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February 14, 2023

VIA ELECTRONIC DELIVERY

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

Re: Investment Company Act Release No. 34746 (File No. S7-26-22); Open-End Fund Liquidity Risk Management Programs and Swing Pricing; Form N-PORT Reporting

Dear Ms. Countryman:

We appreciate the opportunity to respond to the request by the U.S. Securities and Exchange Commission (the "Commission") for comments regarding the above-referenced release (the "Proposing Release"). In the Proposing Release, the Commission has proposed amendments to its current rules for open-end management investment companies ("open-end funds") regarding liquidity risk management programs and swing pricing. Our letter, which reflects our concerns and discussions with clients and industry contacts, focuses exclusively on those aspects of the Commission's proposal that would require open-end funds, other than money market funds or exchange-traded funds ("ETFs"), to employ swing pricing, whereby a fund's current net asset value ("NAV") per share is adjusted by a "swing factor" in specific circumstances, and, in order to operationalize swing pricing, would require a "hard close" for these funds generally by 4:00 p.m. Eastern Time (collectively, the "Swing Pricing and Hard Close Proposals").

Vedder Price P.C. is an international business-focused law firm serving sophisticated clients of all sizes and industries from offices across the United States and in the United Kingdom and Asia. The practice of the firm's Investment Services group includes all types of investment company matters, as well as a full range of services for independent directors of investment companies, who play a critical role in overseeing fund operations and protecting shareholder interests. We have drawn on our extensive experience representing U.S. mutual fund complexes, fund independent directors, investment advisers and other service providers in evaluating the Swing Pricing and Hard Close Proposals.

Additionally, we conferred with fund industry clients, contacts and peers, including personnel responsible for intermediary relationships and distribution, legal, compliance and risk management functions, to discuss the Swing Pricing and Hard Close Proposals and assess the potential implications for, among other things, the shareholder experience, investor choice, fund competition and mutual fund operational and administrative processes. We received input from various types of fund industry clients and organizations, including, for instance, investment managers that operate both U.S. and European funds, firms that provide investment advisory services to and/or offer "conduit funds," and diversified financial services firms that have significant retirement plan recordkeeping businesses. These

discussions significantly informed our assessment of the Swing Pricing and Hard Close Proposals and, for this reason, our comments are organized, in part, by issues identified by these constituencies.

I. General Observations

The Swing Pricing and Hard Close Proposals would dramatically alter how investors buy and sell mutual fund shares and introduce inefficiencies to mutual fund purchase and redemption processes that would inhibit competition while introducing significant operational challenges and inhibiting investor choice and competition among funds.

The Proposing Release maintains that "open-end funds faced significant redemptions and liquidity concerns"[1] in March 2020, at the onset of the COVID-19 pandemic, and that this "relatively brief"[2] period of market stress spurred a review of funds' current tools for managing liquidity and limiting dilution. This review, the Commission asserts, "identified weaknesses in funds' liquidity risk management programs that can cause delays in identifying liquidity issues in stressed periods and cause funds to overestimate the liquidity of their investments, as well as limited use of tools such as redemption fees or swing pricing that are designed to limit dilution resulting from a fund's trading of portfolio investments in response to shareholder redemptions or purchases."[3] Although the Commission acknowledges that no funds sought to suspend redemptions during this period, this unique period of market stress and the *possibility* that funds may overestimate portfolio liquidity are the underpinnings to amendments that would dramatically alter how investors buy and sell fund shares.

As the Proposing Release states, Section 2(c) of the Investment Company Act of 1940, as amended (the "1940 Act"), directs the Commission, when engaging in rulemaking where it is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation.[4] Respectfully, we do not believe that the Commission has demonstrated that it has adhered to the foregoing mandate. On the contrary, for the reasons noted below, we believe that the Swing Pricing and Hard Close Proposals would introduce inefficiencies to mutual fund purchase and redemption processes and inhibit competition.

It is our view that the Commission has not demonstrated that dilution of shareholders' interests as a result of subscription and redemption activity is so problematic and widespread as to warrant making fundamental changes to the mutual fund purchase and redemption process and upending the shareholder experience. As described below, the Swing Pricing and Hard Close Proposals introduce significant operational challenges, chiefly attributable to the proposed hard close, that would inhibit investor choice and competition among funds.

