

**Securities and Exchange Commission Investor Advisory Committee
Minutes of the Meeting on November 7, 2019**

The Investor Advisory Committee (IAC) met on November 7, 2019, in a public meeting at the Securities and Exchange Commission’s headquarters in Washington, D.C. The meeting convened shortly after 9:30 a.m. and was broadcast live by webcast.

The following persons participated in the meeting:

Commissioners of the Securities and Exchange Commission

Commissioner Allison Lee

Advisory Committee Members¹

Anne Sheehan (Chair)
Craig Goettsch (Secretary)
Nancy LeaMond, Assistant Secretary (morning only)
Allison Bennington (by telephone)
John Coates
Rick Fleming
Stephen Holmes (by telephone)
Paul Mahoney (by telephone)
Lydia Mashburn
Mina Nguyen
Barbara Roper
Damon Silvers
Anne Simpson
Jerome Solomon
Heidi Stam
J.W. Verret
Susan Ferris Wyderko

MORNING SESSION

Welcome Remarks

Craig Goettsch, Secretary of the IAC, called the meeting to order at 9:30 a.m.² He noted that the committee had received written remarks from SEC Chairman Jay Clayton, who was unable to attend the meeting in person.³ Commissioner Allison Lee then gave opening remarks, commenting on the Committee’s agenda topics.

¹ Jennifer Marietta-Westberg and Elisse Walter (Vice Chair) were absent.

² Mr. Goettsch acted in the temporary absence of Ms. Sheehan, who was unavoidably delayed.

³ See Jay Clayton, Remarks to the SEC Investor Advisory Committee (Nov. 7, 2019), at <https://www.sec.gov/news/public-statement/clayton-remarks-investor-advisory-committee-110719>.

Discussion Regarding Whether Investors Use Environmental, Social, and Governance (ESG) Data in Investment/Capital Allocation Decisions

Mr. Goettsch introduced the topic and panelists, who spoke in the following order:

- **Satyajit Bose**, Associate Director and Associate Professor of Practice Program in Sustainability Management, Columbia University
- **Michelle Dunstan**, Portfolio Manager and Senior Research Analyst, AllianceBernstein
- **Jonathan Bailey**, Head of ESG Investing, Neuberger Berman
- **Rakhi Kumar**, Senior Managing Director, Head of ESG Investments and Asset Stewardship, State Street Global Advisors
- **Jessica Milano**, Vice President & Director of ESG Investment Research, Calvert Research and Management

Mr. Bose cited research linking ESG information to financial performance. Therefore, he maintained, all investment managers should use that information in their capital allocation process.

Ms. Dunstan said that her firm considers ESG considerations to be a primary responsibility of fundamental analysts. But she also saw a need for more complete, accurate, and standardized data, which will enable asset managers and analysts to analyze ESG issues. She said that the SEC could take the lead in driving more complete and accurate standardized data.

Mr. Bailey agreed on the need for better quality information on material ESG factors, noting that the issue was exacerbated by corporate greenwashing. He said it was not unreasonable for regulators to consider assisting investors by providing safe harbor rules for companies that increase disclosure or to institute "comply or explain" disclosure expectations. Action is needed now, he continued, to limit the ability of foreign regulators to define and impose standards on U.S. companies and U.S.-based asset managers.

Ms. Kumar cited a recent global survey conducted by her firm of more than 300 global institutional investors, which found that the availability of high-quality, financially material, consistently reported ESG data represented one of the biggest challenges in better integrating ESG in the investment process. She said that her firm uses ESG data in its stewardship activities, investment solutions, and client reporting.

Ms. Milano emphasized the distinction between material and immaterial ESG information. She cited research that found that firms that score highly on their material ESG exposures financially outperform firms with poor ESG ratings on those same issues, while firms that score highly on

immaterial ESG issues actually underperform peers financially. Ms. Milano added that her firm supported the SEC's recent efforts regarding human capital disclosure.

A discussion between panelists and Committee members followed.

RECESS

The Committee went into non-public administrative session at 11:38 a.m.

AFTERNOON SESSION

Ms. Sheehan called the afternoon session to order at 1 p.m.

