



September 17, 2013

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

VIA ELECTRONIC MAIL
rule-comments@sec.gov

Subject: Money Market Fund Reform, SEC File No. S7-03-13

Dear Ms. Murphy:

The Coalition of Mutual Fund Investors ("CMFI")¹ appreciates the opportunity to submit comments on the proposed rules governing money market mutual funds issued by the Securities and Exchange Commission ("SEC").²

Several of the of the SEC's regulatory proposals—including the retail exemption to a floating Net Asset Value ("NAV") requirement and the imposition of redemption fees in a liquidity crisis—create the need to provide money market funds with transparency into omnibus accounts used by broker-dealers and other financial intermediaries. This can be accomplished by amending SEC Rule 22c-2, to provide for information-sharing between money market funds and their intermediaries about the identity and transactions of underlying shareholders, preferably on a daily basis, or as fund orders are processed.

Transparency into underlying shareholder accounts would also improve the ability of money market funds to comply with the SEC's general liquidity requirement in its current regulations, in which each fund is expected to evaluate, on an ongoing basis, the risk characteristics of its shareholders and maintain appropriate liquidity cushions to meet reasonably foreseeable redemptions.

As an additional point, addressing the omnibus account transparency problem will resolve several other regulatory compliance issues, such as the inability of funds to apply market timing restrictions and sales load discounts.

¹ The Coalition of Mutual Fund Investors ("CMFI") is an Internet-based shareholder advocacy organization established to represent the interests of individual mutual fund investors (www.investorscoalition.com).

² Money Market Fund Reform; Amendments to Form PF, 78 Fed. Reg. 36,834 (June 19, 2013) (hereinafter "SEC Proposing Release").

The Omnibus Accounts Problem

A substantial majority of money market fund shares are now transacted through financial intermediaries.³ Many of these intermediaries use omnibus accounts, in which the intermediary becomes the shareholder of record with a fund, instead of the underlying shareholders, who are also called “beneficial owners.”⁴

During each trading day, intermediaries aggregate all purchase and redemption requests from their customers into one consolidated order for each money market fund. A fund handles this order as a single transaction, even though it may represent the transactions of hundreds or thousands of customers of a particular financial intermediary.

The use of omnibus accounts creates significant transparency problems for money market funds. Except for investment accounts processed through the Networking service operated by the National Securities Clearing Corporation (“NSCC”), underlying shareholder identity and transaction information is not disclosed to mutual fund compliance personnel.

Several of the concepts recommended by the SEC in its Proposing Release will be difficult, if not impossible, for money market funds to implement within omnibus accounts, absent full transparency at the underlying shareholder level.

The primary challenge for money market funds in ensuring the uniform application of regulatory rules among its shareholders is the omnibus structure itself, in which shareholder-level transactions at the same financial intermediary are netted against each other, causing these transactions to be executed before a consolidated order is placed with a fund. Any type of redemption restriction or fee would not necessarily apply to these underlying transactions, as a redeeming shareholder only needs another customer (or group of customers) within the same financial institution to purchase an identical amount of shares, in order to execute a redemption request outside of the purview of the money market fund involved. In contrast, a shareholder transacting directly with a money market fund would not be able to avoid a redemption restriction or fee imposed on his or her shares.

What follows are CMFI’s comments on the specific regulatory concepts presented in this Proposing Release.

³ A 2012 survey of large money market fund complexes concluded that 79% of the total money market assets controlled by these fund complexes are distributed primarily through financial intermediaries. Investment Company Institute, “Operational Impacts of Proposed Redemption Restrictions on Money Market Funds,” at 14 (June 2012), available at http://www.ici.org/pdf/ppr_12_operational_mmf.pdf.

⁴ The use of omnibus accounts by intermediaries in mutual fund transactions is very similar in structure to using the “street name” system to trade in corporate securities; however, mutual fund shares are purchased and redeemed in book entry form and do not require a central depository to hold shares in certificate form.

