MFS Investment Management
111 Huntington Avenue
Boston, MA 02199

August 16, 2022

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

Re: *Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices (Release No. IA-6034; IC-34594; File No. S7-17-22)*

Dear Ms. Countryman:

I am writing on behalf of Massachusetts Financial Services Company ("MFS" or "we") in response to the invitation by the U.S. Securities and Exchange Commission (the "Commission") to provide comments on the Commission's proposal related to enhanced disclosure by certain investment advisers and investment companies about environmental, social and governance investment practices.[1] We appreciate the opportunity to comment on this important proposal.

MFS is a global asset management firm providing investment management services to various clients including over 135 U.S.-registered investment funds sponsored by MFS held by over fourteen million shareholders. MFS' registered investment advisers also serve approximately 200 U.S. domiciled separately managed and sub-advised accounts. MFS traces its history back to 1924 and the creation of the country's first open-end mutual fund, Massachusetts Investors Trust. Since this time MFS has been a leading innovator in the asset management industry. In addition to launching the country's first mutual fund, we created in 1932 one of the first in-house research departments in the mutual fund industry. The MFS investment process relies on deep fundamental research, a long-term perspective, and institutional risk controls.

As part of our investment process, we seek to understand any factor that could impact our clients' investment returns over the long term, including financially material environmental, social and governance ("ESG") factors. Moreover, MFS believes that robust ownership practices are an important component of our investment process and help to protect and enhance long-term value. In addition to the thoughtful and diligent exercise of our voting rights, we believe that these practices include engaging with issuers about any issue, including an ESG issue, when we believe that a discussion about such issue can enhance our understanding of the issuer's practices and goals to enhance shareholder value. To this end, we are a signatory to or participant in a variety of initiatives

[1] *Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices*, SEC Release No. IA-6034; IC-34594 (May 25, 2022), 87 FR 36654 (available at https://www.federalregister.gov/d/2022-11718).

including the United Nations-supported Principles for Responsible Investment, which we joined in 2009, and the Net Zero Asset Managers Initiative, which we subscribed to in 2021. Our participation in these organizations, however, is not based on the application of exclusionary or inclusionary restrictions. Instead, it centers on working with issuers to encourage them to understand the impact that their ESG-related practices may have on their long-term value. Similarly, while we consider financially material ESG factors as part of our investment process for all major asset classes, MFS does not introduce specific restrictions, including those related to ESG issues, into a client's portfolio unless directed to do so by such client or to comply with applicable law. Additionally, we currently do not manage any U.S.-registered investment fund that applies an inclusionary or exclusionary screen based on ESG factors; that seeks to achieve a particular ESG-related impact; or that focuses on one or more ESG factors by using them as a significant or main consideration in selecting investments.

With that said, we believe the evolution of ESG considerations in the investment industry is no coincidence. The profound challenges that face our planet and society have stimulated keen investor interest in the role that ESG factors play in how risk-adjusted returns are realized by investment managers. In addition, asset owners (e.g., pension funds), retail market participants, and other investors increasingly demand to know whether and how investment managers factor ESG considerations into their portfolio management decisions. Indeed, a recent global survey of institutional clients and intermediary distributors concluded that ESG was their foremost topic of interest in terms of overall importance.[2] We are also cognizant that there has been a continuing evolution of terminology, definitions, and strategies in this area. As a result, investment managers must be able to respond to these demands by providing disclosure that is meaningful to investors, but in a manner that does not attribute undue prominence to ESG considerations and is not otherwise misleading.

Accordingly, we welcome the Commission's decision to address the various concerns posed by ESG in the context of the Commission's investor protection and capital markets mandates. MFS supports the stated primary goals of the proposal which are to discourage "greenwashing" and to provide concise, comparable ESG disclosure to investors. Certain elements of the proposal, however, seem to frustrate rather than advance these laudable purposes because they will result in investor confusion. We are also concerned that these elements potentially may have a chilling effect on engagement with portfolio companies. We encourage the Commission to consider the comments articulated in this letter and the comment letters submitted on the subject by the Investment Company Institute ("ICI") and the Asset Management Group of the Securities Industry and Financial Markets Association ("SIFMA-AMG"), both of which we largely agree with.[3] We believe that by revising the Rule through the implementation of the targeted comments and potential alternatives discussed in this letter and the letters submitted by the ICI and SIFMA-AMG, the Commission can accomplish the stated goals of the proposal and provide investors with a better understanding of the ESG practices of the firms that manage their money.

