



ICGN

International Corporate Governance Network
Inspiring good governance & stewardship

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

Via email: rule-comments@sec.gov

August 16th, 2022

Dear Secretary Countryman,

Re: 33-11068 Environmental, Social, and Governance Disclosures for Investment Advisers and Investment Companies

The International Corporate Governance Network (ICGN) appreciates the Securities and Exchange Commission's request for comment on the proposed rule related to Environmental, Social, and Governance Disclosures for Investment Advisers and Investment Companies.

Led by investors responsible for assets under management of around \$70 trillion, ICGN is a leading authority on global standards of corporate governance and investor stewardship. Headquartered in London, our membership is based in more than 45 countries and includes companies, advisors and other stakeholders. We are proud that leading pension funds and asset managers in the United States support ICGN as highly active and effective members. ICGN offers an important international investor perspective on corporate governance and investor stewardship to help inform public policy development and the encouragement of good practices by capital market participants. For more information on the ICGN, please visit www.icgn.org.

The SEC's continued review of disclosures within investment strategies and products, in this case, those related to environmental, social and governance (ESG), is quite timely. On a global scale, regulators and standard setters have recognized the need for accurate disclosures that investors, as fiduciaries, can evaluate and compare with investments in their portfolios. The breadth and depth of "ESG" offerings has skyrocketed as many investors search for responsible investment vehicles to manage the risks within their portfolios. We agree with the SEC when it notes that currently some disclosures are better than others, yet the lack of consistent, comparable information is problematic for investors who must conduct robust due diligence reviews. As the SEC said in the commentary:

This lack of consistent, comparable, and reliable information can create a risk that a fund or adviser’s actual consideration of ESG does not match investor expectations, particularly given that funds and advisers implement ESG strategies in a variety of ways. The lack of specific disclosure requirements tailored to ESG investing creates the risk that funds and advisers marketing such strategies may exaggerate their ESG practices or the extent to which their investment products or services take into account ESG factors.¹

The ICGN supports the rationale behind the proposed rule as the means to provide investors with common disclosures, alignment with a standard reporting framework and to address “greenwashing”. It is important to recognize, as the SEC does, that the *decision* whether to select one investment product or another, related to one or all of the factors in ESG, is unique to *each* investor. They will have their own investment strategies which align with the fiduciary responsibilities they have to their beneficiaries.² ³Investors do need to receive improved information from funds and advisors that consider E, S and/or G factors as a way to make more “informed choices regarding ESG investing and better compare funds and investment strategies.”⁴

While many funds and managers have provided good disclosure to investors, the reality is that the disclosures are tailored for each investment offering, leaving investors with some degree of difficulty making comparisons. In turn, to a large degree, fund managers are reliant on the accurate disclosures from issuers, which are being considered by the SEC and regulators in separate rule proposals. The minimum disclosure requirements within the proposed rule for ESG strategies in fund registration statements, fund annual reports, and adviser brochures will be informative for investors if the disclosures contain accurate data.

ICGN has long believed and supported a global framework of consistent and comparable information for investors. This could help temper disclosures that are nothing more than greenwashing and help investors determine whether they should invest with a particular fund or advisor. For example, ICGN has responded to several previous consultations on climate and sustainability reporting by the European Financial Regulation Advisory Group (EFRAG)⁵, the International Sustainability Standards Board (ISSB)⁶, the SEC⁷ and the Canadian Securities Administrators, with the consistent message that standards-setters and regulators have a unique opportunity to achieve a global benchmark in sustainability (i.e., ESG) reporting. A key threat to this is regulatory fragmentation which we see today: sustainability reporting standards varying by jurisdiction adding to the costs of corporate compliance and investor analysis. We believe it is critical for the SEC, the ISSB, the European Union and other regulators to work

¹ [Proposed rule: Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices \(sec.gov\)](#), pp. 7-8.

² [ESG Reporting Discussion Paper.pdf \(icgn.org\)](#), INVESTOR AGENDA FOR CORPORATE ESG REPORTING A Discussion Paper By Global Investor Organisations On Corporate Esg Reporting, Authors: Kris Douma, Principles for Responsible Investment George Dallas, International Corporate Governance Network WITH CONTRIBUTIONS FROM CERES, CFA INSTITUTE, GIIN, GSIA, ICGN, PRI AND UNEP-FI.

³ [ICGN Global Stewardship Principles 2020](#).

⁴ [Proposed rule: Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices \(sec.gov\)](#), p. 9.

