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

Re: Use of Derivatives by Registered Investment Companies and Business Development Companies (File No. S7-24-15)

Dear Ms. Countryman:

BNY Mellon appreciates the opportunity to comment on the proposal ("Proposal") of the Securities and Exchange Commission (the "Commission" or "SEC") with respect to the Use of Derivatives by Registered Investment Companies and Business Development Companies.

As a service provider to broker-dealers and investment advisors, we partner with our clients to help them serve their customers. In this role, we echo Commissioners Peirce and Roisman's concerns regarding the SEC's Re-Proposal regarding sales practice rules for leveraged and inverse exchange-traded funds (ETFs) and ask the Commission to proceed cautiously.

Deviation from existing regulatory regimes

Mandating complex forms and questionnaires which require brokers and investment advisors to determine whether an investor is "capable of evaluating the risks" of investment in leveraged ETFs is a novel departure from the SEC's traditional standards and appears to be at odds with existing regulatory regimes.

There are two existing regulatory regimes in place which protect investors. Regulation Best Interest (BI) will require broker-dealers to make recommendations that are based on a customer's "investment profile and the potential risks, rewards, and costs associated with the recommendation." Additionally, under traditional fiduciary principles investment advisers are required to make "a reasonable inquiry into the client's financial situation, level of financial sophistication, investment experience, and financial goals" in order to gain reasonable understanding of the client's objectives.

This rule also seems to be in contrast to the proposed changes to the accredited investor standard, which would allow investors to buy securities offered in private markets based on a standard that appears to be less stringent than the proposed standard despite the fact that these investors may not have the benefit of particular disclosures required by the federal securities laws and SEC rules. This proposal appears to deviate from these existing regimes for one narrowly drawn class of securities.

Precedent for fragmented compliance regimes and regulatory burdens

We are concerned that creating this new regime and treating one asset class differently than other asset classes, despite their similar risk profiles, could set a precedent that would not benefit investors. It is our belief that the proposal would lead to fragmented compliance regimes and heightened regulatory burdens that would not benefit investors.

As the SEC considers this proposal, we ask that they examine the differences between this proposal and the existing regimes, consider the precedent set by creating different investment standards for similarly situated asset classes, and examine using existing regulations, such as Regulation BI rather than creating a new regulatory standard.

Need for data collection and cost-benefit analysis

Finally, we also suggest a thorough data collection and cost-benefit analysis of this Proposal. There are two areas in particular that could benefit from this analysis.

First, the threshold question as to the need for more stringent regulations around leveraged and inverse funds. This does not mean that the SEC should not consider more stringent regulation. If this is a high risk area, it is better for the Commission to act proactively before investors are harmed. That said, given the complexities of this proposal and its broader effects on the SEC's regulatory landscape, we recommend a thorough collection of data followed by a cost-benefit analysis to examine how this proposal would affect investors and the Commission's existing regulations.

Second, the limit on leverage of 150%. There appears to be little data to support the 150% hard VaR cap and this may have a dramatic effect on funds currently above the cap which would require them to significantly alter their investment strategies or close. The Commission should study the number of funds and the assets under management which would be effected by this rule and whether this market disruption is warranted.

We appreciate the opportunity to comment on the proposal. If you have any questions regarding our comment letter or would like additional information, please feel free to contact my office at 617.722.7078.

Sincerely,

Jeffrey McCarthy
Global ETF Product Head
BNY Mellon Asset Services