

ICI VIEWPOINTS

MARCH 29, 2011

For the Fund Industry, “Sunlight Through the Clouds”

By Karrie McMillan

The U.S. financial system is emerging from the global crisis. Financial markets have regained their footing. The Federal Reserve has significantly reduced its emergency facilities. The Securities and Exchange Commission has adopted its amendments to Rule 2a-7 for money market funds. And Congress has weighed in with the passage last July of the [Dodd-Frank Wall Street Reform and Consumer Protection Act](#).

Despite that progress, as I said in a [speech](#) before attendees of the [Mutual Funds and Investment Management Conference](#) this week, the fund industry still faces looming uncertainties. Among the most prominent:

- **What financial institutions are going to be deemed “systemically significant?”** The new Financial Stability Oversight Council (FSOC) is aiming soon to start designating businesses outside of the banking world as “systemically important financial institutions,” or SIFIs. We’ve been through two rounds of comment on how the FSOC will make these designations, and there’s still little that we can say for sure about which companies will be designated.
- **What’s going to happen with money market funds?** The President’s Working Group has issued its Report on Money Market Fund Reform Options. ICI is pursuing [its proposal for a private-sector liquidity facility](#), created and financed by the prime money market funds, because we believe that it could provide the backstop funds may need if we ever again see extraordinary market conditions like those of September 2008. We’ve presented the blueprint, in great detail, to the SEC, the Treasury, and the Federal Reserve, but we’re still in wait-and-see mode.
- **What’s going to happen to funds’ internal compliance programs if the SEC adopts its proposed whistleblower program?** Dodd-Frank required the SEC and the Commodity Futures Trading Commission to create bounty programs to reward informants who report violations of securities and commodities regulations. When the SEC issued its proposal for the whistleblower program, its discussion repeatedly acknowledged the importance of internal compliance programs. Unfortunately, there is nothing in the rule’s actual provisions that even mentions internal compliance programs.

The picture isn’t all gloom, of course. Amid these and other uncertainties, there are distinctly positive developments for the fund industry and other participants in the financial markets.

- **Regulators by and large are taking a thoughtful approach to their rulemaking duties** Dodd-Frank laid down markers for more than 250 new studies, regulations, and reports—and many of them are due by the end of this year. While we have serious issues with some of the regulations they’ve proposed, we’re glad to see that the agencies generally are offering longer comment periods and are putting their priority on getting the rules right, not on meeting the due dates.
- **Investors have maintained their confidence in funds.** Households continue to turn to funds to help them meet their financial goals. Indeed, from 2008 through 2010—despite the worst financial crisis since the 1930s—households’ net purchases of funds totaled \$900 billion. Put another way, 85 cents out every dollar that households invested in financial assets, on net, flowed into mutual funds, exchange-traded funds, variable annuities, and closed-end funds.
- **Our fiduciary culture remains at the heart of our enterprise.** Our industry’s success depends on the trust of our investors, and we must earn that trust every single day.

These signs of hope are why I named my speech “Sunlight Through the Clouds.” We are emerging from the financial storm. If funds keep faith with their investors and always challenge themselves to keep shareholders foremost, we will emerge from the financial storm and today’s uncertainties stronger than ever.

Karrie McMillan is ICI's general counsel.

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.