Discussion Regarding the SEC's Concept Release on Harmonization of Securities Offering Exemptions

Mr. Goetsch introduced the topic and panelists, who spoke in the following order:

- **Jennifer Zepralka**, Chief, Office of Small Business Policy, SEC
- **Renee Jones**, Associate Dean of Academics and Professor, Boston College Law
- **Catherine Mott**, CEO, Founder and Managing Partner, BlueTree Capital Group, LLC
- **Andrea Seidt**, Ohio Securities Commissioner
- **Sara Hanks**, CEO, CrowdCheck, Inc.
- **Tyler Gellasch**, Executive Director, Healthy Markets Association

Ms. Zepralka provided an overview of the SEC's Concept Release on Harmonization of Securities Offering Exemptions, which it released on June 15, 2019.⁴ She explained that the release reviews the framework for exempt offerings, including several exemptions from registration under the Securities Act aimed at facilitating capital raising.

Ms. Jones argued that the panoply of exemptions has strayed dramatically from their statutory and judicial bases. As a result, she asserted, the exemptions are unlikely to further the objectives of ensuring that investors are well informed enough to make intelligent investment decisions. Ms. Jones also disputed what she called some of the faulty premises of the proposed rulemaking, including that retail investors are being unfairly shut out from lucrative investment opportunities in private equity markets by overly onerous regulations. Finally, she maintained that the rise of unicorns has created new kinds of risks that regulators must address.

⁴ At the start of the meeting, Mr. Fleming issued a standard SEC disclaimer on behalf of SEC staff, including Ms. Zepralka. He explained that any SEC staff remarks represented their own views only and did not necessarily reflect those of the Commission, the Commissioners, or colleagues on the Commission staff.

Ms. Mott

Ms. Mott presented the perspective of a funder who works with entrepreneurs to create and grow companies in the United States. Arguing that harmonization of rules in a balanced fashion can facilitate innovation, she offered two examples of how entrepreneurs can get tripped up by regulations and lose the opportunity to create an impactful enterprise. She spoke of the need to mobilize angel investors, emphasizing that 55 percent of their investments are in what she called flyover regions. Her remarks also addressed the definitions of accredited investors and general solicitation.

Ms. Seidt

Ms. Seidt offered the perspective of a state securities regulator. While citing research data on the scope of fraudulent private offerings and the impact on retail investors, she argued that we have no comprehensive data on the number of actual incidents of fraud and victims' losses. Nor, she maintained, do we have comprehensive data on the performance of companies that have raised money in private markets or on the investment returns of investors in those markets. She argued that the Commission has a duty to the investing public first to compile and publish such data before proposing rulemakings to expand exemptions and private markets yet further.

Ms. Hanks

Ms. Hanks asserted that being a public company was too hard, and that was one reason driving the expansion of the private market and exempt offerings. She advocated a variety of deregulatory measures involving offers, general solicitation, integration, accreditation by chaperone, and single-security special purpose vehicles. Such measures, she believed, would make it easier for issuers and intermediaries to do the right thing.

Mr. Gellasch

Mr. Gellasch asserted that the SEC imposes no meaningful disclosure requirements on private markets and, as a result, offers no meaningful investor protections in those markets. He argued that the concept release offered no credible evidence or reasonable analysis to support what he called the Commission's assertion that less information for investors somehow improves market efficiency. Pointing to some recent high-profile IPO and private-company failures, he asserted that a lack of basic information on securities is leading investors to misallocate resources.

An animated discussion among panelists and IAC members followed.

Approval of Minutes

Ms. Sheehan asked for a motion to approve the minutes of the meetings of September 5 and September 19, 2019. Mr. Coates so moved, and the motion was seconded. Both sets of minutes were approved without objection.

Subcommittee Reports

Ms. Sheehan asked for subcommittees reports. Mr. Coates, Mr. Mahoney, and Ms. Roper gave brief updates, respectively, on the work of the Investor as Owner, Market Structure, and Investor as Purchaser Subcommittees.

CLOSING

Ms. Sheehan adjourned the meeting at 3 p.m.