Evergreen Action

Friday, October 14, 2022

Ms. Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F. Street, NE
Washington, D.C. 20549-1090

Re: Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices (File Number S7-17-22); Fund Names Rule Amendment (File Number S7-16-22).

Dear Ms. Countryman,

Thank you for the opportunity to comment on the Security and Exchange Commission's ("SEC") proposed rules, the Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices ("Disclosure Rule") and the Fund Names Rule Amendment ("Names Rule"). Evergreen Action is a national non-profit helping lead the fight to put bold climate action at the top of America's agenda, implement an all-out mobilization to defeat climate change, and create millions of good jobs in an equitable clean energy economy.

On behalf of Evergreen Action and Americans for Financial Reform, we are submitting an article we wrote about the proposed ESG rule, as part of our comments. Our article follows below:

Time to Clean Up Greenwashing in ESG Funds

August 9, 2022

"In the last few years, "Environmental, Social, and Governance" (ESG) investing has skyrocketed in popularity – in part, fuelled by investors' desire to divest from fossil fuels and put money into more sustainable and climate-friendly funds. This demand has grown so large that investment managers now claim that sustainable investments total over $35 trillion globally.

But there's a big problem with this trend. While asset managers are making huge profits from the public's interest in "socially responsible" investing, there is very little oversight into what's actually in these ESG funds. A growing body of evidence suggests that some asset managers are “greenwashing,” or misleading investors into thinking their ESG investments are more socially responsible than they actually are. Sound deceptive? It is.

Thankfully, the U.S. Securities and Exchange Commission (SEC) issued a pair of highly-anticipated rule proposals in May to crack down on misleading or deceptive claims related to ESG investment practices. These two proposed rules will help give investors the accurate information they need to make smart, fact-based decisions – and not fall prey to greenwashing. Now, before the August 16 comment deadline, it’s time to raise our voices and tell the SEC that these two proposals should be strengthened and finalized immediately.

But first, let’s zero in on what’s in the SEC’s two proposals.

What does “ESG” really mean?

If you’ve ever tried to rid a retirement account of fossil fuel investments, then you might have come across the phrase “ESG investing.” One common way to do ESG investing is to use a set of criteria to screen how socially responsible or climate friendly an investment might be. This criteria is not standardized across funds – rather, it’s defined by the individual investment manager. Different funds choose to screen out certain industries or specifically include others. The environmental criteria, for instance, may include corporate climate policies, energy use, waste, pollution and community impacts, natural resource conservation, and treatment of animals.

But the range in criteria is wide. And as ESG investments have grown in popularity, the use of investment terms like “sustainable,” “green,” or even “ESG” itself have been thrown around without proper oversight as to how good they actually are for the environment or how well they counter environmental risks.

Take, for example, Vanguard, the world’s second largest asset manager. A recent report published by ACRE found that two of Vanguard’s five ESG funds funneled money into fossil fuels, petrochemicals, and plastic manufacturers with poor environmental records. Meanwhile, six out of the 20 of the world’s biggest ESG funds were invested in ExxonMobil, one of the world’s largest greenhouse gas emitting companies. And in the past two years, Deutsche Bank AG’s asset-management arm, DWS Group, and Goldman Sachs were investigated after they were found to have overstated the ESG credentials of some of their products.

Sounds like some serious greenwashing. How will the SEC’s proposals change that?

Fortunately, this gets at the root of the SEC’s mission: to protect investors from these kinds of misleading practices and allow them to invest their money in a way that meets their needs. The SEC has proposed two rules that improve the reliability and comparability of ESG investments: the Fund Names Rule Amendment and the ESG Disclosure Rule.

Under the Fund Names Rule Amendment, the SEC would prohibit funds from using terms like "ESG," "sustainable" and "green" if ESG factors are "generally no more significant than other factors in the investment selection process." This amendment builds on the existing 2001 Names Rule, which already prohibits "materially deceptive or misleading fund names," by requiring funds to invest at least 80% of their assets in areas that the fund name suggests. The new amendment would simply clarify that the Names Rule applies to ESG-advertised funds.

The ESG Disclosure Rule would allow investors to "look under the hood" of their funds and cross-check the information that stands behind funds' claims. It would do so by creating a robust disclosure and reporting framework that investment managers would be mandated to provide on the criteria and data they use to achieve their investment goals, as well as details about their strategies.

For the first time ever, these proposed SEC rules would ensure that investors have reliable and comparable information on the makeup and criteria of ESG funds, so that they can make informed decisions about whether they want to keep or move their money out of certain companies or funds. This is particularly important for individual investors, who are less likely to look beyond fund labels – think, for instance, about workers investing in their 401(k) retirement account.

Great. But a few tweaks are needed.

In the "ESG Disclosure Rule," the SEC should require certain ESG funds (called "Integration Funds" and "ESG-Focused Funds") to disclose their top three investments in a prominent location. This information will help the investor get a flavor for the contents of a fund, and complement the more detailed disclosure of the funds' criteria or strategy. The SEC should also require all ESG funds that do not have a policy or strategy for considering greenhouse gas emissions in their ESG criteria to make that crystal clear in their prospectus. This way, climate-minded investors have the information they need to make a decision.

With the help of these improvements, the SEC's proposed standardized disclosure framework would protect investors from funds with misleading names, and put an end to the ballooning culture of greenwashing that only serves to put money in the pockets of asset managers without supporting investments that help transition the U.S. to a more clean and just economy."

Thank you for this opportunity to submit these comments.

Kind regards,
Evergreen Action and Americans for Financial Reform