



uniquus **Early** **Impressions**

California Climate Disclosure
Legislation

November 2023

Foreword

The regulatory environment surrounding climate-related disclosures continues to move at what feels like the most rapid pace in history. Despite some delays in finalization of certain climate disclosure requirements, namely the US SEC’s proposal for Enhancement and Standardization of Climate-Related Disclosures, climate disclosure is becoming increasingly mainstream. This is being driven by a number of factors, including:

- Increasing investor and customer demands for climate-related information
- Growing concerns about the financial risks of climate change
- Regulatory pressure from governments

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Companies that are not already quantifying greenhouse gas emissions, and disclosing their climate-related risks and opportunities, should be prepared to face increasing pressure to do so in the near future. In the United States, a number of states and cities have adopted their own climate disclosure requirements. Recently, California has adopted two laws, SB 253 and SB 261, that accelerate the need for large companies to prepare to disclose climate-related information. As a result, the SEC’s proposed rules are likely to be seen as a minimum standard, and many companies, both publicly and privately traded, need to take into consideration other requirements such as the recently adopted California laws.

This publication serves as a valuable reference guide for the companies navigating this new regulatory era, offering clarity and guidance on expected disclosure requirements. We sincerely hope you find the enclosed publication informative. We would be happy to participate in any discussions required to provide clarifications on our views captured in the pages that follow. We look forward to hearing from you.

Thank you.

For Uniquis Consulttech



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What are the New California Laws?

California recently passed two climate disclosure and financial reporting laws, SB 253 and SB 261, which will require firms of certain sizes that conduct business in the state to assess and report on climate-related considerations, including greenhouse gas (GHG) emissions figures and material financial risks related to climate. ESG and climate-related disclosures have come into focus for companies and policy makers as stakeholders increasingly recognize climate-related impacts on businesses. Regulations like SB 253 and SB 261 are intended to allow for more consistent, comparable, and reliable climate risk information from corporates operating under the remit of these laws.

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SB253

Climate Corporate Data Accountability Act

- Requires firms generating over \$1 billion in gross annual revenue to report annually on their scope 1, 2, and 3 GHG emissions figures
- Represents the first legal requirement in the US at either the state or federal level for companies to report on scope 3 emissions, which often represent the majority of a company's carbon footprint as a result of activities upstream or downstream the value chain
- Many non-California firms may also indirectly be impacted due to scope 3 reporting requirements

SB261

Climate-Related Financial Risk Act

- Requires firms generating over \$500 million in gross annual revenue to report biennially on financially material climate-related risks, as well as measures adopted or planned to mitigate or adapt to such risks
- Will improve transparency around climate-related considerations for investors, policy makers, and other stakeholders who undertake financial decisions related to California firms

SB 253– Climate Corporate Data Accountability Act

SB 253 requires firms generating over \$1 billion in gross annual revenue to report annually to the California Air Resource Board (CARB) on their GHG emissions, or face up to \$500,000 in penalties from CARB.

Who?

Companies who

 Are US-based and do business in California

 Generate \$1B+ in gross revenue based on the prior fiscal year

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What?

Report GHG emissions

Scope 1
Direct emissions from controlled or owned assets

Scope 2
Indirect emissions from purchase of energy sources

Scope 3
Indirect emissions from upstream (e.g., supply chain) or downstream (e.g., product end use)

How?

Reported according to

 GHG Protocol standards

Requiring assurance

Scope 1
Limited, later reasonable

Scope 2
Limited, later reasonable

Scope 3
Limited assurance

Why?

Corporate perspective

 Mandates large companies to assess carbon footprints to enable them to prioritize reductions

Stakeholder perspective

 Provides investors, policy makers, and consumers with accurate corporate emissions data

SB 261– Climate-Related Financial Risk Act

SB 261 requires firms generating over \$500 million in gross annual revenue to report biennially on climate- related financial risks and measures to mitigate or adapt to them, or face up to \$50,000 in penalties from CARB.

Who?

Companies who	
	Are non-insurance firms, US-based, and do business in California
	Generate \$500M+ in gross revenue based on the prior fiscal year

What?

Report climate-related financial risks	Report measures taken or plans around
	
Physical risks	Climate mitigation
	
Transition risks	Climate adaptation

How?