⁵ [ICGN Comment letter to EFRAG, August 2022](#)

⁶ [\[Draft\] IFRS S1 Exposure Draft: General Requirements for Disclosure of Sustainability related Financial Information, \[Draft\] IFRS S2 Exposure Draft: Climate-Related Disclosures](#)
⁷ : [S7-10-22. The Enhancement and Standardization of Climate-Related Disclosure for Investors, June 2022](#)

together to ensure a coherent global alignment — and to avoid fragmented standards of disclosure and reporting.⁸

In Canada the Canadian Securities Administrators published CSA Staff Notice 81-334 entitled “ESG-Related Investment Fund Disclosure” on January 19, 2022. The CSA publication refers to IOSCO developments, for example, as part of the CSA’s guidance, and the CSA also footnotes recommendations and guidance for investment fund ESG disclosure published by the EU, France, Hong Kong and Malaysia. ICGN has provided comments on these proposals and in each case has recommended global alignment for disclosures and reporting. Similar disclosure requirements and guidance already exist in various jurisdictions. ICGN would encourage the SEC to continue evaluating these standards with the goal of developing a framework that is consistent and comparable with required disclosure around the world.

Our response is set forth within each section of the proposed rule and we have responded to the questions of most importance to our members. The significance of the SEC’s review of ESG-related disclosure is in direct alignment with the ICGN Global Stewardship Principles (ICGN GSP), which provide:

Regulators can play an important role in championing stewardship in individual markets and should seek to support the ability of investors to exercise stewardship, for example, by providing effective rights for minority shareholders and facilitating collective engagement on ESG matters.⁹

Proposed Fund Disclosures to Investors

1. Proposed Prospectus ESG Disclosure Enhancements

ICGN supports the proposed rule’s requirement that additional information should be included in the fund documents related to how it uses ESG factors (some or all of them) in relation to the fund’s principal investment strategies. The proposed rule scales the disclosure according to the extent to which the fund utilizes more of the E, S and G factors in those strategies. This decision is important to investors because it provides them with a spectrum of disclosure, from a limited approach to a more comprehensive use of ESG within the investment vehicle.

It is interesting that the SEC is not proposing to define “ESG” or similar terms, rather, it is “proposing to require funds to disclose to investors (1) how they incorporate ESG factors into their investment selection processes and (2) how they incorporate ESG factors in their investment strategies.”¹⁰ Because the use of “ESG” is so widespread, the inclusion of a definition might defeat the intent of the rule. Any effort to prescriptively define ESG in this proposed rule could lead to different interpretations within investments strategies, which is exactly what the SEC is attempting to address. ICGN believes that the real definition can be

⁸ CSA Notice and Request for Comment, Proposed National Instrument 51-107, Jan 2022

⁹ [ICGN Global Stewardship Principles 2020](#), p. 28.

¹⁰ [Proposed rule: Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices \(sec.gov\)](#), pp. 24-25.

found in how the fund manager or advisor is using ESG factors and how it is incorporated into those investment processes.¹¹

1. Should we provide a non-exhaustive list of examples of ESG factors in the forms? Should we define certain types of factors as being ESG but allow funds to add additional factors to that concept if they choose? Are there any other approaches that we should take in providing guidance to funds as to what constitutes ESG?

A list of examples of ESG factors could be useful for investors who are considering whether investments in ESG-related funds are appropriate for their investment strategies or are curious whether certain investments might have elements of ESG within them. To the degree that the examples are clearly disclosed in a non-exhaustive list for educational purposes, ICGN does not object. The examples will need to be updated as new investment strategies are developed around ESG factors and the demand for authentic ESG products continues to grow.

ICGN has published Global Stewardship Principles (ICGN GSP) and guidance to assist investors in fulfilling their fiduciary duties related to stewardship and investment strategies. In responding to the growth in ESG-related investing, ICGN updated the ICGN GSP in 2020. In describing the main changes from the 2016 Principles, ICGN commented on one of the main changes:

The use of ESG factors should be applied in investment decision making, as well as stewardship. ESG factors are clearly linked to long-term company performance and should be considered not only in the context of engagement and voting, but also in investment decisions relating to valuation and the buying or selling of financial assets.¹²

2. Should these disclosure requirements apply to registered open-end funds, registered closed-end funds, and BDCs, as proposed? Are there other substantive disclosure requirements that should differ based on the type of fund? Should our proposed disclosure requirements apply to insurance company separate accounts registered as management investment companies?

