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August 16, 2022

Ms. Vanessa Countryman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Submitted via email to: rule-comments@sec.gov

Re: Enhanced disclosures by certain investment advisers and investment companies about environmental, social and governance investment practices [File No. S7-17-22]

Dear Ms. Countryman:

State Street Global Advisors, the investment management arm of State Street Corporation,[1] appreciates the opportunity to provide feedback on the Proposed Rule (the "proposal") issued by the U.S. Securities and Exchange Commission (the "Commission") on *"enhanced disclosures by certain investment advisers and investment companies about environmental, social and governance ["ESG"] investment practices"*.[2]

With $3.475 trillion in assets under management, State Street Global Advisors is the world's fourth-largest asset manager and sponsors the SPDR® family of exchange traded funds ("ETFs").[3] As a fiduciary, State Street Global Advisors has a duty to act in the best interests of our clients, and we believe that the consideration of ESG risk and opportunities ("ESG Factors") can aid investment decisionmaking, help to manage investment risk and facilitate the generation of long term value in our clients' portfolios.[4] The thoughtful consideration of ESG factors, in our view, may improve companies' ability to withstand emerging risks and capitalize on new opportunities. A critical aspect of managing ESG strategies, as with any strategy, is meaningful and transparent disclosure.

[1] Headquartered in Boston, Massachusetts, State Street Corporation is a global custodian bank which specializes in the provision of financial services to institutional investor clients. This includes the provision of investment servicing, investment management, data and analytics, and investment research and trading. With $38.2 trillion in assets under custody and/or administration and $3.475 trillion in assets under management* as of June 30, 2022, State Street operates in more than 100 markets globally.

*AUM as of June 30, 2022, includes approximately $66 billion of assets with respect to SPDR® products for which State Street Global Advisors Funds Distributors, LLC ("SSGA FD") acts solely as the marketing agent. SSGA FD and State Street Global Advisors are affiliated.

[2] https://www.sec.gov/rules/proposed/2022/ia-6034.pdf

[3] As of June 30, 2022.

[4] https://www.ssga.com/library-content/pdfs/esg-investment-statement.pdf

We are fully supportive of consistent, comparable and reliable disclosure, and we commend the Commission for its efforts to enhance disclosure of ESG issues to clients and shareholders.[5] We believe that such disclosure must be meaningful, clear and material in order to be effective and helpful to investors in making informed investment decisions. However, we find elements of the proposal to be highly prescriptive and complex, particularly in view of the developing nature of ESG data, methodologies and reporting constructs. Furthermore, we believe that the overly prescriptive and complex nature of the proposal would detract from the Commission's overarching goal of providing disclosure that is beneficial to investors.

We therefore provide five recommendations in support of the requirement for ESG disclosures to be decision-useful and cost-effective for investors.

Recommendations for Commission ESG Disclosures Rulemaking

1. **The Commission should revise the ESG categories in the proposal to ensure they reflect current market practice and facilitate decision-useful disclosure for investors.**

The proposal introduces three new categories of funds ('Integration', 'ESG-Focused' and 'Impact') for the purpose of mandating specific disclosure obligations for each category. We appreciate that the proposal attempts to distinguish between ESG and non-ESG investment products; however, the proposed categories of funds are defined in very broad terms that do not necessarily reflect the nuances of ESG investment approaches today.

A. Definition of Integration Funds

Under the proposal, an **Integration Fund** is defined as *"a Fund that considers one or more ESG factors alongside other, non-ESG factors in its investment decisions, but those ESG Factors are generally no more significant than other factors in the investment selection process, such that ESG factors may not be determinative in deciding to include or exclude any particular investment in the portfolio".*[6]

By definition, this category acknowledges that many investment managers are routinely incorporating certain ESG factors into their investment analysis that are no more determinative to the investment strategy than other traditional investment factors. By including the consideration of any one ESG factor under the definition of Integration Fund, even if such consideration is not material to the investment strategy, the proposal risks including a much broader scope of funds than is appropriate and may inadvertently suggest that such funds consider ESG factors more extensively than they do. Moreover, requiring enhanced disclosure for funds that may consider ESG factors with no greater weight than other factors could

[5] SEC proposal release language.
[6] https://www.sec.gov/news/statement/lee-statement-esg-052522

suggest that managers place a greater weight on such factors, which would be misleading to investors.

We believe that the existing principles of fair disclosure set forth by the Commission are sufficient to address the types of funds that may fall within the Integration Fund category and suggest that the Integration Fund category be removed. Should the Commission, however, retain the Integration Fund category, we strongly recommend that the accompanying mandatory disclosures be appropriate in both scope and location based on the weight to which such factors are considered by the investment strategy, similar to the existing principles of fair disclosure today. Where an Integration Fund does incorporate one or more ESG factors as a material component of the principal investment strategy, we believe such funds should fall into the ESG-Focused Fund category.