Reported according to	Reported to
 TASK FORCE ON CLIMATE-RELATED FINANCIAL DISCLOSURES	
TCFD recommendations around governance, strategy, risk management, and metrics and targets	Both the corporate website and the California Climate-Related Risk Disclosure Advisory Group

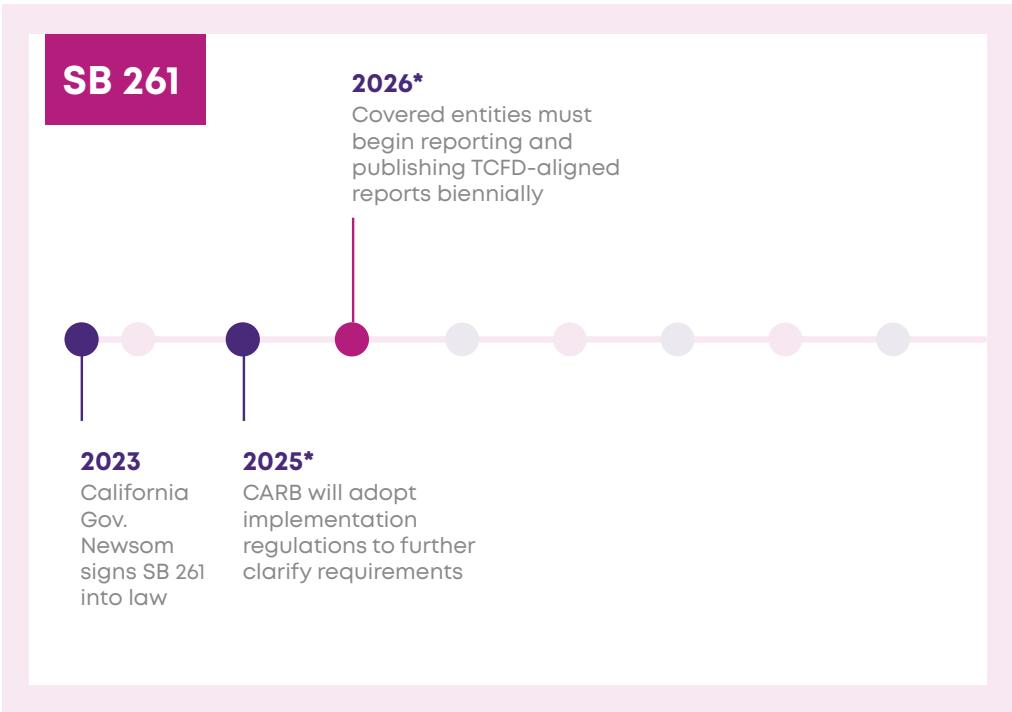
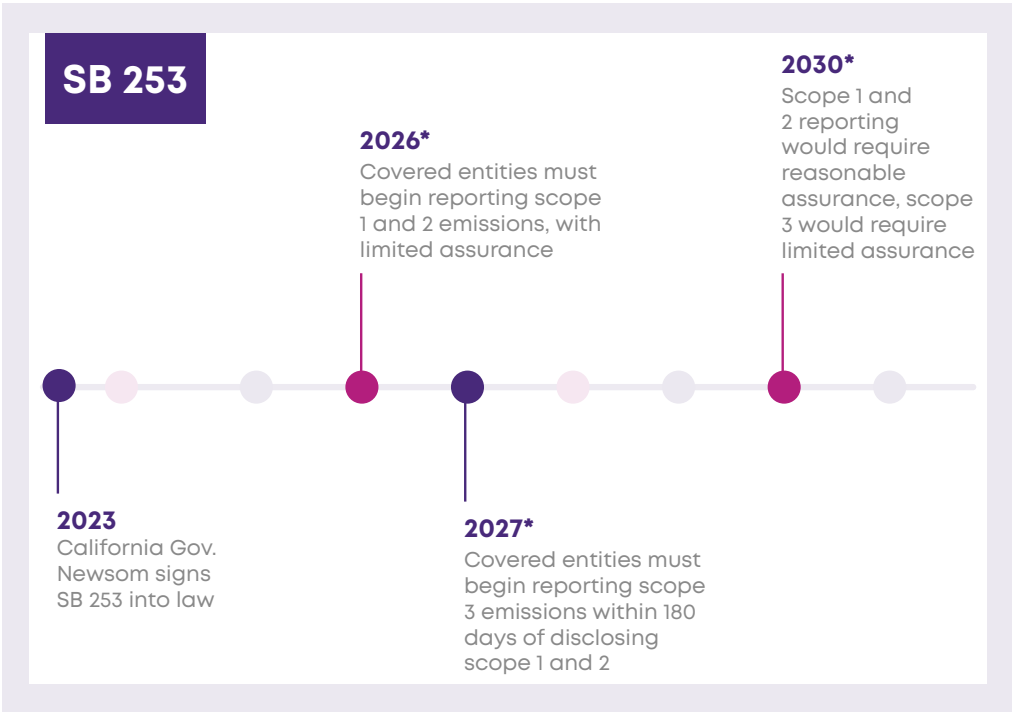
Why?

