

SEC Announces ESG as Examination Priority

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Following-up on the extensive new mandatory climate disclosures the SEC issued last week, the SEC has now announced that "ESG" will be the second enforcement priority of its examination division during 2022. Specifically, the SEC will "focus on . . . whether RIAs and registered funds are accurately disclosing their ESG investing approaches . . . [and] whether the vot[ing of client securities] align[s] with their ESG-related disclosures and mandates, and whether there are misrepresentations of the ESG factors considered or incorporated into portfolio section." In other words, the SEC is intent on making sure that firms that state they are abiding by ESG principles are living up to their promises.

This announcement builds upon earlier actions by the SEC to enforce adherence to stated ESG principles. For example, there have been reports of SEC enforcement activity where companies may have acted in ways inconsistent with their [ESG disclosures](#). Further, one of the key enforcement activities of the SEC--across time and political administrations--is ensuring accuracy in disclosures. As ESG disclosures are still in the process of developing, it is logical that the SEC is devoting additional enforcement resources to ensure that the content and accuracy of these disclosures aligns with the SEC's expectations and with market needs.

Ultimately, this announcement by the examination division with respect to enforcement priorities highlights the fact that ESG issues, whether in the form of disclosures or socially-responsible investing, remains at the forefront of the SEC's current activities. Regulated entities should bear that reality in mind when engaging on ESG issues.

The following are a selection of the Division's 2022 priorities:

ESG – The Division will continue its focus on ESG-related advisory services and investment products, including mutual funds, exchange-traded funds, and private fund offerings. Examinations will typically focus on whether RIAs and registered funds are accurately disclosing their ESG investing approaches and have adopted and implemented policies, procedures, and practices designed to prevent violations of the federal securities laws in connection with their ESG-related disclosures, including review of their portfolio management processes and practices. Examinations also will review the voting of client securities in accordance with proxy voting policies and procedures, including whether the votes align with their ESG-related disclosures and mandates, and whether there are misrepresentations of the ESG factors considered or incorporated into portfolio selection.

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