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VIA E-MAIL

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

This letter presents the comments of SEI Investments Management Corporation ("SEI") with respect to the U.S. Securities and Exchange Commission's ("Commission") proposed rule and form amendments to the disclosure framework for Environmental, Social, and Governance ("ESG") investment practices (the "Proposal").[1] SEI is a global provider of investment processing, investment management, and investment operations solutions. SEI provides investment advisory services to various types of investors, including but not limited to, endowments, various types of retirement plans, banks, registered investment advisers, high net worth individuals and retail investors, and serves as the investment adviser to a number of pooled investment vehicles, including the SEI Funds, a family of 95 registered mutual funds, many of which are funds where SEI, as investment adviser, engages one or more sub-advisers to select the specific investments to be made by each fund.

We appreciate the opportunity to comment on the Proposal. We have had the opportunity to review earlier drafts of the comment letters submitted by the PRI Association and Investment Company Institute, and we support their comments and recommendations. In addition, we have several concerns of our own regarding certain aspects of the Proposal, especially as it would relate to funds where the primary adviser engages one or more sub-advisers ("Manager of Managers Funds"):

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[1] Enhanced Disclosures by Certain Investment Advisers and Investment Companies About Environmental, Social, and Governance Investment Practices, Investment Company Act Release No. 34594. 87 Fed. Reg. 36654 (June 17, 2022) ("Proposing Release").

- it is not practical to apply the Proposal's framework where a single fund may have multiple sub-advisers employing different investment considerations, especially where not all of the sub-advisers consider ESG to the same level or in the same way, if at all; and
- the independent relationship between primary advisers and unaffiliated sub-advisers may provide significant compliance challenges with respect to the Proposal.

We also have the following general concerns regarding the Proposal that apply beyond the scope of Manager of Managers Funds:

- the classification scheme will result in a de facto tier system, pressuring fund managers to move their funds into higher tiers;
- the use of check boxes in the required ESG disclosures limits a fund's ability to provide complete disclosure; and
- the ESG Engagement disclosure and proxy voting requirements are not reflective of market practice.

I. Background.

The Proposal would establish a three tier classification scheme for ESG funds based on a how the funds consider or implement ESG factors in their investment process,[2] with each tier having its own disclosure requirements for registered funds: ESG Integration Funds, ESG-Focused Funds and Impact Funds.[3]

ESG Integration Funds are funds that consider ESG factors alongside other non-ESG factors when selecting investments, but they do not carry any more weight than the non-ESG factors.[4] An ESG Integration Fund would be required to include ESG disclosure in its registration statement, including a short narrative in its summary prospectus and a more detailed description in the back of the prospectus of how the fund integrates ESG factors into its investment strategy.[5]

ESG-Focused Funds are funds that incorporate ESG factors as "significant" or "main" considerations during the investment process, or while engaging with portfolio companies on the ESG issues.[6] This includes any fund that applies an inclusionary or exclusionary screen. ESG-Focused Funds would be subject to enhanced disclosure requirements, such as providing an "ESG Strategy Overview" table in the fund's summary prospectus to disclose certain information that the Commission views as key to investors' own investment decision-making.[7]

Impact Funds seek to achieve an explicit ESG-related goal or impact, or to promote one or more ESG-related benefits.[8] These strategies are a subset of ESG-Focused strategies and are thus

[2] The Proposal would also establish a similar ESG-classification scheme on Form ADV, where an adviser would be required to provide disclosures regarding ESG integration, focused, and impact "strategies." *Proposing Release* at 36687

[3] Proposing Release at 36657

[4] Id.

[5] Proposing Release at 36660.

[6] Proposing Release at 36657.

[7] Proposing Release at 36662.

