

MEMO# 32670

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SEC Publishes Procedures for Nominating Members to the Investor Advisory Committee

[32670]

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Disclosure

Distribution

Fixed Income Securities

Trading and Markets RE: SEC Publishes Procedures for Nominating Members to the Investor Advisory Committee

On August 5, the Securities and Exchange Commission published new procedures for nominating members to the Investor Advisory Committee (IAC).[\[1\]](#)

Under the new procedures, upon a vacancy in the IAC, a staff-led nominating committee will consider suggestions from its members or the public[\[2\]](#) to identify candidates to fill the “functional membership category” that served as the basis of a departing member’s appointment. From these candidates, the staff nominating committee will prepare a list of potential replacement members for Commission consideration.[\[3\]](#)

The new procedures also confirm that existing IAC members who have served one full, four-year term will not be re-nominated to serve an additional consecutive term. Instead, the staff nominating committee will identify a different candidate for the functional membership category.

Chairman Jay Clayton noted that staff nominating committees and functional membership categories are used to nominate members to the Commission’s other advisory committees.[\[4\]](#) Given their experience with those other SEC advisory committees, Commissioners Hester Peirce and Elad Roisman supported the new procedures for IAC as likely to result in members representing a diversity of experiences.[\[5\]](#) Commissioner Allison Herren Lee, however, criticized the new procedures for marginalizing the role of the SEC Investor Advocate in making nominations and excluding representation for ESG and other issues among the functional membership categories.[\[6\]](#)

The new procedures provide further details on the staff nominating committee for IAC members as well as the functional membership categories for the IAC, AMAC, FIMSAC, and SBCFAC, as discussed below.

Staff Nominating Committee for IAC Members

The new IAC procedures establish a staff nominating committee composed of one SEC staff member from each of:

- Office of Compliance Inspections and Examinations
- Corporation Finance
- Economic and Risk Analysis
- Enforcement
- Investment Management
- Investor Advocate
- Investor Education and Advocacy
- Minority and Women Inclusion
- Trading and Markets

The nominating committee also will include, in an ex officio and non-voting capacity, one counsel from each Commissioner's staff.

Functional Membership Categories for All SEC Advisory Committees

The procedures provide the functional membership categories not only for members of the IAC, which are new, but also for the Commission's other advisory committees, which SEC staff have been using for some time. Chairman Clayton stated that the categories are flexible and should be expected to change with an evolving market.

Categories for IAC Members

In preparing the list of potential replacement candidates, the staff nominating committee will identify candidates based on one of the following functional membership categories:

- Retail investor
- Specialized retail: angel investor / investor in private securities
- Specialized retail: investor in non-traditional investments (business development companies, real estate investment trusts, asset-backed securities, etc.)
- Specialized retail: fraud-targeted investor group (e.g., teachers, military, affinity groups, etc.)
- Claimants' counsel / victim representative (e.g., receiver)
- Retail investment advice provider (preferably a dually licensed investment adviser or broker-dealer individual)
- Retirement / savings plans, including plan consultants – 401(k)
- Retirement / savings plans, including plan consultants – other non-taxable plan
- Large institutional investor
- Small institutional investor
- Financial analyst
- Pension fund
- Hedge fund / private equity / venture capital
- Fund registered under the Investment Company Act of 1940 (e.g., mutual fund, exchange traded fund)
- Academic
- Market structure / trading expert – equity
- Market structure / trading expert – debt
- Accountant / auditor
- Investor education professional
- At-large member

- Representative of the interests of senior citizens (statutorily mandated)
- State securities regulator (statutorily mandated)
- SEC Investor Advocate (statutorily mandated)

Categories for AMAC Members

The procedures note that the below functional membership categories are subsumed within the categories described in the AMAC Charter.[\[7\]](#)

- Fund sponsors, such as those with actively-managed, passively-managed, and private funds
- Registered Advisers, such as those with retail clients in separately-managed accounts
- Investors, including retail and institutional investors
- Fund Board Members, such as a board member from a large fund
- Service Providers, such as auditors and distributors
- Exchanges/Electronic Platforms
- Broker-Dealers
- Academics / Economists
- Data Providers / Independent Research Analysts
- Other Market Participants (1-3), such as those focusing on the effects of technology and role of globalization

Categories for FIMSAC Members

The procedures note that the below functional membership categories are subsumed within the categories described in the FIMSAC Charter.[\[8\]](#)

- Committee Chairman
- Institutional Dealer (bank affiliated)
- Institutional Dealer (non-bank affiliated)
- Retail Dealer
- Regional Municipal Securities Dealer
- Retail Investor
- Small Institutional Investor
- Large Institutional Investor
- Large Institutional Investor
- Municipal Market Analysts/Institutional Investor
- Proprietary Trading Firm
- Proprietary Trading Firm
- Small Issuer
- Large Issuer
- Municipal Issuer
- ETF Sponsor
- Trading Venue (established)
- Trading Venue (emerging)
- Evaluated Pricing Service
- Academic
- Academic
- FINRA
- MSRB

Categories for SBCFAC Members

The SBCFAC Charter provides the following categories for committee members:[\[9\]](#)

