The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE
Washington, DC // Brussels // London // www.ici.org

November 18, 2024

By Electronic Transmission

The Honorable Gary Gensler
Chair, Securities and Exchange Commission
100 F Street NE
Washington DC 20549-1090

Re: Recommendations Regarding the Commission's Rulemaking Affecting Registered Investment Companies, Investment Advisers, and Investors

Dear Chair Gensler:

In light of the recent election, the Investment Company Institute (ICI)[1] requests that you (i) suspend the compliance dates for certain recent regulatory actions, (ii) halt work on not-yet-finalized rulemaking, and (iii) extend soon-to-expire relief that would have a significant impact on registered investment companies ("funds") and their shareholders and investment advisers and their clients. Under your leadership, the Commission adopted a number of rules that have imposed many new requirements on funds and advisers. The asset management industry dedicated, and is continuing to dedicate, substantial time, money, and resources to implement these new requirements, in some cases at considerable cost to investors. In addition, the Commission issued a number of controversial proposals that have not yet been adopted, and which have drawn very negative comments from ICI and a range of market participants.

Given the likelihood that the President-elect will seek leadership changes at the SEC, it is imperative that the next SEC Chair be given the opportunity to determine whether and how to advance recent rule adoptions and outstanding proposals impacting investors, funds, investment advisers, and the capital markets overall.[2]

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[1] The Investment Company Institute (ICI) is the leading association representing the asset management industry in service of individual investors. ICI's members include mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and UCITS and similar funds offered to investors in other jurisdictions. Its members manage $37.8 trillion invested in funds registered under the US Investment Company Act of 1940, serving more than 120 million investors. Members manage an additional $8.7 trillion in regulated fund assets managed outside the United States. ICI also represents its members in their capacity as investment advisers to collective investment trusts (CITs) and retail separately managed accounts (SMAs). ICI has offices in Washington DC, Brussels, and London.

[2] Indeed, pausing work would preserve the option for any future Chair to take actions as you did near the start of your tenure. *See, e.g.*, Statement on the application of the proxy rules to proxy voting advice, SEC Chair Gary Gensler (June 1, 2021). *See also* Statement on Compliance with the Commission's 2019 Interpretation and Guidance Regarding the Applicability of the Proxy Rules to Proxy Voting Advice and Amended Rules 14a-1(1), 14a-2(b), 14a-9, SEC Division of Corporation Finance (June 1, 2021).

Suspend Compliance Deadlines for Recently Adopted Requirements

The Commission recently adopted several rules affecting funds and investment advisers. Each is complex, and implementation is requiring funds, advisers, and other market participants to expend considerable time and resources. We, therefore, request that the Commission suspend upcoming compliance deadlines for the recently adopted rules and amendments related to:

- Fund names;
- Form N-PORT;
- Reporting of securities loans;
- Short position and short activity reporting by institutional investment managers;
- Treasury clearing;
- "Dealer" and "government securities dealer" definitions;
- Regulation S-P; and
- Regulation NMS.

We briefly describe these new requirements—and the challenges they have presented—in the Appendix. And it is important to keep in mind in evaluating the appropriate next steps on these regulatory actions that they are *in addition* to the significant rulemakings that funds and advisers already fully implemented this year.[3]

As you are aware, plaintiffs are challenging several of these rulemakings—securities loan reporting and short position reporting, the Form N-PORT amendments, amended definitions of "dealer" and "government securities dealer," and the Regulation NMS amendments. Courts have found in favor of the plaintiffs in some recent legal challenges to Commission rulemaking, nullifying recently adopted requirements.[4] This backdrop further increases uncertainty—and quite possibly adds needless expense—for market participants. We therefore recommend that the Commission stay the effectiveness of new requirements currently being challenged until the courts issue their decisions.[5]

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[3] *See, e.g.*, Tailored Shareholder Reports for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements, SEC Release No. 33-11125 (Oct. 22, 2022); Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers, SEC Release No. 33-11131 (Nov. 2, 2022); Shortening the Securities Transaction Settlement Cycle, SEC Release No. 34-96930 (Feb. 15, 2023); and Money Market Fund Reforms; Form PF Reporting Requirements for Large Liquidity Fund Advisers; Technical Amendments to Form N-CSR and Form N-1A, SEC Release No. 33-11211 (July 12, 2023).

