ICE Data Services

May 18, 2018

Secretary Brent J. Fields
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090
May 18, 2018

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

Dear Mr. Fields:

ICE Data Services, a business of Intercontinental Exchange, Inc. (NYSE:ICE), appreciates the opportunity to comment on the U.S. Securities and Exchange Commission's ("SEC" or "Commission") Proposed Rule[1] that would amend SEC forms with the goal of improving the reporting and disclosure of liquidity information by registered open-end investment companies.

ICE Data Services provides market data services to more than 5,000 global organizations, including a liquidity risk management service that some U.S. mutual funds have used since as early as 2015. We have extensive insight into the range of liquidity risk management practices and processes of various asset management companies and the practical aspects of producing and utilizing information about mutual fund liquidity.

This letter will address the following topics in connection with the Proposed Rule:

- New rules allowing funds to split multiple instances of a security position among different liquidity categories
- Compliance dates
- SEC guidance on Rule 17a-7 (cross trading) that could benefit funds and the public

<u>Background on ICE Data Services</u>

ICE Data Services offers end-to-end market data services to support the trading, investment and risk management needs of customers across virtually all asset classes. Our range of data services for global financial and commodity markets includes pricing and reference data, exchange data, analytics, feeds, desktop and connectivity solutions. These services include the pricing and analytics suite offered by ICE Data Pricing & Reference Data LLC.

Our pricing and analytics services consist of an extensive set of independent evaluated pricing services focused primarily on fixed income and international equity securities, valuation calculation services, reference data, market data, fixed income and equity portfolio analytics as well as risk management analytics. Our index services offer a range of products

[1] Release No. IC-33046, "Investment Company Liquidity Disclosure," dated March 14, 2018.

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across fixed income, equities, commodities and currencies, designed to support all aspects of the benchmarking and performance measurement process. Our desktop and connectivity services comprise technology-based information platforms, feeds and connectivity solutions.

These include trading applications, desktop solutions, data feeds and infrastructure to support trading, and investment functions.

Since 2015, ICE Data Services has offered a liquidity risk management service, ICE Liquidity Indicators™, designed to quantitatively measure liquidity at the security and portfolio level in the financial markets. This service involves generating a number of generalized liquidity-related metrics at the instrument level. These generalized, security-level metrics then combine with user-specific assumptions, stress scenarios and other parameters to project, among other outputs, how long it would take to liquidate a position under certain target market price impact scenarios. Accordingly, these key outputs are used to help the client determine liquidity bucket classifications, which are currently delivered as part of the ICE Liquidity Indicators offering. Altogether, liquidity bucket classifications are generated for over 3 million global financial instruments on a daily basis.

Importantly, in relation to fixed income securities, ICE Data Services relies on its deep breadth of evaluated pricing content (e.g., price, yield, bid-ask spreads, duration, etc.) coupled with a vast network of market data sources, including market color and transactional data, across global markets as a critical foundation of market information driving our models when quantifying liquidity across the marketplace. This broad access to market information and evaluated pricing content, proprietary data-driven methodologies and real-time technology to generate services, is critical to powering the ICE Liquidity Indicators service.

ICE Data Services supports regulatory initiatives aimed at improving transparency and encouraging best practices around liquidity risk management for the fund industry. We have previously commented in support of certain aspects that became part of the SEC's final rule regarding Investment Company Liquidity Risk Management Programs ("Final Rule")[2].

ICE Data Services frequently participates in liquidity working groups and rule implementation discussions, including those organized by industry groups such as the Investment Company Institute ("ICI"), in meetings with particular clients, and group meetings under our own auspices. We have polled clients about their own implementation plans and schedules on a number of occasions since the SEC finalized the original Liquidity Risk Management rule in October 2016.[3]

[2] Release No. 33- 10233, dated October 13, 2016. The comment letter submitted by ICE Data Services company ICE Data Pricing & Reference Data, LLC (fka Interactive Data Pricing and Reference Data LLC), can be viewed at: https://www.sec.gov/comments/s7-16-15/s71615-23.pdf
[3] More information on recent trends surrounding SVI and RATS can be found on our corporate website: https://www.theice.com/article/data/rob-haddad-liquidity; https://www.theice.com/article/data/how-are-your-rats

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<u>New proposed rules allowing funds to split multiple instances of a security position among different liquidity classifications</u>

The Proposed Rule solicits public comment on whether funds should be:

- allowed to split holdings among different liquidity categories in three specified circumstances[4]

- required to use a consistent approach to classification for all of their investments for purposes of Form N-PORT reporting (e.g., apply a full liquidation analysis when classifying all its holdings if it divides any holding among multiple classifications based on such analysis)
- required to note the circumstance that led them to split classification of a position
- allowed to classify holdings by evaluating different portions of the sizes it reasonably anticipates trading, rather than based on an assumed liquidation of the whole position

Clients of ICE Data Services have expressed concern over the Final Rule[5] requirement to reconcile potentially different classifications applied by multiple sub-advisors -- whose diverse investment managers may employ different trading strategies and risk management practices that influence relevant assumptions such as Reasonably Anticipated Trade Size ("RATS") and acceptable Significant Value Impact ("SVI") from liquidation. In light of those client concerns, we believe that allowing a fund group to report each sub-advised sleeve separately may remove a potential operational obstacle that investment managers face in implementing the current rule, without diminishing the value of the data being reported.