ICGN believes that any fund, whether open or closed-end, and business development companies (BDCs) that have marketed or promoted their use of “ESG” factors to investors should be part of the disclosure requirements. This would also include what are typically called, ESG Impact Funds and “ESG-Focused Funds”. If the fund chooses to weigh E, S and/or G as a main part of its investment strategy, it would qualify, particularly if the description and the engagement strategy indicate that it is using ESG factors within the product.

The SEC has also included funds that track an ESG-focused index or those that apply a screen to include or exclude investments in certain industries based on ESG factors. The inclusion of these types of funds gets to the heart of the proposed rule. If there is an effort to entice investors to invest in the so-called “ESG-related” fund, the required disclosure would assist investors as they determine whether the investment truly fits within the portfolio’s strategy.

¹¹Examples of recognised principles and standards include: • [ICGN Global Stewardship Principles](#) • [ICGN Global Governance Principles](#) • [ICGN Guidance on Investor Fiduciary Duties](#) • Relevant National Stewardship Codes • [CFA Institute: Global ESG Disclosure Standards for Investment Products](#).

¹²[ICGN Global Stewardship Principles 2020](#), p. 7.

The SEC has also pointed out that “a fund that has a policy of voting its proxies and engaging with the management of its portfolio companies to encourage ESG practices or outcomes”, would be included.¹³ This is an important inclusion. Institutional investors must either vote their proxy ballots or ensure that fund managers are effectively voting with the regard necessary to fulfil those fiduciary duties. As ICGN and GISD noted in the newly revised Model Mandate:

Asset owners cannot discharge their fiduciary obligations to their end beneficiaries simply by hiring an asset manager. They may delegate investment tasks to asset managers, but fiduciary duty itself is a core stewardship concept that cannot be delegated. It is therefore essential that asset owners take steps to ensure that their managers act in a way that is consistent with the owner’s fiduciary obligations – including in the design and monitoring of their mandates.¹⁴

25. Should we, as proposed, permit a fund to replace the term “ESG” in the ESG Strategy Overview table with another term or phrase that more accurately describes the ESG factors that the fund considers? Should a fund be required to replace ESG with a different term in certain circumstances, such as when it focuses on a particular issue or set of issues? Should we mandate that funds choose from a list of alternative terms to improve comparability, and, if so, what terms should those be?

Even though the use of ESG as a term has become widespread, we observe that it has also become politicised in some circles in a way that detractors have use to distort its meaning and undermine the legitimacy of ESG factors as an investment consideration.

ICGN has preferred to encourage companies and investors to look toward risks associated within the E,S and G categories, including the impact of climate change and other factors that are part of an overall investment strategy. In the main, as part of an extensive portfolio, investors are seeking long-term investments that consider sustainability within the core of the investment strategies. The use of the words, sustainability, sustainability factors, corporate viability, long-term strategy, and similar terms may hold as much or more meaning for a fund’s strategy as the use of actual ESG factors.

In an early discussion paper, with experts from ICGN, the UN PRI and selected organizations, the group reviewed ESG reporting, the terms or phrases that describe ESG factors and concluded:

While we recognize that some companies use the terminology Corporate Social Responsibility (CSR), we prefer the broader terms ‘sustainability’ or ‘ESG’.¹⁵

¹³ [Proposed rule: Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices \(sec.gov\)](#), p. 54.

¹⁴ [ICGN GISD Model Mandate 2022](#), p. 11.

¹⁵ [ESG Reporting Discussion Paper.pdf \(icgn.org\)](#), p. 7.

26. Should we, as proposed, require funds to include the types of common ESG strategies in a “check box” format? Is this format useful to an investor so that the investor can quickly and easily understand the fund’s ESG strategy and compare it with the ESG strategies used by other funds? Alternatively, as opposed to listing all the strategies and checking the ones that apply, should funds list only the ESG strategies that apply to them?

While ICGN has not embraced a “check the box” functionality with regard to investor stewardship responsibilities, the proposed rule’s provisions to require funds to utilize a table in which they check the boxes that apply to the required disclosure, would be useful. The application of a set format within a prospectus or other documents, would provide investors with an at-a-glance summary of the fund’s use of ESG factors and determine whether more information is necessary.

2. Unit Investment Trusts

62. Should the ESG disclosure requirement apply to UITs, as proposed? Should the substantive disclosure requirement for UITs differ from that of other types of funds, as proposed?

