J.P.Morgan
Asset Management

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April 11, 2022

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Money Market Fund Reforms (File No. S7-22-21)

Dear Ms. Countryman:

J.P. Morgan Asset Management ("JPMAM")[1] is pleased to respond to the Securities and Exchange Commission's (the "SEC" or the "Commission") proposal on money market fund ("MMF") reforms (the "proposed rules").[2] JPMAM is one of the largest managers of MMFs, with over $656 billion in assets under management globally. In the United States, we currently manage approximately $450 billion in MMFs, across government and treasury MMFs (~$363 billion), institutional prime MMFs (~ $69 billion), retail prime MMFs (~$6 billion), and tax-exempt MMFs (~$11 billion).

Like many other MMFs, JPMAM's institutional prime and, to a lesser extent, tax-exempt funds saw meaningful redemptions in March 2020 as a result of the financial market's reactions to the coronavirus pandemic and government efforts to combat it.[3] We are therefore supportive of the SEC's efforts to improve the resilience of MMFs in the US. We evaluated each of the policy options set forth in the December 2020 Report of the President's Working Group on Financial Markets

[1] J.P. Morgan Asset Management is a marketing name for the investment management subsidiaries of JPMorgan.

[2] Money Market Fund Reforms, Release No. IC-34441 (Dec. 15, 2021) 87 Fed. Reg. 7248 (Feb. 8, 2022) ("Proposing Release").

[3] These market forces have been well explored elsewhere. *See, e.g.,* "The Impact of COVID-19 on Economies and the Financial Markets," Report of the COVID-19 Market Impact Working Group, ICI, October 2020, available at https://www.ici.org/pdf/20_rpt_covid1.pdf; Financial Stability Board, "Holistic Review of the March Market Turmoil," Nov. 17, 2020, available at https://www.fsb.org/wp-content/uploads/P171120-2.pdf. *See also* PWG letter, *infra* note 5, for a discussion of how these market forces affected JPMAM's MMFs.

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("PWG Report")[4], and provided views in a comment letter to the SEC in April 2021.[5] After careful consideration of the SEC's proposed rules for MMFs and the discussion in the Proposing Release, we have modified our recommendations slightly to address the SEC's concerns. In summary:

- We strongly support removing the tie between MMF's weekly liquid assets (WLA) and the obligation for a board to consider imposing a fee or gate; we believe this is the single most important reform to enable MMFs to meet elevated redemption levels.

- We do not oppose raising WLA and daily liquid assets (DLA) to provide a more substantial buffer; however, we believe the proposed 25 percent DLA and 50 percent WLA are too high; we recommend 20 percent DLA and 40 percent WLA.

- We continue to believe that swing pricing does not work for institutional MMFs, even with the SEC's proposed modifications, and that its imposition would result in a substantial reduction in both assets in and number of such funds offered. Although we do not believe additional reforms are necessary, should the SEC insist on adding an antidilution levy, we believe a tiered liquidity fee could achieve the same goals with fewer negative consequences.

I. Background

MMFs play a critical role in the functioning of US financial markets and the global economy. We believe the proposed rules, in particular swing pricing, would impair the functionality and attractiveness of institutional MMFs and, as a result, substantially reduce their assets under management (AUM), and lead to industry consolidation. As discussed in more detail below,[6] this view is informed by discussions with clients of our institutional prime MMFs, who shared their thoughts and likely reactions to the proposed changes. In considering the costs and benefits of the proposed rules, we urge the SEC to consider the potential knock-on impacts of a substantial reduction in prime AUM across the short term market ecosystem.

a. Commercial Paper, Certificates of Deposit, and Dollar Funding

Prime MMFs collectively represent approximately $810 billion in AUM. They hold nearly $450 billion of dollar-denominated credit products such as commercial paper (CP), certificates of deposit

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[4] Report of the President's Working Group on Financial Markets: Overview of Recent Events and Potential Reform Options for Money Market Funds, Dec. 2020, available at https://home.treasury.gov/system/files/136/PWG-MMF-report-final-Dec-2020.pdf.

[5] *See* Letter from John T. Donohue, CEO, Americas, J.P. Morgan Asset Management, to Vanessa M. Countryman, Secretary, Securities and Exchange Commission, dated April 12, 2021, available at https://www.sec.gov/comments/s7-01-21/s70121-8662454-235280.pdf ("PWG letter").

[6] *See infra* §IV.b.

