PMAC
PORTFOLIO MANAGEMENT ASSOCIATION OF CANADA

August 15, 2021

Via Electronic Submission

Re: IOSCO Consultation Report: Recommendations for Sustainability-Related Practices, Policies, Procedures and Disclosures in Asset Management

OVERVIEW

The Portfolio Management Association of Canada (**PMAC**), with the assistance of a member working group consisting of CFAs and ESG experts, is pleased to have the opportunity to submit the following comments regarding the International Organization of Securities Commissions (**IOSCO**) Consultation Report Recommendations on Sustainability-Related Practices, Policies, Procedures and Disclosure in Asset Management (the **Consultation**).

PMAC represents over 300 investment management firms registered to do business in Canada as portfolio managers. Some firms manage large mutual funds or pooled products, and others manage separately managed accounts on behalf of private clients or pension plans and foundations. In addition to this primary registration, most of our members are also registered as investment fund managers and/or exempt market dealers. PMAC's members encompass both large and small firms managing total assets in excess of $2.9 trillion for institutional and private client portfolios.

BACKGROUND ABOUT PMAC & PORTFOLIO MANAGERS

The following context about PMAC's members will help inform IOSCO about our perspective on the Consultation. Our member firms are subject to regulation by the Canadian Securities Administrators (**CSA**) and range from asset managers that operate globally under a plurality of other legal and regulatory requirements to smaller firms that operate solely within Canada.

PMAC's mission statement is "advancing standards". We are consistently supportive of measures that increase investor protection and meaningfully contribute to investor understanding and transparency.

KEY RECOMMENDATIONS

The following are PMAC's key recommendations to IOSCO with respect to the Consultation:

1. Prioritize efforts to standardize sustainability-related definitions;

2. Continue to emphasize how access to data impacts ESG disclosure standards for asset managers and issuers; and

3. Emphasize the need for principles-based regulation to ensure investors are meaningfully informed and that disclosure can be adapted to the needs of each investor and firm. This will encourage flexibility in the rapidly developing area of sustainability-related disclosure and can help result in a proportionate regulatory burden.

These recommendations and others are discussed in further detail in the body of this letter.

GENERAL COMMENTS

PMAC supports and applauds IOSCO's work through the Consultation and other ESG workstreams focused on sustainability-related disclosures for issuers and on ESG ratings and ESG data providers. We agree that asset managers play a central role in the ecosystem of sustainability-related information as they are users of this information, and the entities responsible for reporting to regulators and clients. IOSCO's recommendations will help to establish a globally harmonized framework for sustainability-related disclosure in the asset management industry. We also appreciate the investor-protection lens through which IOSCO is framing the Consultation – PMAC members share concerns about the impacts of greenwashing on investors and global capital markets.

PMAC believes that sustainability-related disclosures should be principles-based and meaningfully inform investors while ensuring a proportional regulatory burden. Using standardized sustainability-related definitions will promote greater understanding and comparability. It is of utmost importance that managers be able to substantiate issuers' (including fund issuers) sustainability-related marketing claims.

RESPONSES TO SELECTED CONSULTATION QUESTIONS

Our members have the following comments on certain questions set out in the Consultation. We have used the numbering found in the Consultation, but for brevity did not include the questions to which members did not respond. As such, the numbering is non-sequential.

RECOMMENDATION 1: ASSET MANAGER PRACTICES, POLICIES, PROCEDURES AND DISCLOSURES

Question 1: *Will the 5 Recommendations sufficiently improve sustainability-related practices, policies, procedures and disclosure in the asset management industry and address the issue of greenwashing? Are there other areas of sustainability-related* *practices, policies, procedures and disclosure in the asset management industry not mentioned in this consultation report that should be addressed as separate recommendations?*

Subject to the comments contained in this submission, we agree that the Consultation could improve sustainability-related practices, policies, procedures and disclosures in the global asset management industry, particularly with respect to achieving a harmonized framework. We believe that, subject to the adoption of a common set of sustainability-related terminology, the Consultation can also ameliorate the problem of greenwashing. Whether the degree of improvement will meet the standard of "sufficient" is unclear at this stage; however, PMAC believes that IOSCO is well positioned to issue impactful recommendations to securities regulators and/or policymakers.

Question 2: *The key areas identified are based on the key pillars of the TCFD Framework. Do you agree with this approach?*

PMAC agrees that the TCFD pillars are a sensible starting point for building this framework. We believe that the framework itself makes sense but that there remain issues with metrics, targets and data quality. We acknowledge that some of these issues may be alleviated following the review and outcome of IOSCO's ESG data provider consultation.

