

Latest Developments in Governance, Stewardship and Sustainability

August 26, 2022

Should the SEC distinguish between good practice and the primary focus of a fund in terms of their impact on the fund's ability to name itself? PRI thinks so.

On the last day (August 16) for comments to be received in response to the SEC File No. S7-16-22: Investment Company Names, PRI expressed its support of the proposed rules. The SEC proposed mid-June, among other things, to expand the requirement for funds to invest at least 80 percent of their assets in accordance with the investment focus the fund's name suggests. In its supportive Consultation Response, PRI makes several recommendations to enhance the proposed rule. One of these recommendations is to limit funds' ability to use ESG-related terms as part of their names if ESG inputs are focused on one factor, especially in the case of integration funds. This is to urge the SEC to differentiate between good practice and the primary focus of a fund, and that only in the latter scenario should the fund be allowed to use ESG-related terms. [[PRI Consultation Response to SEC File No. S7-16-22](#)]

The case of misleading names is also present in the EU, as a recent analysis found that around a quarter of ESG labelled in EU funds do not "live up" to their name. [Bloomberg Law's "'ESG' Stripped From 23% of EU Sustainable Funds in Review"]

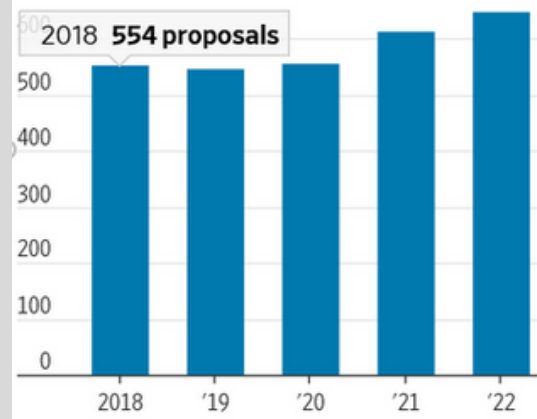
A substantial increase in shareholder proposals

As of July 29, the number of shareholder proposals submitted to S&P 500 companies has amounted to 650 proposals compared to 554 proposals in 2018. All these 2022 proposals, except for 12, were related to ESG matters. The increase in shareholder proposals is attributed, according to Cydney S. Posner (a special counsel at Cooley LLP), to the difficulty companies face in excluding such proposals, particularly if they are related to ESG issues. [Posner's Commentary titled "More Prescriptive Proposals, Less Support for 2022 Proxy Season" and The Wall Street Journal's "Investors Put Forward More Proposals, Dialing Up Pressure on Companies article"]

Shareholder Proposals Rise

The number of proposals made through July 29 this year increased compared with the same period in recent years

700 proposals



Governments face difficulty in drafting lawful and clear Net Zero Strategies: The Case of UK Government

On 18 July 2022, a landmark judgment by the High Court Of Justice found the UK Government's plan to reach net zero emissions unlawful and not compliant with the requirements of the Climate Change Act 2008. The main rationale behind its decision was the vague Net Zero Strategy and its lack of sufficient details on how each proposal in the strategy would be able to contribute to reaching the net zero target. An updated strategy will be published at the end of March 2023. [Harper Macleod LLP's commentary on the Case No: CO/126/2022; CO/163/2022; CO/199/2022].