[4] *See, e.g.*, See *US Chamber of Commerce v. SEC* (Dec. 19, 2023) (vacating rule amendments that would have required issuers to provide additional information to the public regarding share repurchases); and *National Association of Private Fund Managers v SEC* (June 5, 2024) (vacating rules under the Investment Advisers Act that would have imposed new requirements on private fund advisers).

[5] The Commission stayed its public company climate disclosure rules in April 2024, after plaintiffs challenged those rules. SEC Release No. 33-11280 (Apr. 4, 2024).

In addition, even rules that are not currently subject to lawsuits have raised significant and challenging implementation issues that the industry is working through with the staff and other affected parties. A new SEC Chair should have the opportunity to weigh in on the policy choices that are implicated by these implementation issues, in consultation with his or her Division leadership. Furthermore, given these rules' significance and the lack of consensus within the current Commission about their merits, a new Chair may want to revisit these rules.

Stop All Activity on Outstanding Proposals

Since 2022, the Commission has issued several proposals that, if adopted, would have far-reaching impacts on funds, advisers, investors, and the capital markets. The SEC indicated that it would adopt several of them this year and re-propose several more in 2025,[6] including the following:

- Cybersecurity risk management for investment advisers and funds;
- Enhanced ESG disclosures by certain advisers and funds;
- Outsourcing by advisers;
- Open-end fund liquidity risk management programs and swing pricing;
- Safeguarding advisory client assets;
- Conflicts of interest associated with predictive data analytics by broker-dealers and advisers;
- Best execution;
- Order competition and auctions for retail orders;
- Expanded definition of "exchange;"
- Customer identification programs for advisers; and
- Financial Data Transparency Act joint data standards.

ICI worked closely with our members to analyze each of these proposals and work toward submitting constructive comments. We either opposed these proposals in their entirety or certain major aspects of them, as did many other commenters, recognizing the many negative and far-reaching effects the proposals would cause. Further, even for the less problematic proposals, new leadership at the Commission should have the opportunity to evaluate the administrative record and determine next steps. Rather than rush forward with final adoptions or re-proposals in these areas in the coming weeks, we strongly urge the Commission to stop all work on these proposals.

Extend Relevant Relief That Is Scheduled to Expire

Finally, we request that either the SEC or SEC staff extend any relevant relief directly or indirectly impacting funds, advisers, and their clients that is set to expire in the coming months. Most notably, we reiterate our concerns about applying Rule 15c2-11 under the Securities

[6] *See* the SEC's Spring 2024 Agency Rule List. We briefly describe these proposals and offer views on them in the Appendix.

Exchange Act of 1934 to fixed income securities.[7] Market participants historically have not understood the rule as applicable to fixed income securities, and its provisions are not well-suited for them. Applying the rule to this class of securities starting in early January—when the current SEC staff no-action relief[8] will expire—is more likely to harm than protect retail investors. To avoid this outcome, the SEC or staff should extend indefinitely the current relief and leave such relief in place unless and until the SEC adopts fixed income-specific rule amendments, subject to a proper notice-and-comment rulemaking process beginning no sooner than 2025.

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If you have any questions, or if we can be of assistance in any way, please contact us at eric.pan@ici.org or paul.cellupica@ici.org.

Sincerely,

/s/ Eric J. Pan
President & CEO

/s/ Paul Cellupica
General Counsel

Attachment

cc: The Honorable Hester M. Peirce
The Honorable Caroline A. Crenshaw
The Honorable Mark T. Uyeda
The Honorable Jaime Lizárraga
Natasha Vij Greiner, Director, Division of Investment Management

[7] We first expressed these concerns in a joint comment letter (Letter from ICI, SIFMA AMG, IAA, MFA, and CCMC to SEC Chair Gary Gensler (Sept. 23, 2021)). We then sent a follow-up letter focused on the dangers of the rule's application to Rule 144A debt securities (ICI Letter to SEC Chair Gary Gensler (Oct. 25, 2022)).

[8] Letter from Josephine Tao, Assistant Director, Office of Trading Practices, Division of Trading and Markets to FINRA (Nov. 30, 2022). This letter states that the Division of Trading and Markets will not recommend enforcement action to the SEC under the rule for brokers or dealers that publish or submit quotations for fixed income securities if the broker or dealer has determined that the fixed income security or its issuer meets one of the criteria in Appendix A of the letter, or that there is current and publicly available financial information about the issuer. Appendix A sets forth several broad categories of fixed income securities.