- Small Businesses
 - Small or emerging company
 - Small or emerging company
 - Pre- or recent-IPO company
 - Smaller public company
 - Small business service provider, accelerator or incubator
- Small Business Advisors
 - Attorney with experience on smaller offerings
 - Attorney with experience on later stage pre-IPO rounds
 - Investment bank
 - Accountant
 - Advisor to pre- and post-IPO companies
- Investors
 - Early-stage investor
 - Angel investor group/fund
 - Venture capital fund
- Marketplace Participants
 - Online capital raising platform or advisor
 - Other marketplace participant
- Government Representatives
 - SEC Advocate for Small Business Capital Formation
 - SEC Investor Advocate Representative*
 - NASAA Representative
 - SBA Representative
 - FINRA Observer

Bridget Farrell
Assistant General Counsel

endnotes

[\[1\]](#) See Procedures for Appointments to the Investor Advisory Committee, *available at* <https://www.sec.gov/files/iac-procedures-for-appointment.pdf>; see also <https://www.sec.gov/news/press-release/2020-173>. The Exchange Act requires that the IAC have between ten and twenty members in addition to the SEC Investor Advocate, a representative of state securities commissioners, and a representative of the interests of senior citizens. Securities and Exchange Act of 1934 Section 39. Previously, IAC members have been nominated by individual Commissioners.

[\[2\]](#) The IAC website has a link to an e-mail box that the public can use to submit candidates for consideration. See <https://www.sec.gov/spotlight/investor-advisory-committee.shtml>.

[3] The appointment of a nominee for IAC membership continues to require a vote by the Commission.

[4] See Chairman Jay Clayton, Transparency for our Investors and at the Commission (Aug. 5, 2020), *available*

at <https://www.sec.gov/news/public-statement/clayton-open-meeting-iac-20200805>. The other advisory committees are the Asset Management Advisory Committee (AMAC), Fixed Income Market Structure Advisory Committee (FIMSAC), and Small Business Capital Formation Advisory Committee (SBCFAC).

[5] See Commissioner Hester Peirce, Statement at Open Meeting on Publication of Procedures for Nominating Candidates for Appointment to the Investor Advisory Committee (Aug. 5, 2020), *available at*

<https://www.sec.gov/news/public-statement/peirce-statement-open-meeting-iac-nominating-procedures>; Commissioner Elad Roisman, Statement on Publication on the Commission's Website of Procedures for Nominating Candidates for Appointment to the Investor Advisory Committee, *available*

at <https://www.sec.gov/news/public-statement/roisman-nominating-procedures-opening-remarks-080520>

[6] See Commissioner Allison Herren Lee, Statement on the Investor Advisory Committee Nominating Process, *available*

at <https://www.sec.gov/news/public-statement/lee-statement-investor-advisory-committee-nominating-process>.

[7] See Asset Management Advisory Committee Charter, *available*

at <https://www.sec.gov/files/AMAC-Charter-Filed.pdf>. The charter requires "twenty-one voting members representing a cross-section of those directly affected by, interested in, and/or qualified to provide advice to the Commission on matters related to asset management," including "at least one representative member from each of the following three groups shall be on the Committee at all times: (a) investors (e.g., retail, institutional); (b) funds (e.g., sponsors, trustees or directors); and (c) other market participants and interested parties (e.g., service providers, broker-dealers, data providers, investment advisers to retail investors)." Additionally, the charter allows "up to two nonvoting members, one each from the Financial Industry Regulatory Authority and a state securities regulator."

[8] See Fixed Income Market Structure Advisory Committee Charter, *available*

at <https://www.sec.gov/files/fimsac-charter.pdf>. The charter requires "no more than 21 voting members representing a cross-section of those directly affected by, interested in, and/or qualified to provide advice to the Commission on matters related to fixed income market structure...To assure balance, at least one representative member from each of the following three groups shall be on the Committee at all times: (a) investors, (b) issuers and (c) other market participants and interested parties (e.g., broker-dealers, trading venues, credit rating agencies, self-regulatory organizations and service providers)." Additionally, the charter allows "up to two nonvoting members from the Financial Industry Regulatory Authority and the Municipal Securities Rulemaking Board."

[9] See Small Business Capital Formation Advisory Committee Charter, *available at*

<https://www.sec.gov/files/SBCFAC-Charter.pdf>. The charter requires "not fewer than 10, and not more than 20, members...who represent: i. emerging companies engaging in private and limited securities offerings or considering initial public offerings ("IPO") (including the

companies' officers and directors); ii. the professional advisors of such companies (including attorneys, accountants, investment bankers, and financial advisors); and iii. the investors in such companies (including angel investors, venture capital funds, and family offices); 2. who are officers or directors of minority-owned small businesses or women-owned small businesses; 3. who represent— i. smaller public companies (including the companies' officers and directors); ii. the professional advisors of such companies (including attorneys, auditors, underwriters, and financial advisors); and iii. the pre-IPO and post-IPO investors in such companies (both institutional, such as venture capital funds, and individual, such as angel investors); and 4. who represent participants in the marketplace for the securities of emerging companies and smaller public companies, such as securities exchanges, alternative trading systems, analysts, information processors, and transfer agents; and C. three non-voting members— 1. one of whom shall be appointed by the Investor Advocate; 2. one of whom shall be appointed by the North American Securities Administrators Association; 3. one of whom shall be appointed by the Administrator of the Small Business Administration.”