Conference on
Standardized Corporate Social Responsibility Reporting

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Framing

- Corporate social responsibility (CSR), ESG, and sustainability can be useful terms in some ways but come with a variety of connotations and can invoke confusion. The responsibility of corporations has been the subject of debate for more than a century and there is unlikely to be consensus on this topic in general terms. I would frame disclosure rules in terms of their underlying subject matter (e.g., human capital management, climate, etc.) instead of as CSR, ESG, or sustainability disclosures.

- Of the topics for new disclosure rules generally being discussed under terms such as CSR, ESG, and sustainability, climate is the most pressing in my view. I think a range of approaches are acceptable. The SEC's proposed climate risk disclosure rule might be better harmonized with other jurisdictions, but it is defensible and an appropriate area of priority, with significant evidence that investors want more climate-related information.

Standardization

- A great deal of information related to terms such as CSR, ESG, and sustainability is already being disclosed through mandatory and voluntary reporting, but is not standardized and there are questions of reliability. Standardization is important for regulator and investor utility. The United States should take the approach of standardizing where possible to standard setters that would provide for increased harmonization across jurisdictions. We are in an important time of change and experimentation with disclosure standards, and the science and methodology for monitoring and measuring things such as greenhouse gases continue to evolve, but greater convergence should be a regulatory priority in order to make rules workable for reporting companies and investors.

Potential Thorny Issues / Questions

- How do we clarify the scope of First Amendment coverage and scrutiny of regulating climate disclosure, regulating "greenwashing" for truthfulness, etc.? (More to come on this topic.)

- Whether to mandate disclosure based on firm vs. portfolio level risks or "double materiality." Is the current federal securities law framework constrained to a firm-level view and (single) materiality? Is there really a difference between what information investors want and what information stakeholders want? (I would construe investors' goals and interests broadly.)

- How will new disclosure rules impact incentives to stay or go private? Should some disclosure rules extend to certain private companies (e.g., to reach private companies with large social or environmental footprints)? And should smaller reporting companies be exempt from some rules (e.g., scope 3 emissions)? (I think it is important to consider incentives around the public-private line and am inclined to think tiered approaches are appropriate.)