

116TH CONGRESS
2D SESSION

H. R. 8960

To amend the Investment Advisers Act of 1940 to require large asset managers to establish Sustainable Investment Policies.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2020

Mr. LEVIN of Michigan (for himself, Mr. BRENDAN F. BOYLE of Pennsylvania, Mrs. AXNE, and Mr. GARCÍA of Illinois) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Investment Advisers Act of 1940 to require large asset managers to establish Sustainable Investment Policies.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sustainable Invest-
5 ment Policies Act of 2020”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) There is now incontrovertible evidence that
9 ESG factors are financially material.

1 (2) Decades of policy interpretations from the
2 Department of Labor and Securities and Exchange
3 Commission have created confusion as to fiduciaries’
4 obligations with regard to ESG integration.

5 (3) Recent policies of the Securities and Ex-
6 change Commission have had a chilling effect on
7 ESG integration and active ownership with a view
8 toward advancing a sustainable economy.

9 **SEC. 3. PURPOSE.**

10 The purpose of this Act is to require large investment
11 advisors to adopt and implement policies to consider Envi-
12 ronmental, Social, and Governance (ESG) factors when
13 making investments.

14 **SEC. 4. SUSTAINABLE INVESTMENT POLICY OF INVEST-**
15 **MENT ADVISERS.**

16 Section 203 of the Investment Advisers Act of 1940
17 (15 U.S.C. 80b–3) is amended by adding at the end the
18 following:

19 “(o) SUSTAINABLE INVESTMENT POLICY.—

20 “(1) IN GENERAL.—No person may be reg-
21 istered as an investment adviser under this section
22 unless the person files a sustainable investment pol-
23 icy with the Commission that such person follows in
24 carrying out the duties of an investment adviser.

25 “(2) CONTENTS.—

1 “(A) IN GENERAL.—A sustainable invest-
2 ment policy described under paragraph (1) shall
3 include policies of the person, with respect to—

4 “(i) corporate governance practices by
5 entities in which the plan invests, including
6 executive compensation, board diversity,
7 the independence of board chairs, political
8 spending and lobbying disclosure;

9 “(ii) characteristics of workforces em-
10 ployed by entities in which the plan in-
11 vests, including compensation and benefits,
12 health and safety, diversity and demo-
13 graphics, skills and training, retention and
14 turnover, full-time and part-time employ-
15 ment, and the use of independent contrac-
16 tors;

17 “(iii) labor and human rights compli-
18 ance by entities in which the plan invests,
19 including workers’ freedom of association,
20 the right to collectively bargain, and the
21 prevention of employment discrimination,
22 child labor, and forced labor in company
23 operations and supply chains;

24 “(iv) the implementation, to the ex-
25 tent practicable, of practices which en-

hance diversity and inclusion performance within the workforce, senior leadership, business procurement, philanthropy and/or board of directors;

“(v) environmental risks to the assets and properties of entities in which the funds advised by the person invest, including—

“(I) climate risks and contributions;

“(II) environmental risks that are not related to climate, such as industrial pollution, habitat destruction, and other forms of environmental degradation;

“(III) impact to species endangerment and extinction; and

“(IV) pollution of land, air, and water related to the operation of the entities invested in by the plan; pollution of land, air and water related to the operation of the entities in which funds advised by the person invest;

“(vi) due diligence and practices regarding supply chain management, includ-

1 ing environmental, human rights, and
2 worker compensation considerations; and

3 “(vii) tax practices of entities in which
4 the plan invests, including international
5 tax avoidance strategies and tax payment
6 disclosure.

7 “(3) COMPLIANCE AUDIT.—

8 “(A) IN GENERAL.—Each registered in-
9 vestment adviser shall contract with an auditor
10 (as described in rule 2–10 of section 210.01 of
11 title 17, Code of Federal Regulations) to per-
12 form an annual evaluation of the adviser’s com-
13 pliance with the sustainable investment policy
14 filed with the Commission.

15 “(B) REPORT.—An auditor performing an
16 evaluation under subparagraph (A) shall file,
17 and make publicly available, a report on such
18 evaluation to the adviser and the Commission.

19 “(4) FIDUCIARY SAFE HARBOR.—The Commis-
20 sion may, by order, determine that an investment
21 adviser has not breached its fiduciary duty with re-
22 spect to consideration of factors outlined under this
23 subsection if the investment adviser is in compliance
24 with this subsection.”.

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