In 2016, the Commission adopted rule 22c-1(a)(3) to permit, but not require, mutual funds (other than money market funds) to employ swing pricing.[5] The Commission delayed the effectiveness of that rule

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1 Open-End Fund Liquidity Risk Management Programs and Swing Pricing; Form N–PORT Reporting, 87 Fed. Reg. 77,172, 77,175 (Dec. 16, 2022).
2 *Id.* at 77,183.
3 *Id.* at 77,175.
4 *See id.* at 77,235.
5 Investment Company Swing Pricing, 81 Fed. Reg. 82,084 (Nov. 18, 2016).

for 24 months after the date of the adopting release, citing the work that funds, service providers and intermediaries would need to do to address operational issues and to allow for the creation of industry-wide operational solutions. More than six years have elapsed since the adoption of rule 22c-1(a)(3), and not a single mutual fund in the United States has implemented swing pricing. We believe this fact serves as clear evidence that industry participants have considered the costs and benefits of implementing swing pricing and have determined that whatever benefits swing pricing may provide to mitigate dilution are outweighed by the costs of building the necessary infrastructure and removing the ability of intermediated investors, including retirement plan investors, to transact in mutual funds throughout the regular trading day and receive that day's NAV.

II. Swing Pricing and Hard Close Proposals: Issues Identified by Clients and Industry Contacts

A. European Experience

As support for the Swing Pricing and Hard Close Proposals, the Commission proposes "to amend the swing pricing framework in rule 22c-1 to apply lessons learned from March 2020, including information about the European experience with swing pricing during that period."[6] But the Commission, in the Proposing Release, does not adequately acknowledge a number of regulatory differences between the operation of swing pricing in Europe and how swing pricing would operate in the United States under the Swing Pricing and Hard Close Proposals. Among the notable differences between current European practice and the Swing Pricing and Hard Close Proposals is that swing pricing is generally not mandated by regulators in Europe. In fact, implementation of swing pricing in Europe is generally at the discretion of the manager. We understand that the manager has discretion to (1) not implement swing pricing at all, (2) implement a full swing every day, or (3) apply a partial swing on any particular day.[7]

Further, there are a number of business practices that differ between European and U.S. markets that are not fully examined in the Proposing Release. Of note, there are important differences in the nature of those who invest in open-end funds in Europe and the United States. As the Commission acknowledges in the Proposing Release, "the European mutual fund sector does not depend as much as the U.S. mutual fund sector on defined contribution retirement plans,"[8] noting that in 2022, pension funds in Europe owned 10% in investment fund shares while 54% of U.S. mutual fund assets were held in retirement accounts.[9] Another difference is that funds in Europe do not have a universal valuation time, which differentiates them from U.S. funds, most of which use a valuation time as of 4:00 p.m. Eastern Time. Finally, investors in Europe generally are accustomed to the employment of a hard close that may prohibit them from transacting in funds at that day's NAV at some point before the end

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6 *See* Open-End Fund Liquidity Risk Management Programs and Swing Pricing; Form N–PORT Reporting, 87 Fed. Reg. at 77,184.

7 *See*, *e.g.*, Financial Conduct Authority Handbook, COLL 6.3.8(1).

8 *Id.* at 77,238–39.

9 *Id.* at 77,239.

of the normal trading day,[10] whereas investors in the United States have grown accustomed to transacting in mutual funds at the day's NAV through the end of the normal trading day.

From an investor perspective, another difference to consider is that there are essentially three time zones that span the European market as opposed to the six time zones in the United States. As part of the Swing Pricing and Hard Close Proposals, the Commission acknowledges that intermediary cutoff times may need to be brought earlier. A deadline earlier than 4:00 p.m. Eastern Time would certainly be disadvantageous for intermediated mutual fund investors in Hawaii and Alaska, who may be as much as six hours behind the Eastern Time Zone depending on the time of year.

In the Proposing Release, the Commission cites the Investment Company Institute's Report of the COVID-19 Market Impact Working Group titled *Experiences of European Markets, UCITS, and European ETFs During the COVID-19 Crisis* (Dec. 2020) ("ICI European Report"). The ICI European Report notes that the ICI surveyed ICI member firms that manage UCITS (Undertakings for Collective Investment in Transferable Securities) to better understand their use of liquidity tools during the early months of COVID. The ICI European Report states that managers can use a number of liquidity management tools and their use would depend on the particular circumstances as "some tools may not be appropriate in a given situation noting that redemption pressure is not the same as difficulty in valuing underlying portfolio assets in a stressed market" and that "[i]n the case of significant valuation problems in underlying markets, swing pricing or anti-dilution levies, for instance, would not address those concerns."[11]

In addition to swing pricing, the liquidity management tools available for use in Ireland, Luxembourg and the United Kingdom include suspensions and gates, in-kind redemptions, temporary borrowings, anti-dilution levies, redemption fees, notice periods and dual pricing. These additional tools merit further examination before the implementation of mandatory swing pricing with a hard close that the Commission has proposed.

