



December 27, 2022

VIA ELECTRONIC SUBMISSION

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

Re: Outsourcing by Investment Advisers (File Number S7-25-22)

Dear Ms. Countryman:

Thank you for the opportunity to comment on the U.S. Securities and Exchange Commission's (the "SEC" or "Commission") proposed rule to prohibit registered investment advisers ("advisers") from outsourcing certain services or functions without first meeting minimum requirements set forth under the proposed rule (the "Proposed Rule").¹

This letter is submitted by Fairview Investment Services, LLC, and Fairview Cyber, LLC (collectively, "Fairview"). Fairview provides compliance administration and consulting services to advisers, including full-service support in conducting due diligence on service providers.² Working with an array of advisers and covered service providers uniquely positions Fairview to comment on the Proposed Rule and potential ramifications on investment advisers.

Fairview appreciates the necessity and importance of adequately overseeing service providers. However, we encourage the SEC to avoid adopting the Proposed Rule as written and respectfully request the SEC to consider the following:

1. The SEC should extend the comment period for the Proposed Rule.

The SEC announced the Proposed Rule on October 26, 2022, published it in the Federal Register on November 16, 2022, and required comments to be submitted by December 27, 2022. While we appreciate the opportunity to participate in the rulemaking process and provide comments on the Proposed Rule, a 60-day comment period is inadequate for the public to review the 232-page proposal and comprehensively respond to the questions posed.

The Proposed Rule is complex and will have significant impacts – not only on advisers, but on the financial industry and a myriad of covered service providers, including many entities unfamiliar with the Investment Advisers Act of 1940, as amended ("Advisers Act"). Given the magnitude of

¹ See Proposed Rule Outsourcing by Investment Advisers, Release SEC No. IA-6176, File No. S7-25-22 (Oct. 26, 2022), [Proposed rule: Outsourcing by Investment Advisers \(sec.gov\)](#) (the "Proposed Rule").

² For additional information about Fairview, please visit our website at <https://fairviewinvest.com/>.

the Proposed Rule and potential economic consequences, a longer comment period is warranted. Therefore, we respectfully request the SEC to extend the comment period by another 90 days, through March 27, 2023.

2. The SEC should consider whether investors would be better served by rulemaking directed at covered service providers already subject to the SEC’s oversight.

Advisers already have a fiduciary obligation to act in their client’s best interest and oversee service providers; however, advisers currently have discretion to determine the manner in which due diligence is conducted. The prescriptive requirements under the Proposed Rule would significantly increase the burden placed on advisers and service providers, resulting in higher costs to investors.

Under the Proposed Rule, advisers would be required to determine whether it is appropriate to outsource a covered function to a service provider by complying with six elements, including:

1. The nature and scope of the services;
2. Potential risks resulting from the service provider performing the covered function, including how to mitigate and manage such risks;
3. The service provider’s competence, capacity, and resources necessary to perform the covered function;
4. The service provider’s subcontracting arrangements related to the covered function;
5. Coordination with the service provider for Federal securities law compliance; and
6. The orderly termination of the provision of the covered function by the service provider.³

The Proposed Rule notes that it “. . . would not include an exception for service providers that are subject to other provisions of the Advisers Act, including SEC-registered advisers, or other Federal securities laws.”⁴

This proposed system places the onus solely on investment advisers to review service providers that are already subject to oversight by the SEC. Instead, the Commission should consider whether investors would benefit from the SEC directing regulatory requirements to covered service providers already subject to the SEC’s jurisdiction. For example, to address element six above, the SEC could instead require entities that it already regulates to include contractual clauses in service agreements with investment advisers to provide for an orderly termination of covered functions. Similarly, the Commission regulates public companies that provide covered services to advisers. The Commission should consider whether regulation is needed to address security concerns with these entities directly, rather than placing the responsibility solely on advisers who may lack the resources and, in certain cases, bargaining power to meet all of the prescriptive requirements set forth under the Proposed Rule.

³ Proposed Rule, supra note 1, at 17.

⁴ Id. at 27.



We appreciate the SEC's considerations of our comments on the Proposed Rule. Should you have questions concerning our comments or if we can be of further assistance in the Commission's review of the Proposed Rule, please contact the undersigned.

Respectfully submitted on behalf of Fairview Investment Services, LLC, and Fairview Cyber, LLC,

/s/ Amber Allen

Amber Allen

General Counsel & Executive Vice President of Fairview, LLC; President of Fairview Cyber, LLC

[REDACTED]

/s/ Ellen Harvin

Ellen Harvin

CEO of Fairview Investment Services, LLC

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