

117TH CONGRESS
1ST SESSION

H. R. 3605

To amend the Investment Advisers Act of 1940 to enable consideration and promote disclosure and transparency of sustainable investment policies by large asset managers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 28, 2021

Mr. LEVIN of Michigan (for himself, Mrs. AXNE, Mr. BRENDAN F. BOYLE of Pennsylvania, 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 enable consideration and promote disclosure and transparency of sustainable investment policies by large asset managers, and for other purposes.

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 2021”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Environmental, social, and governance (in
2 this Act referred to as “ESG”) include the potential
3 for economic benefits, such as local job creation and
4 economic development, in addition to investment re-
5 turns, as provided by investments sometimes re-
6 ferred to as “Economically Targeted Investments”
7 or “ETIs”.

8 (2) There is now incontrovertible evidence that
9 ESG factors can have substantial effects on invest-
10 ment performance and are important to many inves-
11 tors and that investors have a significant interest in
12 such findings.

13 (3) Investor findings show a dramatic interest
14 in investments that consider ESG factors.

15 (4) Decades of policy interpretations from the
16 Department of Labor and the Securities and Ex-
17 change Commission have created confusion as to the
18 obligations of a fiduciary with regard to ESG
19 intergration.

20 (5) Recent policies of the Securities and Ex-
21 change Commission have had a chilling effect on
22 ESG integration and active ownership with a view
23 toward advancing a sustainable economy.

1 **SEC. 3. SUSTAINABLE INVESTMENT POLICY OF INVEST-**
2 **MENT ADVISERS.**

3 Section 203 of the Investment Advisers Act of 1940
4 (15 U.S.C. 80b–3) is amended by adding at the end the
5 following new subsection:

6 “(o) SUSTAINABLE INVESTMENT POLICY.—

7 “(1) IN GENERAL.—No person may be reg-
8 istered as an investment adviser under this section
9 unless such person—

10 “(A) files a sustainable investment policy
11 with the Commission; and

12 “(B) complies with such policy in carrying
13 out the duties of an investment adviser.

14 “(2) CONTENTS.—A sustainable investment
15 policy described under paragraph (1)(A) shall in-
16 clude the policies of the person with respect to the
17 following:

18 “(A) Environmental concerns, including
19 environmental risks to the assets and properties
20 of entities in which the funds invest, includ-
21 ing—

22 “(i) climate risks and contributions;

23 “(ii) associated environmental risks,
24 including—

25 “(I) industrial pollution;

26 “(II) habitat destruction;

1 “(III) deforestation; and

2 “(IV) other forms of environ-
3 mental degradation; and

4 “(iii) pollution of land, air, or water
5 related to the operation of the entities in
6 which fund invests.

7 “(B) Social considerations, including—

8 “(i) characteristics of workforces em-
9 ployed by entities in which the fund in-
10 vests, including—

11 “(I) compensation and benefits;

12 “(II) health and safety;

13 “(III) diversity and demo-
14 graphics;

15 “(IV) skills and training;

16 “(V) retention and turnover;

17 “(VI) full-time and part-time em-
18 ployment; and

19 “(VII) the use of independent
20 contractors;

21 “(ii) labor and human rights compli-
22 ance by entities in which the fund invests,
23 including—

24 “(I) workers’ freedom of associa-
25 tion;

1 “(II) the right to collectively bar-
2 gain; and

3 “(III) the prevention of employ-
4 ment discrimination, child labor, and
5 forced labor in the operations and
6 supply chains of the entity;

7 “(iii) the implementation of practices
8 which enhance diversity and inclusion per-
9 formance within the workforce, senior lead-
10 ership, business procurement, philan-
11 thropy, and the board of directors;

12 “(iv) due diligence and practices re-
13 garding supply chain management, includ-
14 ing—

15 “(I) environmental consider-
16 ations;

17 “(II) human rights; and

18 “(III) workers’ compensation
19 considerations; and

20 “(v) the potential for achieving eco-
21 nomic benefits in addition to investment
22 returns.

23 “(C) Governance considerations, includ-
24 ing—

1 “(i) corporate governance practices by
2 entities in which the fund invests; and

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

7 “(D) Other relevant economically targeted
8 investment, or environmental, social, and gov-
9 ernance considerations and factors.

10 “(3) COMPLIANCE AUDIT.—

11 “(A) IN GENERAL.—Not less than annu-
12 ally, each registered investment adviser shall
13 contract with an auditor to perform an audit of
14 the adviser’s compliance with the sustainable
15 investment policy filed with the Commission.

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

20 “(C) FIDUCIARY SAFE HARBOR.—The
21 Commission may, by order, determine that an
22 investment adviser has not breached its fidu-
23 ciary duty with respect to consideration of fac-
24 tors outlined under this subsection if the invest-

1 ment adviser is in compliance with this sub-
2 section.”.

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