Corporate perspective	Stakeholder perspective
	
Mandates companies to assess the financial materiality of climate-related risks, and consider how they can address them	Provides investors, policy makers, and consumers with material climate information which may inform financial decisions

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Phase-in Timelines

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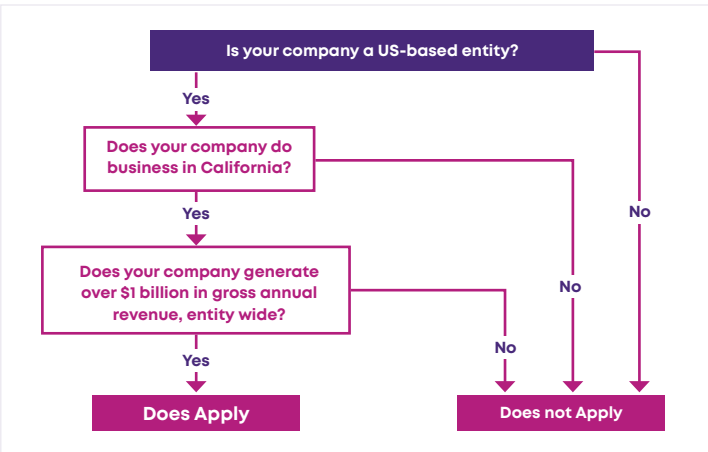
* Governor Newsom has stated that these implementation deadlines are likely infeasible. California policy makers will likely propose new legislation in early 2024 to delay these timelines. Uniquis is well positioned to monitor and communicate regulatory updates regarding implementation requirements for SB 253 and 261

Uniquis Interpretations and Perspectives

SB 253 and SB 261 host complex reporting requirements, and therefore much clarification remains to be developed by policy makers to effectively finalize these regulations. Uniquis has provided its initial interpretations and perspectives on the California climate disclosure laws, and is monitoring regulatory changes closely. Uniquis will provide updates as interpretations of these laws continue to develop.

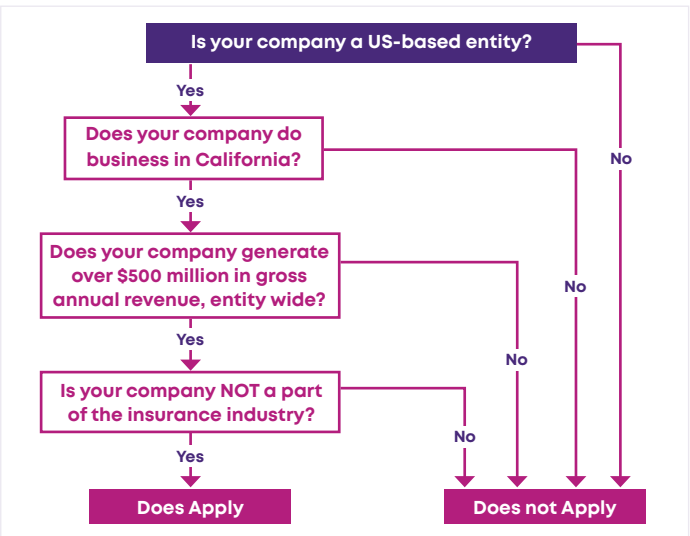
Applicability of SB 253

The flowchart diagram to the right illustrates whether a business entity is likely to be in scope under the remit of SB 253



Applicability of SB 261

The flowchart diagram to the right illustrates whether a business entity is likely to be in scope under the remit of SB 261. Companies within the insurance industry are exempt from SB 261 as they are subject to similar disclosure requirements under the National Association of Insurance Commissioners