Question 3: *Should the scope of this recommendation cover all asset managers or be limited only to those asset managers that take sustainability-related risks and opportunities into consideration in their investment process?*

Members note that the market is already moving toward increased ESG disclosure as investors are more focused on ESG and demanding improved disclosure. A large number of asset managers representing significant assets under management are PRI signatories. Notwithstanding different approaches to ESG integration and stages of adoption, most asset managers have or will make a commitment to consider ESG factors, and these considerations either already are or will soon become universal. Some members also stated their view that the fiduciary standard requires managers to consider sustainability-related risks and opportunities. (PMAC also notes that the CFA Institute has suggested that their recent Exposure Draft of ESG product disclosures will form part of the CFA Code of Ethics and Standards of Professional Conduct). For these reasons, most members believe that it makes sense for the recommendation to be universally applied.

It is not clear from a Canadian perspective which products the recommendation will apply to and under which Canadian securities law instrument it will fall. If the recommendation will only apply to registered firms, it could create an uneven playing field. In Canada, the disclosure-related requirements with respect to investment products vary greatly, ranging from specific and detailed disclosure requirements for "retail" investment products to almost no disclosure requirements for certain types of institutional investment products. Depending on the ways in which institutional clients hold securities to meet their ESG-related objectives – either by holding individual stocks and bonds or through the use of investment funds, such as pooled funds, the need for sustainability-related disclosures for these institutional clients will vary. Regulatory requirements applicable to managers also vary, depending on whether a manager is registered under applicable Canadian securities laws (for example, a registered portfolio manager compared to many private equity firms that are not registered).

RECOMMENDATION 2: PRODUCT DISCLOSURE

Question 4: *Should securities regulators and/or policymakers, as applicable, consider setting out different disclosure requirements for products with sustainability-related investment objectives as compared to products that promote sustainability-related characteristics? If so, for which of the different areas of disclosure listed above should the requirements vary, and how should they vary? In addition, if so, should securities regulators and/or policymakers, as applicable, consider specifying thresholds or other criteria for determining whether a product has sustainability-related investment objectives as compared to sustainability-related characteristics, and what should those thresholds or criteria be?*

While we appreciate that IOSCO is seeking to implement recommendations that provide a helpful framework for asset managers in this respect, members have noted that ESG disclosure requirements are and will continue to be in flux as science, data and the understanding of what constitutes ESG evolves. This presents a challenge for regulators; we therefore urge the adoption of thresholds that are both meaningful and sufficiently flexible to respond to an evolving ESG landscape.

Members note that this question is framed using the terms of the SFDR and that one of the most salient critiques of SFDR is the lack of specificity with respect to components such as promoting[1], and a sense that there is too much granularity in other components. Notwithstanding these critiques of SFDR, and despite numerous efforts to establish different disclosure requirements, we believe that SFDR is a logical basis for disclosure given the number of entities tied to it and the efforts of regulators to clarify its scope and applicability.

PMAC also notes that members of the CSA recently conducted a marketing review of investment funds with a focus on ESG. The results of the review are pending and, to the extent that the CSA publish findings and/or specific guidance around ESG-related disclosures and marketing, this could represent a shift for Canadian registered firms. Guidance from the CSA as to the applicability of existing Canadian disclosure rules in the context of sustainability-related products would be welcomed.

We do strongly encourage IOSCO and local regulators to focus on disclosure obligations that are consistent, clear and proportionate such that they are easily understandable by investors. A failure to focus on clarity for investors and to recognize that more disclosure does not equal better-informed investors could increase rather than mitigate the risk of greenwashing. PMAC believes that a more principles-based approach that clarifies the applicability of existing securities laws to sustainability-related disclosures and marketing, tailored for retail clients, would appropriately balance these risks.

Question 5: *Should naming parameters permit the product name to reference sustainability only if the investment objectives refer to sustainability?*

[1] We understand that further guidance on this is forthcoming.

PMAC believes that Canadian securities law already includes a tacit prohibition on naming a fund to imply sustainability-related objectives without that being the case. However, to explicitly address the risk of greenwashing, express confirmation of this requirement could be helpful.

Question 6: *Should a product need to have an ESG, SRI or similar label in order to be marketed as a sustainability-related product?*

Members believe that this should be the case for individual products. However, it is not clear how this would apply to asset managers with non-prospectus qualified (private) funds or strategies comprised of investments in multiple pooled funds. A portfolio manager could manage various products with sustainability-related features, that do not apply to the entire portfolio. Would the fact that one pooled fund out of a group of five does not have sustainability-related features negate the ability for the portfolio to claim the strategy is sustainability-related?

Further guidance or discussion on how the securities regulators would view this scenario would be instructive. We suggest that a way to approach this would be to require asset managers to implement proper governance frameworks prior to labeling their products and being required to monitor to ensure they continue to use appropriate labels and/or before making changes to any such labels.

Question 8: *Should the disclosures address how past proxy voting and shareholder engagement records align with the investment objectives or characteristics of a sustainability-related product?*

We believe that only firms that are making claims related to shareholder engagement (regarding alignment with the Paris Agreement, for example) should have to disclose their proxy voting and shareholder engagement records to be able to back up these claims.

