Public Statement

Remarks at Meeting of the SEC Investor Advisory Committee

Commissioner Hester M. Peirce

May 21, 2020

Thank you Anne [Sheehan] and other members of the committee for arranging an impressive list of panelists to share their views and perspectives on the important topics on today's agenda. The committee has not let COVID-19 stop it from holding meetings; this is the third such meeting in the last two months. I am appreciative of the committee's diligence and dedication during this time and believe it is emblematic of the tireless efforts put forth over the years by the members whose terms are expiring in the coming days.

I want to take a moment to thank each of you for volunteering your time, thoughts, and passion to this committee year after year. It was not just the time spent at committee meetings, but also the hours of preparation, research, subcommittee meetings, and recommendation drafting. Thank you to Anne Sheehan, Elisse Walter, Craig Goettsch, John Coates, Stephen Holmes, Barbara Roper, and Damon Silvers. We will miss each of you at these meetings and hope to continue to hear from you.

Today also marks the first meeting for the committee's newest members and I would like to extend a warm welcome to Cien Asoera, Ted Daniels, Elissa Germaine, Satyam Khanna (who is not here today, but will be soon), Lori Lucas, and Christopher Mirabile. I look forward to your contributions to this committee moving forward.

Turning to today's agenda, I am looking forward to hearing the panel discussions on index funds and credit ratings agencies. I also look forward to the discussion of the recommendations, although I have reservations about the draft of the recommendation relating to ESG disclosures.[1] I too am concerned about multiple ESG data providers bombarding issuers with questionnaire after questionnaire in order to produce assessments of questionable value. A new SEC disclosure framework for ESG information, however, seems an unnecessary response when our existing securities disclosure framework is very good at handling all types of material information.

As a practical matter, trying to treat ESG factors differently would be quite difficult. The draft recommendation notes that "[t]he term 'ESG' is very broad" and accordingly opts to "use the term ESG as a broad set of subjects germane to businesses as highlighted by The Business Roundtable."[2] As an aside, I found that choice an interesting one for this committee to make since the Business Roundtable list placed shareholders last in a long list of "stakeholders."[3] These stakeholders want to see their priorities classified as ESG and embedded in disclosure mandates so they can shift companies' attention away from shareholder priorities and toward stakeholder priorities. One of these stakeholders is governments, whose priorities might differ quite dramatically from those of shareholders. The draft recommendation approvingly cites one such governmental stakeholder:

Markets all over the globe are putting ESG disclosure front and center. For example, The China Securities Regulatory Commission, in collaboration with the Ministry of Environmental Protection, has mandated that by 2020, listed companies and bond Issuers must disclose ESG risks associated with their operations.[4]

This embrace of the Chinese regulatory framework as a model for our own is interesting in light of the current debate about the reliability of financial statements produced by issuers governed by the Chinese regulatory framework.[5] Of course, it is possible that a less transparent and less consistently applied regulatory system than our own is a better match for the ambiguity that characterizes ESG.

That ambiguity has made the ESG debate a difficult one. If this committee is able to focus our attention on discrete pieces of information for which disclosure mandates are necessary, perhaps a substantive discussion could follow. A more general call to develop a new ESG reporting regime—without a clear explanation of why the past fifty years of discussion on the topic has not crystallized into a universally applicable set of material ESG items, but now is the magic moment—may not be as helpful. Otherwise, let's keep using our tried and true disclosure framework, which is rooted in materiality and is flexible enough to accommodate a wide range of issuers, each with its unique and ever-evolving set of risks.

Thank you and I look forward to today's discussions.

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[1] *See* Draft Recommendation from the Investor-as-Owner Subcommittee of the SEC Investor Advisory Committee Relating to ESG Disclosure (as of May 14, 2020) *available at* https://www.sec.gov/spotlight/investor-advisory-committee-2012/recommendation-of-the-investor-as-owner-subcommittee-on-esg-disclosure.pdf ("Draft ESG Recommendation").

[2] *See* Draft ESG Recommendation at note 1.

[3] *See* Business Roundtable, Statement on the Purpose of a Corporation, *available at* https://opportunity.businessroundtable.org/wp-content/uploads/2020/04/BRT-Statement-on-the-Purpose-of-a-Corporation-with-Signatures-Updated-April-2020.pdf.

[4] *See* Draft ESG Recommendation at note 6.

[5] I anticipate that this topic will be discussed at the upcoming SEC Staff Roundtable on Emerging Markets. *See* SEC Staff to Host July 9 Roundtable on Emerging Markets, *available at* https://www.sec.gov/news/press-release/2020-116.