Appendix

Below we list recent SEC rule adoptions and proposals significantly affecting funds, advisers, and investors. For the adoptions, we highlight implementation challenges (and, in some cases, legal challenges to the rules) and current upcoming compliance deadlines. We then briefly describe the proposals, along with major concerns voiced by ICI and others about each.

Recent SEC Rule Adoptions

1. Investment Company Names, SEC Release No. 33-11238 (Sept. 20, 2023). The asset management industry is expending significant time and resources to implement the rule amendments (with compliance required by December 11, 2025 for larger entities and June 11, 2026 for smaller entities). The SEC acknowledged in the adopting release that an estimated additional 2,200 funds will now fall under the names rule, bringing the total to 10,300 funds, or approximately 76% of funds. Asset management firms and their service providers have realized that successful implementation will require "operations teams to 'entirely recreate' how they evaluate fund holdings alongside portfolio managers." Legal counsel has observed that implementation will be so burdensome that fund sponsors may choose to use less descriptive fund names to avoid having to comply with the rule. *See* Sonya Swink "Automation to Ease Compliance with Amended Names Rule," Ignites (Sept. 29, 2023).

2. Form N-PORT and Form N-CEN Reporting; Guidance on Open-End Fund Liquidity Risk Management Programs, SEC Release No. IC-35308 (Aug. 28, 2024). The amendments to Form N-PORT require funds to disclose portfolio holdings more frequently and make that information publicly available more quickly (60 days after the end of the month). This means that the amount of publicly available Form N-PORT data each year will triple. Larger entities will be required to comply for reports filed on or after November 17, 2025, and smaller entities will be required to comply for reports filed on or after May 18, 2026.

   The Form N-PORT amendments have been challenged in court for making funds divulge their proprietary trading strategies, forcing them "to make their intellectual capital available to the public for free." Registered Funds Association v. Securities and Exchange Commission (Case No. 24-60550). *See also* BoardIQ, "No Swing Pricing, but SEC's New Data Requirements Rankle Critics" (Sept. 3, 2024). Concerns have also been raised as to whether the SEC has made sufficient improvements to its IT systems to ensure that non-public portfolio holdings information will not be misappropriated. *See, e.g.,* Letter from Invesco, Ltd. (Feb. 10, 2023).

3. Reporting of Securities Loans, SEC Release No. 34-98737 (Oct. 13, 2024). The Commission adopted new Rule 10c-1a under the Securities Exchange Act of 1934 ("Exchange Act"), which requires certain entities that loan securities to provide specified information to a registered national securities association (i.e., FINRA). The Commission required FINRA to propose and adopt rules to implement Rule 10c-1a in unreasonably short time frames.

ICI submitted a comment letter encouraging the Commission to disapprove FINRA's proposed rule implementing Rule 10c-1a because it exceeds FINRA's authority. As noted below, this rule is being challenged in court.

4. Short Position and Short Activity Reporting by Institutional Investment Managers, SEC Release No. 34-98738 (Oct. 13, 2023). The Commission adopted new Rule 13f-2 under the Exchange Act to require institutional investment managers to report certain short position and related activity data for equity securities through new Form SHO. The compliance date for Rule 13f-2 is January 2, 2025. Despite significant industry efforts, ICI members are very concerned about their ability to meet the compliance date given the lack of Commission guidance and scheduled testing environment for Form SHO in EDGAR.

   In addition, Rule 13f-2 and Rule 10c-1a, discussed above, were adopted on the same day and are currently subject to a legal challenge by industry participants. Petitioners argue that the rules impose fundamentally inconsistent public disclosure requirements and that, although the rules are interconnected and were finalized on the same day, the Commission did not attempt to consider whether or how the two rules interact. National Association of Private Fund Managers, et. al., v. Securities and Exchange Commission (Case No. 23-60626). Oral arguments were heard on October 7, 2024, and it appears unlikely that a final opinion will be issued prior to the compliance date for either rule.

5. Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule with Respect to U.S. Treasury Securities, SEC Release No. 34-99149 (Dec. 13, 2023). The final rule mandates central clearing and settlement of certain secondary market transactions in U.S. Treasury securities—cash Treasuries and Treasury repo and reverse repo—in which one of the counterparties is a direct participant of a covered clearing agency for such securities. While there is a "phased" implementation schedule setting forth separate deadlines for the different requirements relevant to the mandate, the compliance dates for participants to clear cash Treasuries and Treasury repo and reverse repos are December 31, 2025 and June 30, 2026, respectively.

