January 10, 2023

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

Submitted via email to rule-comments@sec.gov

Re: Proposed Rule, Securities and Exchange Commission; Open-End Fund Liquidity Risk Management Programs and Swing Pricing; RIN 3325-AM98 File Number S7-26-22

Dear Ms. Countryman:

We represent a client group that includes a number of the nation's leading providers of recordkeeping, administrative and custodial services to 401(k) and other types of employer-sponsored defined contribution plans. Our clients serve millions of defined contribution plan participants. On a combined basis, our clients process millions of monthly trades in shares of open end registered investment companies, a majority of which involve transfer activity (e.g., purchases and sales). Billions of dollars in daily trading volume are generated by these transactions.

We are requesting a 90 day extension of the proposal comment period, which is currently scheduled to close on February 14, 2023.

The "hard close" components of the referenced proposal have the potential to overturn and disrupt the settled expectations of defined contribution plan sponsors and participants in the timely execution and settlement of their mutual fund investment holdings. If implemented, the hard close elements of the proposal could introduce a number of problematic complexities and inefficiencies into the fund transfer process. As an example, the seamless process that today allows a participant to redeem a fund position and immediately reinvest the proceeds of that sale in an alternative fund would be disrupted by truncating the transfer transaction among different trading days. Within a hard close environment, the exact dollar amount of a participant's fund redemption order – which would be required to place a reinvestment order with an alternative fund – would be determinable only after the cut-off period for placing that purchase order had already passed. Accordingly, a waiting interval of one or more days would be introduced into the fund transfer process during which retirement funds would remain uninvested.

The cumulative effect of remaining uninvested for even a single day during times when markets are volatile could have profoundly adverse consequences for long term retirement investors. Moreover, most plan recordkeeping systems are designed to block participant transfer or distribution requests with respect to pending trade amounts. The introduction of an extended time interval during which trades will remain open could introduce changes in participant investment behavior, particularly during volatile periods. We are concerned that the proposal may not take into account the potentially adverse effects that a hard close could have on the retirement readiness of working Americans.[1]

The substantial operational complexities in how chains of retirement plan industry intermediaries would interconnect and continue to operate within a hard-close environment requires careful analysis. The systems re-engineering and re-programming implications of a hard close carry enormous additional near and long-term cost implications for intermediary service providers, with the potential to increase the fees and charges borne by retirement plan savers, to the ultimate detriment of retirement savings. Cost of implementation would also include amending service agreements between intermediaries and funds, as well as between platforms, other intermediaries and plan sponsors. Costly efforts to communicate and educate the plan participant community about the new rules and restrictions would also be required. In recent years, retirement plans and participants have benefitted from overall declines in expenses as systems, providers and investment vehicles have become more operationally efficient. The upheaval and reengineering burdens inherent in the hard close proposal would inevitably reverse this trend.

The open architecture environment that retirement plans and participants rely upon to meet their investment needs is made possible by operationally complex order flow management systems. The hard close proposal places open architecture platforms at a significant disadvantage, since they require the transmission of orders through multiple independent parties and systems within a compressed period of time. Our clients require additional time to analyze the risks, complexities, and cost implications of the proposal. Analysis is also required to form a view as to whether existing retirement service provider technologies and systems may be capable of facilitating deliveries of sufficient order flow information to fund transfer agents or to a registered clearing agency so as to allow for swing pricing without the need for a hard close. These analyses will inform our further substantive comments on the proposal.

[1] We recognize that the proposal's "eligible order" definition makes allowance for contemporaneous redemption and purchase transactions where an exchange order is received by the fund's transfer agent or registered clearing agency prior to close. While helpful, that allowance would not alleviate the difficulties associated with exchange transaction processing on the part of fund platforms, recordkeepers and other intermediaries.

Thank you for your consideration of this extension request.

Sincerely,

Thomas Roberts

David N. Levine

Kevin L. Walsh

George M. Sepsakos