The use of Unit Investment Trusts (UITs) may arise due to their inclusion in certain portfolios. If a UIT has selected portfolio securities due to an E, S, and/or G factor, then an investor would benefit from further disclosure within the confines of the proposed rule.

63. A UIT invests the money that it raises from investors in a generally fixed portfolio of stocks, bonds, or other securities. However, the focus of certain investments of the UIT’s fixed portfolio might “drift” away from the ESG factors that formed the basis for those investments’ inclusion in the portfolio during the UIT’s limited term. Should the amendments address such situations?

Due to the limited terms of UITs, an amendment may not be necessary. The focus is on either the E, S, and/or G strategy, during the life of the investment. Investors could otherwise be concerned that they would be enticed into an initial investment whose focus would then be changed to avoid these reporting requirements.

66. Should the ESG disclosure requirement for UITs address proxy voting? Are there circumstances where the trustee would not “mirror” vote? If so, what are those circumstances?

Proxy voting is a fiduciary obligation of institutional investors. If an investor has entered into an agreement with a UIT, the issue of proxy voting should be one of the first issues to be addressed. If proxy voting rights will be relinquished under the terms of the UIT, then disclosure of proxy voting would be essential for the investor to ensure that the voting was in alignment.

3. Fund Annual Report ESG Disclosure

68. Should we require funds to provide the impact, engagement, and GHG emissions disclosure in their annual reports in the MDFP or MD&A as applicable, as proposed? Should we instead require these disclosures to be in another regulatory document such as the fund’s prospectus, or Forms N-CEN, N-CSR, or N-PORT? Should we require the disclosure to be on the fund’s website?

Investors expect that fund performance will be communicated on a regular basis and according to the terms within the agreement, which could be monthly, quarterly and annually. The review of fund performance is usually more than looking at returns. Investors are keen to understand the impact of the fund and how it conducts its engagement on behalf of the investors. GHG emissions disclosure for “environmentally focused” funds is a way for investors to evaluate the fund’s performance against emissions that are calculated or disclosed by issuers. ICGN would recommend that annual reports contain the ESG-related information that investors need to ensure that their investments have been managed to their expectations.

While annual reports typically contain other information, fund performance, the impact of the strategy that was linked to an E, S and/or G strategy should be included in the report. Investors likewise are expected to report their stewardship activities and this disclosure could be part of these reports.¹⁶

ICGN supports the proposed rule’s inclusion of a requirement for those funds that consider themselves “environmentally focused” to disclose the greenhouse gas (GHG) emissions associated with their portfolio investments. Investors would have an expectation that such funds would have holdings in particular industries and sectors, and that GHG emissions have been calculated or gathered as part of the investment and engagement strategy. For investors, the disclosure should consider the impact of those emissions and any efforts to reduce the carbon footprint.

At the same time, ICGN would emphasize that in some circumstances, the sequencing of, or the dispersion of data by funds, may be challenging. Funds may not be able to disclose certain aggregated portfolio data. Data on GHG emissions, for example, cannot be gathered if data are not available in a consistent and comparable manner from the underlying issuers in the portfolio. We appreciate that the SEC is working to first require reporting from issuers on this type of data, that later would be reported by funds. The fund reporting requirements would then need to be phased-in after issuers, which do not disclose GHG emissions, commence disclosing data.

ICGN would expect to see adequate and accurate ESG-related disclosure on any fund’s public-facing website so that any investor or interested party would have access to the information in the annual reports. If there are concerns with respect to trade secrets or confidential information that should not be in the public domain, the SEC provides a mechanism for limited disclosures.

The way that an ESG-related fund measures its impact and performance are important pieces of information for investors. The engagement strategy and results of the engagements are key concerns for investors, particularly if the investors had expectations that the fund would be engaging on one or more of the ESG factors.

a) *ESG Impact Fund Disclosure*

¹⁶ICGN Global Stewardship Principles 7.6. Client reporting. Investors should provide regular and appropriate reports to clients and beneficiaries, which may be more detailed than public disclosure, regarding stewardship activities and performance. Such reports should include their major stewardship priorities and forward-looking engagement strategy. [ICGN Global Stewardship Principles 2020](#), p. 25.

71. Should we, as proposed, require Impact Funds to discuss their progress on achieving its ESG impact? To what extent do affected funds already provide this disclosure in their annual reports or elsewhere?