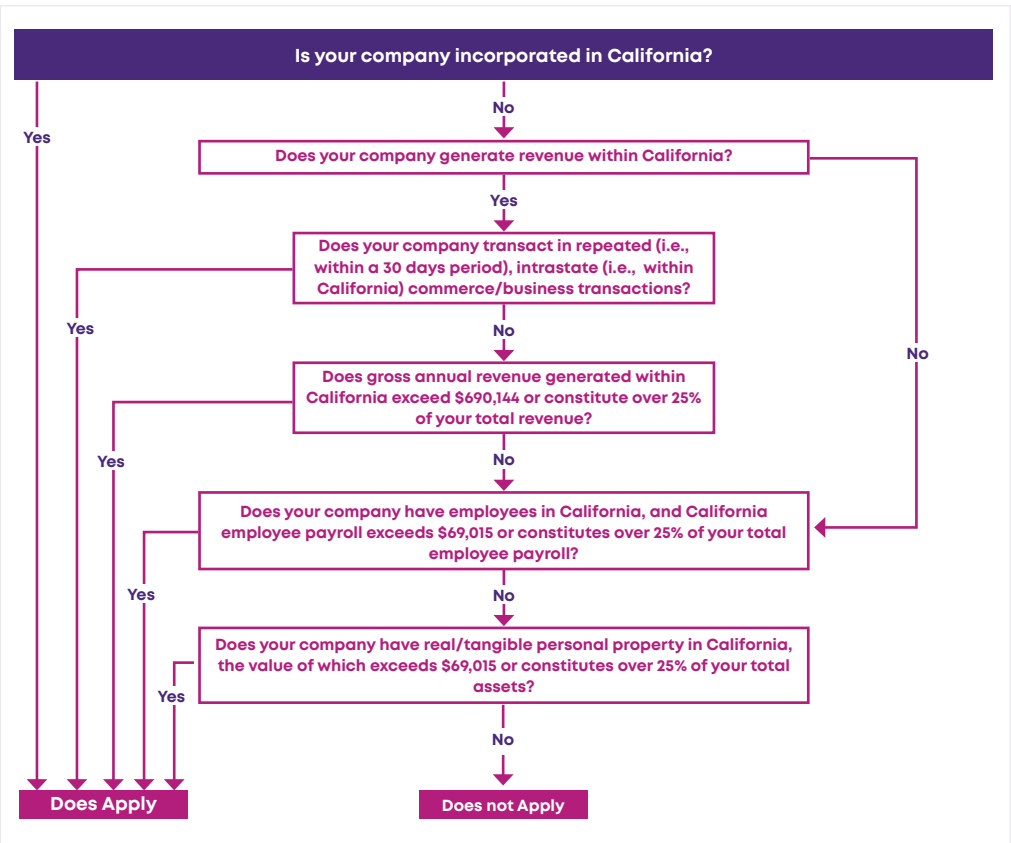


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The laws are silent with respect to how the revenue thresholds are to be calculated. Uniquis interprets that revenue for the purpose of SB 253 and SB 261 would be the revenue reported by an entity in the US at a consolidated level. For example, a corporation which has five subsidiaries in the US, the consolidated revenue of which exceeds \$1 billion, has to apply SB 253, assuming that it does business in the state of California. Further, in our view, for non-US parent companies, revenue thresholds should be considered based on consolidated revenues of US-based entities (which could include a standalone reporting entity in the US or a US-based holding company).

What does ‘doing business in California’ mean?

‘Doing business in California’ is not explicitly defined within the current context of SB 253 or SB 261. Uniquis interprets this definition based on the state’s business entity laws, under the California Corporations Code, and tax laws, under the California Revenue and Taxation Code. The below flowchart diagram illustrates whether a business is ‘doing business in California’ under its business entity and tax laws. Should the definition be clarified and expanded to companies that have any economic nexus to California whatsoever, Uniquis will update its interpretation.



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Interoperability with other Climate Disclosure Regimes

While these laws represent one of the first large scale regulatory efforts within the US for companies to report climate-related disclosures, there are additional proposals and regimes that exist across other jurisdictions which require similar disclosures. For example, the EU’s Corporate Sustainability Reporting Directive (CSRD) mandates a sustainability reporting framework — which includes climate risks, impacts and goals — upon all large EU businesses, listed SMEs, and foreign companies with substantial EU activity. The US SEC also proposed climate-related rules which would require public US companies to disclose climate risks, track greenhouse gas emissions, and provide details around climate-related goals, if any are established.

These regimes all maintain interoperability, as they are often aligned or have common heritage with standards established by internationally recognized stakeholder groups, such as the recommendations of the Task Force on Climate-Related Financial Disclosures (TCFD). Therefore, it is important for businesses to consider disclosing climate-related information according to internationally recognized frameworks, not only to understand climate risks and impacts relevant to their operations, but also to be prepared to comply with increasing regulatory pressures that are harmonizing around such standards, such as California’s climate regulations.