B. Impact of the Swing Pricing and Hard Close Proposals on Retirement Plan Participants and Recordkeepers

At present, retirement plan participants are able to submit purchase and redemption orders to recordkeepers and third-party administrators until 4:00 p.m. Eastern Time and have such orders executed at that day's NAV, a feature referred to as same-day pricing. We understand that the daily process for conducting recordkeeping operations at a retirement plan begins upon the receipt of the daily NAVs of the plan's investment options, which typically arrive between 6:00 p.m. and 8:00 p.m. Eastern Time. Thereafter, the plan administrator determines the net subscription and redemption volumes for each mutual fund available for investment by plan investors at the plan level and submits aggregated orders for settlement through the National Securities Clearing Corporation's ("NSCC") Fund/SERV, a process that is typically not completed until after midnight. This well-established process provides several benefits to which retirement plan investors are accustomed and on which they rely. Plan participants are able to submit orders throughout the regular trading day on U.S. exchanges and are able to respond to news and market events in much the same way as are investors in ETFs,

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[10] *See* Open-End Fund Liquidity Risk Management Programs and Swing Pricing; Form N–PORT Reporting, 87 Fed. Reg. at 77,209 n.225.

[11] *See* ICI European Report at 29.

individual stocks and other securities. Same-day pricing and processing also allow plan participants to rebalance their portfolios, moving assets from one investment option to another on the same day without losing exposure to the market. The process effectively provides the majority of mutual fund investors who hold shares through retirement plans the same opportunity to transact in mutual fund shares as the minority of mutual fund investors who hold shares directly with the fund. The aggregation process at the plan administrator also reduces costs by minimizing the number of daily transactions that must be placed through Fund/SERV.

We believe the Swing Pricing and Hard Close Proposals would turn the process by which retirement plans operate on its head and represent a significant step backward for retirement plan investors, reducing choice and functionality, increasing costs and possibly pushing retirement plan investors into investment vehicles that do not have the protections of the 1940 Act.

We understand that the Swing Pricing and Hard Close Proposals would effectively require plan administrators, which would not be "designated parties" as defined in the Proposing Release,[12] to impose a deadline for plan participants to submit mutual fund orders several hours before 4:00 p.m. Eastern Time in order for such orders to be aggregated and transmitted to Fund/SERV by 4:00 p.m. This change would disadvantage plan participants in all time zones but would severely limit the ability of investors on the West Coast, Hawaii and Alaska to manage their investments as the deadline the plan sets for order submissions to receive the 4:00 p.m. Eastern Time price may be very early in the morning, possibly before the beginning of the normal business day in those time zones. Retirement plan investors also would be greatly disadvantaged in comparison to the minority of mutual fund investors who hold shares directly with the fund, who would continue to be able to transact until 4:00 p.m. Eastern Time. Under the Swing Pricing and Hard Close Proposals, a day's NAV would not have been calculated by the time net orders are submitted, and subscription orders would have to be submitted as dollar amounts rather than as share amounts. Then, once a fund calculates and reports the day's NAV, a second, additional round of daily processing would be required at the plan administrator to reconcile dollar values into share values. This two-step process could frustrate the ability of retirement plan investors to effect same-day rebalances. In addition, we understand that a transition to this new process would require both a significant one-time investment across the industry in order to build the necessary infrastructure as well as higher ongoing administrative and recordkeeping costs at plans (and other intermediaries) in light of the shift from a one-step to a two-step daily process. It would be reasonable to expect these initial and ongoing costs to be imposed on plan participants to the detriment of their investment outcomes.