The Proposed Retail Exemption for Prime Money Market Funds Cannot Be Implemented Uniformly within Omnibus Accounts

The SEC proposes to exempt from its floating NAV proposal any prime money market fund that is limited only to retail investors. A retail fund is defined as one that does not permit a shareholder of record to redeem more than \$1 million in a single business day.

In its Proposing Release, the SEC acknowledges that this \$1 million redemption limitation will be difficult for money market funds to implement within omnibus accounts:

Applying the daily redemption limitation to omnibus accounts may pose difficulties. In order for the fund to impose its redemption limit policies on the underlying shareholders, intermediaries with omnibus accounts would need to provide some form of transparency regarding underlying shareholders, such as account sizes of underlying shareholders (showing that each was below the \$1 million redemption limit). Alternatively, the fund could arrange with the intermediary to carry out the fund's policies and procedures and impose the redemption limitation, or else impose redemption limits on the omnibus account as a whole.⁵

To address this problem, the SEC proposes to allow an intermediary (*i.e.*, the shareholder of record) to redeem more than \$1 million in a single day if it similarly restricts each shareholder in the omnibus account to no more than \$1 million each in daily redemptions.

Under the SEC's plan, a money market fund would need to develop policies and procedures that are "reasonably designed to allow the conclusion that the omnibus account holder does not permit any beneficial owner from 'directly or indirectly' redeeming more than \$1,000,000 in a single day."⁶ If a fund cannot reasonably conclude that an intermediary is applying this daily limit, then it is expected to apply the \$1 million redemption limit on the omnibus account as a whole, *i.e.*, at the intermediary level.

Unfortunately, the SEC does not provide money market funds with any tools to apply and enforce their policies and procedures limiting daily redemptions on retail investors. Unlike Rule 22c-2, the SEC would not require funds to enter into explicit agreements or contracts with omnibus account holders to share information at the shareholder or account level. Instead, funds would be permitted to manage their relations with omnibus account holders "in whatever way that best suits their circumstances."⁷

⁵ SEC Proposing Release at 36,859.

⁶ *Id.* at 36,861.

⁷ *Id.*

This approach will clearly permit institutional investors to “game” the system by opening multiple accounts to evade the \$1 million a day redemption restriction and facilitate continued investment in money market funds with a fixed NAV.

In footnote 224 of the Proposing Release, the SEC states its expectation that intermediaries will aggregate multiple accounts held by a single beneficial owner.⁸ However, a fund is not provided with any oversight tools to ensure intermediary compliance. And the SEC also concedes that funds and intermediaries will be unable to police institutional investors that seek to avoid redemption limits by establishing accounts with multiple financial intermediaries that do not share account-level information with each other.⁹

With thousands of financial intermediaries holding shares in more than 500 money market funds, this proposal will result in huge numbers of smaller accounts being established by institutional investors, to provide them with the liquidity they desire on a fixed NAV basis, without any one individual account being able to redeem more than \$1 million each day. This is in contrast with the establishment of multiple direct accounts on the books of a fund transfer agent, where a money market fund would be able to easily aggregate redemption requests via taxpayer identification numbers (or other means), to ensure that the \$1 million daily redemption limit is not exceeded for any one shareholder.

Given the complexity of this issue, it is remarkable that the SEC estimates only 12 hours of an attorney’s time to prepare a document outlining policies and procedures that are “reasonably designed” to ensure that underlying shareholders in an omnibus account cannot directly or indirectly evade this \$1 million retail limit.¹⁰ And the SEC estimates that consideration of these new policies and procedures only will take 1 hour of a fund board’s time.¹¹

The SEC states that its goal is to treat all beneficial owners equally, regarding the \$1 million daily redemption limit.¹² However, without transparency into omnibus accounts, institutional investors will be able to easily evade the \$1 million limit by simply establishing accounts with multiple intermediaries that do not share account-level information with each other. Without additional regulatory tools, funds will be powerless to oversee the activities of their shareholders in omnibus accounts and will not be able to ensure intermediary compliance with the daily redemption limit.

