

ClientEarth Investor Briefing

Trump presidency may significantly increase climate-related financial risks to business and investors

Prior to his election as the new US President, Donald Trump has been clear about his position on climate change. He has previously called climate change a hoax and publicly declared that, if elected, he would 'cancel' the historic Paris Agreement.¹

The Paris Agreement is an international treaty that has now been ratified by 105 different countries. It cannot simply be cancelled by one of them. Nonetheless, when Mr Trump comes into office, he will have the power to withdraw from the Paris Agreement or otherwise limit US participation in pursuing its objectives.² US withdrawal from the Paris Agreement could not legally take effect until November 2020.

1 Climate-related financial risks

Any actions of this sort would create significant risks for business and investors. The consensus that emerged around the Paris Agreement already provides a clear signal to business and investors about the urgent need to consider and address climate-related financial risks. Our analysis has shown that company directors and investor trustees already owe legal duties to do so.

Regardless of whether or not the US withdraws from the Paris Agreement, the underlying logic of these risks has not changed. Indeed, if the US does withdraw, businesses and investors will need to consider them even more carefully.

2 Physical Risks

The physical risks associated with climate change are well known. The US is a major emitter of greenhouse gas emissions and any reduction in its ambition to reduce those emissions will be

¹ <http://www.bbc.co.uk/news/election-us-2016-36401174>

² ClientEarth Briefing, *Can Trump Legally Pull out of the Paris Climate Change Agreement?* 11 November 2016.

globally significant. This will correspondingly increase the onus on businesses to identify the impact of physical climate change risks on their activities and supply chains. It will also increase the incentive for investors to carefully consider and manage their exposure to these risks.

3 Transition Risks

Regardless of whether or not the US withdraws from the Paris Agreement, the transition to a low-carbon economy is inevitable. The Paris Agreement will continue even without the US. It was specifically designed as a facilitative means of building consensus and driving ambition in spite of administrative changes in particular countries.

Other key countries like China are already taking action far above their legal commitments. US states and cities are acting independently and consumers, business and investors are shifting their behaviour. Renewables have now over-taken coal as a global power source, electric vehicles are the growth segment of the auto industry, and jobs are being created in clean sectors faster than any other. This is not about to change. Businesses and investors must be aware of the risks and opportunities of this broader trend.

4 Policy and Legal Risk

Any dramatic shift in US climate and energy policy clearly creates significant uncertainty for business and investors. It will also lead to greater potential for unpredictable litigation risks. In recent years, climate-related litigation claims against both government bodies and business have dramatically increased.

In recent days, for example, a significant shareholder class action has been brought against Exxon Mobil for inadequate disclosure of climate related risks.³ In another matter, a group of children in the US have successfully advanced their claim that the current US government has failed to adequately address climate change.⁴ Such claims are likely to become even more frequent and aggressively prosecuted should the US withdraw from the Paris Agreement or scale-back its climate change ambitions. These are risks that business and investors must take seriously.

5 It's time to scale up pressure

We recommend that the business community urgently and publically call on the incoming US administration to reconsider its position on the range of climate and environmental policies and laws now under threat. It should call on the US and other countries to stay in the Paris Agreement and pursue ambitious domestic and international policies to combat climate change and enable clean energy investment.

³ See ClientEarth Briefing, *Exxon faces climate disclosure lawsuit – from its own investors* (10 November 2016) <http://www.clientearth.org/exxon-faces-climate-disclosure-lawsuit-investors/>

⁴ Bloomberg Politics, *After Obama, Trump May Face Children Suing Over Global Warming* (11 November 2016) <http://www.bloomberg.com/politics/articles/2016-11-11/after-obama-trump-may-face-children-suing-over-global-warming>

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ClientEarth is a non-profit environmental law organisation based in London, Brussels and Warsaw. We are activist lawyers working at the interface of law, science and policy. Using the power of the law, we develop legal strategies and tools to address major environmental issues.

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