[2] NGM Consulting Global Asset Management Study, 2022

[3] See Letters from Eric J. Pan President & CEO and Annette M. Capretta Associate General Counsel, Investment Company Institute, dated August 16, 2022 (the "ICI Letter"); and Lindsey Weber Keljo, Esq., Asset Management Group of the Securities Industry and Financial Markets Association, dated August 16, 2022 (the "SIFMA-AMG Letter").

ESG Integration

As noted above, at MFS, we believe that considering ESG factors in the investment process is part of what we are hired to do as a long-term active manager. We do not see ESG considerations as leading to a separate outcome, but rather, as inputs to our decision-making. Incorporating ESG factors into our research allows us to assess risk, evaluate high-quality companies, and ultimately allocate capital for the future. In our view, that is the foundation of responsible active management. As we evolve to a stakeholder capital centric world, MFS, like other investors must think about how ESG issues may impact the value of every investment or potential investment.[4] The integration of ESG factors into security selection and valuation modelling where appropriate, combined with carefully considered proxy voting policies and thoughtful issuer engagement, naturally improves our overall ability to achieve our clients' objectives and fulfill our fiduciary duty in light of these considerations. ESG factors, however, are among a multitude of factors that are considered as part of the initial and ongoing investment decision and issuer engagement process.

This is why, at MFS, the ESG integration ***process*** exists as part of a global research and investment platform and is not suited to a disclosure regime that is based on a ***product*** investment strategy.

The proposal defines an "Integration Fund" 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."[5] Similarly, the proposal would prescribe certain amendments to Form ADV that generally define "integration" as consideration of "...one or more ESG factors alongside other, non-ESG factors in your investment advice, but such ESG factors are generally no more significant than other factors in advising your clients with respect to investments, such that ESG factors may not be determinative in providing advice with respect to any particular investment...".[6] We believe that these definitions fairly describe the process of ESG integration and we commend the Commission for its work in reconciling the myriad of disclosure, thought leadership, and other research to arrive at a definition that could have universal application. We nevertheless agree with the views expressed in the ICI Letter and SIFMA-AMG Letter that the definitions of "integration" and "integration fund" are so broadly crafted that most, if not all, active investment managers and actively managed funds would fall within their

[4]For example, ESG considerations, such as climate change and company culture, can and do have material impacts on the long-term financial value of most businesses. We believe that future investment returns are likely to be impacted by climate change and the policies designed to counter it. In fact, this is why MFS supports the Commission's separate proposal to require public companies to disclose their carbon emissions.[4] In addition, because we believe that a strong culture drives business success, we look for it in the companies we own or consider owning.[4] Additionally, because we believe that both climate change and a company's culture can have an impact a company's business, we assess our carbon footprint in the same way that we look at how companies deal with theirs and any related impact to their competitive positioning. We likewise continuously maintain and enhance our culture of inclusion at MFS.

[5] Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices (May 25, 2022), available at https://www.sec.gov/rules/proposed/2022/33-11068.pdf, at 316.

[6] Id., at 358.

scope. We believe this broad scope would result in managers giving undue prominence in their offering and disclosure documents to their consideration of ESG factors in general and greenhouse gas ("GHG") emissions in particular, even if such factors are not determinative in making investment decisions.

As an active investment manager, the funds that we manage would likely be considered integration funds. Similarly, our various separate account strategies would likely fall into the proposal's description of ESG integration. As set forth in the proposed definitions for integration, ESG factors are no more significant than any other factor in the investment process. Yet the proposal would require prominent disclosure of ESG factors in a manner that is without precedent or analog. These required disclosures yield a particularly aberrant result in the context of a fund's summary prospectus, which is arguably the most important shareholder disclosure document in terms of utilization. This prominent focus on ESG factors could mislead investors regarding the relative importance of those considerations and serve as its own form of greenwashing. This contradicts not only the stated purpose of the proposal but the spirit of the Commission's separate proposal to amend Rule 35d-1 under the Investment Company Act of 1940, as amended, to prohibit funds employing only an integration approach from using ESG terms in the fund's name.[7]

For the same reasons discussed above, we think the proposed amendments to Form ADV Parts 1A and 2A are unnecessary in the context of ESG integration. Inasmuch as investment advisers' incorporation of ESG factors into their portfolio management decisions are important to separately managed account and private fund clients, investment advisers are already addressing this in their Form ADV Part 2A disclosures and marketing materials in the manner that is ultimately determined by clients. As the ESG landscape evolves, the information provided to clients will evolve to accommodate their requirements. In this regard, the marketplace is best suited to dictate what information is provided to investors and where that information is communicated, within the bounds of existing securities laws and regulation. In particular, the Commission is already empowered by the antifraud provisions of the federal securities laws to protect investors from false or misleading statements related to ESG integration.[8]