⁸ *Id.* at n.224.

⁹ *Id.* at n.224 (“We would not expect that a fund would seek to ensure that an intermediary reasonably be able to identify that a single beneficial owner owns fund shares through multiple accounts ... [including] through another intermediary that does not already share account information with the first intermediary.”).

¹⁰ *Id.* at 36,977.

¹¹ *Id.*

¹² *Id.* at 36,861 (“As proposed, the omnibus account holder provision does not provide for any different treatment of intermediaries based on their characteristics and instead applies the redemption limits equally to all beneficial owners. ... We understand that identical treatment of intermediaries under the proposal may not precisely reflect the risks of intermediaries with different characteristics, but recognize that this is a cost of our attempt to keep the retail exemption simple to implement.”)

Redemption Fees Cannot Be Implemented Uniformly within Omnibus Accounts

As an alternative to its floating NAV proposal, the SEC proposes to require money market funds to impose a redemption fee of 2% once a fund's weekly liquid assets fall below 15% of its total assets. A fund's board of directors could waive this requirement, or impose a lower fee level, if it determines that such an action is in the best interest of the fund.

This proposed redemption fee is designed to ensure that redeeming shareholders reimburse the fund and its remaining shareholders for the cost of being provided with liquidity in a financial crisis.

The SEC proposes to let intermediaries impose redemption fees on behalf of money market funds, in the same manner as redemption fees are now collected for excessive short-term trading of fund shares:

For beneficial owners holding mutual fund shares through omnibus accounts, we understand that, with respect to redemption fees imposed to deter market timing of mutual fund shares, financial intermediaries generally impose any redemption fees themselves to record or beneficial owners holding through that intermediary. We understand that they do so often in accordance with contractual arrangements between the fund or its transfer agent and the intermediary.¹³

The SEC then proposes that the existing approach of letting intermediaries collect redemption fees be continued for money market funds, without any type of robust oversight of their compliance regarding the proper collection of these fees:

We would expect any liquidity fees to be handled in a similar manner, although we understand that some money market fund sponsors will want to review their contractual arrangements with their funds' financial intermediaries and service providers to determine whether any contractual modifications would be necessary or advisable to ensure that any liquidity fees are appropriately applied to beneficial owners of money market fund shares. We also understand that some money market fund sponsors may seek certifications or other assurances that these intermediaries and service providers will apply any liquidity fees to the beneficial owners of money market fund shares.¹⁴

¹³ Id. at 36,889.

¹⁴ Id.

Unfortunately, this fee collection process by intermediaries has not worked very well for mutual funds seeking to deter excessive frequent trading, despite the promulgation of Rule 22c-2, which authorizes periodic information-sharing at the shareholder level between funds and their intermediaries.

As a result of the lack of transparency within omnibus accounts, mutual funds now insert broad disclaimer language in their prospectuses making it clear that there can be no guarantee that intermediaries are going to collect these fees in a manner that is consistent with how direct accounts are handled. As an example, here is how one prominent fund family describes the problem of imposing redemption fees on shareholders within omnibus accounts:

For those ... funds that charge purchase and/or redemption fees, intermediaries will be asked to assess those fees on client accounts and remit these fees to the funds. The application of purchase and redemption fees and frequent trading policies may vary among intermediaries. There are no assurances that [the fund] will successfully identify all intermediaries or that intermediaries will properly assess purchase and redemption fees or administer frequent trading limitations.¹⁵

Similar disclaimer language can be found in the prospectuses of the substantial majority of mutual fund complexes, explaining the inability of any fund to assure investors that prospectus policies and procedures—including redemption fees—can be applied uniformly within omnibus accounts.¹⁶

Transparency into these accounts would also be helpful given the fact that money market fund boards have the ability to modify the redemption fee from the 2% default standard proposed by the SEC. Thus, in a financial crisis, intermediaries offering multiple money market fund vehicles may need to impose differing fee percentages on their customers, depending on the redemption fee policy adopted by each fund board. This process would work more smoothly for investors if there was transparency adequate to ensure that all investors are assessed the exact redemption fee determined by each fund board, and in a uniform manner between direct accounts and omnibus accounts.