Differences with the SEC’s Proposed Climate Rules

California’s two climate laws have similar requirements and intended effects as the SEC’s proposed climate disclosure rules, but aspects of implementation differ — namely regarding the extent and applicability of requirements. Uniquis is closely monitoring the SEC’s proposal, as well as interactions with California’s laws which may impact finalization.

California Climate Laws

- Mandates covered entities to report on scope 3 emissions
- Applies to public and private California firms of certain sizes
- Requires explicit alignment with TCFD requirements
- To be published on corporate websites and made available publicly through online portals, to be established
- Reporting begins as soon as 2026, with no phase-in regime based on firm size

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Similarities in Scope

- Mandates covered entities to report their scope 1 and 2 emissions, including an assurance regime
- Mandates covered entities to disclose material financial risks related to climate
- Improves transparency around climate-related considerations to improve corporate, policy maker, investor, and consumer financial decisions

SEC's Proposed Climate Rules

- May not require reporting of scope 3, or only if material
- Applies to all US public registrants, with a phase-in approach based on firm size
- Is closely but not explicitly aligned with the TCFD
- To be published in registration statements, annual reports, financial statements, and Inline XBRL
- Reporting begins 1-3 years after rule is finalized

Cost of Compliance and Preparation

Similar to regulations like the CSRD, California's climate regulations incorporate a principal of proportionality. Gathering, verifying, and disclosing climate-related information can be quite costly, given the associated complexities and time requirements across different business stakeholders, operations, and value chains. SB 253 and 261 apply to companies generating over \$1 billion and \$500 million in gross annual revenues, respectively, meaning that the laws will only apply to larger public and private companies doing business in the state.

California's regulations therefore preliminarily consider the cost of compliance and have established applicability thresholds that should help ensure that undue burdens are not placed upon smaller companies, which may not have the capabilities and budgets to adequately comply. However, additional work is being conducted by California policy makers to assess the cost of compliance with both regulations, which will be taken into account as the laws' phase-in dates are being finalized.

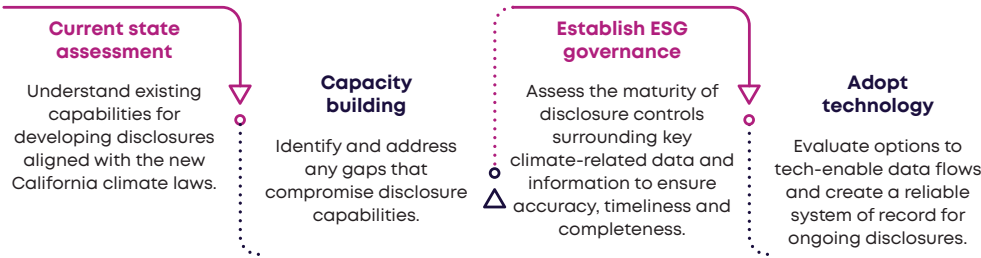
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Way Forward

Uniquis Consultech offers a variety of capabilities to help businesses prepare for California's climate disclosure requirements and similar regulatory developments, including comprehensive carbon accounting, ESG reporting, and ESG tech-enablement services.

As interpretations of California climate-related disclosure laws continue to unfold, companies should be proactive in developing and refining their disclosure capabilities with respect to key elements of these laws, namely quantification of Scope 1, 2 and 3 greenhouse gas emissions and processes for addressing TCFD recommendations.

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Key Takeaways

All firms generating at least \$500M in gross revenue and doing business in California must prepare to meet climate-related reporting requirements, including material risks and GHG emissions, if not doing so already.

Businesses outside of the remit of SB 253 may also be subject to client requests around reporting scope 1 and 2 emissions, as customers themselves could flow down their own scope 3 emissions disclosure requirements.

Companies should start the process of interacting with their internal and external stakeholders familiarising them with the likely implications of reporting data under these laws. Further, the impact of disclosures needs to be understood in the context of ESG ratings. Companies need to be cognizant of the risks associated with the ratings process.

Implications on collating information will require talent to be nurtured within the organizations.. Companies need to build capacity of their teams such that there is an understanding and appreciation of the requirements of disclosures under the law.

A TEAM THAT YOU CAN TRUST TO DELIVER



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