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[7] Investment Company Names, Release No. 33-11067; 34-94981; IC-34593 (May 25, 2022), available at https://www.sec.gov/rules/proposed/2022/33-11067.pdf

[8] Section 206(2) of the Advisers Act of 1940, as amended (the "Advisers Act"), prohibits an investment adviser, directly or indirectly, from engaging "in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client." Rule 206(4)-1 under the Advisers Act prohibits investment adviser advertisements from containing any untrue statement of a material fact. Section 34(b) of the Investment Company Act of 1940, as amended, makes it unlawful for any person to make any untrue statement of a material fact in any registration statement, or other document filed or transmitted pursuant to the Investment Company Act, or for any person so filing or transmitting to omit to state therein any fact necessary in order to prevent the statements made therein, in the light of the circumstances under which they were made, from being materially misleading. Moreover, FINRA and MSRB rules prohibit false, misleading or promissory statements or claims relating to ESG and empower FINRA to investigate and bring disciplinary actions against member firms for greenwashing in their communications with the public (See., e.g., FINRA Rule 2210 which requires, among other things, that all communications be based on principles of fair dealing and good faith, be fair and balanced, provide a sound basis for evaluating the facts "in regard to any particular security or type of security, industry, or service" and include all "material fact[s] or qualification[s]" necessary to ensure such communications are not misleading. In addition, the rule prohibits false, misleading, promissory or exaggerated statements or claims).

If the Commission nevertheless determines to include ESG integration within the scope of the rule, we strongly recommend the following changes to the proposed fund disclosure requirements to minimize the potential for investor confusion and better serve the goal of providing more uniform and comparable integration disclosure in a manner that minimizes the potential for greenwashing.

The proposal would amend Item 4 of Form N-1A to require an integration fund to summarize in a few sentences how the fund incorporates ESG factors into its investment selection process, including what ESG factors it considers. While we agree that brief references to a fund's incorporation of ESG factors could be helpful to investors in order for them to understand what integration means to their investment, we strongly believe that requiring disclosure regarding ESG integration in the Item 4 disclosure will overstate the role ESG factors play in the investment analysis and selection process for Integration Funds, thereby enhancing the "greenwashing" concerns the proposal is intended to address. Item 4 of Form N-1A requires a fund to summarize the information required by Item 9(b) of the Form. Item 9(b)(2), in turn, requires funds to explain "in general terms how the fund's adviser decides which securities to buy and sell." We believe that for Integration Funds, the Item 9(b) disclosure alone is the appropriate location to disclose the role ESG factors play in the investment selection process, presented in a balanced manner with the other factors considered in buying and selling an investment for the fund (*e.g.,* traditional fundamental factors). As noted above, ESG integration is not an investment strategy but rather a process that is utilized to better inform specific investment decisions within the parameters of an investment strategy. We believe that placement of such disclosure in Item 4 would mislead investors that the consideration of ESG factors is a principal investment strategy of a fund, or that the integration of ESG factors is among the most critical pieces of "key information" that the Commission intended to be conveyed in a fund's summary prospectus.[9] Additionally, such a requirement would likely lead Integration Funds to include additional disclosure regarding non-ESG factors in the Item 4 summary disclosure in an effort to provide fair and balanced information, potentially resulting in extensive "disclosure creep" and complicated, non-concise disclosure in summary prospectuses across the industry. This result is directly counter to the Commission's stated goal of simplifying disclosure for shareholders.[10]

The more detailed description of how an integration fund incorporates ESG factors into its investment selection process that the proposal currently contemplates for Item 9(b)(2) should, in turn, be reserved for the fund's Statement of Additional Information ("SAI"). This more detailed description, however, should not be required to include how the fund considers the GHG emissions of its portfolio holdings. While GHG metrics are no doubt increasingly important to investors, this prescribed disclosure would compel funds that consider GHG to include in their disclosure documents a stark implication that GHG emissions carry more weight than other ESG considerations when this may not necessarily be the case.

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[9] Rule 498 under the Securities Act of 1933, as amended, requires "key information" to appear in plain English in a standardized order at the front (i.e., the summary section) of a mutual fund's statutory prospectus. In adopting Rule 498, the Commission was cognizant of the potential for the summary to expand over time, undermining its usefulness. See, e.g., Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Release Nos. 33-8998; IC-28584 (Jan. 13, 2009), available at https://www.sec.gov/rules/final/2009/33-8998.pdf, at 24

[10] See, e.g., Enhanced Disclosure and New Prospectus Delivery Option for Registered Open-End Management Investment Companies, Release Nos. 33-8998; IC-28584 (Jan. 13, 2009), available at https://www.sec.gov/rules/final/2009/33-8998.pdf.