Mutual funds have been stymied in applying market timing redemption fees within omnibus accounts for almost a decade, with little success. This is one reason why many fund boards have pulled back from using redemption fees to deter frequent trading

¹⁵ Vanguard, International Growth Fund Prospectus, at 36, December 27, 2012.

¹⁶ See Coalition of Mutual Fund Investors, Excerpts from SEC Prospectus Filings Regarding Enforcement of Mutual Fund Market Timing and Other Short-Term Trading Policies within Third-Party Hidden Accounts (Largest Fifty (50) Retail Mutual Fund Groups), April 1, 2013, available at http://www.investorscoalition.com/sites/default/files/Analysis%20of%20Omnibus%20Surveillance%20Procedures%204-14-2013_3.pdf.

activities.¹⁷ Other funds simply explain in their prospectuses that none of their market timing policies can be uniformly applied within omnibus accounts.¹⁸

If the SEC is going to seriously consider a redemption fee to create a disincentive for investors to withdraw funds in a financial crisis, then the agency should give money market funds the ability to “look through” omnibus accounts to ensure uniform application of any redemption fee applied for this purpose.

Partial Gates Cannot Be Implemented Uniformly within Omnibus Accounts

The SEC’s redemption fee alternative also proposes to authorize a money market fund board to temporarily suspend redemptions (also called a “gate”) when a fund’s weekly assets fall below 15% of total assets. Under current SEC rules, a suspension of redemptions can only be authorized through an exemptive order, or when a fund is about to “break the buck” and the board has approved the liquidation of the fund.

In its Proposing Release, the SEC also requests comments on “partial gates,” which may be a helpful additional tool for fund boards, but which present the same operational challenges and also cannot be implemented uniformly within omnibus accounts.¹⁹

The hedge fund industry uses partial redemption gates to limit the percentage of a fund’s NAV that can be withdrawn from a fund during a redemption period. These partial gates are typically set between 10-25% of NAV for a particular redemption date. If redemption requests exceed the gate limit, a fund may reduce redemption requests on a pro rata basis until the gate limit is reached. Alternatively, a fund may honor redemption requests in some type of priority order. Any unfilled or outstanding redemption requests are carried over until the next redemption period.

A money market fund attempting to apply a partial redemption gate to its entire shareholder base will be unable to apply this restriction uniformly, with so many of its investors in omnibus accounts. As described earlier, the primary challenge for funds is the netting of shareholder transactions at each financial intermediary holding shares in an omnibus account; thus, shareholder-level transactions are executed before an aggregated

¹⁷ See, e.g., Beagan Wilcox Volz, Putnam Says Goodbye to Last Redemption Fees, *Ignites*, June 13, 2013; Beagan Wilcox Volz, Vanguard Cuts Redemption Fees on 33 Funds, *Ignites*, May 24, 2012; Hannah Glover, Invesco Axes Redemption Fees, Adds Purchase Blocks, *Ignites*, October 12, 2011; Maura McDermott, Funds Drop Redemption Fees as Market-Timing Fears Wane, *BoardIQ*, July 5, 2011; and Hannah Glover, J.P. Morgan Dumps Redemption Fees, *Ignites*, March 22, 2011.

¹⁸ See *supra* note 16.

¹⁹ SEC Proposing Release at 36,899 (“For example, once the money market fund had crossed the 15% weekly liquid asset threshold, we could permit the board of directors (including a majority of its independent directors) to limit redemptions by any particular shareholder to a certain percentage of their shareholdings, to a certain percentage of the fund’s outstanding shares, or to a certain dollar amount per day.”).

order is placed with a fund, creating inequities in the treatment of omnibus vs. direct shareholders.