(CDs), time deposits and non-traditional repo, much of it issued by international wholesale banks to fund dollar-denominated lending.[7] Absent this funding, these banks would likely reduce their lending and investing in dollar-denominated US assets (*e.g.,* corporate and municipal loans or US treasuries), which in turn would reduce dollar-based liquidity. A portion of this CP is also issued by industrial companies,[8] allowing highly rated companies to raise billions in funds swiftly and cheaply.

The market for these assets has been supported by a surplus of state and local government liquidity. The American Rescue Plan (2021) included $350 billion in relief funding for states and local governments; it is estimated that roughly $100 billion of this amount is currently invested in the CP market.[9] As relief funding is put to work over the balance of this year, funded in part by maturing CP, spreads are likely to widen. A reduction in assets in prime MMFs would likely amplify this impact. J.P. Morgan Research estimated that, other things being equal, every $100 billion reduction in prime MMFs is worth approximately 3 basis points (bps) of widening to the 3 month LIBOR/Bills spread.[10]

Indeed , the relationship of prime MMFs to dollar funding markets has been evident in recent weeks. With the Russian invasion of Ukraine and the widely anticipated commencement of an interest rate tightening cycle from the Federal Reserve, prime MMFs have shortened their weighted average maturities and increased portfolio liquidity levels substantially. As a result, while prime MMF AUM remained stable, the cost of rolling over CP and CDs that matured prior to the Federal Open Market Committee's (FOMC) March 16, 2022 monetary policy meeting rose substantially. The spread between 3 month LIBOR and 3 month OIS widened from 10.5 bps on the day of the Ukraine invasion on February 24, 2022 to 42.7 bps on March 16, 2022.[11]

b. Municipal Funding

Municipal issuers such as schools, hospitals, and highway administrations also rely heavily on the short-term markets. As of February 2022, prime and municipal MMFs held approximately $102 billion of municipal debt, approximately $24 billion of which was held in institutional funds.[12] In periods of rising interest rates, short-term borrowing allows municipal issuers to benefit from a lower cost of capital for projects. In many cases, municipal issuers need to access the short-term markets as temporary financing to begin infrastructure projects while they put overall project

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[7] J.P. Morgan analysis of Crane MMF data as of Dec. 31, 2021.

[8] *Id.*

[9] Barclays US Money Markets: CP and non-money fund buyers, March 9, 2022.

[10] J.P. Morgan Short-Term Market Outlook and Strategy, Dec. 17, 2021.

[11] J.P. Morgan analysis of Crane MMF data as of Feb 28, 2022.

[12] J.P. Morgan analysis of Crane MMF data as of Feb 28, 2022.

financing in place. Short-term borrowing for annual cash flow needs also allows municipal issuers to plan for the natural timing mismatch between revenues (*e.g.*, property taxes) and expenditures. Any reductions in institutional prime or municipal MMF AUM as a result of regulatory changes to the product structure could ultimately lead to increases in debt service costs to municipalities and restrict their ability to perform critical operations.

c. Cash Management Options for Investors

As an investment option, institutional prime MMFs serve as an alternative to bank deposits for cash investors who value the same-day liquidity, diversification, and returns these funds offer. Banks frequently position MMFs with deposit customers as a means to help manage their balance sheets more effectively. Providing an alternative to deposits is more important as leverage-based requirements continue to become increasingly binding for large US banks, prompting some banks to push deposits off their balance sheets.[13]

d. Migration to Government MMFs – Impact on Monetary Policy

The most likely outcome of a reduction in the desirability of prime MMFs is a migration to government MMFs. The industry saw such movement in 2016 leading up to the implementation of the 2014 reforms, when roughly $1 trillion of AUM shifted from prime to government MMFs over the course of approximately 12 months.[14] Another sizeable migration would put downward pressure on the yields of repurchase agreements, treasury bills and agency discount notes at a time when the Federal Reserve is expected to tighten monetary policy and substantially reduce the size of its balance sheet. Lower yields in the front end government markets ecosystem would pull down the Federal Funds Effective Rate (FFE), potentially forcing the Federal Reserve to take measures to push FFE back to an acceptable level within the Federal Funds Target Range.