[8] Proposing Release at 36657.

subject to the same disclosure requirements, as well as additional disclosure and reporting requirements within the ESG Strategy Overview table.[9]

II. The Proposed Classifications Presents Challenges for Manager of Managers Funds

A. Classification Challenges for Manager of Managers Funds

At SEI, when we seek to engage sub-advisers for funds we manage, we analyze the potential sub-advisers on a variety of dimensions, and we seek to find the sub-adviser who fits into the overall strategy of the fund and provides the greatest potential for the fund to meet its investment objective. We regularly engage multiple sub-advisers who employ different investment strategies and apply different investment philosophies, some of which may include the consideration of ESG factors while others may not. In particular, for a non-ESG fund, we may select a sub-adviser that employs an investment strategy that would meet the definition of an ESG Integration or ESG-Focused strategy for reasons unrelated to, or at least not driven by, the ESG aspects of the sub-adviser's strategy.

As discussed above, these ESG classifications described in the Proposal are based on how the "fund" considers ESG factors. Because the classifications are based on whether the fund (presumably as a whole) considers ESG factors, the framework appears incompatible with funds that engage multiple sub-advisers. As noted above, we may engage multiple sub-advisers with investment approaches that would, individually, fall into separate classifications. For example, a single fund may have: a sub-adviser employing a strategy that does not consider ESG factors at all; a sub-adviser who integrates consideration of ESG factors into all of its investment strategies (i.e., an ESG Integration strategy); and a sub-adviser who employs an ESG-related screen, which would result in their investment strategy being deemed an ESG-Focused strategy. In this scenario, since there is no single investment strategy adopted by the "fund" with respect to the consideration of ESG factors, the fund does not appear to meet any of the ESG classifications described in the Proposal. Such a result would prohibit disclosures regarding ESG considerations in the prospectus, giving fund investors an incomplete picture of the fund's overall investment strategy. Conversely, if such a fund were designated to be an ESG Integration Fund or an ESG-Focused Fund, the enhanced ESG disclosure requirements could result in an overstatement of the fund's overall considerations of ESG-related factors.

As an alternative, the classification of funds with multiple sub-advisers could be based on whether and how the primary adviser considers ESG factors in selecting sub-advisers; however, this approach also exposes limitations in the Proposal's framework in this context. For example, for certain funds, a primary adviser may consider the ESG philosophies and processes of the sub-advisers it engages. Under the Proposal, that consideration could result in the fund being deemed to be an ESG Integration Fund, even if the underlying sub-advisers did not directly consider ESG factors when making investments. Conversely, a primary adviser may not consider ESG factors when hiring sub-advisers, but may nonetheless engage a sub-adviser who considers ESG factors alongside other factors. In that scenario, it would be potentially misleading to not classify the fund as an ESG Integration Fund.

[9] Proposing Release at 36668.

This challenge also creates product construction issues because funds may drift between the ESG classifications as a result of changes in the roster of sub-advisers rather than as a result of any decision to modify the overall fund investment strategy. For example, a fund could be converted into an ESG Integration Fund merely by retaining a single sub-adviser whose investment process "considered ESG factors alongside other factors," even if that sub-adviser was allocated a relatively small portion of the fund and even if it was hired for reasons unrelated to its ESG process. As discussed in detail below, the disclosures required of ESG Integration Funds in such a case would be challenging and potentially confusing. As a result, primary advisers looking to avoid this issue may be discouraged from engaging a sub-adviser who employs an ESG integration strategy for a non-ESG fund, even if they believe that the sub-adviser is otherwise the best option for the fund. Conversely, a fund that is classified as an ESG Integration Fund could be effectively prohibited from engaging a sub-adviser who does not consider ESG factors or otherwise would implement an ESG Integration strategy, even if that sub-adviser is otherwise the best fit for the fund. We also note that the allocations provided to individual sub-advisers in a multi-manager fund can change over time. Thus, this inadvertent shift among the classifications could also result from adjustments to the allocations to the various sub-advisers (e.g., allocating assets to or from a sub-adviser with an ESG integration strategy).

