclosures		
‣ Includes disclosure only for climate-related matters	‣ Includes disclosures for climate-related and other ESG matters, including other environmental matters, social matters and governance matters	‣ Includes disclosure only for climate-related matters
Materiality		
‣ Would primarily apply a disclosure threshold based on the SEC's definition of materiality, although the threshold is not applied consistently throughout the proposal ‣ Materiality definition primarily considers users of the financial reporting information (e.g., investors, creditors) ‣ For disclosures of financial impacts, would require disclosure by line item in the notes to the audited financial statements if the sum of the absolute values of positive and negative impacts exceeds 1% of each financial statement line item ‣ For disclosures of expenditures, would require disclosure if the expenditures capitalized or expensed exceed 1% of the total expenditures capitalized or expensed ‣ Certain disclosures would be required regardless of materiality, including disclosure of: ‣ Climate-related governance and risk management ‣ Climate-related targets and goals ‣ Scenario analysis (or other analytical tools) ‣ Scope 1 and Scope 2 GHG emissions	‣ Uses the concept of "double materiality," which means a disclosure is material if it is material from what is called an "impact" perspective, a financial perspective or a combination of both ‣ Materiality definition considers both affected stakeholders (e.g., employees, customers, vendors, the community) and other users of the sustainability reporting information (e.g., investors, creditors) ‣ Materiality is the threshold for all disclosure requirements, except for disclosure requirements and datapoints in ESRS 2 ‣ If an entity concludes that climate change is not material, it must disclose a detailed explanation of its conclusion ‣ Certain datapoints in the ESRS that are required by other EU law are also required	SB-253: ‣ Does not include a materiality threshold SB-261: ‣ Does not include a materiality threshold, but the TCFD recommendations include the concept of materiality and define it consistent with an entity's determination of materiality of other information included in annual financial filings
Scope 1 and Scope 2 GHG emissions — Disclosure threshold		
‣ Would be required regardless of materiality	‣ Requires disclosure if the general materiality threshold described above is met	SB-253: ‣ Does not include a materiality threshold SB-261: ‣ The TCFD recommendations require disclosure of Scope 1 and 2 emissions regardless of materiality

SEC	EC	California
Scope 1 and Scope 2 GHG emissions — Use of GHG Protocol		
‣ Would not require the use of the GHG Protocol to calculate emissions	‣ Includes specific guidance for calculating GHG emissions but also requires an entity to consider the principles, requirements and guidance provided by the GHG Protocol when preparing the information for reporting GHG emissions ‣ Allows an entity to also consider the requirements in ISO 14064-1:2018	SB-253: ‣ Requires use of the GHG Protocol to calculate emissions SB-261 ‣ The TFCD recommendations require the use of the GHG Protocol
Scope 1 and Scope 2 GHG emissions — Disaggregation		
‣ Would require disclosure of Scope 1 and Scope 2 emissions in metric tons of CO_2e, both in the aggregate for each scope and for each of the seven GHGs for each scope	‣ Requires separate disclosure of aggregate Scope 1 and Scope 2 emissions in metric tons of CO_2e ‣ Permits disaggregation of emissions, including by the seven GHGs or by country, but disaggregation is not required ‣ Requires disclosure of the percentage of Scope 1 GHG emissions under regulated emissions trading schemes	SB-253: ‣ The GHG Protocol requires disclosure of Scope 1 and Scope 2 emissions in metric tons of CO_2e, both in the aggregate for each scope and for each of the seven GHGs for each scope, as well as in metric tons of GHG for each of the seven GHGs SB-261: ‣ The GHG Protocol requires disclosure of Scope 1 and Scope 2 emissions in metric tons of CO_2e, both in the aggregate for each scope and for each of the seven GHGs for each scope, as well as in metric tons of GHG for each of the seven GHGs
Scope 1 and Scope 2 GHG emissions — Offsets		
‣ The impact of purchased or generated offsets would be excluded from the calculation and separately disclosed	‣ The impact of purchased or generated offsets is excluded from the calculation and separately disclosed	SB-253: ‣ The GHG Protocol requires entities to exclude the impact of purchased or generated offsets from the calculation and disclose it separately SB-261 ‣ The GHG Protocol requires entities to exclude the impact of purchased or generated offsets from the calculation and disclose it separately
Scope 1 and Scope 2 GHG emissions — Intensity metrics		
‣ Would require disclosure of intensity metrics for each scope in terms of CO_2e per unit of total revenue and per unit of production for that entity's industry	‣ Requires disclosure of intensity metrics for total emissions (inclusive of Scope 1, Scope 2 and Scope 3) using both a location-based and market-based method per monetary unit of net revenue	SB-253: ‣ The GHG Protocol does not require disclosure of intensity metrics SB-261: ‣ The TCFD recommendations and the GHG Protocol do not require disclosure of intensity metrics
