

**MEMO# 32411**

April 23, 2020

# SEC Statement on Emerging Market Investments

[32411]

April 23, 2020 TO: ICI Members

ICI Global Members SUBJECTS: Disclosure

International/Global RE: SEC Statement on Emerging Market Investments

On April 21, 2020, Securities and Exchange Commission (SEC) Chairman Jay Clayton, together with a number of other SEC leaders, issued a statement warning investors, including funds, that emerging market investments entail significant disclosure, financial reporting and other risks, and that the remedies for investors in such markets are limited.[\[1\]](#)

The statement explains that the SEC's ability to promote and enforce its standards in emerging markets is limited and dependent on the actions of local authorities, which are constrained by national policy considerations in those countries. It cautions that, consequently, in many emerging markets – and specifically China – there is substantially greater risk that disclosures will be incomplete or misleading and, in the event of investor harm, substantially less access to recourse, as compared to investments in US companies.

The SEC's statement discusses the following seven risks and considerations that issuers, auditors, index providers, and financial professionals should consider:

- Emerging Market Risk Disclosures are Important. Issuers reporting with the SEC should clearly disclose the greater risks and uncertainties presented in emerging markets; boilerplate disclosures are not sufficient.
- Quality of Financial Information, Requirements and Standards Vary Greatly. Investors and financial professionals should consider the quality of financial information available, and issuers should ensure that relevant financial reporting matters are discussed with their independent auditors and audit committees.
- The PCAOB's Inability to Inspect Audit Work Papers in China Continues. Investors and financial professionals should consider the potential risks arising from the PCAOB's lack of access to inspect PCAOB-registered accounting firms in China, and issuers should clearly disclose the resulting material risks.
- The Ability of US Authorities to Bring Actions in Emerging Markets May be Limited. The SEC, US Department of Justice and other authorities often have substantial difficulties in bringing and enforcing actions against non-US companies and non-US persons. These risks should be clearly disclosed.

- Shareholders Have Limited Rights and Few Practical Remedies in Emerging Markets. Issuers should clearly disclose any material limitations on shareholder rights, such as difficulty in pursuing shareholder claims, including class action securities law and fraud claims.
- Passive Investing Strategies Do Not Take Account of These Risks. Investors should understand that an index fund tracking a specific emerging market index generally does not directly weight securities on the basis of investor protection limitations or differences in the quality of financial reporting and available oversight mechanisms.
- Investment Advisers, Broker-Dealers and Other Market Participants Should Consider Emerging Market Risks. Financial professionals generally should consider limitations on the quality or availability of information, as well as the other risks described, when recommending investments in emerging markets. Funds investing in emerging markets should consider whether they have adequate risk disclosure about the unique risks and uncertainties that companies with significant operations in emerging markets often face. Boilerplate disclosures are not useful or sufficient.

The SEC concludes by noting that the statement should not be viewed as an effort to restrict access to emerging market investments, and that investor choice is a core component of the SEC's capital markets regulatory framework.

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**endnotes**

[1] The statement is available at:  
<https://www.sec.gov/news/public-statement/emerging-market-investments-disclosure-reporting>.

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