B. Definition of ESG-Focused Funds

There are similar concerns with funds that would fall into the ESG-Focused category and the definition, as proposed, risks capturing a broader scope of funds than may be appropriate. Under the proposed definition, an **ESG-Focused Fund** "*focuses on one or more ESG factors by using them as a significant or main consideration […] in selecting its engagement strategy…*" By hinging this definition not only on those funds that integrate such ESG factors into the investment selection process, but also in its engagement strategy, this would again capture a broad range of funds where certain ESG-related matters may have been incorporated into efforts to engage with portfolio companies in connection with efforts to create long-term value for fund shareholders. Furthermore, funds have routinely considered traditional governance-related matters (e.g., board composition) in their engagement strategy for years. Such funds, however, may not necessarily be focused or even consider ESG factors from an investment perspective. Requiring enhanced disclosures for funds that may not necessarily have an ESG investment focus would be unhelpful to investors, and potentially misleading.

In addition, the definition of ESG-Focused Fund includes terminology such as "significant" and "main" which are not well defined in the industry or in regulatory guidance. We recommend instead that the Commission clarify the definition by replacing these terms with the term "material", which is an existing principal that is well understood. We are concerned that the absence of a well-recognized standard definition for this important ESG category will lead to inconsistent interpretation across investment products, thereby exacerbating the challenges that this proposal seeks to address.

2. The Commission should narrow greenhouse gas("GHG") emissions reporting to only those funds with explicit emissions reduction targets, building off incoming requirements for U.S. public issuers.

We do not agree with the imposition of aggregated GHG emissions reporting for all proposed categories of ESG investment funds. While we are supportive of initiatives to improve GHG emissions reporting, including by investment funds where relevant to an investment strategy, the proposed scope of funds that would be subject to such requirement is overly broad. The proposed requirement that a fund report aggregated GHG emissions across its entire portfolio would impose an extraordinarily high compliance burden on funds – particularly Integration Funds given that such emissions may not be a material consideration of the portfolio – and therefore, in some case, of very limited benefit to investors.

Although the Commission proposed a Climate Risk Rule[7] that may help to resolve some of the information gaps in current public companies' GHG emissions, there are persistent challenges in utilizing Scope 3 GHG emissions data, even where a company is already providing this information in its regulatory filings. Consensus around Scope 3 reporting parameters is still emerging and so full SEC-mandated disclosure for investment funds is premature. Further work should be done, in consultation with relevant stakeholders, to determine the value and feasibility of calculating and disclosing Scope 3 GHG emissions for the benefit of investors.

3. **The Commission should further consider the role of index providers versus index managers, ensuring adequate information is provided to managers with respect to the ESG characteristics of index funds.**

The current disclosure requirements for the statutory prospectus require a fund to explain in general terms how the fund's adviser decides which securities to buy and sell. However, the proposed enhanced disclosure would far exceed an explanation in general terms and in so doing, would place an inappropriate compliance burden on index funds and index fund managers. Specifically, the proposal would require a fund to disclose the index methodology for any index the fund tracks, including any criteria or methodologies for selecting or excluding components of the index that are based on ESG factors. We do not believe that it is appropriate for this requirement to fall onto investment funds.

4. **The Commission should not require quantitative disclosure regarding proxy voting and engagement of ESG-Focused Funds.**

We do not believe that the proposed quantitative disclosure in relation to an ESG-Focused fund's proxy voting and engagement records within annual reports and in fund documentation (i.e. prospectuses) are appropriate. The proposal would require an ESG-Focused fund that has indicated its use of proxy voting as "*a significant means of implementing its ESG strategy*" to disclose the percentage of ESG voting matters for which the fund voted in favor. We do not consider such an arbitrary metric to be of benefit to investors.

[7] https://www.sec.gov/news/press-release/2022-46

Regarding disclosures in relation to portfolio company engagement, the proposal would be impractical for ESG-Focused funds to provide in a way that would be of benefit to investors. The proposal would require an ESG-Focused fund that indicates that it uses engagement *"as a significant means of implementing its ESG strategy"* to provide certain metrics regarding engagement activities, including the number or percentage of issuers with which the fund held engagement meetings, and the total number of engagement meetings. Such an approach negates the purpose of the disclosure to investors, as this would not provide investors with information that is meaningful to making an investment decision. In this vein, we consider the quality of our stewardship engagements to be more important than the volume of our engagements.

5. **The Commission should recognize ongoing data, methodological and sequencing challenges, and therefore ensure full implementation of climate-related disclosures by public issuers before mandating such disclosure by investment funds.**

Integrating ESG factors into the investment process depends, in part, upon the availability of robust and reliable ESG data regarding the risks and opportunities posed to portfolio companies. As mentioned, we believe effective ESG disclosures by investment funds is contingent on enhanced and standardized climate-related disclosures by issuers. We appreciate the Commission has already proposed to address this through the Climate Risk Rule, but reiterate the importance of ensuring appropriate policy and regulatory sequencing (particularly, with respect to GHG emissions reporting). At a minimum, the Commission should ensure full implementation of public company climate disclosure, at least 12 to 18 months prior to requiring investment fund ESG disclosures.

Thank you once again for providing State Street Global Advisors the opportunity to offer our comments on possible Commission rulemaking regarding ESG disclosures by certain investment funds and investment companies.

Please feel free to contact Sean O'Malley at [redacted] should you wish to discuss our submission in further detail.

Sincerely,

Sean O'Malley
General Counsel
State Street Global Advisors