   The Fixed Income Clearing Corporation (FICC) is the only covered clearing agency offering Treasury clearing services, and it must submit rule changes to the Commission in an unreasonably short time period. Further exacerbating this challenge, the timeline for Commission approval leaves insufficient time for the industry to evaluate and comment on any new FICC requirements.

   While ICI has been working closely with members of the Commission staff and FICC on many complex implementation issues, we remain concerned that there are a series of critical regulatory, structural, and operational changes that the Commission staff and FICC must make before a Treasury repo clearing mandate is viable for funds.

Other observers and industry participants have noted that successful implementation of the Treasury clearing rules will require resolution of these challenges. *See*, *e.g.,* "Central Clearing in the U.S. Treasury Market: The Why and the How," speech by Michelle Neal, Head of the Markets Group at the Federal Reserve Bank of New York (Oct. 15, 2024); and Paulina Pielichata, "Netting hurdles could decide the US Treasuries clearing race" Risk.net (Oct. 15, 2024) ("For market participants, the combination of a short run-up plus lingering questions about the infrastructure for Treasuries clearing is unsettling").

6. Regulation S–P: Privacy of Consumer Financial Information and Safeguarding Customer Information, SEC Release No. 34-100155 (May 16, 2024). The amendments require funds, advisers, and other entities to adopt written policies and procedures for incident response programs to address unauthorized access to, or use of, customer information. The compliance date is December 3, 2025 for larger entities and June 3, 2026 for smaller entities. We are working closely with our members on implementation.

7. Further Definition of "As a Part of a Regular Business" in the Definition of Dealer and Government Securities Dealer in Connection with Certain Liquidity Providers, SEC Release No. 34-99477 (Feb. 6, 2024). New Rules 3a5-4 and 3a44-2 under the Exchange Act further define the phrase "as a part of a regular business" in Sections 3(a)(5) and 3(a)(44) of the Exchange Act to identify certain activities that would cause persons engaging in such activities to be "dealers" or "government securities dealers" and as a result be subject to the registration requirements of Sections 15 and 15C of the Exchange Act, respectively. Petitioners are challenging this rule. National Association of Private Fund Managers, et. al. v. Securities and Exchange Commission, No. 4:24-cv-00250-O (ND Tex.); and Crypto Freedom Alliance of Texas, et. al. v. Securities and Exchange Commission, et. al., No. 4:24-cv-00361-O (ND Tex.). The compliance date is April 29, 2025, and staying the rule until after litigation is resolved would help prevent market participants from incurring unnecessary costs for a rule that may be vacated.

8. Regulation NMS: Minimum Pricing Increments, Access Fees, and Transparency of Better Priced Orders, SEC Release No. 34-101070 (Sept. 18, 2024). The Commission amended Regulation National Market System (NMS) to change the minimum pricing increment, or "tick size," for the quoting of certain NMS stocks, reducing access fee caps that exchanges charge brokers for access to best prices displayed on their venues, increasing the transparency of exchange fees and rebates, accelerating the implementation of the round lot and odd-lot information definitions adopted in 2020 under the Market Data Infrastructure Rules, and adding information about the best odd-lot order to the definition of odd-lot information.

   Nasdaq and the Chicago Board of Exchange (CBOE) challenged the rule on October 30, 2024. CBOE Global Markets, Inc. et al. v. Securities and Exchange Commission, Case No. 24-1350 (DC Cir. Oct. 30, 2024) (Petition for Review). Filings laying out the underlying arguments for the petition are due December 4, 2024. As with other rule challenges, staying implementation until after litigation is resolved would prevent market participants from incurring costs for a rule that may be vacated.

Recent SEC Rule Proposals

1. Cybersecurity Risk Management for Investment Advisers, Registered Investment Companies, and Business Development Companies, SEC Release No. 33-11028 (Feb. 9, 2022). The proposal would require funds and advisers to adopt and implement written cybersecurity risk programs. While commenters generally supported the proposal, they heavily criticized its requirement for public disclosure of a fund's or adviser's cybersecurity incidents and strongly encouraged the Commission to coordinate with other federal regulators to eliminate duplicative cybersecurity incident reporting. *See, e.g.*, Letter from Investment Adviser Association (Apr. 11, 2022).

2. Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices, SEC Release No. IA-6034 (May 25, 2022). The proposal is intended to promote investor understanding of fund environmental, social, and governance (ESG) investment practices. The proposal has been widely criticized for being overly complex and prescriptive, increasing the risk of investor confusion, and imposing unnecessary burdens and costs on funds. Some commenters also have questioned the SEC's authority to adopt the new requirements. *See, e.g.*, Letter from Patrick Morrisey, Attorney General, State of West Virginia (Aug. 16, 2022).

3. Outsourcing by Investment Advisers, SEC Release No. IA-6176 (Oct. 26, 2022). The proposal would prohibit advisers from outsourcing certain services without first meeting minimum requirements. It would require advisers to satisfy specified due diligence requirements prior to engaging a service provider and to periodically monitor the performance of their services in accordance with specified criteria. The proposal was criticized from within and outside of the Commission. Commissioner Peirce pointed out that the rule was unnecessary because investment advisers as fiduciaries do not need "step-by-step instructions on how to do their jobs." *See also* Letter from the Association of the New York City Bar Committee on Compliance (Dec. 27, 2022) (concluding that the proposal would not effectively accomplish the Commission's goals and would likely discourage advisers from outsourcing functions "that are best provided by independent third parties with specific expertise").

4. Open-End Fund Liquidity Risk Management Programs and Swing Pricing; Form N-PORT Reporting, SEC Release No. 33-11130 (Nov. 2, 2022). The proposal would (i) amend the liquidity risk management rule for mutual funds and ETFs, and (ii) mandate that mutual funds impose a "hard close" on investors' orders and use swing pricing. ICI opposed most major elements of this proposal. If adopted, the proposed changes would fundamentally alter the management and operation of funds; the pricing of mutual fund shares; and how investors purchase and sell mutual fund shares. ICI and others have pointed out that investors would bear the burden of higher fund costs, lower investment returns, reduced access to certain funds and investment strategies, and less transactional efficiency and transparency. Most commenters opposed this proposal, with opposition to the swing pricing and hard close mandate being nearly universal. *See, e.g.*, Comment Letter from ICI and ICI Southwest (Nov. 21, 2023) (surveying the broad and deep opposition to the proposal from commenters).

5. Safeguarding Advisory Client Assets, SEC Release No. IA–6240 (Feb. 15, 2023). The proposal would expand the current custody rule to provide protections with respect to a broader array of client assets and advisory activities. ICI opposed most major elements of this proposal. ICI's comment letter concluded that, if adopted, the proposed changes would place onerous new responsibilities on custodians and advisers with little evidence that the proposed changes will better protect client assets. Many commenters raised significant concerns about not just the substance of the proposal, but about the Commission's statutory authority to undertake such a rulemaking. *See, e.g.,* Comment Letter from Patrick McHenry, Chairman, Committee on Financial Services, et al. (May 10, 2023) (noting that "the SEC is attempting to establish standards in areas that it has no authority to regulate").

6. Conflicts of Interest Associated with the Use of Predictive Data Analytics by Broker-Dealers and Investment Advisers, SEC Release No. 34-97990 (July 26, 2023). The proposal would impose new requirements to address risks to investors from conflicts of interest associated with the use of "covered technologies" by advisers and broker-dealers. Among other things, the proposal would require firms to evaluate their use of predictive data analytics and other covered technologies in connection with investor interactions and to eliminate or "neutralize" those conflicts. ICI opposed the proposal, maintaining that it: is unnecessary and would harm investors; would change established legal principles governing how firms (and their representatives) address conflicts of interest; does not adequately analyze costs; exceeds SEC's rulemaking authority; and violates the Administrative Procedure Act. Many other commenters echoed these points. *See, e.g.*, Comment Letter from Members of Congress (Sept. 22, 2023) (stating that the proposal "is misguided, unnecessarily broad, and threatens to harm both investors and our capital markets.").

   It is particularly important that the Commission reconsider this proposal given the Fifth Circuit's recent decision vacating the Commission's private fund adviser rules on the basis that the Commission exceeded its authority under Sections 211(h) and 206(4) of the Advisers Act.[9] Given that this proposal also relied on Section 211(h) of the Advisers Act, the Commission should closely reconsider its authority for this rulemaking.

