

May 17, 2018

Mr. Brent J. Fields  
Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549-1090

Re: Investment Company Liquidity Disclosure; File No. S7-04-18

Dear Mr. Fields:

The Independent Directors Council<sup>1</sup> appreciates the opportunity to comment on the Commission's proposed amendments to improve the reporting and disclosure of liquidity information by registered open-end funds to address the potential for investor confusion.<sup>2</sup> Fund directors, who represent the interests of fund shareholders, have an important perspective to offer on the importance of responsible disclosure to investors.

We strongly support the Commission's proposal to eliminate the current requirement in Form N-PORT that funds publicly disclose aggregate liquidity classification information about their portfolios and, instead, require funds to provide in their annual reports to shareholders a narrative discussion regarding their liquidity risk management programs. The Commission proposes that a fund's annual report include a brief discussion of the operation and effectiveness of a fund's liquidity risk management.<sup>3</sup> The Commission states that the proposed amendments will provide disclosure that

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<sup>1</sup> IDC serves the US-registered fund independent director community by advancing the education, communication, and policy positions of fund independent directors, and promoting public understanding of their role. IDC's activities are led by a Governing Council of independent directors of Investment Company Institute member funds. ICI is the leading association representing regulated funds globally, including mutual funds, exchange-traded funds, closed-end funds, and unit investment trusts in the United States, and similar funds offered to investors in jurisdictions worldwide. ICI's members manage total assets of US\$21.7 trillion in the United States, serving more than 100 million US shareholders, and US\$7.5 trillion in assets in other jurisdictions. There are approximately 1,800 independent directors of ICI-member funds. The views expressed by IDC in this letter do not purport to reflect the views of all fund independent directors.

<sup>2</sup> *Investment Company Liquidity Disclosure*, SEC Release No. IC-33046 (March 14, 2018) ("Release"), available at [www.sec.gov/rules/proposed/2018/ic-33046.pdf](http://www.sec.gov/rules/proposed/2018/ic-33046.pdf).

<sup>3</sup> The Release notes that the liquidity rule requires a fund board to review at least annually a report that addresses similar information—*i.e.*, the operation of the program over the last year and its adequacy and effectiveness. *See* rule

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better informs investors of how the fund's liquidity risk and liquidity risk management practices affect their investments than the current Form N-PORT public liquidity risk profile. We wholeheartedly agree.

IDC had previously expressed concerns about the potential for investor confusion from the public disclosure of the Form N-PORT liquidity classification information and suggested that a narrative discussion about a fund's liquidity risk management program would be more useful to fund shareholders.<sup>4</sup> As the Release notes, public disclosure of Form N-PORT liquidity classifications could confuse and mislead investors for a number of reasons. For example, the subjectivity underlying liquidity classifications due to variations in methodologies and assumptions would not be readily apparent in public reports, and, as a result, investors could be misled regarding the comparability of liquidity risk between two or more funds that use different methodologies and assumptions. Form N-PORT does not provide funds the ability to provide context or additional information that would help investors understand the methodologies and assumptions. Moreover, singling out liquidity risk for this type of public disclosure may lead investors and third-parties that package the data to focus too much on liquidity risk, compared to other risks that may be far more important to an investor's long-term investment goals.

A narrative discussion about a fund's liquidity risk management program in the annual report would provide shareholders with clearer, more understandable, and more useful information about the fund—in plain English.<sup>5</sup> The annual report disclosure also would enable funds to explain how they manage liquidity risk within the context of the fund's investment objective and overall investment risks. This is a much better approach for shareholders.

IDC also supports two other proposed changes to Form N-PORT. The Commission proposes to permit a fund, in its reporting of liquidity classifications for its portfolio, to split a holding into more than one classification category in certain circumstances. We support giving funds this added flexibility, especially funds with multiple sub-advisers that may evaluate the liquidity of a particular holding differently. The Commission also proposes to require funds to report cash and cash equivalents in Part B of Form N-PORT (assets and liabilities) that are not reported in Part C (schedule

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22e-4(b)(2)(iii) under the Investment Company Act of 1940 ("1940 Act"). A fund's public disclosure may draw from the report provided to its board.