We also query whether it is useful and/or possible in many instances to take a historic look at this data, as it may no longer exist. While it might be possible and instructive for firms to disclose this information for the past proxy season or the past year, anything beyond that would be difficult.

One solution to this issue would be to implement a staged implementation of this particular requirement to ensure that firms making such claims are retaining the records they would need to evidence them. An alternative avenue would be to address proxy voting and stewardship at the asset manager level, instead of at the fund level.

Question 9: *Should securities regulators and/or policymakers, as applicable, also address the format and presentation of marketing materials and website disclosure for sustainability-related products?*

No, we believe this should remain principles-based and up to the asset manager. Portfolio managers make disclosure in ways that resonate with their investors, and we believe this is beneficial to investors and increases investor understanding and dialogue with advisers.

Question 10: *Should securities regulators and/or policymakers, as applicable, encourage the use of specific metrics or key performance indicators to assess, measure and monitor the sustainability-related product's compliance with its investment objectives and/or characteristics? Should these metrics be subject to self-selection, or should there be a standardized approach?*

No, we believe this should also be principles-based and subject to self-selection. If the asset management community can coalesce around standardized definitions, then the claims that are made can be supported by data. That having been said, we recognize that Europe is already attempting to define these metrics and performance indicators using SFDR; therefore, if IOSCO chooses to go in this direction, alignment with SFDR would be useful. Members also note the inherent issues with data providers and the costs of such data. Mandating the use of particular metrics without corresponding robust regulatory oversight of the data providers, their pricing and any anti-competitive measures, could simply drive up the price of asset management to the detriment of investors.

RECOMMENDATION 3: SUPERVISION AND ENFORCEMENT

PMAC has the following comments on Recommendation 3. PMAC believes that the CSA have robust supervisory and enforcement tools to ensure adherence to existing or enhanced rules around sustainability-related products. We believe that continued training and education of local regulators on sustainability-related issues and continued dialogue with a wide variety of industry stakeholders will also ensure appropriate and balanced supervision and enforcement.

PMAC believes that additional transparency and predictability could be created if the CSA were to consult on and publish their compliance program for ESG. PMAC would be very pleased to participate in any such stakeholder consultations which we believe would educate asset managers and set expectations around reviews.

RECOMMENDATION 4: TERMINOLOGY

Question 12: *Do you agree that regulators should encourage industry participants to coalesce around a set of consistent sustainability-related terms?*

Yes. PMAC believes that agreement on a set of consistent sustainability-related terms is a foundational element to the success of the Consultation and the underpinning for the other 4 recommendations. In the absence of a common language, there will continue to be investor confusion, undue complexity and a real risk of greenwashing without recourse by regulators or investors.

With respect to terminology, we believe this can be done in a fairly straightforward way by encouraging the adoption of the PRI and/or the terminology provided by the CFA Institute in its recent Exposure Draft on ESG Investment Product Disclosure Standards or the ICI taxonomy's 3 categories: exclusionary, inclusionary and impact investing.

RECOMMENDATION 5: FINANCIAL AND INVESTOR EDUCATION

Question 15: *Are there any specific sustainability-related financial and investor education initiatives not mentioned in this consultation report that could be considered by securities regulators and/or policymakers, as applicable?*

With respect to investor education, PMAC agrees that this can play a meaningful role in investor protection and understanding of sustainability-related products. We believe that financial and investor education about sustainability-related products should take place after a harmonized approach to product disclosure and the adoption of harmonized definitions has been implemented - to do so before these two critical steps are implemented risks increasing investor confusion.

PMAC would like to applaud the work of the CSA in recruiting, training and retaining highly knowledgeable staff. Regulators that are well-versed in all aspects of the industry and who are constantly learning are more able to predict and respond to emerging trends, risks and opportunities. We would like to encourage the CSA to continue to focus on their human capital and to ensure that policymakers, compliance and enforcement staff have a high degree of knowledge regarding sustainability-related matters and disclosure. We believe that this is a core component of ensuring an effective regulatory regime.

CONCLUSION

We would like to thank IOSCO for the opportunity to respond to this Consultation. We are supportive of your goal of addressing investor protection concerns such as greenwashing and of creating a standardized set of sustainability-related definitions for asset managers to use in their disclosure.

As outlined in our submission, PMAC believes that establishing standardized sustainability-related terminology, focusing on the importance of ESG data to enable disclosure and focusing on ways to meaningfully information investors while ensuring a principles-based disclosure regime are key to achieving IOSCO's policy objectives in this Consultation.

If you have any questions regarding the comments set out above, please do not hesitate to contact PMAC's General Counsel, Melissa Ghislanzoni at 416-504-1118 ext. 202.

Yours truly,

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