Impact funds have an obligation to keep their investors informed of progress toward any ESG-related focus they have. After investors complete their due diligence review and invest in an impact fund, they still have a responsibility to monitor these investments (and others for that matter).¹⁷

b) ESG Proxy Voting Disclosure

77. Should we, as proposed, require any fund that indicates that it uses proxy voting as a significant means of implementing its ESG strategy to disclose the percentage of voting matters during the reporting period for which the fund voted in furtherance of the initiative? Should we permit the fund to limit this disclosure to voting matters involving the ESG factors the fund incorporates into its investment decisions, as proposed? Would investors and other market participants find this information helpful? Is there any additional information regarding their proxy voting that we should require funds to provide?

ICGN appreciates the inclusion of provisions for the reporting of proxy voting in the proposed rule. When investors provide fund managers with the assets contributed by their beneficiaries, they are entering into a contract that is based on trust and verification. When investors contract with fund managers, there is usually a provision in the Investment Management Agreement (IMA) that proxy voting will be in alignment with the investors' strategies. When funds are held in pooled accounts, it is more challenging to know that proxy voting was carried out in accordance with proxy voting guidelines.¹⁸

There are issues for the SEC to consider again with consistency and comparability in this proposal. Reasonable minds can differ as to how to categorize a voting proposal (e.g., is a shareholder proposal requesting a report on ESG metrics used in setting executive compensation, a 'G', 'S', 'E', ESG proposal?) It would be useful for the SEC to set out guidelines on the categorization of proposals from the issuer so that funds are using these categories to vote consistently. Without this consistent classification, the same proposal filed with different issuers may be classified in different ways, and voted by different managers, defeating the purpose of comparability.

There is no question that proxy votes have *value* and should be used to advance the long-term interests that are important to the investment strategy. Investors are stewards and should be reporting at least on an annual basis to their beneficiaries, as suggested in the ICGN GSP. The disclosure considered under the proposed rule would give investors considerable information to

¹⁷ ICGN Global Stewardship Principles, Part 3 the ecosystem of stewardship. One of the main applications of the ICGN Global Stewardship Principles is to serve as a guide for asset owners and their trustees in terms of monitoring an asset manager's adherence to stewardship practices. Many asset owners have limited in-house capacity to implement all aspects of stewardship; where this may be the case asset owners should instead satisfy themselves that stewardship principles are being implemented satisfactorily by their asset managers and service providers. [ICGN Global Stewardship Principles 2020](#), pp. 26-27.

¹⁸ [ICGN GISD Model Mandate 2022](#), p. 22.

ensure that the ESG strategy is in alignment with the voting behavior and as much as possible, the investor's guidelines for proxy voting.

79. Should funds be required to provide a narrative explanation of how they cast their proxy votes on ESG matters, either instead of or in addition to statistics on ESG matters? If we required a narrative, what elements should a fund be required to include?

ICGN would recommend that any narrative that is required under the final rule should include the disclosure of the rationale for any proxy voting that was against the disclosed proxy voting guidelines and includes any abstain or non-votes. In this way, investors will be able to analyze under what circumstances an impact fund decided to vote against policy, the reasoning for those votes and the results of any engagement efforts.

ICGN recognizes that this requirement could become a significant reporting burden on investment managers, with the potential to require funds to reveal commercially sensitive information. We have heard from some of our fund members that reporting on the rationale for voting could be, in and of itself, an additional subscription/cost from proxy vendors and would require additional internal resources to oversee proper execution. The narrative component around engagement would require additional resources to identify and draft those narratives, with costs potentially passed on to clients.

To ease any regulatory burden, the SEC could include a provision that investors may incorporate by reference their proxy voting policies, in the N-PX filings, their Stewardship Reports and/or ESGs report (as suggested in Question 80).

80. Should we, as proposed, require funds to provide cross-references to the more detailed disclosure regarding the fund's full proxy voting record on Form N-PX? Should we also require funds to cross reference their ESG proxy voting policies and procedures?

There are investors that would like to see a fund's full proxy voting record and Form N-PX would be one avenue for this disclosure. Not all investors will seek this level of detail, however. For investors who have invested with an impact fund and have performance incentives built into their IMAs, full disclosure may be necessary and the relevant cross reference between Form N-PX and the annual report would be useful.

c) ESG Engagement Disclosure

81. Should we, as proposed, require disclosure of the number or percentage of issuers with which the fund engaged and total number of ESG engagement meetings, as we propose to define that term? Would this information be useful to investors? Instead of, or in addition to, ESG engagement meetings, are there other metrics that we could require to be disclosed in relation to a fund's engagement strategy?

