



MUTUAL FUND DIRECTORS FORUM

The FORUM for FUND INDEPENDENT DIRECTORS

August 11, 2015

Mr. Brent J. Fields
Secretary
United States Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: Investment Company Reporting Modernization (File No. S7-08-15)

Dear Mr. Fields:

The Mutual Fund Directors Forum (“the Forum”)¹ welcomes the opportunity to comment on the Commission’s recent rule proposals regarding Investment Company Reporting Modernization.²

The Forum is an independent, non-profit organization for investment company independent directors and is dedicated to improving mutual fund governance by promoting the development of concerned and well-informed independent directors. Through education and other services, the Forum provides its members with opportunities to share ideas, experiences and information concerning critical issues facing investment company independent directors and also serves as an independent vehicle through which Forum members can express their views on matters of concern.

I Introduction

As we outline in our letter below, we broadly support the Commission’s efforts to update and modernize reporting by investment companies. In particular, we believe that the Commission is, and should remain, the primary regulator of funds; hence, the Commission should take the lead in collecting, aggregating and analyzing data from individual funds and

¹ The Forum’s current membership includes over 887 independent directors, representing 122 mutual fund groups. Each member group selects a representative to serve on the Forum’s Steering Committee. This comment letter has been reviewed by the Steering Committee and approved by the Forum’s Board of Directors, although it does not necessarily represent the views of all members in every respect.

² Investment Company Reporting Modernization, Release Nos. 33-9776; 34-75002; IC-31610; File No. S7-08-15 (May 10, 2015) [80 FR 33589 (June 12, 2015)] (“Release”).

from the industry as a whole. However, we offer our support with a number of caveats – specifically, we believe that the Commission should be wary of the costs imposed by increased reporting obligations, that it should limit its collection of information to what is reasonably necessary for its regulatory purposes, that it should consider extending the proposed period within which funds must come into compliance with the new rules, and that it take all steps necessary to ensure the security and integrity of the data it collects.

Second, we enthusiastically support the Commission’s proposal to permit funds to deliver periodic reports to the shareholders via their websites. As we suggest below, we believe that this proposal will result in significant savings for funds and their investors while at the same time improving the accessibility and value of periodic disclosure for fund investors.

II. N-PORT and N-CEN

Investment companies play a critical role in the United States economy, both as a source of capital for the markets and as a vehicle for savers wishing to invest for their future. We thus concur that it is critically important that complete and accurate information about investment companies be collected in order to ensure accurate information is available to investors, to identify risks in the capital markets, to inform policy-making efforts by Congress and industry regulators, and to aid in the monitoring and enforcement of the securities laws.

The Securities and Exchange Commission is the primary regulator of investment companies in the United States. As such, it should be the primary collector of data, whether that data relates to investor disclosure, the monitoring of risk or other regulatory purposes. To perform that role effectively, particularly in an environment in which the Commission must consider both the needs of investors and the risks inherent in our capital markets, the Commission needs access to accurate and timely data from and about capital markets’ participants.

Therefore, we agree with the Commission that both changes in technology and changes in the fund industry warrant an updating and modernizing of the reporting requirements to which mutual funds are currently subject. Replacing existing reporting requirements with the proposed Forms N-PORT and N-CEN represents a significant step forward in terms of improving the quality, accessibility, and usability of fund data. As it finalizes the proposed rules, we encourage the Commission to carefully consider the comments of others, particularly management companies and key service providers such as custodians, who are in a strong position to provide the Commission with comments that will potentially improve the rules, particularly from a technical standpoint.

Fund directors have a distinct interest in the proposal, both because they will have overall responsibility for their funds’ compliance with the proposed rules and because the shareholders they represent are sensitive to the costs and burdens the rules will impose on the funds in which they have invested. We, therefore, have a number of broad-based comments regarding the proposals. In finalizing the rules, we urge the Commission to consider these important issues. First, the Commission should be wary of the costs imposed by the new regulations. Reporting

fund and portfolio information, while important, can be costly, particularly given that systems will need to be upgraded and reporting will be more frequent. While many of those costs may initially be borne by service providers, such as custodians, those service providers will eventually pass the costs on to the funds they serve and hence the costs will ultimately be borne by fund shareholders. Although fund shareholders should bear appropriate costs, it is important to remember that those costs do reduce their returns, which in turn reduce the amount shareholders are able to save to fund their retirements, their children's educations and other important financial goals. We thus urge the Commission to limit the costs of its new rules as much as possible.

Second, we urge the Commission not to collect data just because that data is or might be available. Funds and fund complexes maintain significant amounts of data, but often do so for their own reasons and in their own formats. The Commission should not collect this data (or force other fund complexes to collate and report similar data) just because it is available. Instead, the Commission should identify an important regulatory need for each item of data it chooses to collect. We are encouraged by the parts of the Release in which the Commission suggests limits to its need for data – for example, the Commission notes it is not proposing the funds report risk metrics for individual debt instruments in their portfolios or proposing to require them to report information about securities lending activities on a loan-by-loan or security-by-security basis. In the absence of strong reasons why reporting this information would significantly improve disclosure to investors or improve the Commission's ability to monitor risk, we agree with the Commission's initial inclination not to seek this data. Maintaining this focus on the need for particular data will help minimize the burden new reporting requirements impose on funds as well as the expense ultimately borne by fund shareholders.

