Government Investigation Into Possible Misrepresentations by Deutschebank in Green Investing

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The Wall Street Journal has reported on a government investigation into DWS, an entity that is majority-owned by Deutschebank, in connection with potential misrepresentations concerning the ESG investing strategy disclosed by DWS. Specifically, media reports suggest that DWS may have overstated the extent of its "green-friendly" investments, and that DWS also encountered difficulties in properly
classifying its investments according to ESG status.

Regardless of the outcome of this particular probe, its existence highlights two salient facts concerning the ESG investment space: (1) government investigators are examining this area closely, and enforcement actions directed against misrepresentations—a typical focus of government prosecutions—are likely one of the more straightforward means of policing this type of investment; and (2) unless consistent standards are adopted, or at least reasonable benchmarks established by a reputable organization, the degree of uncertainty produced by inconsistent standards may make government enforcement actions more likely, and possibly more potent.

Unless and until a pattern of government enforcement activity can be perceived, this particular investigation remains merely an anecdote. Still, the nature of the investigation and potential enforcement action is quite revealing with respect to a tactic that the DOJ and SEC may use more frequently in the future.

The probes indicate regulators’ interest in money managers’ efforts to offer products related to climate change, social issues and corporate governance risks. The SEC earlier this year established an enforcement task force to look for misleading ESG claims by investment advisers and public companies. The Wall Street Journal reported earlier this month that DWS told investors that ESG concerns are at the heart of everything it does and that its ESG standards are above the industry average. But it has struggled to define and implement an ESG strategy, according to its former sustainability chief and internal emails and presentations.

https://www.wsj.com/articles/u-s-authorities-probing-deutschebank-green-investing

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