Such a migration could also cause increased reliance on the Fed's Reverse Repurchase Facility (RRP), which could impact the effectiveness of the Fed's forthcoming quantitative tightening (QT). As part of that process, the Fed plans to reduce holdings of US treasuries and agency mortgage backed securities (MBS) on the asset side of its balance sheet. At the same time, the Fed will reduce

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[13] *See* Francisco Covas, Anna Harrington, Bill Nelson, and Pat Parkinson, "Fix Bank Leverage Requirements Now, in Advance of Upcoming Treasury Market Stress," Oct. 2021, available at https://bpi.com/fix-bank-leverage-requirements-now-in-advance-of-upcoming-treasury-market-stress/; *see also* Orla McCaffrey, "Don't Expect Rising Interest Rates to Boost Your Savings Account," *Wall Street Journal*, Feb. 9, 2022 ("Banks are unlikely to pay depositors more after the Fed first lifts rates because the lenders don't need the money."); Polo Rocha, "Why Banks Will be Slow to Raise Deposit Rates After Fed Hike,) *American Banker,* Feb. 24, 2022 ("Banks remain flooded with liquidity, so the industry's current predicament is trying to grow loans, not attract deposits.").

[14] Office of Financial Research, U.S. Money Market Fund Monitor, available at https://www.financialresearch.gov/money-market-funds/us-mmfs-investments-by-fund-category/.

RRP and bank reserves on the liability side of its balance sheet. Increased RRP usage caused by incremental demand for government MMFs would extend the timeline for QT.

e. The Short-Term Market Ecosystem

Finally, while we recognize the importance of examining the resilience of MMFs following the experiences of March 2020, it is important to note that the challenges were not isolated to prime and tax-exempt MMFs. As market participants demanded cash, a number of market forces, some of them self-perpetuating, caused liquidity to tighten. As discussed in more detail in our PWG letter, modifications elsewhere in the short-term market ecosystem may also be warranted, including enhancing banks' ability to intermediate during times of crisis, reducing the procyclicality of initial margin models at central counterparties, and potentially enhancing the market infrastructure for high quality short term debt. Given the interconnectedness of the short-term market, it is critical to ensure that the regulations in each area are properly calibrated on both a standalone basis and in aggregate, with the aim to strike a balance between promoting safety and soundness of the financial system while also facilitating appropriate amounts of risk-taking and intermediation.

II. Removal of Fee and Gate Provisions

JPMAM strongly supports the SEC's proposal to remove provisions requiring MMF boards to consider the imposition of liquidity fees and/or redemption gates when a MMF's WLA falls below 30 percent of AUM. Indeed, we believe this is the single most impactful structural change the SEC could make to enhance the resilience of MMFs. We also support the removal of the requirement that a board impose a fee when a fund's WLA falls below 10 percent unless it determines that imposing such a fee would not be in the best interests of the fund.

JPMAM believes that the redemption pressure experienced by prime and tax-exempt MMFs in March 2020 was driven primarily by two factors in addition to the cash flow uncertainty triggered by the pandemic-related economic shutdown. First and foremost, investors were concerned about the possibility of gates being imposed as MMFs' WLA approached 30 percent. Secondly, some investors were concerned about deteriorating market conditions and declining prices, causing them to seek to stem losses.

As discussed in our PWG letter, we conducted an informal survey of JPMAM clients with substantial holdings in our institutional prime MMF. According to the feedback we received, clients perceived the 30 percent WLA buffer as a "bright line" not to be crossed, and were particularly concerned about the risk of gates. To avoid falling below the 30 percent threshold while meeting investor redemptions, JPMAM, like other MMF sponsors, sold assets into the secondary market, creating further downward pressure on the prices of those assets and exacerbating stresses in both the secondary markets and on MMFs specifically.

Removing the tie between WLA and the imposition of gates could measurably reduce investor redemptions, both by alleviating investors' fear of losing access to their assets due to gates and, in doing so, reducing downward pricing pressure on longer-dated assets in MMF portfolios and further deterioration of the MMF's net asset value (NAV). As we articulated in our PWG letter, we believe a MMF that imposed a gate would ultimately need to liquidate in any event; therefore, eliminating broader board discretion regarding the imposition of gates from Rule 2a-7 and relying on the existing framework in Rule 22e-3 would be sufficient.