CMFI's comment letter to the Financial Stability Oversight Council ("FSOC") in January 2013 presented three examples of unequal treatment that could occur if a money market fund attempted to apply a partial redemption gate to a shareholder base that includes omnibus accounts.²⁰ Similar to the retail exemption and redemption fee concepts, partial gates cannot be implemented uniformly without transparency down to the shareholder level in an omnibus account.

In its Proposing Release, the SEC also asks about an exemption for shareholders who submit an advance and irrevocable redemption request.²¹ This proposed exemption suffers from the same infirmity—it cannot be implemented uniformly without addressing omnibus account transparency issues.

The SEC Should Extend Rule 22c-2 to Money Market Funds

In its Proposing Release, the SEC asks for comment about whether money market funds should be permitted to have transparency through omnibus accounts.²² CMFI strongly believes that the SEC needs to address this issue if it moves forward with either (or both) of the regulatory alternatives presented in the Proposing Release.

The most efficient and effective way to resolve the omnibus account transparency problem is to extend SEC Rule 22c-2 to money market funds.²³ As noted earlier, Rule 22c-2 was promulgated in response to earlier market timing problems in the mutual fund

²⁰ Letter from Niels Holch, Executive Director, Coalition of Mutual Fund Investors, to Financial Stability Oversight Council, at 5-6, January 21, 2013, available at <http://www.investorscoalition.com/sites/default/files/CMFI%20Comment%20Letter%20to%20FSOC%20re%20MM%20Funds%201-21-2013.pdf>.

²¹ SEC Proposing Release at 36,892.

²² *Id.* at 36,862 ("Should we consider any other methods of generally providing more transparency into omnibus accounts for money market funds so that funds could better manage their portfolios in light of their shareholder base?"); and *Id.* at 36,889 ("What other methods might money market funds use to gain assurances that financial intermediaries will apply any liquidity fees appropriately?"). The Financial Stability Oversight Council asked the same question when it issued proposed money market fund reform recommendations in November 2012. See Proposed Recommendations Regarding Money Market Mutual Fund Reform, 77 Fed. Reg. 69,455, at 69, 474 (Nov. 19, 2012) ("How would MMFs apply this [retail] exemption to omnibus accounts? Should MMFs be required to have transparency through these accounts to apply the exemption?") (hereinafter "2012 FSOC Proposed Recommendations").

²³ The need for a regulatory tool to improve transparency into omnibus accounts was also raised by the Financial Stability Oversight Council in its regulatory recommendations. See 2012 FSOC Proposed Recommendations at 69, 477 ("Should MMFs be required to gather more information about their beneficial owners? MMFs also could be required to perform certain risk management procedures and consider information about beneficial owners' historical redemption behavior when stress testing their funds. To what extent can MMFs currently increase investor transparency? If regulatory changes would be necessary to facilitate this level of transparency, how could this be done most effectively by the SEC under its current statutory authority?").

industry.²⁴ The Rule requires financial intermediaries to provide funds with shareholder-level identity and transaction information, when requested by the funds.²⁵

One purpose of Rule 22c-2 is to provide funds with a tool to deter arbitrage trading in certain funds through the use of redemption fees and other types of trading restrictions. The Rule also seeks to ensure that financial intermediaries are properly implementing fund policies and procedures regarding excessive short-term trading activities by shareholders.

Rule 22c-2 currently exempts money market funds from its requirements, largely because these funds provide daily liquidity for investors and are not harmed by market timing activities.²⁶ However, the reforms recommended by the SEC in its Proposing Release will only work effectively if the agency extends Rule 22c-2 to include money market funds, to provide funds with a regulatory tool that will facilitate proper oversight of intermediary and shareholder activities.

Rule 22c-2 should also be amended to require that intermediaries share investor-level information with funds on a daily basis, as opposed to the periodic information-sharing approach that is currently being utilized by funds and their intermediaries.²⁷ A “same-day” or per order disclosure regime can be managed in an automated and cost-effective manner through the NSCC Networking service, a processing platform that is has been in place since 1989 to facilitate the sharing and reconciliation of shareholder-level information between mutual funds and their financial intermediaries.