ICE Liquidity Indicators service currently supports the ability of a client to identify multiple sleeves and generate independent liquidity classifications for each sub-advisor's particular investment positions and assumptions (e.g. RATS, SVI), which is in line with the request for comment in the Proposed Rule. Additionally, ICE Liquidity Indicators service is capable of supporting liquidation analysis conditioned on the full position size (i.e. 100% RATS assumption with multiple buckets). Our ability to support liquidity classification on SEC Form N-PORT reporting would not be affected if the Commission were to allow funds to report multiple liquidity classifications for all holdings based on a full liquidation analysis for each holding.

[4] The three specified circumstances set out in the Proposal are: (1) if a fund has multiple sub-advisers with differing liquidity views; (2) if portions of the position have differing liquidity features that justify treating the portions separately; or (3) if the fund chooses to classify the position through evaluation of how long it would take to liquidate the entire position (rather than basing it on the sizes it would reasonably anticipated trading). In (1) and (2), a fund would classify using the reasonably anticipated trade size for each portion of the position. Release No. IC-33046, page 59, "Instructions to Item C. 7."
[5] Release No. 33- 10233, dated October 13, 2016.

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ICE Data Services agrees with permitting the entire position approach to be used for the purposes of determining liquidity classifications for portfolio securities, with the provision that the inherent 100% RATS assumption is applied consistently to all positions within the fund, as illustrated in footnote 56 of the Proposed Rule.[6] In addition to aligning with certain fund companies' current liquidity risk management procedures, we also believe this approach of allocating liquidity classifications to the full position size has the added benefit of interpretability.

If this option is allowed, we believe it should be applied consistently with the assumption of 100% RATS, rather than permitting its use in conjunction with multiple RATS assumptions for various portfolio holdings, as illustrated by the example in footnote 61 of the Proposed Rule. We believe such a procedure is incompatible with the RATS concept and could mislead investors.

The example cited in footnote 61 suggests that "a fund with a $100 million position in a security with a reasonably anticipated trading size of $10 million might determine that it could convert $4 million to cash in 1-3 days and $6 million in 4-7 days. The fund might then bucket $40 million as highly liquid and $60 million as moderately liquid, even though the fund has previously determined that it could only convert $4 million into cash in 1-3 days." We concur with the SEC that this approach could potentially lead to an inaccurate or misleading result, where the concept of incorporating the RATS (i.e., $10 million out of $100 million in this example) as a proxy for the full position would more appropriately lead to the position being classified as moderately liquid, given that only $4 million of the $10 million is anticipated to be highly liquid under these assumptions.

Should the Proposal be adopted in its current form, we believe it will be important for the SEC to quickly define the required N-PORT schema for reporting multiple classifications in order to give service providers ample time to update their reporting software to handle this accommodation. For example, it might be appropriate for the SEC to consider replacing the XML schema requiring funds to associate each holding with one of the four defined buckets, with a 4-part array where funds itemize percentages that add up to 100% for each holding. If this suggestion were adopted, a fund that chose to associate each holding with a single bucket and not use multiple classifications would report {1,0,0,0} for a highly liquid investment or {0,1,0,0} for a moderately liquid investment.

Compliance Dates

ICE Data Services agrees that the compliance dates for the proposed amendments should align with the compliance date for the other liquidity-related requirements of rule 22e-4 and Form N-PORT, rather than with the general compliance date for Form N-PORT. We believe that any further lengthening of the compliance period for the proposed changes, beyond the

[6] https://www.sec.gov/rules/proposed/2018/ic-33046.pdf

compliance date revisions set out Release No. IC-33046, is unnecessary and could have the unintended effect of undermining the policy goals associated with the Final Rule.

In our opinion, the Final Rule embodies a well-conceived effort to build on current industry practices aimed at reducing the risk that funds will be unable to meet their redemption obligations. We further believe that the Final Rule's asset classification requirements will benefit the investing public by injecting additional rigor and discipline into funds' liquidity assessment procedures as well as providing the SEC with potentially useful information about liquidity risks of funds' portfolios.

ICE Data Services stands ready today to support our clients' liquidity risk management compliance workflow, including the associated classification requirements. As a vendor whose ICE Liquidity Indicators service has been in commercial use since shortly before the SEC first proposed a Liquidity Risk Management rule in 2015, we have observed first-hand how the evolution of requirements detailed in this rule has necessitated further enhancements to existing liquidity risk management practices in the fund community and refinements in vendor solutions.

