Fossil fuel firms should inform investors of climate risks

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A test disclosure program offering limited safe harbor from litigation would help close the gap between what fossil fuel firms now share about their climate change risks and what investors need to know, according to a new study.

The current information gap poses high risks for the billions of dollars in assets traded each day, the authors said, and such a disclosure program would convey to investors better information about climate change impacts and make financial markets more efficient overall.

Paul Griffin, an accounting professor at the University of California, Davis, Graduate School of Management, and Amy Jaffe, an energy and sustainability expert with the Council on Foreign Relations, make their case in an article published in August in the *Journal of Energy & Natural Resources Law*.

"We want markets developed that enable people to optimally decide how much risk they want and to have someone who is going to decide how much that should cost—and that should be a fair bargain," said Griffin.

As a model for a voluntary disclosure program, Griffin and Jaffe, formerly at UC Davis, looked to the sensitive foreign payments program that preceded the Foreign Corrupt Practices Act of 1977, with which Griffin was involved. By promising limited safe harbor from litigation to those who voluntarily stepped forward with potentially self-incriminating information, that program succeeded in increasing disclosure, the authors wrote.

The authors outline several steps the U.S. Securities and Exchange Commission should take to create a positive environment for climate risk disclosure:

- encourage voluntary over forced disclosure
- promise safe harbor from litigation for good faith disclosures
- weigh all the information available, rather than prescribing one-size-fits-all indicators
- recognize the costs to disclose and the benefits for firms
- lead with the biggest companies
- use the results of the test program to fashion a more permanent

solution

The paper, "Are fossil fuel firms informing investors well enough about the risks of climate change?" draws on decades of research by Griffin into environmental disclosures by publicly traded energy companies.

The professor said he hopes the research will inform some of the major legal battles currently being waged against fossil fuel firms over climate risk disclosure and how they are retooling for the future.

Griffin and Jaffe said they recognize the immense challenge of balancing corporate confidentiality with the economic interests of stakeholders and public well-being.

"As illustrated by litigation involving ExxonMobil and the other energy majors," they wrote, "the complex, uncertain and ambiguous nature of the relation between fossil fuel firms' activities and climate risk makes this balancing a daunting exercise."

The disclosure program is a starting point. "A strong public policy debate is also needed," the authors wrote, "so as not to disrupt society's ongoing access to needed fuel as the energy transition transpires."

More information: Paul A Griffin et al. Are fossil fuel firms informing investors well enough about the risks of climate change?, *Journal of Energy & Natural Resources Law* (2018). DOI: 10.1080/02646811.2018.1502240

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