B. Compliance Challenges

We are also concerned that the Proposal would create significant (and perhaps unintended) compliance challenges for Manager of Managers Funds. Manager of Managers Funds that are designated as ESG Integration Funds and ESG-Focused Funds would seek to test compliance with their classifications by confirming whether their sub-advisers were, in fact, considering ESG factors consistent with the fund's classifications. Whether or not a manager has "considered" a given factor is an inherently subjective task, requiring validation from portfolio managers with respect to each investment decision.

This compliance validation poses a unique challenge for Manager of Managers Funds, which are designed to delegate investment decisions for specific securities to sub-advisers. While we are deeply involved with the details of the investment management process, we cannot effectively validate the considerations used by each portfolio manager of each sub-adviser for each and every investment decision that they make, as seems to be required by the Proposal.[10] Further, even if a primary adviser could validate these considerations across multiple sub-advisers, it is unclear how the primary adviser should aggregate these validations across the fund with multiple sub-advisers. For example, weighing the percentage of the fund's net assets that were selected using ESG factors against those who were selected without considering ESG factors would be impractical (requiring a subjective consideration to be documented for each investment) and ineffective. Further, there is no inherent weighting or correlation for ESG Integration, ESG-Focus and ESG Impact. For example, when a Manager of Managers ESG Integration Fund is determining whether it is maintaining its ESG Integration Fund status, the fund is without guidance in assessing whether the influence of one ESG-Focused sub-adviser is sufficient against the influence of three sub-advisers who do not consider ESG factors.

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[10] The determination of classification would presumably require confirmation of whether and how ESG factors were "considered" by the portfolio manager in making investments to assess whether the "fund" was, in turn, considering such factors as required by the applicable classification.

C. Disclosure Requirements

As noted above, the ESG classifications trigger increasingly detailed disclosure requirements in a fund's registration statement. We are concerned that these disclosure requirements will result in overly complex and potentially confusing ESG-related disclosure for investors of Manager of Managers Funds. As a threshold matter, the disclosure requirements would attach to the fund's strategy, but, as discussed above, Manager of Managers Funds may have multiple sub-advisers who have their own methods of considering ESG-related factors.

For ESG Integration Funds, this may result in lengthy and complex disclosures, as each sub-adviser's methods for considering ESG factors would need to be disclosed in summary form with additional details later in the fund's disclosure documents. We are concerned that this disclosure model would necessarily result in a repetitive list of sub-adviser specific disclosure that may not be relevant to the fund as a whole. Shareholders may find this model of disclosure uninformative or confusing, especially where different sub-advisers employ different ESG-related considerations that may conflict, or where a single sub-adviser manages a small sleeve of the overall fund.

For ESG-Focused Funds, the fund would need to include the required tabular disclosure, which would presumably need to be repeated for each individual sub-adviser who employs an ESG-Focused investment strategy (or, as discussed above, even for individual sub-advisers who do not employ such a strategy if the overall fund was nonetheless determined to be an ESG-Focused Fund). As noted above with respect to ESG Integration Fund disclosure, we are concerned that this disclosure would be repetitive in form for funds who engage multiple sub-advisers, potentially to the point of confusing shareholders.

We are also concerned about the practical implementation of this disclosure in the event a fund engages a new sub-adviser who implements an ESG-Focused investment strategy. The requirements of the Proposal could be read to require funds to include the new ESG-Focused Fund disclosure requirements, even where that sub-adviser was allocated a relatively small portion of the portfolio. In such an instance, the tabular format and required elements would create confusing disclosure, as it would be highly prominent, but in actuality a relatively small portion of the overall fund's strategy. We are also concerned about how the required disclosures could be met by other sub-advisers in the same fund who do not implement an ESG-Focused strategy as well as the potential significant disclosure changes that would be required as sub-advisers were added or removed from the fund over time (i.e., the ESG Strategy Overview table may be included and removed repeatedly as the constitution of underlying sub-advisers changed).

