Douglas Hileman Consulting, LLC

Douglas Hileman Consulting, LLC
Van Nuys, CA 91405-4235
www.douglashileman.com

November 30, 2022

Sent via email: rule-comments@sec.gov

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

Subject: **File No. S7-17-22, proposed May 25, 2022**
Proposed Rule for Enhanced Disclosures for ESG Investment Practices

Douglas Hileman Consulting LLC ("DHC") is pleased to submit comments to the SEC on this matter.

The proposal (amending existing rules) would require funds that consider ESG factors in their investment process to disclose additional information regarding their strategy. The amount of disclosure depends upon how "ESG-centric" the fund itself is. It would require information on the impacts they seek to achieve and key performance metrics. The proposal includes greenhouse gas (GHG) emissions as a separate topic for all ESG-focused funds.

This "truth in fund labeling" proposal would be an excellent step to reduce greenwash – or fraud – and to provide ESG investors with more confidence in directing their investment dollars. A recent SEC enforcement action demonstrates its applicability.

On November 22, 2022, the SEC charged Goldman Sachs Asset Management for two issues involving ESG investments. GSAM agreed to pay a $4 million penalty[1]. There are two main points to the GSAM settlement.

1) The company failed to have written policies and procedures for ESG research in one product; and
2) Once policies and procedures were established, it failed to follow them consistently.

A closer look reveals a troubling loophole. It does not address whether the policies and procedures themselves were fit for purpose, or if investors were fully aware of how proceeds would be used, or whether they will be informed of relevant ESG performance of these investments.

Imagine a scenario where the fund sponsored open pit mining operations, located in sensitive habitats and/ or lands of interest to indigenous peoples. Operations generate mine tailings, which are managed in accordance with regulatory requirements – which many regard as substandard, and rarely enforced.

[1] See SEC.gov | SEC Charges Goldman Sachs Asset Management for Failing to Follow its Policies and Procedures Involving ESG Investments

But the operation plans to use 20% less water than similar mining operations. As long as the policies are written and followed, the fund managers could regard this as reason enough to qualify it as an "ESG investment". But is this what the ESG investors had in mind? Would it matter if the mining operations were for coal or lithium? This sets the stage for "greenwash" or fraud.

The proposed rule for enhanced ESG disclosures of ESG investments would be a positive step.

Respectfully submitted,

Douglas Hileman

Douglas Hileman, FSA, CRMA, CPEA, P.E.
President, Douglas Hileman Consulting LLC