7. Regulation Best Execution, SEC Release No. 34-96496 (Dec. 14, 2022). The proposal would adopt a Commission-level best execution standard that far exceeds the FINRA standard, which has been implemented and enforced successfully for decades. Commenters heavily criticized the "best execution plus" aspect of the proposal that would be excessively costly to implement, with benefits being more hypothetical than quantifiable, as well as the interconnectedness with the other proposed equity market structure reforms. *See, e.g.*, Letter from Chairman of the Subcommittee on Capital Markets, Ann Wagner, and Additional House Representatives (June 27, 2024); and Mark Davies, "Regulation Best Execution – Ignore at Your Peril," Traders Magazine (Mar. 23, 2023).

[9] *See supra*, note 4.

8. Order Competition Rule, SEC Release No. 34-96495 (Dec. 14, 2022). The proposal would require certain orders of individual investors to be exposed to competition in fair and open auctions before they could be executed internally by any trading center that restricts order-by-order competition. Commenters heavily criticized the feasibility of this proposal, as well as the costs to build out auctions and the potential harms and information leakage caused by such auctions. Further, the proposal's benefits were mainly hypothetical, and the proposal did not consider its effects on increasing brokerage commissions and the costs for retail investors to access the market. *See, e.g.*, Letter from Healthy Markets Association (March 31, 2023) ("Frankly, it isn't likely that a billion- or trillion-dollar asset manager would start tipping its hand by bidding in these new retail auction mechanisms for orders that are, by definition, small."); and David Isenberg, "Gensler's Order Flow Proposal Is 'Silly': Ex-Commish," Ignites (July 25, 2022).

9. Amendments Regarding the Definition of "Exchange" and Alternative Trading Systems (ATSs) That Trade U.S. Treasury and Agency Securities, National Market System (NMS) Stocks, and Other Securities, SEC Release No. 34-94062 (Jan. 26, 2022). The proposal would no longer exempt from Regulation ATS those ATSs that limit securities activities to government securities. The proposed amendments also would include "communication protocol systems" within the definition of "exchange" so that "communication protocol systems" that choose to operate as ATSs would need to comply with the existing Regulation ATS provisions. It was the latter part of this proposal that drew the most criticism from commenters, as it was unclear how the rule might apply to open-source programming. *See, e.g.*, Letter from Chairman of the House Committee on Financial Services, Patrick McHenry, and Additional House Representatives (June 13, 2023); and Paul Kiernan, "Old-School Rules Apply to New-School DeFi Exchanges," Wall Street Journal (Apr. 22, 2023).

10. Customer Identification Programs for Registered Investment Advisers and Exempt Reporting Advisers, Release No. BSA-1 (May 13, 2024). This FinCEN/SEC joint proposal would require certain advisers to implement customer identification programs (CIPs) with procedures for verifying the identity of each customer to the extent reasonable and practicable. ICI's comments articulated strong support for protecting the U.S. financial system from money laundering and financing of terrorist activities. Despite that, we recommended that the agencies withdraw the proposal and re-propose it after FinCEN finalized its proposed AML/CFT program rule for advisers. We offered additional comments to narrow the scope of the requirements (to minimize duplicative requirements) and harmonize them with mutual funds' CIP obligations. Like the SEC, in recent years FinCEN has been extraordinarily active in proposing and adopting rules affecting investment advisers and mutual funds.

11. Financial Data Transparency Act Joint Data Standards, Release No. 33-11295 (Aug. 2, 2024). Nine federal agencies (including the SEC) jointly proposed establishing data standards for collections of information reported to the agencies, as required by the Financial Data Transparency Act of 2022. Among other things, (i) financial entities would utilize a common nonproprietary legal entity identifier (LEI) available under an open license for information reported to each agency; and (ii) the Financial Instrument Global Identifier (FIGI) would be the common identifier for financial instruments. ICI supported

the agencies' efforts to establish standardized, open-access identifiers, but recommended that the agencies reconsider using FIGI as the exclusive financial instrument common identifier because FIGI is not truly under an open license, is nonfungible, and raises "many to one" operational concerns. ICI also noted that: (i) the proposal lacks any cost-benefit analysis; and (ii) the agencies have not adequately consulted with industry. *See* ICI Comment Letter to the Joint Agencies (Oct. 21, 2024).