

**MEMO# 25305**

June 28, 2011

## House Subcommittee Holds Hearing on Oversight of the Mutual Fund Industry

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On June 24, a subcommittee of the U.S. House of Representatives Committee on Financial Services held a hearing entitled “Oversight of the Mutual Fund Industry: Ensuring Market Stability and Investor Confidence.” [\[1\]](#) Paul Schott Stevens, ICI’s President and CEO, testified at the hearing, along with representatives from Fidelity Management & Research Company, Vanguard, and several others. [\[2\]](#)

Given the breadth of the topic, ICI’s written testimony addresses a wide range of issues of importance to the industry. As background, it provides an economic overview of the industry, describing statistical trends with respect to funds, their shareholders, their role in the financial markets, industry competition, and fund expenses. The testimony then focuses on three significant regulatory issues:

- **Money Market Fund Reforms.** The testimony describes the U.S. money market, regulation of money market funds, and recent industry and regulatory efforts to strengthen money market funds. It then outlines additional measures currently under consideration to make these funds even better prepared to weather the worst market

conditions, including ways to enhance the liquidity available to prime money market funds investing in the commercial paper market and to minimize the risk that a fund will be unable to maintain a stable net asset value (NAV). The testimony expresses ICI's commitment to working with regulators on these and other policy options. It also stresses that the process should be guided by two principles. First, we should preserve those features of money market funds (including the stable \$1.00 per share NAV) that have proven so valuable and attractive to investors. Second, we should avoid imposing costs of a nature that will undercut the willingness or ability of large numbers of investment advisers to continue to sponsor these funds.

- **Systemic Risk Regulation.** The new Financial Stability Oversight Council has the authority to designate systemically important nonbank financial companies, or "SIFIs," for heightened prudential regulation and consolidated supervision by the Federal Reserve Board. The testimony describes this as an extraordinarily potent legal authority, and one that, in ICI's judgment, should be exercised only in exceptional circumstances. The testimony explains that registered investment companies and their advisers do not present risks to the financial system that remotely justify the application of such regulatory controls. It therefore argues against SIFI designation for individual funds (including money market funds), fund complexes, or asset management firms in their capacity as advisers to funds.
- **Dealing with Multiple Regulators and the Potential for Regulatory Conflict.** The testimony describes a third broad area of concern to funds—the potential for regulatory conflicts and the compliance burdens posed by the multiplicity of regulators to which funds are subject. The testimony explains that funds increasingly face regulation from multiple agencies. At its worst, this dynamic could result in irreconcilable regulatory conflicts, where funds are subject to rules imposed by different regulators that simply are at odds with one another. More frequently, the result is a regulatory hodgepodge – when one agency pursues its perceived regulatory mandate without regard to closely related actions underway at another agency or to the implications of divergent standards; or when an agency addresses regulatory policy concerns only with respect to a specific product without regard to the way in which identical concerns arise with respect to other, competing products. The testimony outlines four recent examples that highlight these problems: the proposed amendments to CFTC Rule 4.5; the ongoing debates over fiduciary duties at the Department of Labor and the SEC; disclosure initiatives at the SEC and the Financial Industry Regulatory Agency relating to potential broker conflicts; and the international arena.

The testimony also describes numerous other regulatory issues of concern to the industry. Some of these issues primarily affect **funds as issuers of securities**: the proposed repeal of Rule 12b-1; tax impediments to foreign investment in U.S. funds; the SEC's moratorium on product applications for certain new exchange-traded funds; the need for further improvements in disclosure and greater flexibility to use electronic media for required disclosures; the application of antiquated rules on recordkeeping to the use of social media; and the potential for investor confusion with less regulated alternatives to funds, such as exchange-traded notes. Others primarily affect **funds as investors in the markets**: the implementation of Title VII of the Dodd Frank Act, establishing a new regulatory framework for the swaps markets and their participants; trading and market structure issues, such as the need for increased transparency of market information and the role of liquidity providers and high frequency trading; municipal securities market reform; housing finance reform; and the need for across-the-board proxy voting disclosure by institutional investors.

The final section of the testimony comments on oversight by the SEC. It stresses that funds and their shareholders stand to benefit if the SEC is both well resourced and well managed, and explains that we continue to urge intensive, high-level, and sustained attention to improving the agency's internal operations, including its ability to conduct empirical research to inform its rulemaking and oversight activities.

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Securities Regulation - Investment Companies

**endnotes**

[1] The hearing was held by the Subcommittee on Capital Markets and Government Sponsored Enterprises, chaired by Congressman Scott Garrett (R-NJ). An archived webcast of the hearing is available at <http://financialserv.edgeboss.net/wmedia/financialserv/hearing062411.wvx>.

[2] Mr. Stevens' oral testimony is available at [http://www.ici.org/policy/ici\\_testimony/11\\_house\\_mf\\_oversight\\_oral](http://www.ici.org/policy/ici_testimony/11_house_mf_oversight_oral). ICI's written submission is available at [http://www.ici.org/pdf/11\\_house\\_mf\\_oversight\\_tmny.pdf](http://www.ici.org/pdf/11_house_mf_oversight_tmny.pdf). Links to each witness' testimony is available at <http://financialservices.house.gov/Calendar/EventSingle.aspx?EventID=247410>.

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