Third, we suggest the Commission consider a longer compliance period to implement the proposed reporting requirements for all funds. The Commission already appears to recognize the complexity of implementing the new requirements by offering smaller fund complexes a longer 30-month period within which to comply with the proposed N-PORT reporting requirements compared to the 18-month period it suggests for larger complexes. While we appreciate the Commission's consideration of the needs of smaller complexes, regulatory changes such as those being proposed by the Commission that likely require significant system changes and the development of processes to capture and report additional types of information to the Commission will need to be implemented carefully at fund complexes of all sizes. Moreover, all fund complexes are currently working to comply with other significant changes in regulatory requirements, and thus need to time properly to implement a range of changes in addition to these proposed rules. The Commission will help ensure that its new rules are implemented effectively and accurately by providing fund complexes with sufficient time to update their systems and adopt appropriate reporting policies and procedures. We thus believe that larger complexes should have the option of the longer compliance period as well.

Finally, we urge the Commission to take steps to ensure the security and integrity of the data it collects. Much of the reporting required by the new rules will not be public, and in other cases, disclosure of funds' filings will be on a delayed basis. Inadvertent, early or inappropriate disclosure of this information may harm funds and their investors by potentially releasing

proprietary information or revealing fund trading strategies that can then be inappropriately front run.

We have every confidence that the Commission is aware of these risks. That said, cyber threats are becoming increasingly commonplace, and government information technology systems are by no means immune to attack. In recent years, the Commission, like other government agencies, has faced challenges in establishing and implementing appropriate cyber safeguards.³ Indeed, as shown by recent events, government systems often present attractive targets and government cyber defenses are often not as strong as they could be. We thus urge that the Commission use the phase-in period of the rule to take all necessary steps, including necessary steps identified by the Government Accounting Office,⁴ to protect the information reported by funds from cyber attacks and outright cyber theft.⁵

III. Website-Based Shareholder Disclosure

The Commission's proposal to permit funds to distribute periodic reporting to their shareholders via their websites is, in our minds, an important and significant step forward that will save money for funds and their investors while at the same time making disclosure more accessible and more usable for fund investors. In recent years, the Commission, issuers, and investors have all become more familiar with electronic delivery. As the Commission's proposal indicates, electronic delivery of required periodic disclosure results in significant cost reductions, benefitting both issuers (including mutual funds) and their investors. But just as importantly, website delivery makes disclosure more usable and relevant for investors by permitting investors to access information at a time that is most convenient for them on whatever device they choose. Given that the goal of disclosure is to make information about their investments more accessible to investors, we believe that website delivery thereby enhances the value of the disclosure system. We whole-heartedly support the Commission's proposal to expand website disclosure to investment company periodic reports and encourage the Commission to continue to expand the use of the Internet and other forms of electronic delivery to provide information to investors.⁶

³ See General Accounting Office, *Information Security: SEC Needs to Improve Controls over Financial Systems and Data* (April 2014); see also Carl Hoeker, Inspector General, SEC, *Federal Information Security Act: Fiscal Year 2014 Evaluation* (Feb. 5, 2015).

⁴ See *id.*

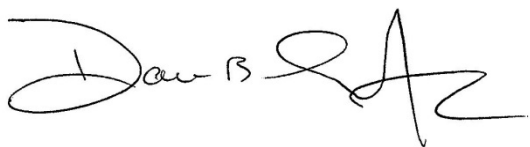
⁵ We note that a longer compliance period for the rules, which we suggest above, would also give the Commission a longer period of time within which to implement any needed cyber security provisions over and above what currently exist.

⁶ We support the Commission's desire to continue to make paper delivery available to investors who desire it, and even the Commission's requirements surrounding ongoing disclosure to investors of the availability of paper disclosure. However, we do believe that as Internet usage becomes even more ubiquitous and the means for accessing the Internet continue to grow (including the increasing ability to access the Internet on smart phones and tablets and to store downloaded materials on these devices for later use) the Commission should consider electronic delivery as the default means of delivery in additional contexts.

IV. Conclusion

In sum, we believe that the Commission's proposals with respect to both reporting modernization and website delivery of periodic reports have the potential to be a significant step forward for the Commission, for funds, and for fund investors. We would welcome the opportunity to respond to any questions you may have about our comments. Please feel free to contact either Susan Wyderko, the Forum's President, at 202-507-4490 or me at 202-507-4491.

Sincerely,

A handwritten signature in black ink, appearing to read "David B. Smith, Jr.", with a stylized flourish at the end.

David B. Smith, Jr.
Executive Vice President and General Counsel