International
Capital
Market
Association

ICMA response to SEBI consultation paper on introducing disclosure norms for ESG Mutual Fund schemes

16 November 2021

Subject: Comments on Disclosures for ESG Schemes

Name of the person/entity proposing comments: International Capital Market Association (ICMA)
Name of the organization (if applicable): International Capital Market Association (ICMA)
Contact details: apac@icmagroup.org

Sr. No.	Para of consultation paper	Suggestions/Comments	Rationale
1	p.7, para. 5, question a): Whether SEBI should mandate the proposed disclosures for ESG schemes?	We are generally supportive of the approach to make more pre-contractual (i.e. Scheme Information Documents) and periodic information available to end investors.	Standardising information disclosure and transparency of ESG schemes may help facilitate the comparison of products and their understanding by end-investors, and enable them to make informed decisions.
		Having said that, we would suggest careful calibration of information disclosure that is to be made mandatory bearing in mind ESG data availability and quality.	The mandatory reporting requirement should help produce meaningful and reliable information to end investors.
		We note that the proposed disclosure norms are designed from the perspective of equity funds and we would like to bring in the perspective of bonds as an asset class with our response.	
		We suggest that this fundamental, mandatory disclosure norm regulating all ESG funds should avoid imposing too specific requirements, such as the 80% minimum requirement.	According to paragraph 3 "Disclosures for ESG Schemes", the purpose of the proposed norm seems more about ensuring that ESG funds live up to their ESG claims. Increasing transparency can help achieve this goal.

		However, if SEBI's regulatory focus is to channel more funds into sustainable investment, we would suggest establishing labels which asset managers and fund managers can voluntarily align their products with. Those labels may contain more detailed requirements for ESG investment.	
		We appreciate that SEBI takes different investment strategies into consideration for defining ESG funds in India. To take a step further, we would suggest SEBI to have conversation with regulators in other jurisdictions and explore the possibility of recognising ESG fund frameworks in other jurisdictions as equivalent (e.g. Art. 8 and 9 funds under the EU Sustainable Finance Disclosures Regulation).	It could helpfully address the potential risk of market fragmentation, which will be detrimental to the asset management industry given its global nature.
2	p.4, (vi) Asset Allocation: As per extant regulations these schemes fall under thematic sub-category and so a minimum of 80% of total assets of the scheme shall be invested in securities following ESG theme.	On the specific proposal of a minimum of 80% invested in securities following ESG theme, we would like to seek more clarification about what "ESG theme" refers to. If the ESG themes refer to the various investment strategies mentioned under item (iv) on page 3, we would suggest not adopting a blanket approach and fixing a threshold applicable to all types of ESG funds/strategies.	It is relatively easy to commit to an ESG coverage/analysis for 80% of the portfolio but it may be more challenging to have 80% of assets meeting the definition of impact investing due to the relative scarcity of those assets.
3	p.7, para. 5, question c): Whether Responsible Investment Policy of AMCs	We strongly suggest not imposing such a mandatory requirement. Mandating it may incur a few issues with i) other asset classes such as bonds, ii) international	Potential issues with: i) Other asset classes, such as bonds According to the SEBI circular dated 10 May 2021, BRSR will be applicable to the top 1000 listed entities by

	should be revised to contain a clause that from October 01, 2022, AMCs shall only invest in securities which have Business Responsibility and Sustainability Report (BRSR) disclosures?	securities, and iii) timing. Each of these perspectives is explained in detail in the column on the right.	market cap. This means that many issuers of domestic bonds and international securities are not captured by the BRSR circular and it is not mandatory for them to make BRSR disclosure or similar issuer-level sustainability reporting. There are also certain types of bond issuers for which entity-level sustainability reporting may not be applicable or appropriate, such as sovereigns and ABS SPVs (where the most relevant ESG information will relate to the underlying assets/obligors and certain counterparties involved rather than the SPV issuer itself). It is observed that some funds with ESG claims may hold a portion of sovereign or cash-like instruments to manage liquidity or invest in sovereign green bonds. Bond issuers may not make entity-level sustainability reporting, but make adequate ESG-related disclosure at the transaction level which is sufficient and relevant to international ESG investors. For example, a green bond issuer may follow the Green Bond Principles and report on the issuance and ongoing process of the green bonds and related green projects. A sustainability-linked bond issuer may comply with the Sustainability-Linked Bond Principles and disclose the selected sustainability KPI and its Sustainability Target performance over time. But these issuers may not make their overall entity-level sustainability disclosure publicly available in the format of BRSR or equivalent. An illustrative example would be a development bank in India, which is a frequent green bond issuer but not required to follow BRSR disclosure requirement as a 100% state owned bank. ii) International securities More clarity and certainty about what disclosure frameworks are considered equivalent to BRSR are needed. Apart from internationally accepted reporting frameworks (such as Global Reporting Initiative (GRI), Sustainability