It is important to note that ESG is not an end unto itself. Investor engagement on ESG matters is often linked to and integrated with engagement on more traditional elements of strategy, competitive position, risk, and finances. So, creating a standalone category of 'ESG engagement meetings' may have limited impact.

Some discussions may need to be private initially and most investors and fund managers will respect an issuer's need to maintain some degree of confidentiality while engagements are ongoing. Many goals in the E, or environmental factor, are measurable and already are reported publicly by issuers.

ICGN would like to see a broader definition that includes 1) Due Diligence Engagement and 2) Outcomes Engagement. In other words, not every ESG Engagement is seeking an outcome from the issuer.

The SEC should also consider the issue of comparability. Reasonable minds can differ as to how to classify a topic and it potentially leads to double counting (e.g., speaking to an issuer about diversity on the board could be considered as a 'G' or 'S' discussion at a high level or more granular as board composition, board performance, diversity equity and inclusion, etc.).

86. As proposed, the form would require funds to report statistics regarding the number of ESG engagements meetings across their entire portfolio, irrespective of the ESG goal of the meeting; should we instead require funds to break down their engagement statistics based on category? Would this provide helpful detail for an investor seeking to assess a fund's engagement on a particular topic?

ICGN acknowledges that some investors would like to see this granular level of information. Other investors will not require statistics across the entire portfolio as long as the fund is complying with the terms of the IMA. If there is a particular focus for a fund's engagement, for example, a net zero commitment over the course of a number of years, then disclosure of progress toward that goal would be useful.

d) GHG Emissions Metrics Disclosure

87. Should we, as proposed, require environmentally focused funds to disclose their GHG emissions? Would such disclosure help investors interested in investing in such funds select a fund that is appropriate for them? To what extent would requiring GHG metrics reporting help prevent greenwashing?

As we mentioned in response to an earlier question, ICGN supports the proposed rule's inclusion of a requirement for those funds that consider themselves "environmentally focused" to disclose the greenhouse gas (GHG) emissions associated with their portfolio investments. Investors would have an expectation that such funds would have holdings in particular industries and sectors, and that GHG emissions have been calculated or gathered as part of the investment and engagement strategy. The disclosure should cover the impact of those emissions and any engagement efforts to reduce the carbon footprint of the companies within the holdings.

Investors are bombarded with opportunities from fund managers who are eager to invest some of the investor's assets under management. Disclosures related to GHG metrics, emissions calculations and engagement results would be useful for investors during their due diligence reviews. There is a caveat, however, fund managers may not be able to accurately report GHG emissions if they are not able to access the data consistently from issuers.

Concerns related to greenwashing are significant for investors. Disclosure helps shine a light on how a fund is moving from its intentions to operate an environmentally focused fund to the real practices and results. Investors will be able to make informed decisions whether to invest or remain in the fund.

90. Are there any potential unintended effects in requiring GHG emissions reporting? For example, are there investments that might report high emissions that could nonetheless help the fund achieve an investment objective related to the environment generally or climate change specifically, such as the GHG emissions generated from investments in the construction of windmills or electric cars?

ICGN appreciates the question on any potential unintended consequences in requiring GHG emissions reporting. This is an area that is advancing at a fast pace as regulators, funds, investors, companies, stakeholders, and regulators grapple with disclosures on Scope 1, 2, and Scope 3 emissions reporting.

The transition to Net Zero will take significant action from a host of global participants over the course of many years. As an example, ICGN recognizes that there could be slower progress in moving from coal to electric production in certain areas of the world. Funds may need to maintain investments in certain industries to provide the necessary capital to help fuel the just transition. Our sense is that the fund should be able to describe the higher emissions that have been derived from these types of investments and discuss the strategy to reduce emissions going forward.

93. Should we, as proposed, require funds to disclose the Scope 1 and Scope 2 GHG emissions of their portfolio holdings using the carbon footprint and the WACI metrics? Do these metrics provide investors with useful information about the emissions associated with the fund's portfolio? Are we correct in our understanding that investors would benefit from seeing both metrics to appreciate the climate impact of the fund's investment decision as well as the fund's exposure to transition risks? Alternatively, should we require only one of these metrics to be disclosed? What are the costs associated with requiring the disclosure of a portfolio's Scope 1 and Scope 2 emissions?