In addition, ESG-Focused Funds would be required to provide a description of how the fund's strategy utilizes internal methodologies or incorporation of third-party data, or a combination of both, in evaluating, selecting or excluding investments. This requirement is another source of potentially repetitive and confusing disclosures, where each sub-adviser would differ with respect to each of the required elements. We agree with the Commission that this disclosure may be lengthy,[11] and for Manager of Mangers Funds, this length could be particularly unwieldy, as it would cover these factors for each of the fund's sub-advisers.

As a more general matter, we are concerned that such granular disclosures may be difficult to create on a standardized basis, as sub-advisers may be concerned about the level of disclosure they would be required to make with respect to their internal methodology as it could require disclosure of proprietary information. In addition, some of the information required to be disclosed with respect to third party data providers could be subject to intellectual property protections and licensing restrictions.[12] Primary advisers would need to ensure that sub-advisers had the intellectual property rights to provide disclosure of third-party screens or scoring systems the fund would be required to disclose and that the sub-advisers, in turn, could sublicense such rights to the fund.

III. Additional Areas of Concern

A. Classification System May Incentivize Funds to Prioritize Tiers Over Shareholder Interests

We are also concerned that, fundamentally, any regulatory system that relies upon classifications would effectively create a de facto *tiering* system, similar to what is emerging in Europe in the wake of the Sustainable Finance Disclosure Regulation ("SFDR"). Specifically, and as a general matter, under SFDR, funds are classified as Article 6 (no ESG characteristics), Article 8 (the fund promotes sustainable characteristics) or Article 9 (the fund has a sustainable objective in addition to an investment objective).[13] We observe that this classification system is creating pressure for funds to move into "higher" tiers, which may conflict with a fund's investment objectives and the best interest of shareholders. For example, a well-structured ESG integration strategy that uses ESG information to deliver value could "tier up" by adding in an exclusion and calling that out as a key investment strategy. Such strategy change may make the fund more marketable to potential shareholders who place value on a fund's ESG classification, but may come at the expense of the best investment interests of shareholders.

A potential alternative would be a more principles-based approach, subject to the above concerns regarding Manager of Managers Funds. For example, a fund that intends to be considered an ESG fund would be required to include in its prospectus specific disclosure regarding how ESG factors are included in its investment strategy.

B. Check Boxes in Required ESG Disclosures Would Limit and Trivialize Fund Disclosures

While we appreciate the intent on the part of the Commission to create simple and comparable disclosure utilizing a tabular format, we are concerned that the "check-the-box" system in the ESG Strategy Overview table will ultimately limit the quality of disclosure provided to investors.

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[11] *Proposing Release* at 36666.

[12] ESG-Focused Funds would be required to provide a "more detailed description of the scoring or ratings system used by the third-party data provider" Id.

[13] *See* Council Regulation 2088/2019, On Sustainability-related Disclosures in the Financial Services Sector, 2019 O.J. (L 317) 1.

It is impossible for the Commission to fully capture all of the means by which funds implement their ESG strategies, with either "Other" eventually becoming the "catch all" box that all funds check or managers simply checking every box.[14] This places nuanced disclosure and investor needs secondary to a box checking exercise, and, similarly to the incentives of tiering up, leads fund managers to develop strategies to check as many boxes as possible, regardless of how it meets investment objectives and the best interest of shareholders.