			Accounting Standards Board (SASB), Recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) or Integrated Reporting (IR)), are local/national ESG reporting rules (for example, EU Corporate Sustainability Reporting Directive, Hong Kong Stock Exchange's ESG Reporting Guide) also considered equivalent? The global disclosure frameworks, like SASB, GRI, IR etc., are voluntary. Applying equivalence only to voluntary standards may not be as appropriate and may unnecessarily narrow down the investable universe for ESG funds in India. Listed companies in India are required to make BRSR disclosure, but not all companies in international markets are subject to mandatory sustainability reporting. In response to the mainstreaming of sustainable finance, some jurisdictions currently make sustainability reporting voluntary and will make it mandatory in the coming years. iii) Timing There is also a slight timing mismatch. Filing of BRSR is voluntary for the financial year 2021-2022 and mandatory for the companies in scope from the financial year 2022-2023 (often with a year end of 31 March). However, the proposed clause for ESG funds is a commitment from 1 October 2022, earlier than the year end of the first mandatory BRSR report. Globally, many jurisdictions are in the process of rolling out mandatory sustainability reporting. Many issuers of international securities may not have BRSR equivalent reporting available as early as 1 October 2022, as they are following their local implementation timelines.
		Furthermore, we understand that one of the considerations of	ESG fund managers often do not only rely on public, self-disclosed sustainability reporting (such as

		introducing such a clause could be to ensure that the managers of ESG funds consider entity-level sustainability information to make informed decisions. However, to serve this purpose, BRSR or equivalent issuer-level sustainability reporting is not the only source of ESG information which fund managers utilise for their investment decision making process.	BRSR), but also obtain information through third party providers, check other types of self-disclosed reports (e.g. annual allocation and impact reporting of a green bond issuer), or actively engage with the investee companies for proprietary data or on certain ESG topics.
		Overall, the proposed mandatory clause of investing in BRSR reporting companies may give rise to a few risks detailed on the right.	• Funds with credible ESG credentials may fail to qualify as an ESG Mutual Fund in India, as the asset classes or international securities in their portfolio cannot meet the proposed clause. • The proposed clause may discourage and limit the investment scope of ESG funds to a space narrower than needed from the perspective of ESG investment, even excluding green, social, sustainability and sustainability-linked bonds which are globally recognised products with sustainability characteristics. • The proposed clause may give rise to fragmentation caused by potentially divergent regulatory approaches. It could hinder cross-border distribution of funds and limit options available to investors. Otherwise, asset managers may have to tailor products according to local legal requirements thus preventing end-investors from benefiting from economies of scale. • It de facto limits financing and re-financing of small and medium size companies, and channels investments exclusively to large listed issuers which are in the scope of BRSR reporting.
4	p.7, para. 5, question d): Whether the	The grandfathering could help address the timing mismatch to obtain the first	

	existing investments in the schemes for which there are no BRSR disclosures should be grandfathered by SEBI for a period of one year i.e., till September 30, 2023?	batch of mandatory BRSR reports from domestic equity securities, but cannot solve the problem that not all bond issuers (including those incorporated in India as well as outside India) will be subject to BRSR or an equivalent framework.	
5	p.8, para. 5, question e): Whether the general obligations mentioned para 4 above cast on AMCs/AMFI for ESG schemes be mandated?	We generally support the proposed obligations and the statement of aligning with potential global standards as the market evolves.	
6	p.8, para. 5, question f): Whether the same set of disclosures can be mandated for ESG schemes under debt category whenever allowed? Whether any additional set of disclosures required for debt ESG schemes?	We strongly suggest that the proposed definition and disclosure norms of ESG funds should be designed from the outset to be applicable to funds investing in all types of asset classes, no matter equity or debt. Although the existing ESG focused funds in India are all equity funds, we would recommend creating a level playing field for equity fund, debt funds and multi-asset funds alike.	Bond funds with ESG focuses should have equal footing as equity funds to be subject to regulations, comply with the proposed code for ESG funds and market themselves as such, as long as they implement relevant and reasonable ESG investment strategies.
		The major challenge is that funds that invest in bonds will find it difficult to implement the proposed clause of investing only in securities which have BRSR disclosures.	Issuer-level sustainability reporting is often voluntary in international bond markets and the sustainability reporting frameworks may not apply to certain types of bond issuer. Also, for ESG investment in bonds, issuer-level sustainability reporting is not the only or primary source of ESG related information. Therefore, we suggest not mandating this requirement.
		In addition, we would suggest that SEBI encourage (but not	The Green Bond Principles, Social Bond Principles, Sustainability Bond Guidelines and Sustainability-Linked

		mandate) debt ESG schemes to invest in green, social, sustainability and sustainability-linked bonds that are aligned with international or national standards. It is recommended to leverage existing international standards and encourage funds flowing into these financial instruments that are globally regarded as sustainable.	Bond Principles, as well-recognised global guidelines, outline best practices for issuing sustainable themed financial instruments.

About ICMA

The International Capital Market Association (ICMA) is a not-for-profit membership association, with offices in Zurich, London, Paris, Brussels and Hong Kong, that serves the needs of its wide range of member firms in global capital markets. It has over 600 members in more than 60 jurisdictions. Among its members are private and public sector issuers, banks and securities houses, asset managers and other investors, capital market infrastructure providers, central banks, law firms and others.

In Asia-Pacific, ICMA is regarded as the market-leading association in the cross-border debt capital markets and sustainable finance, a key partner to policymakers and banks, and an authority on understanding of international regulation and reform. ICMA works closely with its members and also central banks, regulators, trade bodies and government authorities to support robust development of capital markets in the region.

ICMA is one of the few trade associations globally that includes both buy-side and sell-side representation. ICMA's buy-side members, including asset managers, institutional investors, private banks, pension funds and insurance companies, are represented on its committees, councils and working groups and have a forum for discussion on investment issues through its Asset Management and Investors Council (AMIC).

Through its work with the Green Bond and Social Bond Principles, the principal globally recognised framework for issuance of sustainable bonds, and its key role in other sustainable finance initiatives (including representation on the EU Technical Expert Group and Platform on Sustainable Finance and the ASEAN Industry Advisory

Panel under the auspices of the WC-CMD-ACMF Joint Sustainable Finance Working Group, as well as the Hong Kong Green Finance Association) ICMA is at the forefront of the financial industry's contribution to the development of sustainable finance and in the dialogue with the regulatory and policy community.

ICMA would welcome further enquiries or requests for information, and the Hong Kong office may be contacted at apac@icmagroup.org.