IR UPDATE WEEKLY

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No Joke: Updates from Washington

Last Thursday, Ted Allen (NIRI's Vice President, Communications and Member Engagement) and I attended the U.S. Chamber of Commerce's Annual Capital Markets Summit. In conjunction with that event, a Chamber-led coalition released an important report that includes recommendations to foster more IPOs and reduce the burdens on existing public companies. Many business associations, including NIRI, are part of this coalition, not just the main sponsors named in the report.

NIRI contributed several recommendations that made it into the final report, including proxy advisor reform (p. 17) and a short-selling disclosure rule (pp. 22-23), which are two of our major advocacy priorities. We also were encouraged that the report has several recommendations (pp. 13-15) to foster more sell-side research on smaller companies. The report also includes a commonsense recommendation (p. 18) to increase the resubmission thresholds for shareholder proposals, which should reduce the number of fringe-issue proposals on proxy ballots. In related news, the Chamber is actively supporting the proxy advisor reform legislation that NIRI has endorsed.

In other Washington news, the U.S. Department of Labor (DOL) recently issued a bulletin that may impact ESG funds. The bulletin essentially rolls back Obama-era guidance that said ERISA (Employee Retirement Income Security Act) fiduciaries could consider a fund's values or principles when assessing the appropriateness of an investment recommendation. The new standard is that ESG matters can only be considered if they have a material financial impact. An article in *Ignites*, an investment industry newsletter, suggests that while ESG funds could still be offered to investors, but fiduciaries must have a solid economic basis to include them within the menu of options. This sets a new standard that raises red flags for fiduciaries: if such ESG funds were included and under-performed, litigation may be considered by investors who believe that non-financial factors were part of the selection process.

The number of ESG funds, as well as their assets under management, has grown over the past decade. Proponents of ESG funds point out that an increasing number now appear in the top quartile of peer funds by performance. A recent *Ignites* survey found that 41 percent of retail investment advisors include ESG funds in their practices, up from 33 percent in 2016. Morningstar reports that 40 new ESG mutual funds and ETFs came to market last year, as compared with 26 in 2015. Sean Collins, chief economist at the Investment Company Institute, says that the new DOL guidance "is not likely to stunt the demand" for ESG funds. "To the extent there is demand, fund providers, and index providers" will respond with ESG investment options, he noted.

Sincerely,
Gary

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P.S. Advocacy issues will take center stage at the NIRI Annual Conference on June 10-13!