Securities Regulation Daily Wrap Up, ESG NEWS—NYSE withdraws plans to list natural asset companies, (Jan 18, 2024)

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The exchange's efforts to end the underinvestment in nature by bringing natural assets into the mainstream had drawn criticism from state attorneys general and on Capitol Hill.

The New York Stock Exchange has officially withdrawn its proposed rule change that would have allowed "natural asset companies" (NACs) to trade on the exchange. The NYSE had hoped to give investors greater exposure to nature and to climate-related assets and companies, but changed its mind after considerable pushback from state attorneys general, Capitol Hill, and elsewhere.

The NYSE's decision drew immediate praise from the Utah Attorney General, who co-authored a recent letter from 25 state attorneys general criticizing the exchange's "effort to promote ESG policies at the expense of economic growth." He characterized the withdrawal as a victory against "unlawful activist ESG actions that attempt to circumvent Congress and subject the American people to a radical political agenda."

Similarly, House Committee on Natural Resources Chair Bruce Westerman (R-Ark.) praised the NYSE's decision. He had written to SEC Chair Gary Gensler last week expressing his concern that the proposal would allow NACs to prevent the land they own from being used for the production of natural resources, including fossil fuel development, mining, most logging and large-scale farming.

September proposal. The NYSE proposed the rule change in September, saying at the time that the proposal was designed to end the "overconsumption of and underinvestment in nature" by bringing stewards of natural assets into the mainstream. As envisioned by the exchange, NACs—a concept originated by Intrinsic Exchange Group—would be companies that "hold the rights to the ecological performance produced by natural or working areas," and which would be able to manage them for conservation, restoration, or sustainable management.

NACs would be governed the same as traditional listed companies, with added requirements that they adopt an environmental and social policy, a biodiversity policy committing to achieving no net loss, a human rights policy, and an equitable benefit sharing policy.

ESG political divide. The proposal had divided stakeholders along traditional ESG political lines, with support coming from the likes of the World Wildlife Fund (WWF), which welcomed the creation of a financial mechanism to measure and disclose the value of natural capital. It also praised the NYSE's inclusion of clear guidance on permitted and prohibited activities, public disclosure requirements, and requirements for sharing benefits with local communities.

At press time, the WWF had not commented on the NYSE's decision to back away from the NAC listing proposal.

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