Scope 1 and Scope 2 GHG emissions — Scope 2 method		
‣ Would allow companies to disclose their Scope 2 GHG emissions using a location-based method, a market-based method, both methods separately, a combination, or another method as long as it is identified	‣ Requires disclosure of Scope 2 emissions using both location- and market-based methods	SB-253: ‣ The GHG Protocol requires disclosure of Scope 2 emissions using both location- and market-based methods SB-261: ‣ The GHG Protocol requires disclosure of Scope 2 emissions using both location- and market-based methods

SEC	EC	California
Scope 1 and Scope 2 GHG emissions — Organizational boundaries		
▸ Would follow the same organizational boundaries as the financial statements (i.e., include proportionate share of the Scope 1 and Scope 2 emissions of entities in which a registrant holds equity method investments and entities that it proportionately consolidates)	▸ Requires Scope 1 and Scope 2 emissions of equity method investments and joint ventures that an entity has operational control over to be reported in its Scope 1 and Scope 2 emissions ▸ Requires separate disclosure of Scope 1 and Scope 2 emissions for (1) consolidated entities and (2) equity method investments, joint ventures and other unconsolidated subsidiaries for which it has operational control	SB-253: ▸ The GHG Protocol allows an entity to select the operational control, financial control or equity share consolidation approaches for setting organizational boundaries SB-261: ▸ The GHG Protocol allows an entity to select the operational control, financial control or equity share consolidation approaches for setting organizational boundaries
Scope 3 GHG emissions — Disclosure threshold		
▸ Would require disclosure of Scope 3 emissions if they are material or if the entity has set an emissions target that includes Scope 3 emissions ▸ Smaller reporting companies (as defined by the SEC) would not be required to disclose Scope 3 emissions	▸ Requires disclosure of Scope 3 emissions from each significant Scope 3 category if the general materiality threshold described above is met	SB-253: ▸ Requires disclosure of Scope 3 emissions SB-261: ▸ The TCFD recommendations do not require disclosure of Scope 3 emissions
Scope 3 GHG emissions — Disaggregation		
▸ Would require disclosure of Scope 3 emissions both in the aggregate and for each of the seven GHGs ▸ Would require disclosure of the categories of upstream or downstream activities that are included in the calculation and emissions data separately for any category that is significant to the registrant	▸ Requires disclosure of Scope 3 emissions in metric tons of CO_2e in total ▸ Requires disaggregation by each significant Scope 3 category	SB-253: ▸ The GHG Protocol requires disclosure of Scope 3 emissions in metric tons of CO_2e in total ▸ The GHG Protocol requires disaggregation by each Scope 3 category SB-261: ▸ The TCFD recommendations do not require disclosure of Scope 3 emissions
Scope 3 GHG emissions — Intensity metrics		
▸ Would require disclosure of intensity metric in terms of CO_2e per unit of total revenue and per unit of production for that entity's industry	▸ Requires an entity to only disclose an intensity metric for its total emissions of all three scopes	SB-253: ▸ The GHG Protocol does not require disclosure of intensity metrics SB-261: ▸ The TCFD recommendations do not require disclosure of Scope 3 emissions
Scope 3 GHG emissions — Liability		
▸ Would provide a safe harbor that would limit a registrant's liability for inaccurate disclosures of Scope 3 emissions, unless the disclosures were made without a reasonable basis, or in other than good faith	▸ Does not provide any safe harbors	SB-253: ▸ Provides a safe harbor from penalties if the disclosures are made with a reasonable basis and disclosed in good faith SB-261: ▸ The TCFD recommendations do not require disclosure of Scope 3 emissions

SEC	EC	California
Scenario analysis		
‣ Would not require a registrant to use a scenario analysis to assess its resilience to climate-related risk ‣ Would require a registrant that uses a scenario analysis or other analytical tools to disclose quantitative and qualitative information about the analysis	‣ Requires an entity to use a climate-related scenario analysis, with at least one scenario in line with the Paris Agreement, to assess the resilience of its business strategy ‣ Requires disclosure of quantitative and qualitative information about the results of the analysis, how it was conducted and how it was used to inform the identification and assessment of climate-related risks	SB-253: ‣ Does not require a scenario analysis SB-261: ‣ The TCFD recommendations require an entity to use a climate-related scenario analysis to assess the resilience of its business strategy ‣ The TCFD recommendations require disclosure of scenarios and the associated time horizons considered
Climate-related impact on financial statements		
