GUGGENHEIM

February 14, 2023

VIA ELECTRONIC DELIVERY

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Open-End Fund Liquidity Risk Management Programs and Swing Pricing; Form N-PORT Reporting (File No. S7-26-22).[1]

Dear Ms. Countryman:

Guggenheim Investments[2] ("Guggenheim" or "we") appreciates the opportunity to respond to the request by the U.S. Securities and Exchange Commission (the "SEC" or "Commission") for comments regarding the above-referenced release (the "Proposing Release"). Our comments primarily relate to the proposed amendments to Rule 22e-4 under the Investment Company Act of 1940 (the "Rule"), which was adopted in 2016 and requires mutual funds and exchange-traded funds to implement a written liquidity risk management program reasonably designed to assess and manage liquidity risk. We believe the current principles-based framework under the Rule for reviewing, assessing, and managing liquidity risk has strengthened liquidity risk management practices across the industry, including for the Guggenheim Funds. This strength was demonstrated during the COVID-related market disruptions of March 2020, during which time no U.S. mutual fund (including no bank loan fund) suspended the right of redemption or postponed the payment of redemption proceeds beyond the statutory period.

We are concerned, however, that the proposed amendments to the Rule would distract from prudent liquidity risk management, impose unnecessary costs without any corresponding benefits to liquidity risk management practices, and unnecessarily limit retail investor access to the bank loan asset class. We also believe that the proposed amendments to the Rule, together with the proposal to mandate swing pricing and impose a "hard close" for mutual funds, are disproportionate to the market disruptions of March 2020. If the SEC believes it is necessary to do so, we believe there are better ways to enhance liquidity risk management practices during stressed market conditions.

I. Proposed Amendments to Liquidity Risk Management Rule

Since its adoption in 2016, the Rule has strengthened liquidity risk management practices across the industry and led to the development of more formalized processes for assessing and managing liquidity

1 Open-End Fund Liquidity Risk Management Programs and Swing Pricing; Form N-PORT Reporting, 87 Fed. Reg. 77172 (Dec. 16, 2022).

2 Guggenheim Investments represents the investment management business of Guggenheim Partners, LLC, which includes Guggenheim Partners Investment Management, LLC, Security Investors, LLC and Guggenheim Funds Investment Advisors, LLC. We refer to the funds under Guggenheim's management as "Guggenheim Funds" or "Funds."

risk and oversight by fund boards of trustees/directors. Prior to the Rule's adoption, the Guggenheim Funds had robust liquidity risk management processes in place, including regular liquidity risk reporting to the Funds' Boards of Trustees. We enhanced these processes because of the Rule, including processes for establishing a highly liquid investment minimum ("HLIM") for certain Funds. We have found that having a more formalized process for regularly reviewing a Fund's investment strategy, the liquidity of its portfolio investments, and short-term and long-term cash flow projections, during both normal and reasonably foreseeable stressed conditions, as well as borrowing arrangements and other funding sources, has been effective in better monitoring and managing the Funds' liquidity risk.

In contrast, we have found that the requirement under the Rule to classify investments into the four liquidity "buckets" is overly formulaic and has provided very little benefit, if any, to our liquidity risk management processes and ability to manage liquidity risk (especially relative to the costs and resources required to implement and monitor the classification buckets). This view would only be amplified if classification is required on a daily basis and the SEC adopts the other proposed changes to the liquidity classification framework (*e.g.,* elimination of "less liquid investment" category, introduction of stressed "RATS"). Any changes to the Rule should be based on a careful analysis of empirical data, costs and benefits, and impact.

A. Impact to Open-End Bank Loan Funds; Harms Retail Investors and Limits Opportunities

We would like to first note that, during the COVID-related market disruptions of March 2020, the Guggenheim Funds did not encounter any difficulty in meeting redemption requests, including from our bank loan funds, which, as we discuss below, would be severely negatively affected (along with their shareholders) if the proposed amendments to the Rule are adopted.

Although certain components of the Rule have strengthened liquidity risk management practices across the industry, including for the Guggenheim Funds, we are very concerned about the proposed changes to the liquidity classification framework, most notably the proposal to eliminate the Rule's "less liquid investment" category[3] and treat investments in that category as "illiquid investments" based upon their longer settlement times. This change would effectively restrict the ability to offer certain investment strategies in a mutual fund wrapper, including funds that invest primarily in bank loans,[4] as well as limit investment discretion in certain asset classes. We believe bank loans are an important asset class that provides an attractive investment alternative during a rising interest rate environment and potentially higher returns than some other fixed income investments.