<sup>4</sup> See Letter from Amy B.R. Lancellotta, Managing Director, IDC, to Brent J. Fields, Secretary, SEC, regarding Open-End Fund Liquidity Risk Management Programs; Swing Pricing; Re-Opening of Comment Period for Investment Company Reporting Modernization Release (File Nos. S7-16-15 and S7-08-15) (January 13, 2016) ("IDC Comment Letter"), available at [https://www.idc.org/pdf/16\\_idc\\_sec\\_lrm\\_comment.pdf](https://www.idc.org/pdf/16_idc_sec_lrm_comment.pdf)

<sup>5</sup> The Commission, however, should exempt from this requirement those funds that are exempted from the highly liquid investment minimum requirement of rule 22e-4 and recognized as having lower liquidity risk (*i.e.*, funds that primarily hold assets that are highly liquid investments and funds that meet the definition of "in-kind ETF" under the rule).

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of portfolio investments) or Part D (miscellaneous securities) of the form. We support this amendment to provide a more complete representation of a fund's liquidity to the SEC.

We commend the Commission for listening to concerns raised by members of the fund industry, who are diligently working to implement the liquidity rule and related requirements, and for considering ways to improve the regulatory requirements for the benefit of fund shareholders. We are encouraged by the staff's commitment to continue to consider comments from the industry and to report to the Commission what steps, if any, it recommends in light of commenters' experiences.<sup>6</sup> IDC previously stated its objections to the liquidity classification requirement<sup>7</sup> and urges the Commission to be open to revisiting this requirement, as suggested by the Department of Treasury,<sup>8</sup> and to consider whether the benefits of this requirement warrant the substantial costs, which will likely be borne by fund shareholders.<sup>9</sup>

If you have any questions about our comments, please contact Annette Capretta, Deputy Managing Director, at [REDACTED] or me at [REDACTED].

Sincerely,



Amy B.R. Lancellotta  
Managing Director

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<sup>6</sup> We also applaud Chairman Clayton's statement on the proposal, in which he asserted that the SEC "must be open to assessing and reassessing our prior work, with a vigilant eye on investor protection and market integrity" and that it is "good government to engage with stakeholders and examine how investors are affected by our rules." See Chairman Jay Clayton, Statement on Proposed Amendments to Public Reporting of Fund Liquidity Information (March 14, 2018), available at <https://www.sec.gov/news/public-statement/statement-clayton-open-meeting-fund-liquidity-2018-03-14>.

<sup>7</sup> See IDC Comment Letter, *supra* n. 4.

<sup>8</sup> The Release references the 2017 Asset Management and Insurance Report, in which the Department of Treasury recommended that the Commission embrace a "principles-based approach to liquidity risk management rulemaking and any associated bucketing requirements." See Release at 20, *supra* n. 2.

<sup>9</sup> We would not support the Commission reconsidering the changes it is now proposing—*i.e.*, to eliminate the public reporting of liquidity classification information—if it determines to adopt these changes, however. The Commission suggests that it might do that, following an analysis by the staff of the liquidity classification data funds will file on Form N-PORT. See Release at 20, *supra* n. 2 ("The staff will provide an analysis of the data to the Commission and present to the Commission by June 2020 a recommendation addressing whether and, if so, how there should be public dissemination of fund-specific liquidity classification information."). The concerns articulated in the Release with the public disclosure of liquidity classification information will be no different in 2020, and we see no reason why the Commission would reverse its sound decision to eliminate the public reporting of liquidity classification information in two years.

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cc: The Honorable Jay Clayton  
The Honorable Kara M. Stein  
The Honorable Michael S. Piwowar  
The Honorable Robert J. Jackson Jr.  
The Honorable Hester M. Peirce

Dalia Blass, Director  
Division of Investment Management