Based on the feedback we received, given the costs and other challenges of implementing the Swing Pricing and Hard Close Proposals and the detrimental effect those changes would have on the experience of retirement plan investors in mutual funds, we understand it is likely that plan administrators would determine that the mutual fund wrapper is no longer an appropriate investment option for the plans they administer. As a result, plans would shift away from mutual funds in favor of other investment options, such as collective investment trusts, separately managed accounts and, in

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[12] In the Proposing Release, an eligible order to purchase or redeem would receive the price for the next pricing time after a "designated party" receives the order. Under the Swing Pricing and Hard Close Proposals, "designated parties" include a fund, its designated transfer agent or a registered securities clearing agency. Open-End Fund Liquidity Risk Management Programs and Swing Pricing; Form N–PORT Reporting, 87 Fed. Reg. at 77,209.

some cases, individual stocks—investments in which retirement plan investors could continue to transact and enjoy same-day pricing using the current processing model. However, we believe these alternative investment options would all be less favorable to typical retirement plan participants than mutual funds are at present. Individual stocks do not offer the benefits of diversification that pooled investment vehicles provide. Collective investment trusts and separately managed accounts provide diversification and access to professional management but do not provide the robust investor protections or independent governance structure required for a 1940 Act fund. It would be a perverse outcome indeed if, by mandating that mutual funds implement swing pricing in order to mitigate the potential for dilution, the Commission effectively would be pushing retirement plan investors out of vehicles regulated under and subject to the investor safeguards provided by the 1940 Act.

C. Impact of the Swing Pricing and Hard Close Proposals on "Conduit Funds," Including Variable Contracts

The Swing Pricing and Hard Close Proposals raise heightened concerns for the operation of a "conduit fund," which invests all of its assets in another fund and must calculate its NAV on the basis of the other fund's NAV. In the Proposing Release, conduit funds include master-feeder funds and insurance company separate accounts. In particular, the consequences for variable annuity and variable life insurance contracts (collectively, "variable contracts") are noteworthy because the structure, operation and distribution of variable contracts are distinct from those of mutual funds,[13] thus presenting a unique set of significant concerns about the Swing Pricing and Hard Close Proposals. Mutual funds underlying the variable contract are not sold to the general public, but instead are offered only to insurance company separate accounts.

Shares of the underlying mutual funds in which the sub-accounts invest are purchased at NAV. The mutual funds to which a variable contract's assets are allocated—through the sub-accounts—are determined by the contract owner. Sub-account allocations are accounted for in "accumulation units," meaning that the contract owner receives accumulation units in the sub-account(s) to which the contract owner has allocated purchase payments. Accumulation unit values—for each sub-account—are determined by a complex calculation that, importantly, reflects the investment performance of the underlying mutual fund in which a particular sub-account invests, including charges assessed for the relevant valuation period.

Often the depositor and sponsoring insurance company are responsible for establishing, maintaining and administering the separate accounts, including the acceptance of redemption orders and purchase payments in variable contracts and investing the payments as directed by the contract owner. The variable contract prospectuses typically disclose that the sponsor acts as a limited agent for the underlying mutual funds[14] for purposes of accepting orders and that orders received by the sponsor

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[13] As the Commission has recognized, "[b]ecause variable insurance contracts have both insurance and investment features, neither they nor the separate accounts that fund them fit comfortably under investment company regulation." Request for Comments on Reform of the Regulation of Investment Companies, 55 Fed. Reg. 25,322, 25,335 (June 21, 1990).

[14] Participation agreements between various mutual fund complexes and variable product sponsors often designate the insurance company as a limited agent to act on behalf of the mutual funds to receive orders to purchase and redeem fund shares on behalf of the product sponsor's separate accounts. The

before 4:00 p.m. Eastern Time would receive the current day's accumulation unit value ("AUV"), which is the measure of the contract owner's investment in a contract and is based on the NAVs of the underlying mutual funds, adjusted for contract charges. Thus, obtaining the NAV of each underlying mutual fund is a prerequisite for calculating the AUV. Given the various optional benefits and associated charges of variable contracts, as well as contract owner discretion as to underlying mutual funds to which purchase payments may be allocated, AUVs are determined on an individual-contract-owner basis. For instance, one variable contract sponsor with which we discussed the Swing Pricing and Hard Close Proposals estimated that 15 variable contract products may have over 100,000 daily AUVs.

The foregoing illustrates the complex layering of values and data points necessary to determine the values of variable contracts, with a critical input being the NAVs of the underlying mutual funds. Indeed, given the sheer number of inputs, orders are typically "batched" by the insurer's administrative system in overnight cycles and, the next morning, aggregated into omnibus net trades delivered to mutual fund companies, i.e., on a trade date (T)+1 basis.

