IAA INVESTMENT ADVISER ASSOCIATION

January 22, 2018

Via Electronic Mail

Directorate-General for Financial Stability,
Financial Services, and Capital Markets Union
European Commission
B-1049 Brussels
Belgium

Re: European Commission Consultation on Institutional Investors and Asset Managers' Duties Regarding Sustainability

Dear Sir or Madam:

The Investment Adviser Association (IAA) appreciates the opportunity to respond to the European Commission's consultation document on the duties of institutional investors and asset managers regarding sustainability.[1] The IAA is a not-for-profit U.S. association that represents the interests of investment adviser firms registered with the U.S. Securities and Exchange Commission. Our membership consists of investment advisory firms that manage assets under a fiduciary standard for a wide variety of individual and institutional clients, including pension plans, trusts, investment funds, endowments, foundations, and corporations, and many of our members manage, or have affiliates that manage, assets for European clients.[2]

The Consultation Document describes the European Union's interest in incorporating sustainability elements into EU financial services policies, and the European Commission's decision to begin an assessment regarding "whether and how a clarification of the duties of institutional investors and asset managers in terms of sustainability could contribute to a more efficient allocation of capital, and to sustainable and inclusive growth."[3] Sustainability factors are defined in the Consultation Document to include environmental, social and governance issues (ESG Factors).

The IAA appreciates the EU's commitment to the important issue of sustainable finance. Indeed, many IAA members engage in ESG investing on behalf of their clients and sponsor ESG-focused funds. As discussed in the Consultation Document, institutional investors and asset managers in the EU are required to act in the best interest of their clients, and are subject to duties of care, loyalty and prudence. These fiduciary principles are of paramount importance to investors. We are concerned, however, that requiring asset managers to consider a particular set

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[1] European Commission, *Consultation: Institutional investors and asset managers' duties regarding sustainability, available at* https://ec.europa.eu/info/sites/info/files/2017-investors-duties-sustainability-consultation-document_en.pdf (Consultation Document).
[2] For more information, please visit our website: www.investmentadviser.org.
[3] *See* Consultation Document.

of ESG factors when making investment decisions may run counter to or dilute these principles. We are also concerned that specifying particular sustainability factors may be inconsistent with the European Commission's goals of efficient allocation of capital and sustainable and inclusive growth.

The European Commission Should Preserve and Not Dilute the Duty of Asset Managers to Act in the Best Interest of Their Clients

The duty of asset managers to act in the best interest of their clients is critically important to investor protection. We are concerned that requiring asset managers to consider specific ESG factors when they provide investment advice would undermine this duty. This overarching duty of an asset manager to its client should not be diluted or reduced to a process that does not take into account the unique needs and requirements of each client. The investments that are in a client's best interest differ by client, and specific ESG factors may not be relevant to each investment of each client. A client will have its own investment criteria, and may have assets allocated across multiple asset managers and accounts, with some accounts directed to ESG investing, and others with different objectives and strategies. In determining whether a particular investment is appropriate for a particular client, an asset manager may consider multiple factors, including those related to an issuer's financial situation, competitive environment, and, in many cases, ESG factors. An asset manager's focus should be on those factors that assist it in determining whether a particular investment is in the best interest of the client and not on a set of prescriptive criteria that may not meet that particular client's investment goals.

Specifying Particular Sustainability Factors May Run Counter to the European Commission's Goals of Efficient Allocation of Capital, and Sustainable and Inclusive Growth

Demand for ESG investing is thriving, reaching over US$22 trillion of assets globally in 2016.[4] As the demand for investing based on ESG and sustainability factors grows, asset managers should be provided the flexibility to respond with new and innovative approaches. A prescriptive approach on ESG investing would not allow for this flexibility because it would not take into account developments in markets and ESG-focused investment strategies. We do not believe that requiring asset managers to consider a particular narrow set of factors would achieve the European Commission's goals of efficient allocation of capital and sustainable and inclusive growth.

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[4] *2016 Global Sustainable Investment Review*, Global Sustainable Investment Alliance, *available at* http://www.gsi-alliance.org/wp-content/uploads/2017/03/GSIR_Review2016.F.pdf.

We appreciate the opportunity to provide our views on these issues and would be pleased to provide any additional information. Please contact the undersigned or Gail Bernstein, General Counsel, at +1 202 293 4222 with any questions regarding these matters.

Respectfully Submitted,

/s/ Sarah A. Buescher
Associate General Counsel