Separately, we believe that the requirement to disclose the specific ESG factors that an integration fund or an investment adviser with an integration strategy considers is unworkable as proposed. There are a multitude of ESG factors that vary depending on the sector, issuer, security type and other variables. As a practical matter, many investment managers considering ESG factors in their selection process do not prescribe exactly what ESG factors should be considered. Instead, they consider the ESG factors that are material with respect to a given security at a specific point in time. In order to comply with this requirement as proposed, investment managers will likely feel compelled to disclose all conceivable ESG factors in order to preserve the ability to consider such factors. This would be antithetical to the stated purpose of the proposal to create concise and comparable disclosure. We urge that this element of the proposal be excluded from the rule or, alternatively, that the rule allow this requirement to be satisfied by making reference only to the broad category of the ESG factor(s) considered (i.e., "E," "S", and/or "G").

Definitions of ESG-Focused Fund and ESG-focused strategies

The proposal defines an "ESG-Focused Fund" as one "...that focuses on one or more ESG factors by using them as a significant or main consideration (1) in selecting investments or (2) in its engagement strategy with the companies in which it invests."[11] The proposal contains a conforming definition for ESG-focused strategies. We emphatically agree with the views expressed in the ICI Letter and the SIFMA-AMG Letter that the proposed definitions of an ESG-Focused Fund and ESG-focused strategies are overbroad by incorporating portfolio company engagement. This has the potential to sweep virtually all actively managed funds within its scope, creating investor confusion and unnecessarily burdening funds with onerous disclosure requirements that have no relation to the funds' objective, investment strategies, or security selection process.

Engagement with portfolio companies is ubiquitous in active investment management and is not limited to funds with sustainable investing strategies. This is particularly true as it relates to corporate governance. As stewards of shareholder capital, active fund managers regularly engage with portfolio companies and ESG considerations are often a "significant or main consideration" in those engagements. Engagement is used in varying proportion to (i) influence companies to manage for long-term value creation rather than short-term profit maximization and/or (ii) encourage them to pay close attention to social and environmental externalities that could incur material financial costs. In other words, engagement is common-sense portfolio management. Depending on the Commission's intended meaning of "significant or main consideration," we are concerned that the plain text of the rule would inadvertently include within the scope of the ESG-Focused Fund disclosure requirements actively managed funds whose advisers are merely engaging with companies in the regular course of their stewardship activities. Also, investment managers that regularly engage on governance and not environmental or social considerations could be, peculiarly, deemed to employ an ESG-focused strategy. In addition to subjecting these funds and managers to disclosure requirements that have little relevance to their investment approach, the proposed definition may result in a framework in which an actively managed fund is in the same category as a fund that applies an inclusionary or exclusionary ESG screen or that uses an ESG factor as a main or significant consideration in selecting investments. This result is at odds with the Commission's purpose of providing comparable ESG disclosure among similarly managed funds. For these reasons, we believe engagement should

[11] See Proposed Item 4(a)(2)(i)(B) of Form N-1A and Proposed Item 8.2.e(1) of Form N-2.

be left out of the definition altogether. Alternatively, if the Commission believes investors would benefit from information about an adviser's or fund's engagement practices, the Commission could provide that a brief discussion of their engagement practices be included in a fund's SAI and/or an investment adviser's Form ADV.

Thank you for taking the time to consider our views. We believe it is our obligation as investment managers to help regulators and investors understand the potential impact of fiduciary regulation on the future of capital allocation.

Should you have any questions, please contact me at [redacted] or Jay Herold, Vice President and Senior Counsel, at [redacted].

Sincerely,

Heidi Hardin
Heidi Hardin (Aug 16, 2022 12:07 MDT)

Heidi Hardin
Executive Vice President and General Counsel

cc: The Honorable Gary Gensler, Chairman
U.S. Securities and Exchange Commission

The Honorable Hester M. Peirce, Commissioner
U.S. Securities and Exchange Commission

The Honorable Caroline A. Crenshaw, Commissioner
U.S. Securities and Exchange Commission

The Honorable Mark T. Uyeda, Commissioner
U.S. Securities and Exchange Commission

The Honorable Jaime Lizárraga, Commissioner
U.S. Securities and Exchange Commission