If the Swing Pricing and Hard Close Proposals are adopted, the insurer's net trade orders would need to be communicated to the fund company, its designated transfer agent or a registered securities clearing agency before the pricing time as of which the fund calculates its NAV, which is generally 4:00 p.m. Eastern Time on the trade date. Thus, the insurer's net trade information would need to be known on the trade date, prior to the current overnight batch processes. To do so, insurers' administrative systems would be required to cut off purchase and redemption activity early in the day in order to run intraday batch cycles and determine net trade orders. The variable contract sponsor with which we conferred indicated that, given the complexity of batch processes, administrative systems likely would need to cut off purchase and redemption activity by contract owners potentially several hours before 4:00 p.m. Eastern Time in order to be able to deliver net trade orders to fund companies by that time. The foregoing would require wholesale reconfigurations of insurers' administrative systems, batch calculation processes and trade system functions and significantly disadvantage contract owners, who would be forced to engage in purchase and redemption activity within a narrow window of time in order to receive same-day pricing.

State insurance laws add an additional layer of complexity and uncertainty to variable contracts.[15] It is not yet clear to what extent a fundamental change in purchase and redemption processes would necessitate input from state insurance departments or regulatory agencies, in addition to the outlay of concomitant resources by insurance companies to change purchaser rights, which may implicate state oversight.

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participation agreements provide that the product sponsor's receipt of any purchase or redemption order on any business day constitutes receipt of that order by the underlying mutual fund itself.

[15] Separate accounts are established under state law. Each state has adopted a legal framework under its insurance laws enabling insurance company sponsors to establish separate accounts. Although states may adopt certain model rules and regulations (or some variation thereof) such as those of the National Association of Insurance Commissioners, separate account laws may vary from state to state.

III. Alternatives to the Swing Pricing and Hard Close Proposals

As discussed above, we believe that the Swing Pricing and Hard Close Proposals would upend both the investor experience and the day-to-day operations of most mutual funds at a substantial cost to investors while producing, at most, modest benefits. We are supportive of the Commission's stated goal of limiting the dilution of shareholders' interests in a fund caused by subscription and redemption activity but believe there are ways to pursue that objective that are less costly and disruptive than that proposed and that would allow the preservation of many advantages of the status quo. Given that swing pricing does not fit at all well within the current process for transacting in mutual funds to which U.S. investors and mutual fund providers are accustomed, we encourage the Commission not to mandate swing pricing across the board but to further consider allowing funds to use alternative means to address dilution, which we believe would be less burdensome to implement and which would not give rise to the host of negative consequences that we believe would result from mandated swing pricing and the imposition of a hard close. The alternatives we present for consideration are as follows:

- Continue to allow optional swing pricing. We understand that system limitations are a current impediment to swing pricing in the United States. Furthermore, the Proposing Release acknowledges that the Commission has not provided a complete estimate of the costs of moving to mandated swing pricing, including the significant one-time costs that would be required to restructure essentially every step of the existing infrastructure that supports daily order processing, NAV calculation and recordkeeping in the mutual fund industry. We expect that these costs, which would immediately be borne by funds, retirement plan administrators, brokers, other intermediaries and the NSCC, among other parties, would ultimately be passed on to end investors. In addition, we do not believe that the Commission's analysis considers the dollar impact to investors from the loss of functionality, including the loss of same-day pricing, that would result from mandated swing pricing.

- Allow individual mutual funds and their boards to decide when swing pricing would be implemented, similar to the partial swing pricing available for use in Europe. Not all mutual funds have the same investment strategies, portfolio holdings or investor bases, and individual funds, their boards and their sponsors are in a better position to decide when swing pricing should be implemented to mitigate dilution. For example, the dilutive impact of significant redemptions may be measurable in a fund that invests in less liquid debt securities but negligible in a fund that invests in large-cap domestic stocks. One size does not fit all.

- Exclude funds used as investment options in variable contracts. Investors who own variable contracts and who invest indirectly in mutual funds that serve as underlying investment vehicles for those contracts have a relationship with the underlying investments that is different from the relationship other mutual fund investors have with their funds. The primary focus of these investors is on the insurance contract, with the selection of the underlying fund investments a secondary aspect of the proposition. Underlying the Swing Pricing and Hard Close Proposals is an assumption that significant transaction volume in mutual funds is caused by overall market activity. But overall market activity is not typically the primary driver of purchases and redemptions of funds that serve as underlying investment options for variable contracts. Additionally, during

the life of these contracts, investors typically conduct only rebalancing transactions, and investors in these products already often face surrender charges payable upon early redemption and transfer fees payable when reallocating assets from one underlying fund to another. The Swing Pricing and Hard Close Proposals would have a detrimental impact on these investors' rebalancing transactions similar to the detrimental impact they would have on retirement plan investors, as described above, and could compound the impact of surrender charges and transfer fees on the investment outcomes of variable contract holders.