Over more than 20 years, the NSCC Networking service has developed into the most efficient processing platform available for financial intermediaries to share account-level information with funds for compliance purposes.

Unfortunately, large broker-dealers have been attempting for almost a decade to replace this automated system with a more cumbersome and expensive omnibus structure, primarily because it provides them with an opportunity to generate more fee income through the use of their own proprietary recordkeeping systems. CMFI has documented the history of the NSCC Networking service and its many benefits. A copy of this document is available through the following link:
<http://www.investorscoalition.com/sites/default/files/History%20of%20NSCC%20Networking%20Revised%201-2-13.pdf>.

²⁴ See Mutual Fund Redemption Fees, 71 Fed. Reg. 58,257 (Oct. 3, 2006); Mutual Fund Redemption Fees, 71 Fed. Reg. 11,351 (Mar. 7, 2006); and Mutual Fund Redemption Fees, 70 Fed. Reg. 13,328 (Mar. 18, 2005).

²⁵ 17 C.F.R. § 270.22c-2(a)(2)(i) and 22c-2(c)(5).

²⁶ 17 C.F.R. § 270.22c-2(b)(1).

²⁷ Even though Rule 22c-2 authorizes a mutual fund to request daily shareholder identity and transaction information, the substantial majority of funds use this tool on a periodic basis and only sparingly.

The protection of investor interests should be a higher priority than additional opportunities for broker-dealer fee income and so the SEC should require full transparency into all investor accounts through an amended Rule 22c-2, to improve the money market fund regulatory regime.

CMFI notes that one major Wall Street bank has signaled that the tide may be turning in favor of omnibus account transparency for money market fund shares. On July 29, 2013, Citibank announced enhancements to its money market fund portal, for the purpose of providing real-time transparency into these accounts to assist fund complexes with their responsibilities:

Disclosure of a client's balances to the underlying fund complexes is also an important trend in the cash investment world. Citibank Online Investments addresses that need with the introduction of Nominee accounts, which provide enhanced balance disclosure to funds. For clients selecting this option, fund complexes will get visibility into the clients' balances and transactions on a real time basis, facilitating tracking of investor relationships and provision of relationship credit.²⁸

Full Transparency into Omnibus Accounts Improves Compliance with the SEC's General Liquidity Requirement

The SEC's 2010 money market fund rules imposed a general liquidity requirement, also referred to as the "know your investor" rule, mandating that money market funds evaluate the risk characteristics of their shareholders and maintain adequate (and potentially larger than normal) liquidity cushions to meet reasonably foreseeable redemptions.²⁹

Unfortunately, the reality of omnibus accounting is that money market funds are only going to be speculating about the risk characteristics and redemption needs of their underlying shareholders until and unless there is full transparency down to the shareholder level. In its 2010 rule, the SEC acknowledged the challenges presented by omnibus accounts:

As some commenters noted, identification of these risks may be more challenging when share ownership is less transparent because the shares are held in omnibus accounts. Funds may seek access to information about the investors who hold their interests through

²⁸ Press Release, Citibank, "Citi Enhances Transparency and Risk Assessment Functionality on Citibank Online Investments Portal" (July 29, 2013), available at http://www.citigroup.com/transactionsservices/home/about_us/press_room/2013/2013_0729.jsp.

²⁹ 17 C.F.R. §270.2a-7(c)(5) ("The money market fund shall hold securities that are sufficiently liquid to meet reasonably foreseeable shareholder redemptions in light of the fund's obligations under section 22(e) of the Act and any commitments the fund has made to shareholders.")

omnibus accounts in addition to considering information about the omnibus accounts, including their aggregate historical redemption patterns and the account recordholder's ability to redeem the entire account.³⁰

Regrettably, the SEC did not give money market funds any regulatory tools to perform this "know your investor" function in a meaningful way. Instead, the SEC stated in a footnote that funds could obtain information about investors in omnibus accounts through contractual arrangements between funds and their financial intermediaries.³¹

