

SEC Asset Management Advisory Committee Makes Recommendations for ESG Disclosure

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On July 7, 2021, the Securities and Exchange Commission (SEC) Asset Management Advisory Committee (AMAC) proposed five recommendations to improve the data and disclosure used for environmental, social, and governance (ESG) investing. The recommendations were made to the SEC in an effort to create more transparency for investors, improve the data and disclosure used for ESG investing, and allow for better verifiability of investment products' ESG practices and strategies. These recommendations would not change the framework in which ESG disclosures are made but rather would be standards to guide disclosures made under the current regulatory structure.

AMAC ESG RECOMMENDATIONS

ISSUER DISCLOSURE

1. The AMAC recommends that the SEC take steps to foster *meaningful, consistent, and comparable* disclosure of material ESG matters by issuers. This recommendation would not include a revision of the materiality standard requirements, but would acknowledge that ESG is a “still-developing concept and therefore issuers’ determination of materiality and definition of material ESG matters can vary.” The AMAC also noted that the disclosure of ESG matters can take a variety of forms, complicating analysis and making comparisons harder.
2. The AMAC recommends that the SEC encourage issuers to *adopt a framework for disclosing material ESG matters* and to provide an explanation if no disclosure framework is adopted. These frameworks could be developed by third-party standard-setting organizations or by industry groups dedicated to consistent, comparable ESG disclosures.

AMAC ESG RECOMMENDATIONS

ISSUER DISCLOSURE

3. The AMAC recommends that the SEC *accelerate its study of third-party ESG disclosure frameworks* and acquire relevant subject matter expertise to assess how frameworks could play a more authoritative role in the near future. The AMAC noted that this could provide a roadmap for potential establishment of a standard-setting body to develop ESG disclosure standards, like the enforcement of U.S. GAAP accounting standards development by the Financial Accounting Standards Board.

Investment Product Disclosure

1. The AMAC recommends that the SEC should suggest *best practices to enhance ESG investment product disclosure*, including alignment with terminology developed by the ICI ESG Working Group, clear descriptions of each product's strategy and investment priorities, and descriptions of non-financial objectives, including environmental impact or adherence to religious requirements. The AMAC noted that "products that give consumable, comparable disclosure will be more attractive to investors and professionals who provide research concerning investment products."
2. The AMAC recommends that the SEC should suggest best practices for investment products to describe each product's *planned approach to share ownership activities* in the Statement of Additional Information, and any notable recent ownership activities outside proxy voting in shareholder reporting.

Although the AMAC concluded that it would be premature to recommend specific disclosure requirements regarding material ESG matters, the AMAC believes there is a "pressing need" for the SEC to enhance quality, consistency, and comparability of ESG disclosures by issuers. Not only would this create more transparency for investors, but the AMAC asserts that comparable ESG metrics could also help with the assessment of the impact of various metrics on risk and return.

Capital Markets & Securities Law Watch will continue to monitor developments regarding recommendations and requirements of ESG disclosures by issuers and provide updates to our readers as information becomes available.

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Authors

[Michael J. Blankenship](#)

[John P. Niedzwiecki](#)

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Michael J. Blankenship



John P. Niedzwiecki

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