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Connecting Climate Change and the Law



Ceres 2022 Progress Report

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In its second [report](#) assessing how, and to what extent, S&P 100 companies have implemented climate-related policies into their own business initiatives, Ceres, through its [Accelerator for Sustainable Capital Markets](#), found that the business community has largely “significantly improved . . . performance in establishing internal processes and systems for addressing climate change as a systemic risk.” There are also indications that companies are “increasingly prioritizing smart climate lobbying” to “advocate for the economy-wide policies necessary to address the climate crisis.” Ceres concluded that:

- An overwhelming majority (93%) of companies disclosed in their Form 10-K filings disclosure that there is a material risk posed by climate change to ongoing business operations. This reflected an increase of nearly 20% from Ceres’s report last year.
- Nearly 80% of companies have conducted climate-related scenario analyses.
- Half of the companies have lobbied public officials within the last three years for climate policies aligned with the Paris Agreement. The same number of companies have also begun to develop “concrete” plans to implement climate-related policies and goals.
- 93% of companies have “affirmed the science of climate change,” an increase of 19% from last year, and 68% of companies have publicly supported the Paris Climate Agreement.

While these headline numbers reflect improvement, Ceres takes the position that certain aspects of disclosure fell “short of expectations.” For instance, Ceres pointed out that just one company acknowledged in its Form 10-K that the ongoing absence of settled federal climate policy in the United States continues to create uncertainty for long-term capital investments and may stymie innovation in climate-related science and technology. Ceres also observes little improvement in engaging with trade associations on science-based climate policy, as only 8% of companies have examined whether their own climate position aligns with that of their trade association, and merely 3% of companies have taken action to address their trade associations’ positions on climate policy that conflict with company stances.

In 2020, Ceres published its [Blueprint for Responsible Policy Engagement on Climate Change](#), providing companies with “concrete recommendations” for how to “establish systems that address climate change as a systemic risk and integrate this understanding into their direct and indirect lobbying on climate policies.” This second report highlights that companies have responded, for the most part, with positive action.

Taking the Temperature: Ceres’s findings reflect that some of the largest publicly-traded companies increasingly are making disclosure in certain areas of sustainability. The report provides a comprehensive analysis of the growing movement within the business community to more effectively embrace science-based climate policies in an effort to properly adapt their business operations for a changing environment. Still, companies attempting to meet their own goals and initiatives must think critically about their third-party relationships, whether with trade organizations, clients or vendors. Obviously, an organization need not and could not effectively require all of its third-party business relationships to share all its views on sustainability. On the other hand, company directors and officers should consider informing themselves about the sustainability profiles of the organization’s supply chain as well the positions adopted by trade or other associations in which it is a member. While it is not the case that contrary stances on climate issues require severing a relationship, the board and management should consider possible adverse consequences of divergent actions or positions taken by the company’s third-party relationships, particularly at significant clients, vendors or industry groups, and over issues that are material and/or likely to generate external media or regulatory scrutiny.