‣ Would require registrants to disclose the following in an audited note to the financial statements: ‣ The positive and negative financial impacts of severe weather events and other natural conditions and transition activities on each financial statement line item, unless the aggregate impact on an absolute value basis is less than 1% of the total for the line item ‣ The aggregate amount of climate-related costs incurred that are both expensed and capitalized, unless the aggregate is less than 1% of expenditures or capitalized costs incurred ‣ Whether and how climate-related events and transition activities impacted the estimates and assumptions they used in preparing the financial statements	‣ Requires an entity to disclose in its management report how material climate-related risks and opportunities affected its current financial performance, financial position and cash flows and the material risks and opportunities for which there is a significant risk of a material adjustment to the carrying amounts of assets and liabilities within the next annual reporting period ‣ Requires an entity to disclose how it anticipates financial performance, financial position and cash flows will change over the short, medium and long terms (which are defined as the period adopted as the reporting period (generally one year), from the end of the period adopted as the reporting period to five years and more than five years, respectively) under the effects of material climate-related risks and opportunities	SB-253: ‣ Does not require disclosures of climate-related impact on financial statements SB-261: ‣ The TCFD recommendations require an entity to disclose the current and potential impact of climate-related issues on financial performance and financial position
Location of disclosures		
‣ Would require disclosures in annual reports and registration statements ‣ Most of the disclosures would be included in a separately captioned section of the SEC filing and would, therefore, be subject to disclosure controls and procedures, while the financial statement impacts would be disclosed in the audited financial statements and would be subject to internal control over financial reporting	‣ Requires presentation of the required sustainability information in the management report for an EU entity ‣ However, if an EU subsidiary in the scope of the CSRD fulfills its reporting requirement by being included in a sustainability report of a non-EU parent, the EU subsidiary may include the required disclosures in a consolidated sustainability report (rather than a consolidate management report) of the non-EU parent (e.g., an entity registered with the SEC would not be required to include that information in Form 10-K), with a link to that report in the management report of the EU subsidiary ‣ Requires an entity to mark up its sustainability report using an electronic reporting format ‣ Does not require information in the audited financial statements	SB-253: ‣ Requires annual submission to an emissions reporting organization, which will be designated by the CARB, that will post the submission on a publicly accessible digital platform SB-261: ‣ Requires biennial disclosure on an entity’s website

SEC	EC	California
	Assurance requirements	
▸ Would initially require limited assurance and later reasonable assurance for Scope 1 and Scope 2 emissions for both accelerated and large accelerated filers with phased-in effective dates ▸ Would not require assurance over any emissions disclosures for non-accelerated filers and smaller reporting companies ▸ Disclosures in the financial statements would need to be audited for all registrants and controls related to such disclosures would also be in the scope of an audit of internal control over financial reporting ▸ Assurance providers would need to be independent and would need to have significant experience in measuring, analyzing, reporting or attesting to GHG emissions ▸ Would require a registrant to disclose certain information about the assurance provider	▸ Requires limited assurance, with a planned transition to reasonable assurance in the future after the EC conducts a feasibility analysis, over the following: ▸ Compliance with the CSRD, including the ESRS ▸ The process carried out by the entity to identify the information reported in accordance with the ESRS ▸ Compliance with the requirement to mark up the sustainability report using an electronic reporting format ▸ Compliance with the reporting requirements of Article 8 of the EU Taxonomy Regulation, which applies to all entities in the scope of the CSRD (excluding non-EU entities that are required to report at the consolidated level in fiscal year 2028) ▸ Assurance providers need to be the financial statement auditor, or if an EU Member State chooses when incorporating the CSRD into its local law, an other professional service firm or independent assurance service provider accredited by an EU Member State ▸ Auditors and other assurance service providers, if applicable, will be required to apply assurance standards for sustainability reporting that will be issued by the EC through a delegated act before 1 October 2026	SB-253: ▸ Requires limited assurance starting in 2026 and reasonable assurance starting in 2030 for Scope 1 and Scope 2 emissions, beginning with the first year of disclosures ▸ Requires limited assurance on Scope 3 emissions starting in 2030, but the CARB can modify the date ▸ Requires assurance providers to be independent and have significant experience in measuring, analyzing, reporting or attesting to GHG emissions ▸ Requires an entity to submit a copy of the assurance report and the name of the assurance provider to the emissions reporting organization SB-261: ▸ Does not include assurance requirements
	Industry-specific requirements	