Many jurisdictions have moved to require Scope 1 and Scope 2 emissions for issuers and Scope 3 emissions in certain sectors.

In several comment letters on proposed regulations, including the SEC, ICGN has indicated that it favours disclosure of Scope 1, 2, and 3 greenhouse gas emissions on the basis of a materiality assessment and in conformance with the standards established by the Greenhouse Gas Protocol. We note that the SASB risk matrix identifies 69 out of 77 industrial sectors where climate risk is a material risk factor for investors.

With respect to the WACI (Weighted Average Carbon Intensity), ICGN would support the requirement of using the carbon footprint and WACI metrics for disclosure. WACI has been endorsed by the Task Force on Climate-related Financial Disclosures (TCFD) and many investors.¹⁹

4. Inline XBRL Data Tagging

¹⁹ [Carbon metrics: Is WACI enough? - by Ben McNeil \(substack.com\)](#), November 14, 2021.

We are proposing to require that funds submit all proposed ESG-related registration statement and fund annual report disclosure filed with the Commission in a structured, machine-readable data language.

In previous comment letters to the SEC on this issue, ICGN has commented favourably on the proposal to tag required disclosures with Inline eXtensible Business Reporting Language (Inline XBRL) structured data language. When documents, reports and filings are tagged to provide machine-readable data, investors are able to search and compare data in a more efficient way.

128. Should any of the proposed disclosure items be excepted from the proposed Inline XBRL requirement? What would be the effects on data quality and usability to investors and other data users with excepting such disclosure items from the requirement to submit data in Inline XBRL?

129. Should we require or permit funds to use a different structured data language to tag the proposed disclosures? If so, what structured data language should we require or permit, and why?

ICGN acknowledges that some data might contain information that could be considered a trade secret or be part of confidential arrangements between investors and the fund. Some state laws may also keep specific information confidential and provide ways to redact this information. ICGN is aware that Investment Management Agreements may utilize side letters that contain specific terms that are considered confidential between the parties.

B. Adviser Brochure (Form ADV Part 2A)

136. Is there other information about the consideration of ESG factors when providing investment advice that advisers should be required to include in their brochures? If so, please describe.

ICGN would like to see information in an adviser's brochure that covers the engagement strategy of the fund and its utilization of proxy voting. We understand that past fund performance is not an indication of future performance, however, investors would benefit from a narrative on how the fund utilizes engagement to enhance the fund's results.

145. As proposed, should we require advisers to describe in the brochure each of their significant strategy or strategies for which they consider ESG factors, and to provide the proposed information about how they incorporate those factors? Should we additionally provide a non-exhaustive list of examples of ESG factors in Form ADV, and allow advisers to add factors as applicable? Are there any other approaches that we should take in providing guidance to advisers as to what constitutes ESG?

Investors would find this type of information useful and therefore, ICGN supports its inclusion.

Examples of ESG factors would be informative for advisers who need to reign in claims of ESG-related investments that are not truly focused on ESG factors.

C. Regulatory Reporting on Form N-CEN and ADV Part 1A

1. Form N-CEN

ICGN would support the inclusion of information in Form N-CEN to assist investors with reviewing and comparing this information. Trends in the ESG space are developing regularly as more investors seek investment strategies that align with their own sustainability investment goals. Service providers are an integral part of fund management and this data set would be useful to assist with SEC as it carries out its regulatory functions, related to ESG investing, of the fund industry that identifies with ESG factors and the processes they follow for incorporating ESG into their investment strategies.

162. Should funds be required to report the proposed census-type information regarding their incorporation of ESG factors into their investment strategy on Form N-CEN? Would this information be helpful to investors and other market participants? How would investors and other market participants use this information?

This information would also be useful due to the absence of a common disclosure framework which makes it difficult for investors to find the disclosures and to determine whether a fund or adviser's ESG marketing statements translate into concrete and specific measures taken to address ESG goals and portfolio allocation. It also makes it difficult for investors to understand how effectively the strategy is implemented over time and can frustrate investors' attempts to compare different ESG strategies across funds or advisers.²⁰

165. Should we, as proposed, require ESG funds to indicate whether they consider E, S, or G factors? Should we, as proposed, allow them to check all that apply? Alternatively, should we require them to select an ESG factor only if the fund considers it to a material degree? If so, how should we define materiality?

