

MEMO# 34315

October 24, 2022

SEC Commissioner Lizárraga Speech on Investor Demand for ESG Data

[34315]

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TO: ICI Members
ESG Advisory Group
ESG Task Force SUBJECTS: Disclosure
ESG RE: SEC Commissioner Lizárraga Speech on Investor Demand for ESG Data

Commissioner Lizárraga recently addressed the Future of ESG Data 2022 conference.^[1] In his remarks, he provided his views on investor demand for high quality ESG data and the SEC's proposed rulemakings regarding enhanced climate risk disclosure by issuers (Public Company Climate Disclosure Rule),^[2] enhanced ESG disclosures by registered funds and investment advisers (Fund ESG Rule),^[3] and ESG-related fund names (Names Rule Amendments).^[4] He stated that ESG investing is "a dynamic, fast-growing sector of our capital markets that is grabbing headlines and continuing to generate enormous interest among investors and the general public." He voiced his support for the three ESG-related proposed rulemakings, stating: "The SEC proposed these rules prior to my swearing in. Had I been a Commissioner at the time, I would have voted in favor of them."

Commissioner Lizárraga's remarks are summarized further below.

Proposed Public Company Climate Disclosure Rule

Commissioner Lizárraga first discussed the proposed Public Company Climate Disclosure Rule. He noted that, last year, for the first time, FSOC identified climate change as an "emerging and increasing threat to U.S. financial stability" and that there is "strong investor demand for climate-related disclosures." He stated that, against this backdrop, the SEC's proposed Public Company Climate Disclosure Rule would "require public companies to disclose climate-related risks that have a material impact on their business, operations, and financial condition" and would also require "disclosure of a company's greenhouse gas emissions."

With respect to emissions disclosure, he noted that a company's level of greenhouse gas emissions is a "widely-used metric by investors." He noted that some commenters have argued that the use of reasonable emissions estimates makes the metric less useful, but he stated that "it is not clear to me why this would be different from the assumptions and

estimates that companies make in preparing their financial statements today." He further explained that, "due to advances in technology, such as emissions modeling, artificial intelligence, and big data analysis, we are at a point where [climate-related data] is both in demand and available."

Proposed Fund ESG Rule

Commissioner Lizàrraga then discussed the proposed Fund ESG Rule, noting that the proposal was "designed to provide investors with decision-useful qualitative and quantitative information on how a fund takes into account ESG factors in its decision-making." He further stated that the proposed rules "would help provide comparability and consistency, but most importantly, would require funds and advisers to stand behind their ESG claims."

Proposed Rule Regarding ESG-Related Fund Names

Commissioner Lizàrraga next discussed the proposed Names Rule Amendments as they relate to ESG-related fund names, noting that the proposal is "often referred to as truth-in-advertising." He stated that the proposed rule would "prohibit funds that consider ESG factors alongside other non-ESG factors from using ESG-related terms in their name." He further stated his view that "[a] fund's name can be critical to an investment decision."

In conclusion, Commissioner Lizàrraga highlighted the importance of the principle of transparency in the federal securities laws and stated that the SEC's "challenge and responsibility is to keep up with rapid change and to update our regulatory framework so that it continues to meet investor needs without compromising investor protections." He then stated, "The best way to get there is with meaningful disclosures that incorporate the highest quality, reliable, and verifiable data in a standardized and investor-useful format."

Erica Evans
Assistant General Counsel

Notes

[1] Commissioner Jaime Lizàrraga, Meeting Investor Demand for High Quality ESG Data (Oct. 17, 2022), available at <https://www.sec.gov/news/speech/lizarraga-speech-meeting-investor-demand-high-quality-esg-data>.

[2] The Enhancement and Standardization of Climate-Related Disclosures for Investors, SEC Rel. No. 33-11042 (March 21, 2022), available at <https://www.sec.gov/rules/proposed/2022/33-11042.pdf>. For more information about the proposed Public Company Climate Disclosure Rule, see ICI Memo No. 34086, which is available at: <https://www.ici.org/memo34086>.

[3] Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices, SEC Rel. No. 33-11068, available at <https://www.sec.gov/rules/proposed/2022/33-11068.pdf>. For more information about the proposed Fund ESG Rule, see ICI Memo No. 34170, which is available at: <https://www.ici.org/memo34170>.

[4] Investment Company Names, SEC Rel. No. 33-11067, available at <https://www.sec.gov/rules/proposed/2022/33-11067.pdf>. For more information about the proposed Names Rule Amendments, see ICI Memo No. 34168, which is available at: <https://www.ici.org/memo34168>.

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