Mr. Brent J. Fields September 27, 2018
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Exchange Traded Funds: File No. S7-15-18

Dear Mr. Fields,

The Bank of New York Mellon and BNY Mellon Capital Markets (together "BNY Mellon"), appreciates the opportunity to submit comments to the Securities and Exchange Commission ("SEC") regarding the SEC's proposed new rule 6c-11 ("ETF Rule") as described in regulatory notice 33-10515.

BNY Mellon is currently one of the largest Custodians and Fund Administrators for exchange traded funds[1] ("ETFs") in the United States by number of accounts serviced and provides an array of products and solutions to the ETF ecosystem, including fund and participant custody, administration, liquidity, research, advisory and investor access to ETFs. BNY Mellon's experience with ETFs has allowed the firm to be at the forefront of innovation through the delivery of insights and solutions. Given the historical and anticipated continued growth of ETFs, and in conjunction with the dynamic capabilities of the ETF marketplace, BNY Mellon appreciates the SEC's efforts to create a new rule for ETFs registered under the Investment Company Act of 1940 ("40 Act"). BNY Mellon considers the rule long overdue and a step in the right direction, but also believes that the ETF Rule in its current form requires clarification and modification to achieve its intended effect.

Comments:

1. ETF application to structures: The rule should be applied across all ETFs registered under the 40 Act. BNY Mellon feels that excluding master-feeder products and share classes from the rule could leave the ETF field uneven. Critical to the function of ETFs are the necessary disclosures to inform shareholders and prospective shareholders, regardless of structure, of the product's strategy and performance. Excluding these two structures from the rule omits them from new disclosure requirements the rule seeks to establish.

2. Portfolio transparency: We believe the disclosure of portfolios, inclusive of custom baskets, is an excellent requirement. That said, we believe the rule can go further in standardizing the disclosure requirements. Items such as security identifier (ISIN, CUSIP or SEDOL, if available); listing venue of the underlying security (if applicable); the underlying security closing price used in the NAV calculation; portfolio weights; notional value for fixed income, forwards, and futures; and the current market value of each security based on that closing price used for NAV publication should be elements of the standardized disclosure requirement. As part of the standardization of ETFs, our view is that this rule should be applied across the ETF community, regardless of whether the issuer is operating under its specific exemptive relief or under the ETF Rule. Lastly, all portfolio disclosure requirements should be harmonized with the listing rules for ETFs

[1] DTCC ETF custodian records, August 30, 2018.

set by the SEC division of Trading and Markets and applicable ETF listing exchanges. With the number of ETFs in the U.S. continuing to increase, the need for easy comparison by investors is critical, standardization would facilitate such comparisons.

3. <u>Custom baskets:</u> We agree that custom baskets should be made available to all ETF issuers and applaud the SEC's move towards leveling the playing field. While the need for policy and procedures is necessary, the requirement to disclose custom baskets prior to market open leaves several open questions that need to be answered:

    a. Will all custom baskets have to be published prior to market open?

    b. How will the rule co-exist with the exchange's listing requirements?
        i. In the event that not all baskets are published prior to market open, will this require the exchanges to halt trading?

    c. Will basket data be required to be displayed, i.e. security identification, number of shares, etc., in the same manner as for standard baskets currently?

4. <u>Valuations:</u>
    a. <u>IOPV/IIV:</u> We agree that the removal of the Intraday Indicative Value / Indicative Optimized Portfolio Value ("IIV/IOPV") is warranted. Any removal of or changes to the IIV/IOPV should be done within the Division of Trading & Markets in coordination with the exchanges. If the SEC decides that the IIV/IOPV must be maintained and published, then we suggest that the intraday pricing should tick every second during U.S. trading hours instead of the current requirement which states every 15 seconds.

    b. <u>Median Bid/Ask:</u> The requirement to calculate the median bid/ask spread for a prior year spread requires a large dataset that can be costly, especially for heavily traded products. Such a calculation would require that the calculation agent pull every single quote and determine the time-weight of each quote based on how long each quote was the best. BNY Mellon submits that this spread statistic would not provide the appropriate information for investors, especially retail investors, on the tradability and costs associated with purchasing or selling an ETF. If the SEC does pursue this requirement, BNY Mellon believes that the time frame for such a calculation should be 30 days ensuring that recent market events are not skewed by historical data. We suggest 30 days based on a recent case study performed by BNY Mellon on spreads in connection with a change in a ETFs creation unit size. In our case study, a suite of ETFs reduced their creation unit size by 20%, causing a reduction in their spreads by an average of 15 bps. This decrease in the ETFs bid/ask spread provided an improved measure of the median bid/ask.

We are pleased to see the continued focus by the SEC on its attempt to standardize the ETF market for existing issuers and for future potential entrants. As a critical part of the ETF ecosystem, BNY Mellon supports the efforts by the SEC to maximize investor choice and ease of entry into the ETF marketplace. We believe that with some of the aforementioned changes to the proposed ETF Rule will provide the ETF industry with the foundation for continued innovation.

We thank the SEC for the opportunity to comment on the ETF Rule. If you have any questions about BNY Mellon's comments or would like to discuss any of the points raised, please contact Ryann Torres at [redacted].

Sincerely,

Jeff McCarthy
CEO, ETF Services
BNY Mellon