

November 22, 2023

Ms. Vanessa Countryman  
Secretary  
Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549-1091

Re: *Outsourcing by Investment Advisers; File No. S7-25-22*

Dear Ms. Countryman:

The Investment Company Institute and ICI Southwest are writing to jointly provide comments on the Securities and Exchange Commission’s (Commission) proposal relating to outsourcing by investment advisers.<sup>1</sup> We are writing to endorse the comments recently submitted by the Investment Adviser Association (IAA) on the Outsourcing Proposal.<sup>2</sup> In 2022, the Investment Company Institute described several concerns with the proposal, including undue disruption to oversight programs of many large advisory complexes.<sup>3</sup>

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<sup>1</sup> *Outsourcing by Investment Advisers*, Advisers Act Release No. 6176, 87 Fed. Reg. 68816 (November 16, 2022), available at <https://www.govinfo.gov/content/pkg/FR-2022-11-16/pdf/2022-23694.pdf> (“Outsourcing Proposal” or proposal). See also Letter from Susan M. Olson, General Counsel, Investment Company Institute (ICI), to Vanessa A. Countryman, Secretary, SEC (December 23, 2022) (comments on Outsourcing Proposal), available at <https://www.sec.gov/comments/s7-25-22/s72522-20153499-320873.pdf> (ICI’s Letter) and Letter from Eric J. Pan, President & CEO and Susan M. Olson, General Counsel, ICI, to Chair Gary Gensler, SEC (August 17, 2023) (comments on interconnected rulemakings), available at <https://www.sec.gov/comments/s7-04-22/s70422-246959-547222.pdf>.

<sup>2</sup> See Letter from Gail C. Bernstein, General Counsel, and William A. Nelson, Associate General Counsel, IAA, to Vanessa A. Countryman, Secretary, SEC (October 13, 2023), available at <https://www.sec.gov/comments/s7-25-22/s72522-273039-658902.pdf> (IAA’s October 2023 Letter). See also Gail C. Bernstein, General Counsel, and Dianne M. Descoteaux, Associate General Counsel, IAA, to Vanessa A. Countryman, Secretary, SEC (December 23, 2022), available at <https://www.investmentadviser.org/resources/iaa-letter-to-sec-on-service-provider-outsourcing/>; Gail C. Bernstein, General Counsel, and Dianne M. Descoteaux, Associate General Counsel, IAA, to Vanessa A. Countryman, Secretary, SEC (April 20, 2023), available at <https://www.investmentadviser.org/resources/iaa-submits-supplemental-letter-on-outsourcing-proposal/>.

<sup>3</sup> Large advisory complexes often have multiple registered advisers and other entities under their corporate structure. Within these complexes, it is not uncommon to have staff dedicated to vendor management. Those staff are responsible for ensuring uniformity in conducting due diligence of service providers across the complex, negotiating contracts with service providers and overseeing service provider performance in line with an adviser’s fiduciary duty. For complexes with this structure, vendor management is handled through a centralized function. See ICI’s Letter at Section 3.3.2.

We agree with the issues highlighted in IAA's October 2023 Letter, which also expresses concerns with disruptions if the proposal is not modified to accommodate existing adviser oversight programs. IAA recommends the following:

- An affiliated investment adviser should be permitted to rely on its parent organization's due diligence of third-party service providers engaged to provide Covered Functions to the adviser.
- An affiliated investment adviser should be permitted to rely on its parent organization's monitoring of third-party service providers for oversight unrelated to Covered Functions, for example, monitoring whether the third-party service provider has the competence, capacity, and resources necessary to perform the Covered Function.
- Service providers affiliated with one or more investment advisers operating under a shared services or similar model should be excluded from the definition of "Service Provider," as well as entities directly regulated by the Commission or another Federal financial regulator, which perform one or more Covered Functions for funds registered under the 1940 Act, or any custodian not otherwise falling within the aforementioned categories.<sup>4</sup>

To implement these recommendations, IAA also provided revisions to the due diligence and monitoring requirements in proposed Rules 206(4)-11(a)(1) and (2) and the proposed definition of "service provider." These revisions would alleviate some concerns raised by commenters. While we believe the Outsourcing Proposal is unnecessary, we support IAA's suggested revisions. We appreciate the SEC's consideration of these comments.

Sincerely,

Investment Company Institute

ICI Southwest

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<sup>4</sup> IAA's October 2023 Letter at 1. The term "Covered Function" would be defined in proposed Rule 206(4)-11(b).