- Modify the Swing Pricing and Hard Close Proposals to remove the hard close. We understand that a chief hurdle to implementing the Swing Pricing and Hard Close Proposals is the hard close. The Commission acknowledges in the Proposing Release that the hard close requirement would "affect all market participants sending orders to relevant funds, including broker-dealers, registered investment advisers, retirement plan recordkeepers and administrators, banks, insurance companies and other registered investment companies." [16] Elsewhere in this letter we have described the burden the hard close would have on U.S. mutual fund investors who own shares through retirement plans, which would not be considered "designated parties" under the Swing Pricing and Hard Close Proposals. Indeed, the majority of U.S. mutual fund investors hold shares through retirement plans and other intermediaries, a characteristic that differentiates the U.S. mutual fund market from those of Europe and other jurisdictions where swing pricing is prevalent but intermediaries play a much less significant role. We believe any methodology to implement swing pricing in the United States should be tailored to the market structure as it currently exists rather than require a complete overhaul of how mutual funds are bought and sold. In that regard, we submit that determining a swing factor, which is intended to represent the dilutive effect of net subscriptions or redemptions, by its very nature is an estimate, and a hard close that enables a precise understanding of daily fund flows would not eliminate the inherent imprecision of the swing factor. We understand from firms with experience using swing pricing in Europe that the swing factor is typically determined for a set period of time, such as a month, and may be adjusted more frequently when market conditions indicate that is appropriate. Accordingly, we believe that a hard close is not necessary to address dilution.

- Expand the scope of "designated parties" that must receive mutual fund orders prior to the hard close. We believe that expanding the scope of designated parties to include retirement plan administrators and other intermediaries would help mitigate the disruption to the investor experience that the Swing Pricing and Hard Close Proposals present. In the United States, unlike in other jurisdictions where swing pricing is practiced, the majority of investors hold mutual fund shares through intermediaries. The Commission acknowledges that "other jurisdictions do not have the same intermediary structures between funds and their investors as in the U.S."[17] Expanding the scope of designated parties to include intermediaries would soften the disruptions to the mutual

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16 Open-End Fund Liquidity Risk Management Programs and Swing Pricing; Form N–PORT Reporting, 87 Fed. Reg. at 77,247.

17 *Id.* at 77,257 n.481.

fund shareholder's experience that would result from implementation of the hard close as contemplated in the Proposing Release.

- Require intermediaries to impose redemption fees set by funds. Thinking beyond swing pricing, the imposition of redemption fees could be another effective means to mitigate the dilutive effect of significant redemptions. However, we understand from firms with which we work that the biggest roadblock to implementing redemption fees is that intermediaries are unwilling to impose the fees and transmit the proceeds to the applicable funds. Requiring intermediaries to impose redemption fees and transmit the proceeds to affected funds would make available another means by which mutual funds could address dilution caused by significant redemptions. In addition, we believe redemption fees, which are imposed only upon redeeming shareholders and do not impact a fund's daily NAV, are a more equitable way to address dilution versus swing pricing because they are borne only by those investors whose redemption activity contributes to dilution.

We appreciate the opportunity to comment on the Proposing Release. Please feel free to contact Maureen A. Miller [redacted], [redacted] Jacob C. Tiedt [redacted], [redacted]) or Nathaniel Segal [redacted], [redacted]) with any questions about this submission.

Very truly yours,

/s/ Vedder Price P.C.

cc: The Honorable Gary Gensler, Chair, U.S. Securities and Exchange Commission
The Honorable Hester M. Peirce, Commissioner, U.S. Securities and Exchange Commission
The Honorable Caroline A. Crenshaw, Commissioner, U.S. Securities and Exchange Commission
The Honorable Mark T. Uyeda, Commissioner, U.S. Securities and Exchange Commission
The Honorable Jaime Lizárraga, Commissioner, U.S. Securities and Exchange Commission
Mr. William A. Birdthistle, Director, Division of Investment Management, U.S. Securities and Exchange Commission