Our ICE Liquidity Indicators service currently covers approximately 3 million global fixed income and equity securities, with available analytics updating on a daily basis. Today, we have a number of fund companies that subscribe to our ICE Liquidity Indicators service, which includes access to liquidity bucket classification data[7] for their portfolio securities based on their particular assumptions. Our clients leverage this service today in support of their ongoing liquidity risk management best practices and as part of their preparations to comply with the Final Rule. Based on our many discussions with industry participants going back to 2014, we understand that we are not alone in our commitment to offer the fund industry a set of tools designed specifically to support compliance with the Final Rule.

Updated SEC guidance on Rule 17a-7 (cross trading) could benefit funds and the public

Beyond the specific questions raised within the Proposed Rule, ICE Data Services encourages the SEC to revisit guidance on Rule 17a-7 cross-trading activities as the Commission considers amending the current Investment Company Liquidity Risk Management rules. We believe it would be appropriate for new guidance to include conditions designed to ensure that terms of a cross-trade transaction are fair and reasonable among all participants and advisory clients.[8]

[7] ICE Data Services first implemented the SEC liquidity bucketing classification functionality in May, 2017 - approximately 7 months after the SEC adopted the Final Rule.
[8] Our views on cross-trading were also spelled out within a comment letter on an earlier SEC liquidity rule proposal submitted by ICE Data Pricing & Reference Data, LLC (fka Interactive Data Pricing and Reference Data LLC): https://www.sec.gov/comments/s7-16-15/s71615-23.pdf (pages 9-11)

Conversations with ICE Data Services clients suggest that many funds would consider making greater use of cross-trading as a liquidity risk management tool if the SEC were to replace existing staff guidance and no-action letters with clearly codified rules to govern cross trading. Provided that appropriate safeguards are in place to ensure fair practices, we believe that increased reliance on cross-trading between funds in the same complex could help reduce the incidence of duplicative transaction costs, to the benefit of investors.

The discussion of cross-trading within the Final Rule highlighted concerns about the availability of accurate valuation information, which is related to a security's relative liquidity.[9] Within the context of a fund's liquidity risk management program, we believe that independent, third-party evaluated prices can serve as a viable reference point for fair cross-trading execution levels. We encourage the SEC to consider codifying a role for independent evaluated prices within Rule 17a-7 subject to the following conditions:

- (i) the execution can be demonstrated to occur at the mid-point of the bid and ask
- (ii) the price can be demonstrated to be contemporaneous to the time of the transaction; and
- (iii) the price can be demonstrated to be driven by observable market data.

Codification could also incorporate additional safeguards such as requiring both participants in a cross-trade transaction to adhere to the fiduciary best interest responsibility, and requiring the trade to be consistent with both funds' respective investment policies.

Conclusion

ICE Data Services appreciates the opportunity to present our views on the proposed amendments of liquidity risk management program requirements for registered investment companies. We strongly support the Commission's policy goal of promoting investor understanding of the liquidity risks of the funds in which they have invested, while minimizing risks of investor confusion. We stand ready today to support our clients' liquidity risk management compliance workflow, including the associated classification requirements.

[9] "We note that less liquid assets, by definition, are less likely to trade in highly active markets that produce readily available market quotations, which may make it more difficult to ensure that the terms of a cross-trade transaction are fair and reasonable to each participating investment company or other advisory client and do not involve overreaching. As one commenter noted, 'rule 17a-7 broadly requires the availability of accurate valuation information with respect to any security proposed to be traded from one adviser-directed account to another. This effectively requires such securities to be relatively liquid.' Moreover, the absence of highly active markets for less liquid assets may exacerbate the concern discussed above relating to "dumping" undesirable securities, because limited markets for such assets indicates that there are fewer alternate options for disposing of the assets. Similarly, the absence of highly active markets for less liquid assets may exacerbate the concern relating to a transfer of assets that is inconsistent with the investment objective, investment strategies, or risk profile of each participating investment company or other advisory client." SEC Release No. 33-10233, pages 245-246.

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We welcome the opportunity to continue our dialogue with the SEC, industry trade groups, and participants in the fund community as we continue progressing as an industry.

Summarizing our responses to particular questions raised in the Proposed Rule:

- Allowing a fund group to report each sub-advised sleeve separately may remove a potential operational obstacle that investment managers face in implementing the current rule, without diminishing the value of the data being reported. ICE Liquidity Indicators service currently supports the ability of a client to identify multiple sleeves and generate independent liquidity classifications for each sub-advisor's particular investment positions and assumptions.
- If the entire position approach were to be permitted for the purposes of determining liquidity classifications for portfolio securities, we believe it needs to be applied to all portfolio holdings, rather than allowing the entire positon approach to be used for subsets of the portfolio.
- Compliance dates for the proposed amendments should align with the compliance date for the other liquidity-related requirements of rule 22e-4 and Form N-PORT, rather than with the general compliance date for Form N-PORT.

In addition, as the Commission considers amending the current Investment Company Liquidity Risk Management rules, we believe it would be appropriate to consider providing updated guidance on Rule 17a-7 cross-trading activities.

Regards,

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