C. Proposals Regarding Engagement and Proxy Voting Do Not Reflect Industry Practice

Finally, we do not believe the proposed requirements relating to proxy voting and issuer engagement adequately reflect the practical realities of how funds engage with their investee companies. Aside from a very small subset of "activist" funds, most funds participate in engagement and proxy voting efforts regarding their investments, but not necessarily to directly achieve ESG goals. For example, a fund manager may engage with an issuer to encourage the issuer to reduce its energy consumption in order to generate cost savings as well as lower carbon emissions. Under the Proposal, such engagement could trigger a fund to be deemed an ESG-Focused Fund, which could be misleading if the fund does not include consideration of ESG factors in any other aspect of its investment strategy. This result is compounded because this type of engagement is usually undertaken by the investment management firm in accordance with firm-wide proxy voting and/or engagement policies and not necessarily on a fund-by-fund basis. As a result, a manager who engages with an issuer on energy efficiency matters could result in all of the funds managed by that manager to become ESG-Focused Funds, potentially including funds for which it serves as a sub-adviser. Moreover, in the context of a Manager of Managers Fund, the primary adviser and sub-advisers may engage issuers in different ways. Including engagement disclosure for each method used by the primary adviser and each sub-adviser would result in disclosure that investors will likely find to be either overly broad and unhelpful or overwhelming and confusing.

In addition, the fund-level reporting of proxy voting and engagement efforts would be overly burdensome and not reflective of actual strategies undertaken by fund managers. Such reporting is also duplicative of N-PX, which includes the proxy voting records of all funds.[15] If the Commission desires to enhance reporting of ESG proxy reporting, we recommend considering amendments to Form N-PX.

IV. Conclusion / Recommendations

Based on the above, we urge the Commission to more clearly explain how the classification framework and the resulting disclosure requirements would apply to Manager of Managers Funds, specifically as to how the manager selection strategies and the strategies employed by underlying sub-advisers should be assessed for the purposes of classifying funds into the ESG

[14] *Proposing Release* at 36663 (providing list of means by which a fund implements its ESG strategy for fund managers to check as part of the fund's required ESG disclosure: tracks an index, applies an inclusionary screen, applies an exclusionary screen, seeks to achieve a specific impact, proxy voting, engagement with issuers, or other).
[15] *See* Rule 30b1-4 (requiring registered investment companies to file an annual report on Form N-PX containing the fund's proxy voting record for the most recent 12-month period).

classifications. If the Commission adopts this disclosure framework, we suggest the Commission tie ESG disclosure for Manager of Managers Funds to the ESG considerations made by the primary adviser during its sub-adviser selection process. If a primary adviser considers ESG factors during the sub-adviser selection process with the intent of the fund itself being an ESG Integration Fund or an ESG-Focused Fund, then the Manager of Managers Fund should provide corresponding disclosure regarding those considerations. However, a Manager of Managers Fund should not be required to disclose a sub-advisers' ESG considerations if the primary adviser has not considered ESG factors when selecting that sub-adviser or if the fund as a whole is not intended to qualify as an ESG Integration Fund or an ESG-Focused Fund.

In addition, to address the compliance challenges that the proposed subjective classification criteria would create, we request that the Commission consider revisions to the criteria that are based on objective criteria, rather than a subjective analysis of whether or not certain factors were considered in the investment process. Instead, the Commission should focus the classification on how the fund is intended to be marketed to potential investors or whether the fund has objective ESG-related criteria (e.g., an ESG fund name or an ESG objective). This approach provides investors with a realistic representation of ways in which ESG considerations may impact an investment in the fund and avoids the unnecessary confusion likely to be caused by trying to fully capture adviser and sub-adviser thought processes at the time of each investment decision. Finally, we recommend that the Commission adopt a more principles-based approach to disclosure that would apply to funds that intend to be marketed as ESG funds.

We believe that these clarifications and revisions would make for a better rule that would encourage clearer ESG-related disclosures for fund investors.

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We appreciate the opportunity to comment, and if you have any questions or would like to discuss our comments, please contact David F. McCann at 610-676-3649.

Sincerely,

Stephen Beinhacker
Head of Strategic Planning & Stewardship
SEI Investments Management Corporation

cc:
The Honorable Gary Gensler
The Honorable Caroline A. Crenshaw
The Honorable Mark T. Uyeda
The Honorable Hester M. Peirce
The Honorable Jaime Lizárraga
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