If these proposed changes are adopted, retail investors would be disproportionately impacted and could lose access to the bank loan asset class. Although bank loan mutual funds could potentially convert to closed-end funds or closed-end interval funds, these are very costly options and may not be as attractive

---

[3] A "less liquid investment" as defined in the Rule is "any investment that the fund reasonably expects to be able to sell or dispose of in current market conditions in seven calendar days or less without the sale or disposition significantly changing the market value of the investment, as determined pursuant to the provisions of paragraph (b)(1)(ii) of [the Rule], but where the sale or disposition is reasonably expected to settle in more than seven calendar days."

[4] We have two such Funds, Guggenheim Floating Rate Strategies Fund and Guggenheim Funds Variable Trust Series F (Floating Rate Strategies Series). However, we manage other Funds that invest in bank loans as part of their principal investment strategies, consistent with their investment objectives. For purposes of this letter, we refer to these funds as "bank loan funds."

as a mutual fund wrapper for many investors. These changes would also impact funds beyond those that primarily invest in bank loans. For example, under the proposal, total return and multi-sector mutual funds would lose their ability to meaningfully invest in the bank loan asset class.

These outcomes ignore that fund managers, including bank loan fund managers, have successfully managed liquidity risk for many years without incident and the benefits that bank loans and other investments with similar settlement timelines offer investors. We are not aware of any bank loan fund that suspended the right of redemption or postponed the payment of redemption proceeds beyond the statutory period, including during the COVID-related market disruptions of March 2020 and the financial crisis of 2008.

In addition to the long-term impact to shareholders discussed above, we are very concerned about the proposed compliance period, which would create substantial challenges for bank loan funds. Without a sufficient compliance period, a fund could be compelled to sell bank loans into a short-term market glut, whether in anticipation of a "forced" liquidation or if shareholders do not approve conversion to a closed-end fund or closed-end interval fund. These challenges are real and shareholders would incur the costs.

We are also concerned about unintended market consequences if the proposed Rule amendments are adopted. Without single-sector bank loan funds, bank loan assets would likely move to CLOs, private vehicles, and other less-liquid, less-regulated investment vehicles, which generally have less transparency and different fee structures than bank loan funds, to the detriment of retail investors.

In the absence of any analysis that quantifies the benefits of eliminating the "less liquid investment" category in light of the consequences and costs described above, we strongly urge the Commission to refrain from doing so. To the extent the SEC continues to have specific concerns about bank loan funds (notwithstanding their successful track record), we believe there are other, less-impactful options. For example, the SEC could require bank loan funds to maintain a committed redemption facility, enhance disclosure about potential dilution and settlement times, and/or seek to improve bank loan settlement times. We note that a majority of bank loans we purchase on behalf of the Guggenheim Funds can generally be sold within two business days, although they settle beyond two business days (and sometimes beyond seven calendar days). For these reasons, as part of our liquidity risk management program, the Funds maintain a committed redemption facility, which was first entered into in 2013, to provide access to temporary borrowings to meet redemptions in times of market disruption or otherwise. Although we would expect to use the facility only rarely, we maintain the facility as part of prudent liquidity risk management and a source of liquidity to meet redemptions in times of market disruption or otherwise.[5]

B. Proposed Mandatory HLIM Too Prescriptive

We believe that the best regulatory approach to liquidity risk management is a principles-based framework that leverages the expertise of professional investment advisers to develop liquidity risk management programs designed to assess and manage liquidity risk across funds with different

[5] The SEC's proposing release appears to dismiss the use of redemption facilities and lines of credit by bank loan funds by stating that "lines of credit may not be available to all funds and borrowing imposes costs that can dilute the value of the fund for remaining investors" and that "the costs of borrowing have risen and credit has become more difficult to obtain over time." We respectfully submit that the Commission should not so readily dismiss redemption facilities and lines of credit for funds that have them.

investment strategies, risk profiles, shareholder compositions, shareholder concentrations, and fund flows. Prudent liquidity risk management for one particular fund may be inappropriate or unnecessary for another fund.

We understand the Commission's desire to ensure that funds are effectively managing their liquidity risk, particularly during periods of market stress. We could therefore support the elimination of the "primarily highly liquid fund" exemption from the Rule, which would require mutual funds to adopt an HLIM. But we cannot support a "one-size-fits-all" mandatory minimum HLIM of 10%. While an HLIM of at least 10% may be appropriate for certain funds, for other funds it is far too high (particularly considering the proposed changes to the liquidity classification framework (*e.g.,* introduction of stressed "RATS")). HLIMs should be tailored to the liquidity risk of a particular fund and based, in part, on the factors enumerated in the Rule (*e.g.,* short-term and long-term cash flow projections, during both normal and reasonably foreseeable stressed conditions until the next liquidity risk assessment). A mandatory HLIM of at least 10% – for *all* funds, irrespective of their particular investment strategies – is arbitrary and bears no relationship to actual liquidity risk.

