

## Kurt Gottschall in Orbit TRC: ‘Waiting for the Deluge’

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Haynes Boone Partner [Kurt Gottschall](#) was quoted in an *Orbit TRC* article about the Securities and Exchange Commission’s aggressive rulemaking agenda and the pressure it places on compliance officers.

Read an excerpt here:

Compliance teams across the US are facing a deluge of regulatory change. In the first eight months of this year, Securities and Exchange Commission (SEC) chair Gary Gensler proposed 26 new rules – double the number proposed in 2020 and 2021 combined. This breathless pace of rulemaking is leaving market participants questioning how many of the proposed changes are necessary.

“It’s incredibly ambitious and it contains both practical updates and partisan-leaning wish lists,” says Kurt Gottschall, a partner at Haynes Boone.

Gottschall says practical updates include the proposed changes to Rule 10b5-1 (c) under the Securities Exchange Act of 1934. The current rule allows for corporate executives to set binding plans to sell their company’s shares, assuming they are not in possession of material non-public information. Gensler argues the rule exposes gaps in the SEC’s insider trading enforcement regime, with the proposed changes seeking to tighten areas that are open to potential abuse, for instance by prohibiting certain overlapping trading plans.

By contrast, proposed rules around environmental, social and governance (ESG) disclosures will inevitably be viewed through a partisan lens, says Gottschall.

“Some believe that climate change is a hoax and that ESG investing is a sham,” he says. “Others believe that climate change presents an existential threat, and that ESG investing will accelerate long overdue social change.” ...

A number of those regulatory reforms are causing organizations compliance headaches. Take the ESG disclosure rules, particularly around ‘scope 3’ emissions, says Gottschall.

“However you feel about ESG, compliance with the public company climate change disclosure rules will present huge data management challenges,” he says. “Many corporate executives and asset managers will see it as being driven by a partisan agenda, as opposed to investor demand for disclosures with that level of detail.”

Regulation may also stifle ESG fund market growth by placing too many reporting obligations on investment firms that want to offer ESG-labeled funds.

“Categorizing ESG funds may have unintended consequences, such as dissuading asset managers from launching ‘ESG-focused’ or ‘ESGimpact’ funds with tougher disclosure requirements,” says Gottschall.

Excerpted from *Orbit TRC*. To read the full article, click [here](#).