III. Increasing WLA and DLA

Should the SEC remove the tie between WLA and gates, we support an increase in minimum DLA and WLA requirements. JPMAM has historically aimed to manage its institutional prime and municipal MMFs with WLA of 40 percent or greater, both to ensure adequate liquidity and to avoid causing investor concerns regarding the risk of gates. If the SEC removes the tie between WLA and gates, that informal "floor" will disappear, and absent a change to these requirements, MMF sponsors could actually be incentivized to carry less weekly liquidity, which indicates an increase may be warranted. We believe, however, that the SEC's proposal of 25 percent DLA and 50 percent WLA is too high; we propose 20 percent and 40 percent respectively.[15]

Consistent with the findings cited in the Proposing Release,[16] JPMAM's largest institutional prime MMF (JPMorgan Prime Money Market Fund) experienced a 31 percent decline in AUM between March 5 and March 24, 2020; the largest single-week decline was a combined 25 percent outflow between March 16 and March 20, 2020. As noted above, we believe a substantial portion of this redemption activity was a direct result of clients' concerns about gates. Further, such activity triggered downward pricing pressure on MMF assets, leading to additional redemptions. With the proposed de-linking of gates and WLA, we would expect a similar economic scenario to result in considerably fewer redemptions.

Even without a meaningful reduction in redemptions, however, 40 percent WLA would be sufficient. A fund that maintained that level of WLA and experienced a 25 percent outflow over a single week would end the week with 20 percent WLA, assuming it sold no term securities and experienced no movement of longer-dated assets into the WLA bucket due to approaching maturities.[17] JPMorgan Prime Money Market Fund began this period with just over 39 percent

[15] We generally support the proposed requirements for a fund to notify the board upon a "liquidity threshold event." However, we propose that the "liquidity threshold event" definition correspondingly be adjusted to require board notification when DLA and WLA go below 10 percent and 20 percent, respectively.

[16] Proposing Release at 15 (stating that publicly offered institutional prime funds had approximately a 30 percent redemption rate from March 11 to 24).

[17] For example, a fund with $100 million AUM would hold $40 million in WLA. If that fund used WLA to meet $25 million in net outflows, it would have $15 million remaining WLA in a $75 million fund, or 20 percent.

WLA and ended the week with 34 percent, due to a combination of rolling maturities and asset sales. During this period the NAV declined slightly, hitting a low of $0.9992.

It is important to note that there are real economic consequences to changing these requirements. Investors choose prime MMFs to enhance income, relative to other cash vehicles such as bank deposits or government MMFs. In particular, investors in institutional prime MMFs (*i.e.,* those with a floating NAV) intentionally exchange the convenience of the stable NAV offered by alternative products for this enhanced earning potential. As this premium is reduced relative to other products, prime MMFs are likely to lose assets. Based on comparisons between Fed Funds and one- and three-month LIBOR rates over the last 20 years, we estimate that a ten percent increase in WLA will reduce the yield in a prime fund by two to three basis points. As discussed in more detail below, we are particularly concerned about this outcome in connection with the enhanced uncertainty and risk that would result from the SEC's proposed approach to swing pricing.

IV. Antidilution Levies – Swing Pricing and Liquidity Fees

We continue to believe that swing pricing does not work for institutional MMFs, even with the SEC's proposed modifications. In addition to the client concerns and operational challenges it raises, swing pricing is not fit for purpose because its application is far too broad. We do not believe that any antidilution levy is necessary or beneficial in the ordinary course, or even on days with unusually high redemption volume, unless there is a coincident market disruption; any antidilution mechanism should be narrowly tailored for these rare occasion. For these reasons, we urge the SEC to revisit the redemption fee we previously recommended, with certain modifications to address the SEC's concerns. Below we discuss a) the occasions when an antidilution levy may – or may not – be appropriate; b) the challenges with and likely outcomes of imposing swing pricing; and c) our proposed redemption fee.

a. When is an antidilution levy warranted?

Any proposed antidilution levy should be fit for purpose. Therefore, as a preliminary matter, it is critical to understand when such a levy is needed. We believe that for MMFs, the risk of meaningful dilution occurs only when there is both 1) a disruption in underlying markets that cause challenges in pricing money market securities, and 2) a sufficiently high level of redemptions that the fund cannot meet them through existing liquid and maturing assets, and must transact in the markets. Any antidilution levy should be narrowly designed to be utilized under those circumstances.

Dilution occurs in a mutual fund when investor purchases or redemptions impact the value of the shares belonging to remaining shareholders.[18] This typically occurs when a fund experiences

[18] *See, e.g.,* Open-End Fund Liquidity Risk Management Programs; Swing Pricing; re-Opening of Comment Period for Investment Company Reporting Modernization Release, Release Nos. 33-9922, IC-31835 (Sept. 22, 2015), 90 Fed. Reg. 62274 (Oct. 15, 2015) at 7.

transaction costs associated with buying or selling portfolio securities to meet subscriptions or redemptions.[19] In a long-term fund, such buying or selling is likely to be necessary once a fund experiences a nominal amount of subscriptions or redemptions (JPMAM's long-term funds in Luxembourg currently maintain a 1 percent swing threshold[20]), because these funds aim to be fully invested; holding a large amount of cash to accommodate flows would cause "cash drag" (another form of dilution). Swing pricing is intended to compensate remaining shareholders for these transaction costs.