It is important to note that establishing a "conservative" HLIM that bears no relationship to a fund's actual liquidity risk is not without costs to shareholders – that is, performance drag, which could be material. An HLIM that is too high will not meaningfully mitigate liquidity risk and could create a material drag on performance that is outsized when compared to a more tailored HLIM.

C. Proposed Adjustments to HLIM Calculation and 15% Limit Unnecessary

We cannot support the proposed adjustments to the HLIM calculation, which would require subtraction from the HLIM of: (i) the value of any highly liquid investments that are assets posted as margin or collateral in connection with any derivatives transaction that is classified as moderately liquid or illiquid; and (ii) any fund liabilities. This change is too prescriptive and would limit a fund's ability to manage liquidity risk using a redemption facility or reverse repurchase agreements, as any such temporary borrowing to meet a redemption would immediately reduce the HLIM. For example, if a fund elected to meet redemptions by entering into a reverse repurchase agreement, the result would be an immediate short-term drop in its HLIM in the amount of the borrowing, making this strategy for managing liquidity risk less feasible. For short-term fluctuations in cash flows, it may be more efficient to use borrowings to meet redemption requests than to sell portfolio securities, including highly liquid investments, if the manager expects net purchases on the following day. In effect, the proposed adjustments to the HLIM calculation would limit the tools routinely used to efficiently manage liquidity risk and cash flows.

We also note that determining the amounts of liabilities and specific collateral amounts on a daily basis is operationally challenging as neither number is static and the collateral amounts for moderately liquid and illiquid derivatives are not readily available systematically and may require manual calculations to determine. For similar reasons, we oppose the proposed adjustment to the 15% illiquid calculation. Each of these proposed adjustments would be operationally challenging and add very little, if any, benefit to the liquidity risk management process (and, in fact, may distract from prudent liquidity risk management).

D. Cross Trades of Fixed Income Securities Can Enhance Liquidity Risk Management

Historically, funds were permitted to rely on Rule 17a-7 to cross trade fixed income securities. These trades became more limited upon the compliance date of Rule 2a-5. The ability to cross trade fixed income securities would be beneficial in circumstances where a fund is experiencing a higher rate of redemptions while another fund or other advisory client has cash to invest and has demand for a security held by the fund. The flexibility to execute a cross trade in those limited circumstances would not only provide an additional source of liquidity but may also result in transaction cost savings for both the buying and selling party. We strongly recommend that the SEC amend Rule 17a-7 to permit fixed income cross trading, subject to appropriate conditions that address potential risks and conflicts of interest.

II. Mandatory Swing Pricing and the Hard Close

We strongly oppose the Commission's proposal to mandate swing pricing for mutual funds and to impose the 4:00 pm (ET) hard close on mutual fund orders. We note that implementing a hard close would require significant systems rebuilds across the industry, affecting the entire fund ecosystem, including intermediaries, retirement plan recordkeepers, administrators, custodians, transfer agents, and the industry utility (DTCC). The cost, resources, and effort to build these systems would be enormous and lead to lost processing efficiencies. These changes would also impact investors, who would likely need to navigate earlier and varied order "cut-off" times among different intermediaries and potentially lose the ability to transact on a same-day basis.

We are also concerned that such wholesale changes to the fund industry's long-term operating model could have unintended consequences for our shareholders and our business. In short, we do not know what types of problems may be created by such significant changes to the mutual fund industry, which represents a significant source of wealth for retail investors. Nor do we understand the proposed value of such change on the industry and retail investors. We believe that it is a high-risk proposition to upend the longstanding industry structure to address concerns about dilution (which have not been quantified). Any attempts to eliminate dilution are imperfect and may create other inequities for mutual fund investors. In short, we believe that the current structure has worked well for many years and such sweeping changes should not be implemented without a more rigorous analysis by the SEC of the costs and consequences based on empirical data. We strongly believe that the costs would greatly outweigh the benefits of addressing the dilution concerns that are motivating the proposal.

* * *

Thank you again for taking the time to consider this letter and please feel free to contact me at [redacted] with any questions.

Sincerely,

/s/ Amy J. Lee

Amy J. Lee
Guggenheim Investments