

MEMO# 33687

July 14, 2021

ICI Response to CFA Institute Exposure Draft of ESG Disclosure Standards for Investment Products

[33687]

July 14, 2021

TO: ICI Members
ICI Global Members
ESG Advisory Group
ESG Task Force
EU ESG Disclosure Regulation Working Group
ICI Global Regulated Funds Committee
ICI Global Regulated Funds Committee - Asia
SEC Rules Committee SUBJECTS: Disclosure
ESG
International/Global RE: ICI Response to CFA Institute Exposure Draft of ESG Disclosure Standards for Investment Products

ICI submitted a response to the CFA Institute's Exposure Draft of ESG Disclosure Standards for Investment Products.[\[1\]](#) The attached document provides ICI's responses to questions raised in the Exposure Draft.

In its response, ICI asserted its opposition to the adoption of the CFA Institute ESG Disclosure Standards for Investment Products (CFA Standards), stating that the creation of another set of disclosure standards, which merely offer different, but not materially improved, standards in comparison to a plethora of existing standard-setting efforts would: (i) impose undue and unnecessary burdens on investment managers; (ii) be of questionable benefit to investors; and (iii) create confusion, undermining the ultimate goal of effective disclosure standards for investment products.

Citing the rapid pace of environmental, social, and governance (ESG)-related regulatory activity in various jurisdictions, including the US,[\[2\]](#) ICI stated that there is no gap that needs to be filled by the CFA Institute and, in fact, the CFA Standards could duplicate or conflict with regulatory requirements. ICI urged the CFA Institute to not adopt the CFA Standards. If, however, the CFA Institute determines to move forward, it urged the CFA Institute to delay any further action until after these significant regulatory developments are resolved. Moreover, if the CFA Institute determines to move forward, ICI recommended

that, rather than adopt standards, it publish the recommendations for consideration by managers, enabling them to draw from the provisions that are appropriate to their circumstances.

If the CFA Institute determines to move forward, ICI provided the following general comments on the proposed CFA Standards:

- The CFA Institute should emphasize the voluntary nature of the CFA Standards and state that their application to regulated funds may not be appropriate or practicable and/or may be duplicative. Because regulated funds already are required by law and regulation to disclose significant information about their investment strategies and risks to investors, the benefit to regulated fund investors of a compliant presentation consistent with the CFA Standards would be limited and possibly diminished. Moreover, because a regulated fund investment manager would have to maintain disclosures consistent with regulatory requirements and a compliant presentation consistent with the CFA Standards, its burden would be higher than that of an investment manager that could use a compliant presentation as the primary disclosure document about its investment products.
- *Investment managers should have the option to cross reference to a fund's existing regulatory documentation and to firmwide policies to satisfy the Standard's disclosure requirements.* We recommend that investment managers be able to cross-reference certain disclosures contained in other documents, rather than require a regulated fund investment manager to maintain duplicative information in the two documents.
- *The CFA Standards should apply only to funds that use sustainable investing strategies (ESG Funds), and not those that integrate ESG factors into the investment process (ESG Integrated Funds).* For ESG Integrated Funds, ESG factors are among many factors considered in the investment process and requiring specific and expanded disclosures relating to ESG factors would be disproportionate to their role in the investment process.
- *The CFA Institute should explicitly state that investment managers may determine materiality based on the regulatory standards of their jurisdiction.* The CFA Standards include several references to materiality and should make clear that the basis for determining materiality is the same as that used for purposes of regulatory compliance (such as for prospectus updates).

ICI also provided comments on the following draft provisions:

- *Fundamental Requirements and Recommendations.* Fundamental provisions pertain to the manner in which an investment manager prepares and presents compliant presentations. In this section, ICI commented on, among other things, the recommendation that an investment manager have an independent third party examine the compliant presentation it has prepared. In light of the significant oversight that already exists for regulated funds and their investment advisers, ICI urged the CFA Institute to revise the recommendation to exclude circumstances when an investment product is regulated and already subject to extensive legal requirements and regulatory review and examination.
- *Disclosure Requirements and Recommendations.* Disclosure provisions pertain to the content of compliant presentations. ICI commented on the following draft provisions regarding an investment product's strategy:

- Objectives
- Benchmarks
- Sources and Types of ESG Information
- ESG Exclusions
- ESG Information in Financial Analysis and Valuation
- Portfolio-Level ESG Criteria and Characteristics
- Stewardship

Annette Capretta
Associate General Counsel

endnotes

[1] See [Memorandum No. 33542](#) (May 20, 2021) for a summary of the Exposure Draft.

[2] In June, the US Securities and Exchange Commission (SEC) announced its annual regulatory agenda and indicated that it may propose requirements for investment companies and investment advisers related to ESG factors, including ESG claims and related disclosures, with a proposal expected by April 2022. See SEC Press Release, SEC Announces Annual Regulatory Agenda (Jun. 11, 2021), available at <https://www.sec.gov/news/press-release/2021-99> and the SEC's rulemaking list, available at https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST¤tPub=true&agencyCode=&showStage=active&agencyCd=3235&csrf_token=7CE97CC2D49C9B6B70868F7B2752E582C86F1945A4A46F34426C18AF1ABE101E611318F64B67159C3A36E7556BD0FB872C8F

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.