Unlike long-term mutual funds, MMFs – particularly institutional MMFs – are designed to accommodate large flows. MMF investors are not concerned with "cash drag"; they intentionally utilize such funds to maintain liquidity. MMFs are managed not to maximize returns, but to offer some returns while maintaining the ability to meet liquidity demands.[21] They maintain substantial short-term liquidity on hand at all times and invest in highly liquid, low risk assets. Thus, in the vast majority of circumstances, MMFs do not need to transact in portfolio securities to meet subscriptions and redemptions.

Moreover, as the Proposing Release explains, institutional MMFs typically value their portfolios using the bid price of underlying securities.[22] As a result, any spread costs associated with selling these securities are already captured in the fund's NAV. In our experience, there are no incremental costs associated with selling the securities these funds hold. Because spreads are already reflected in the NAV and there are typically no costs incurred by the fund in connection with selling securities in ordinary markets, in the ordinary course there is *no meaningful dilution experienced* by the fund.

In our view, dilution is only likely to occur in a MMF when two factors coincide – a high level of redemptions and market conditions that render it difficult to transact in portfolio securities at their recorded bid prices. Any antidilution mechanism should seek to narrowly address these circumstances. For the reasons discussed below, we believe swing pricing is not fit for purpose in MMFs; following that discussion, we propose an alternative fee structure designed to address such occurrences.

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[19] *See id.* at 143.

[20] Swing pricing: The J.P. Morgan Asset Management approach in the Luxembourg domiciled SICAVs JPMorgan Funds and JPMorgan Investment Funds, 23 Sept. 2020, *available at* https://am.jpmorgan.com/content/dam/jpm-am-aem/emea/lu/en/communications/lux-communication/swing-pricing-ce-en.pdf.

[21] *See, e.g.,* Summary Prospectus, JP Morgan Prime Money Market Fund, July 21, 2021, available at https://am.jpmorgan.com/JPMorgan/TADF/4812A0367/SP?site=JPMorgan (stating that the fund's objective is to "seek current income while seeking to maintain liquidity and a low volatility of principal").

[22] It is our understanding that this is common practice; however, if some funds do not currently do so, the SEC could consider making it a requirement.

b. Challenges with and likely outcomes of imposing swing pricing

The SEC's proposal contemplates two thresholds for enacting swing pricing – any net redemptions, and net redemptions exceeding four percent of a fund's AUM. As discussed above, we do not believe that dilution occurs, and therefore that an antidilution mechanism is appropriate, solely by virtue of redemptions, *i.e.,* without evidence that a MMF would be unable to transact portfolio securities at the bid price. We therefore believe the proposed approach to swing pricing is not sufficiently tailored to accomplish its purpose. Moreover, swing pricing presents a range of operational challenges and investor concerns that we believe would substantially reduce the utility and desirability of affected MMFs.

In the first instance, *i.e.,* before redemptions exceed the "market impact threshold" of four percent of AUM, the proposed rules would require MMFs to add to their NAVs a "swing factor" that includes spread costs and brokerage commissions, custody fees, and other charges, fees and taxes. Although the proposal would require funds to undertake a process to identify and evaluate this swing factor, the SEC appears to agree that for funds that value their securities at the bid price (as institutional MMFs typically do), there is no need to adjust the price at which an investor redeems.[23]

Next, the proposed rules seek to identify a point at which dilution may occur from the sale of underlying securities that would not be captured in the bid – the "market impact threshold" (MIT). At this point, a MMF would have to add a swing factor to its NAV that captures not just the transaction costs described above, but also the market impacts of transacting. The Proposing Release explains that "market impacts are designed to estimate the full liquidity costs of selling a vertical slice of a money market fund's portfolio because, for a money market fund's less liquid investments, market impacts may impose significant costs on a fund, particularly when net redemptions are large or in times of stress."[24] We find the SEC's proposed approach – both the concept and identification of a MIT – to be flawed, for several reasons.