In its November 2012 recommendations, the FSOC acknowledged that increased transparency into omnibus accounts would improve the ability of money market funds to understand the needs of their shareholders and be in a better position to predict their redemption activity:

Additional 'know your investor' requirements could be implemented to provide [money market funds] with increased visibility into omnibus accounts to improve their ability to understand their shareholder base and to predict investors' redemption activity. ... Requiring [money market funds] to obtain more information about their beneficial owners could help [money market funds] better understand and predict those investors' behavior, and allow the funds to better manage their liquidity to meet anticipated redemption requests.³²

In this latest Proposing Release, the SEC once again acknowledges that funds are not able to identify or evaluate the redemption needs of shareholders in omnibus accounts. However, it still does not provide any solutions to the problem and only asks what more should be done:

As discussed above, we understand that today many money market funds are unable to determine the characteristics or redemption patterns of their shareholders that invest through omnibus accounts. This lack of transparency can not only hinder a fund from effectively applying a retail exemption but can also lead to difficulties in managing the liquidity levels of a fund's portfolio, if a fund cannot effectively anticipate when it is likely to receive significant shareholder redemptions through examination of its

³⁰ Money Market Fund Reform, 75 Fed. Reg. 10,060, at 10,075 (Mar. 4, 2010).

³¹ *Id.* at n.201.

³² 2012 FSOC Proposed Recommendations at 69,476-69,477. This transparency into omnibus accounts could be critical in a credit market crisis. *See id.* at 69, 477 ("Know-your-investor requirements may improve the ability of MMFs to predict and manage investors liquidity needs. This could reduce the likelihood that unexpected redemptions would force MMFs to sell assets, which may cause losses, particularly during times of stress.").

shareholder base. We request comment on whether we should consider requiring additional transparency into money market fund omnibus accounts to enable funds to understand better their respective shareholder base and relevant redemption patterns.³³

The current “know your investor” programs within the fund industry are only able to evaluate aggregated trade data that does not include individual shareholder identity or transaction information. Without this shareholder-level information, a fund can only speculate about potential redemption demands, instead of conducting a much more precise evaluation of expected liquidity demands by reviewing actual information about underlying shareholders.

Several commenters to the SEC’s earlier money market fund rulemaking, including CMFI, advocated that Rule 22c-2 be extended to money market funds, so that funds would have a regulatory tool to help them evaluate more precisely the redemption needs of shareholders in omnibus accounts.³⁴

More recently, the Investment Company Institute (“ICI”) has advocated for the type of transparency provided by Rule 22c-2, in its January 2013 comment letter to the FSOC:

One measure that we encourage regulators to pursue is additional ‘know your investor’ requirements to provide money market funds with increased visibility into omnibus accounts, portals, sweep arrangements, or other trading platforms. Such requirements would improve money market funds’ ability to understand their shareholder base and to predict investors’ redemption activity. *Money market funds, however, are not in a position independently to obtain this information.* We instead recommend that each relevant member of FSOC consider rules to provide a clear legal mandate that, upon request of a money market fund, intermediaries under its jurisdiction must furnish sufficient investor information to aid the fund’s efforts to enhance its existing know your investor programs. For example, intermediaries, upon request, could provide funds with investor-specific data related to trading activity over a specified

³³ SEC Proposing Release at 36,862.

³⁴ See Letter from Niels Holch, Executive Director, Coalition of Mutual Fund Investors, to The Honorable Luis Aguilar, Commissioner, U.S. Securities and Exchange Commission, at 3, March 8, 2012, [available at](http://www.investorscoalition.com/sites/default/files/CMFI%20Letter%20to%20Commissioner%20Aguilar%20re%20Money%20Market%20Fund%20Issues%203-8-2012.pdf) <http://www.investorscoalition.com/sites/default/files/CMFI%20Letter%20to%20Commissioner%20Aguilar%20re%20Money%20Market%20Fund%20Issues%203-8-2012.pdf>; and Letter from Phillip S. Gillespie, Executive Vice President and General Counsel, State Street Global Advisers, to Elizabeth Murphy, Secretary, Securities and Exchange Commission, at 9, September 8, 2009, [available at](http://www.sec.gov/comments/s7-11-09/s71109-108.pdf) <http://www.sec.gov/comments/s7-11-09/s71109-108.pdf> (“Since the composition of a money market fund’s shareholder base is an essential component in determining the level of liquidity required to comply with Section 22(e), we propose that the Commission extend Rule 22c-2 to apply to money market funds with respect to sharing shareholder information.”).

