# CFA Institute & Canadian Securities Administrators release ESG investment disclosure standards

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A recent Canadian Securities Administrators (CSA) publication represents the latest foray by regulators and industry into best practices for disclosure about environmental, social and governance (ESG) issues.

Issued on January 19, 2022, CSA Staff Notice 81-334: *ESG-Related Investment Fund Disclosure* explains and clarifies how current Canadian securities requirements apply to ESG-related investment fund disclosure.

The notice sets out the CSA's suggested best practices that would enhance ESG-related fund disclosure and sales communications. The best practices were informed by the CSA's recent continuous disclosure reviews of disclosure documents and sales communications of ESG-related investment funds. The CSA notice also covers ESG-related work and recommendations of the International Organization of Securities Commissions and other international regulators and organizations.

The CSA notice refers to the CFA Institute's November 2021 release of its Global ESG Disclosure Standards for Investment Products (the Standards).

Given the significance to the Canadian and international asset management industry of principles developed by the CFA Institute, this article focuses on the Standards. Publication of our analysis of the CSA staff notice will follow shortly.

The Standards are intended to help stakeholders better understand, compare and evaluate ESG investment products. They are the first voluntary global standards governing disclosure about how investment managers consider ESG issues in the objectives, investment process and stewardship activities of their products.

The Standards are meant to address current issues with ESG investing, including "greenwashing," and inaccurate disclosure practices. They are designed to accommodate the full range of investment vehicles, asset classes, and ESG approaches offered in markets globally.

While the CFA Institute did not provide guidance on the naming, labeling or rating of investment products, we expect that many stakeholders will adopt the CFA Institute's terminology and defined terms. This should assist the industry, regulators and investors in using a common vocabulary to describe ESG.

# Guiding principles

The Standards are based on the principles of fair representation and full disclosure. They are focused on providing investors with information that is complete, reliable, consistent, clear and accessible.

Under the Standards, ESG disclosure statements for investment products should provide all information that investors need in order to understand the product's ESG approach, and should not include any false or misleading information. ESG disclosure statements should be consistent with regulatory disclosures and marketing materials for the product and made available to all investors.

# Fundamentals of compliance

For investment managers who choose to observe the Standards, the CFA Institute outlines fundamentals of compliance for ESG disclosure:

1. Comply with any laws and regulations that apply to ESG disclosure statements.
2. Comply with all the requirements of the Standards if they state that their ESG disclosure statements are in compliance with the Standards.
3. Do not make any statement of partial compliance with the Standards.
4. Do not present false or misleading information, omit significant information about an investment product's ESG approach, or contradict disclosures made in regulatory documents.
5. ESG disclosure statements must cover a minimum one-year period (or the period since inception if an investment product is less than one year old).
6. Document policies and procedures for establishing and maintaining compliance with the Standards and for monitoring changes to the Standards and interpretive guidance.
7. Maintain documents and records necessary to support information included in ESG disclosure statements.
8. Notify the CFA Institute of the investment manager's use of the Standards by submitting the ESG Standards Compliance Notification Form.
9. If investment managers apply the Standards to a specific investment product, the ESG disclosures for that specific investment product must be made available to investors.
10. Update an investment product's ESG disclosure statement when changes are made to the Standards or its interpretive guidance, when the investment manager makes changes to information affecting the ESG disclosure statement, or when a significant error is found after the ESG disclosure statement is made available to investors.

The CFA Institute recommends that investment managers obtain independent assurance on their ESG disclosure statements. The CFA Institute plans to publish more information on this in the coming months.

# ESG terminology recommendations and additional guidance

The CFA Institute published recommendations for terms and definitions related to ESG approaches in investment products. Consistent with regulatory expectations, the CFA Institute recommends that investment managers use plain language whenever possible to describe an investment product's ESG approach and to define any specialized terms used in their ESG disclosure statements.

In particular, the CFA Institute recommends defining terms such as "ESG integration," "screening," "thematic and sustainability themed investing," and "impact investing."

The CFA Institute also published various appendices to the Standards, including one explaining the relationship of the Standards to other codes and standards, such as the EU's Sustainable Finance Disclosure Regulation, as well as an FAQ for the Standards.

# Submissions from Canadian industry participants

Various stakeholders wrote to the CFA Institute during the public comment period for the Standards. Many welcomed the CFA Institute's initiative to develop voluntary ESG disclosure standards for investment products and provided additional commentary and recommendations.

The Investment Funds Institute of Canada (IFIC) recommended the CFA Institute incorporate standards for naming and categorizing ESG investment products into the Standards, so investors would not confuse a presentation compliant with the Standards with one that achieves a standard of ESG investment practice. The Portfolio Management Association of Canada (PMAC) noted there may be redundancy and potential confusion with other ESG disclosure regimes, as well as with firms' existing legal disclosure requirements.

We believe keeping the Standards at the product level (rather than firm level), along with the voluntary approach used by the CFA Institute, will alleviate some of these concerns.

PMAC and IFIC supported the concept that managers should obtain an independent examination of the Standards as a recommendation rather than a requirement, leaving the ultimate decision to the professional judgement and capacity of the manager.

We believe the CFA Institute's decision to leave the choice to managers was prudent, given the concern that it would otherwise increase compliance costs and create a new audit industry, without having sufficient understanding of the metrics for assessing use of the Standards.

# Looking ahead

Later in 2022, the CFA Institute expects to publish procedures for independent assurance of ESG disclosure statements of investment products, as well as a handbook that explains the provisions of the Standards and provides further interpretative

guidance. An optional template for ESG disclosure statements to facilitate easier comparison between products is also expected.

# Get in touch

For more information on the CFA Standards or any aspect of disclosure relating to ESG, including the CSA's recent guidance, reach out to the key contacts listed below.

*BLG Investment Management Group associates John Stanley and Audrey Smith prepared and researched this article.*

By

Lynn McGrade, Kathryn M. Fuller

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## BLG Offices

**Calgary**
Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

**Ottawa**
World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

**Vancouver**
1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

**Montréal**
1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

**Toronto**
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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