First, as discussed above, we believe dilution in a MMF is unlikely to occur simply because a MMF has large redemptions. MMFs regularly see predictable, high levels of inflows and outflows (*e.g.,* at month and quarter end). JPMAM maintains a "cash flow calendar" that tracks expected subscriptions and redemptions, with input from client-facing representatives, to assist in cash flow management. Given the short duration of MMF assets generally, portfolio managers can typically plan for these redemptions by allowing portfolio assets to mature, as well as transacting in the secondary market at bid prices.

[23] Proposing Release at 49 ("We understand that money market funds may already price portfolio securities at the bid price when striking their NAVs. As a result, the requirement to adjust the fund's current NAV by a swing factor when it has net redemptions that do not exceed the market impact threshold would generally affect institutional funds that use mid-market pricing to compute their current NAVs.").

[24] Proposing release at 52.

Second, the SEC's proposed MIT of redemptions exceeding four percent of a fund's AUM is far too low. It appears that the SEC backed into this threshold based on a presumption that the threshold should be crossed on five percent of trading days. The only rationale provided for this presumption is that five percent is a standard confidence level in statistical testing; the Proposing Release also identifies one percent as a standard confidence interval, but does not explain why the SEC chose the higher level.[25] After backing into the four percent threshold, the Proposing Release concludes that when daily net redemptions reach four percent of AUM, "most funds may experience significant market impact if they were to sell a pro-rata share of their portfolio holdings to meet redemptions."[26] It provides no support for this statement. Given that 25 to 50 percent of the fund would already be in daily or weekly liquid assets, we do not believe that this level of redemptions would trigger sufficient asset sales to create downward pricing pressure (*i.e.,* market impact).

Even if we agreed with the presumption that market impact approach should apply on five percent of trading days, the Commission's conclusion that this occurs at a daily redemption level of four percent of AUM is flawed. Based on our own analysis, this level of redemptions occurs far more frequently in typical institutional MMFs, in some cases as often as 40 to 50 percent of trading days.[27] The likelihood of exceeding the MIT is even further heightened under the proposed approach for funds that offer multiple settlement periods per day. The proposal would require a fund to divide four percent by the number of pricing periods offered per day to determine whether the MIT was triggered. In our experience, regular and predictable flows such as those associated with the use of these funds as overnight cash sweep vehicles would routinely trigger a MIT during the first settlement period, followed by a return of those assets at the end of the day. There is no empirical evidence that an antidilution mechanism is necessary as frequently as the SEC proposal would require.

If swing pricing were easy to implement and adopt, one might argue that over time the data underlying the assessment of swing factors would bear out our view. That is, even when MMFs exceeded the MIT, the analysis would typically show a minimal market impact associated with selling a vertical slice of the portfolio, and thus the actual NAV adjustments would be negligible. However, this argument fails to consider the operational costs and challenges associated with implementing swing pricing, investors' reactions, and the likely consequences to the institutional prime and municipal MMF marketplace.

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[25] Proposing Release at 219.

[26] Proposing Release at 219-20.

[27] We attempted to replicate the SEC's analysis as described in Sec. III.D.4.a. of the Proposing Release, using data from CraneData. We found that many publicly offered institutional MMFs exceeded four percent redemptions far more often than five percent of trading days; we believe the SEC arrived at an artificially low number by including in its sample MMFs that are used for different purposes, such as central funds not offered to the public; these funds experience much steadier flows by virtue of their utilization.

As an operational matter, if swing pricing is adopted as proposed, JPMAM would likely discontinue offering intraday redemptions rather than undertake the assessment and application of a swing factor multiple times per day, which is seemingly infeasible. Even with a single settlement period, the end-of day operational process would likely take several hours,[28] so unless a fund stopped accepting transactions early (*i.e.,* before 4 p.m.), it would be unlikely to meet the 6:45 p.m. Fedwire deadline for same-day settlement. Ultimately, impacted MMFs may need to settle on a T+1 basis, which is problematic for investors and may compromise their cash and cash equivalent status, a coveted feature for corporate treasury investors.

Even if some MMF sponsors could operationalize swing pricing, we expect the costs to be substantial; only the largest funds would likely remain. Larger MMFs may also be more desirable to institutional investors, since such funds would require a higher absolute level of redemptions to trigger an AUM-based MIT. Taken together, we expect swing pricing would ultimately lead to substantial market consolidation, leaving only the largest institutional prime and municipal MMFs.

Finally, we believe that the proposed approach to swing pricing is likely to drive many clients out of institutional prime and municipal MMFs. JPMAM conducted a focus group of institutional clients, including representatives from well-known large public companies, to gauge their reaction to the swing pricing proposal. These clients identified several serious concerns that would at minimum cause them to carefully consider whether the additional returns from prime or municipal MMFs relative to other cash management vehicles outweigh these new risks.

