

MEMO# 35317

May 16, 2023

Supplemental Comment Letter to SEC on ESG Fund Proposal

[35317]

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TO: ICI Members
ESG Advisory Group
ESG Fund Disclosure Working Group
ESG Public Company Disclosure Working Group
SEC Rules Committee SUBJECTS: Disclosure
ESG RE: Supplemental Comment Letter to SEC on ESG Fund Proposal

We submitted a letter to the SEC today strongly recommending that the compliance date for any final Fund ESG rule¹ not precede the compliance date for any final Public Company Climate rule.² We pointed out that it would be irresponsible for the SEC to require environmental funds (i.e., ESG-Focused Funds that consider environmental factors) to disclose their carbon footprint and weighted average carbon intensity (WACI) before public companies must disclose their greenhouse gas (GHG) emissions, the very data used to calculate carbon footprint and WACI. Otherwise, the SEC would not achieve the level of standardization it is attempting to provide to retail investors with the Fund ESG rule.³

In support of our recommendation, we referenced statements by Chair Gensler and former Commissioner Lee that recognized the importance of investors receiving comparable, consistent climate-related information. We also noted that the experience of the European Union in recent years provides the Commission with a real-life example of the difficulties created by regulators requiring fund disclosure before public company disclosure.

We closed by reiterating that our position on sequencing is simple: funds should not have to comply with a requirement to report data in a regulatory filing that is dependent on portfolio companies' data unless the portfolio companies first have to comply with a corollary requirement to report the data in their own regulatory reports.

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