ICGN would agree that ESG funds should be able to disclose if they consider E, S and/or G factors, in their strategies. The information the SEC would be seeking is a combination of financial and non-financial information, just as the ISSB has been considering, basing materiality on the IASB framework. As the ICGN and UN PRI working group on ESG said:

Although companies can also report information for a broader stakeholder audience, investors are primarily concerned with ESG information that is material for their investment decisions. The concept of materiality always includes financial materiality, but both companies and investors may have broader interpretations that reflect a values-driven or impact investing orientation. Although the term 'non-financial' is widely used, it can imply misleadingly that ESG factors are financially immaterial.²¹

2. Form ADV Part 1A Reporting

ICGN would support the amendments to Form ADV Part 1A to collect information about advisers' uses of ESG factors for their separately managed account ("SMA") clients and reported private funds as long as the collection is limited to aggregated information for an adviser's applicable SMA clients.

²⁰ [Proposed rule: Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices \(sec.gov\)](#), pp. 7-8.

²¹ [ESG Reporting Discussion Paper.pdf \(icgn.org\)](#), p. 7.

b) Third-party ESG framework(s)

180. As proposed, should we require all advisers to report whether the adviser follows any third-party ESG framework(s), and if so, to report the name of each framework? Are there ways to enhance the information provided?

As ICGN mentioned in an earlier response, this information would also be useful due to the absence of a common disclosure framework which makes it difficult for investors to find the disclosures and to determine whether a fund or adviser's ESG marketing statements translate into concrete and specific measures taken to address ESG goals and portfolio allocation. It also makes it difficult for investors to understand how effectively the strategy is implemented over time and can frustrate investors' attempts to compare different ESG strategies across funds or advisers.²²

c) Additional Information about Other Business Activities and Financial Industry Affiliations

185. Should we, as proposed, require both advisers registered or required to be registered with the Commission and exempt reporting advisers to report the proposed information in Items 6 and 7 of Form ADV Part 1A (and the corresponding Schedules) about other business activities as an ESG provider or any related person that is an ESG provider, as both are currently required to complete these Items? Or, should we specify that only advisers registered or required to be registered with the Commission should complete this proposed addition to the Items?

ICGN would support the proposed disclosures as a way for investors to consider any potential conflicts of interest and risks created by relationships between advisers and affiliated ESG providers.

D. Compliance Policies and Procedures and Marketing

Our staff has observed a range of compliance practices, however, that do not appear to address effectively advisers' incorporation of ESG factors into their advisory services. In light of these observations, as well as the comprehensive nature of our proposed ESG-related amendments to required disclosures, we believe it would be appropriate and beneficial to reaffirm existing obligations under the compliance rules when advisers and funds incorporate ESG factors. Specifically, as with all disclosures, advisers' and funds' compliance policies and procedures should address the accuracy of ESG-disclosures made to clients, investors, and regulators. They should also address portfolio management processes to help ensure portfolios are managed consistently with the ESG-related investment objectives disclosed by the adviser and/or fund. Advisers may wish to consider the following specific examples of effective ESG-related disclosure, policies, procedures, and practices.

ICGN appreciates the examples offered by the SEC for advisers. Disclosure is essential for investors to know that their investments are being managed according to the terms of the IMA and the ESG factors that were part of the initial agreement and how those factors may be changed over the course of the agreement.

²² [Proposed rule: Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices \(sec.gov\)](#), pp. 7-8.

E. Compliance Dates

ICGN appreciates the timeline for compliance that has been provided in the proposed rule. A transition period of one year after the effective date of the amendments, if adopted, would give funds and their advisers the time they need to comply with the ESG disclosure requirements. It would be helpful for these compliance dates to be phased-in after certain disclosures are finalized for issuers.

ICGN also believes that the timeline of 18 months for the compliance date, set after the adoption of the proposed disclosures, would give funds the requisite time to generate reports to investors, assuming that, issuers have provided the requisite information to funds as described in the proposed rule.

In conclusion, we thank the SEC for providing the opportunity to comment on this proposal. If adopted, the proposed rule would provide investors with additional disclosures that are needed in the growing ESG investment marketplace. The proposed rule provides the necessary protections for investors, while preserving some of the flexibility that is important in the widely used spectrum of ESG investment products. If you would like to follow up with questions or comments, please contact me or ICGN's Policy Director, George Dallas at [REDACTED].

Yours faithfully,



Kerrie Waring

Chief Executive Officer, ICGN

CC: George Dallas, ICGN Policy Director
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