First, as the SEC has previously identified,[29] swing pricing can cause short term volatility in a fund's NAV. This means that the recorded value of an investor's cash position could appear to fluctuate on a day to day basis, which could present internal accounting challenges. Perhaps more importantly, should a downward swing take place at the end of an accounting period, *i.e.,* a day on which a public company marks and reports its own financials, the company's cash position could appear depressed, even though the expectation is that the NAV would recover the next day as a result of redeeming investors receiving the lower NAV. This concern was an important factor in our determination that, for MMFs, fees are preferable to swing pricing.

JPMAM's institutional clients also expressed concern about the uncertainty presented by swing pricing. Because the swing determination and NAV adjustment are tied to net flows, they by definition must occur after redemption orders are submitted. Thus, clients would be unable to make a decision about whether to accept the levy (*i.e.,* go forward with the redemption), or even have a

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[28] Based on JPMAM's use of swing pricing in Luxembourg, we estimate this process would take at least 3 hours.

[29] *See* Open-End Fund Liquidity Risk Management Programs; Swing Pricing; re-Opening of Comment Period for Investment Company Reporting Modernization Release, Release Nos. 33-9922, IC-31835 (Sept. 22, 2015), 90 Fed. Reg. 62274 (Oct. 15, 2015) at 197 ("Swing pricing could increase the volatility of a fund's NAV in the short term, because NAV adjustments would occur when the fund's net purchases or net redemptions pass the fund's swing threshold. Thus, the fund's NAV would show greater fluctuation than would be the case in the absence of swing pricing.")

precise calculation of expected redemption proceeds. The group also objected to the idea that they could be subjected to a swung NAV based on the actions of other investors, even if their own redemptions were small and/or they had provided advance notification of the redemption. And, because the proposed rules do not contemplate a cap on the swing factor, there is theoretically an unlimited downside. As one client observed, given current yield spreads between prime and government MMFs, several years of enhanced yield could be lost in a single redemption with a two percent NAV swing. Ultimately, that risk is unlikely to be worth the benefit.

c. Tiered liquidity fees

We believe that the delinking of gates from WLA is the single most impactful reform, and that additional reforms are not necessary. However, should the SEC insist on adding an antidilution levy, we believe a fee could achieve the objective of charging investors the cost of their liquidity, with fewer negative consequences.[30] JPMAM's PWG letter proposed a modified redemption fee that was more dynamic than the one and "up to two" percent fees in the current rule, to be more reflective of the true cost of liquidity to those demanding it. Our proposal also contemplated a pre-approved "playbook" that provided the board with clear direction on when to impose redemption fees and how to calculate them, to reduce board discretion and facilitate rapid implementation during market stress. While we continue to support such an approach, and believe sufficient clarity could be prescribed in advance, the Proposing Release explains the SEC's concern that such an approach would not facilitate timely action by the board.[31]

To address this concern, we now propose a prescribed approach for tiered redemption fees that does not require board approval. Under our proposed approach, an institutional prime or municipal MMF would be required to impose a fee on redeeming investors based on a combination of WLA and daily redemptions, as follows:

- If WLA falls below 30 percent (but above 20 percent) at the end-of-day NAV calculation, AND daily net redemptions are 10 percent of the MMF's assets or higher, a fee of 0.25 percent would be applied to all redemptions

- If WLA falls below 20 percent (but above 10 percent) at the end-of-day NAV calculation, a fee of 1.00 percent would be applied to all redemptions

[30] Indeed, the Proposing Release discusses the relative merits of liquidity fees at length. *See* Proposing Release at 226-232. *See also* Marco Cipriani, Antoine Martin, and Patrick McCabe, "Pricing Liquidity without Preemptive Runs," *Liberty Street Economics*, Jan. 31, 2022, available at https://libertystreeteconomics.newyorkfed.org/2022/01/pricing-liquidity-without-preemptive-runs/ (observing that redemption fees and swing pricing are economically equivalent).

[31] Proposing Release at 37 ("We are not proposing any of these approaches because we do not believe they would result in timely decisions to impose liquidity fees on days when the fund has net outflows that, due to associated costs to meet those redemptions, will dilute the value of the fund for remaining shareholders.").