period or investor data related to holdings of a certain percentage. Such data would assist the fund's adviser and board in monitoring a fund's investor profile and adjusting liquidity accordingly. Actual investor names and other proprietary data, however, would not need to be provided.³⁵ (emphasis in original text)

In the same comment letter, the ICI then recommends regulatory action by all FSOC members to impose an affirmative legal requirement on intermediaries to share investor-level information, upon request, with money market funds:

We note that in previous rulemakings, the SEC has imposed an obligation on funds, but not on intermediaries, to obtain similar information from intermediaries (*e.g.*, Rule 22c-2 under the Investment Company Act, concerning redemption fees, and Rule 204-2(a)(18) under the Investment Advisers Act of 1940, known as the adviser 'pay-to-play' rule). Getting this information, however, has proven to be quite difficult, burdensome, and costly for funds when intermediaries do not have any legal obligation to provide it. In the pay-to-play context, the SEC staff had to grant relief precisely because funds and their advisers were unable to obtain the information mandated by the rule. By imposing an affirmative legal requirement on intermediaries, FSOC members can ensure that more complete information is provided to funds.³⁶

In CMFI's view, these concerns can be addressed by amending Rule 22c-2 to require, as a condition of transmitting a mutual fund order, that intermediaries also provide same-day transparency of underlying shareholder identity and transaction information within omnibus accounts. This amended Rule can be implemented in a cost-effective manner through the use of existing automated processing systems, such as NSCC Networking (Level 3).

Full Transparency within Omnibus Accounts Solves Other Regulatory Problems

In its Proposing Release, the SEC acknowledges the lack of transparency in omnibus accounts makes it difficult for mutual funds to apply their policies and procedures in a number of other areas outside of money market funds:

We note that the challenges of managing implementation of fund policies through omnibus accounts are not unique to a retail exemption. For example, funds frequently rely on intermediaries to assess, collect, and remit redemption fees charged pursuant to Rule

³⁵ Letter from Paul Schott Stevens, President and CEO, Investment Company Institute, to Financial Stability Oversight Council, at 83-84, January 24, 2013, available at http://www.ici.org/pdf/13_fsoc_mmf_recs.pdf.

³⁶ *Id.* at 84.

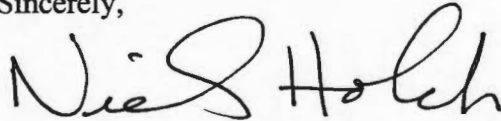
22c-2 on beneficial owners that invest through omnibus accounts. Funds and intermediaries face similar issues when managing compliance with other fund policies, such as account size limits, breakpoints, rights of accumulation, and contingent deferred sales charges.³⁷

CMFI agrees and believes this is yet another reason for the SEC to require same-day transparency into omnibus accounts, through an amendment to Rule 22c-2.

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CMFI appreciates the opportunity to comment on the SEC's proposals to reform its money market fund rules. Please contact me if CMFI can provide any additional information to the SEC about this rulemaking.

Sincerely,



Niels Holch
Executive Director
Coalition of Mutual Fund Investors

cc: The Honorable Mary Jo White
The Honorable Luis A. Aguilar
The Honorable Daniel M. Gallagher
The Honorable Kara M. Stein
The Honorable Michael S. Piwowar
Norm Champ, Division of Investment Management

³⁷ SEC Proposing Release at 36,861.