▸ Would not include industry-specific requirements	▸ A second set of ESRS will eventually include sector-specific requirements, but these requirements have not yet been proposed	SB-253: ▸ Does not require industry-specific disclosures SB-261: ▸ Does not require industry-specific disclosures
	Other reporting requirements	
▸ Would require registrants to disclose climate-related risks and allow them to disclose climate-related opportunities	▸ Requires entities to disclose both climate-related risks and opportunities	SB-253: ▸ Does not require disclosure of climate-related risks or opportunities SB-261: ▸ The TCFD recommendations require entities to disclose both climate-related risks and opportunities
▸ Would not require entities to disclose qualitative and quantitative information about executive compensation that is linked to climate-related considerations because the SEC believes that its existing rules already provide a framework for disclosure of any connection between executive remuneration and achieving progress in addressing climate-related risks	▸ Requires entities to disclose qualitative and quantitative information about executive compensation that is linked to climate-related considerations	SB-253: ▸ Does not require entities to disclose information about executive compensation SB-261: ▸ Does not require entities to disclose information about executive compensation

SEC	EC	California
▸ Would require disclosure of the percentage (e.g., based on square meters, acres) and location of assets in flood hazard areas, as well as the amount (e.g., book value and as a percentage of total assets) and location of assets in regions of high or extremely high water stress	▸ Requires disclosure of the amount and percentage of assets or business activities that are (1) vulnerable to climate-related transition risks and (2) vulnerable to climate-related physical risks	SB-253: ▸ Does not require disclosure of business activities or assets in areas vulnerable to climate-related risks SB-261: ▸ Does not require disclosure of business activities or assets in areas vulnerable to climate-related risks
▸ Would not require disclosure of energy consumption	▸ Requires detailed quantitative information about energy consumption by source, including further disaggregation for entities with operations in high-climate-impact sectors and intensity metrics for activities in high-climate-impact sectors	SB-253: ▸ Does not require disclosure of energy consumption SB-261: ▸ Does not require disclosure of energy consumption
	Effective dates	

▸ The compliance dates for the SEC proposal would be based on the registrant's filing status (i.e., large accelerated, accelerated, non-accelerated and smaller reporting company)
▸ Beginning in the year of adoption, disclosures would be required for all periods presented in the financial statements, unless the historical information for the GHG emissions and financial statement disclosures is not reasonably available
▸ Large accelerated, accelerated and non-accelerated filers that would be required to report Scope 3 emissions would have to do so by one year after the dates above
▸ Limited assurance on Scope 1 and Scope 2 emissions would be required one year after the dates above for large accelerated and accelerated filers, and reasonable assurance would be required three years after the dates above for those filers
	▸ The CSRD and the ESRS are effective for the following periods, with reporting in the following year, based on an entity's size:
	  ▸ Fiscal year 2024 for entities currently subject to the Non-Financial Reporting Directive (NFRD) (i.e., large public-interest companies with more than an average of 500 employees during the year and either (1) more than €40 million in net turnover or (2) more than €20 million in balance sheet total) and, based on our current understanding, other listed entities (e.g., a non-EU entity that has equity or certain debt securities listed on an EU-regulated market) that meet the NFRD thresholds
	  ▸ Fiscal year 2025 for large entities that are not subject to reporting in fiscal year 2024
	  ▸ Fiscal year 2026 for listed small- and medium-sized entities, unless they opt out for two additional years and disclose why they haven't provided the sustainability information, and small and noncomplex credit institutions and captive insurance companies
	  ▸ Fiscal year 2028 for non-EU companies that are subject to the CSRD (e.g., a non-EU parent with an EU subsidiary or branch that meets the thresholds described in the scope section above)
	▸ Disclosures are required for comparative periods, but an entity can defer the presentation of comparative information by one year (i.e., not provide the comparative information in the year of adoption)
	▸ To ease transition to reporting under the CSRD, certain disclosure requirements in the ESRSs (e.g., Scope 3 emissions, certain value chain metrics, quantitative and anticipated financial effects) are phased in, with some phase-ins dependent on an entity's size
		SB-253:
		▸ Requires entities to report Scope 1 and Scope 2 emissions in 2026 on 2025 data
		▸ Requires entities to report Scope 3 emissions in 2027, no later than 180 days after reporting Scope 1 and Scope 2 emissions
		SB-261:
		▸ Requires entities to post a TCFD-compliant report on their websites by 1 January 2026, with biennial updates thereafter