- If WLA were to fall below 10 percent at the end-of-day NAV calculation, a fee of 2.00 percent would be applied to all redemptions

This approach addresses the SEC's concerns about timeliness and certainty, while the tiered structure serves as an approximation of the true cost of liquidity. Importantly, we believe this approach has a number of benefits relative to swing pricing. First, unlike swing pricing, it is narrowly tailored to activate only in times of stress. Second, it is far simpler to both operationalize and explain to clients than swing pricing. Third, it only impacts those who redeem, because the adjustment is external to the NAV (*i.e.,* remaining investors will not experience additional NAV volatility as with swing pricing); and finally, the maximum value addresses investor concerns about the potential unlimited downside risk of swing pricing.

We recognize that the triggers for this proposed approach will receive a great deal of scrutiny, particularly given the industry's feedback on the PWG Report that the "bright line" created by the requirement for boards to consider gates and fees at 30 percent WLA caused a cliff edge effect.[32] We believe this approach can be distinguished in several ways.

First, the first trigger for a fee includes not just a WLA level, which is publicly available, but net redemptions, which are not. Thus, the "cliff edge" would not be as visible as it is under the present rules. Perhaps more importantly, as noted above,[33] JPMAM's informal survey of clients indicated that their greatest concern was the potential risk of gates; investment risk and declining NAV were next, and fees were third.[34] This stands to reason, as gates affect all investors in a fund, by removing access to liquidity for an indefinite period and creating uncertainty, whereas fees only affect those who redeem. Finally, the first tier fee is substantially lower than the current fee of up to two percent that may be applied at 30 percent WLA. We believe that clients will be far less likely to engage in preemptive redemptions to avoid a 0.25 percent fee than to avoid gates or up to a 2 percent fee.

We considered recommending a tiered fee based solely on net redemption levels, which would more closely align with the proposed swing pricing triggers. However, as discussed in more detail above, we do not believe MMFs experience dilution solely due to a high level of redemptions, because funds may at times expect and prepare for a high level of redemptions by building liquidity naturally. We also considered potential market-based metrics, but could not settle on one that would accurately predict stress in the short term markets; for example, we explored the LIBOR-OIS

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[32] *See, e.g.,* Letter from Eric Pan, President & CEO, Investment Company Institute, to Vanessa Countryman, Secretary, Securities and Exchange Commission, dated April 12, 2021, available at https://www.sec.gov/comments/s7-01-21/s70121-8662926-235321.pdf; Letter from Lindsey Weber Keljo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association Asset Management Group, to Vanessa Countryman, Secretary, Securities and Exchange Commission, dated April 12, 2021, available at https://www.sec.gov/comments/s7-01-21/s70121-8664048-235345.pdf.

[33] *See supra* §II.

[34] *See* PWG letter at §I.d.

spread, which will sunset in 2023; the 5-year CDX, which we believe is too long in spread duration to accurately reflect money market conditions; and the Bloomberg 1-3 year US corporate index, which we observed to have incidents of widening that did not accompany an acute market stress. We concluded that these measures can be triggered for reasons other than market stress, such as the Fed adjusting interest rates, and therefore could produce false positives.

Ultimately, we concluded that WLA paired with net redemptions can act as a proxy for market stress. When the markets are functioning well, a portfolio manager can maintain WLA above the requisite level even in the face of strong redemptions by selling longer-dated assets at bid prices. In a stressed market, those assets will likely start to price at a meaningful discount; at this point, a portfolio manager, acting as a fiduciary, may determine that it is in the best interests of the MMF and its shareholders to allow the WLA to decline, and charge redeeming investors a fee. Under such circumstances, charging a redemption fee could both reduce dilution in the MMF and serve as a disincentive to further shareholder redemptions.

We believe that a tiered fee such as the one we proposed will accomplish the SEC's goals of forcing investors to bear the costs of liquidity when such costs actually arise, *i.e.,* when MMFs are unable to effectively sell longer-dated assets, while limiting the operational complexities and costs, and likely client outflows from institutional prime and municipal MMFs.

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JPMAM appreciates the opportunity to comment on the Commission's proposed rules. We would be pleased to provide any further information or respond to any questions that the Commission or the staff may have.

Very truly yours,

/s/ John T. Donohue

John T. Donohue
CEO, Americas

Cc: The Honorable Gary Gensler, Chair
The Honorable Hester M. Peirce, Commissioner
The Honorable Allison H. Lee, Commissioner
The Honorable Caroline A. Crenshaw, Commissioner
William A. Birdthistle, Director, Division of Investment Management