

## VIDEO

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# Focus on Funds: Hot Topics in Fund Regulation

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In the April 24, 2015, edition of *Focus on Funds*, ICI General Counsel David Blass discusses recent SEC sweeps, trends in fund board priorities, and the state of the fund industry on the 75th anniversary of passage of the 1940 Acts.

### Transcript

**Stephanie Ortbals-Tibbs, ICI Director, Media Relations:** Welcome to *Focus on Funds*, the Investment Company Institute's weekly roundup of industry news, ICI activities, and research findings.

ICI's Mutual Funds and Investment Management Conference is well noted for covering the hottest topics in the industry.

I spoke with ICI's General Counsel [David Blass] about what was on everyone's minds at this year's meeting.

So David, these might be called "the big three" issues and the first one we should probably talk about is the U.S. Security and Exchange Commission's "distribution in guise"—their terminology—sweeps that they're conducting and the discussion they had about those at the conference.

**David Blass, ICI General Counsel:** We heard from two individuals who are very crucial to the SEC's thinking in this area: the director of the Division of Enforcement and the director of the SEC's Examination Unit. They had some interesting things to say.

First, they did confirm that the SEC is expecting enforcement action in this area in this year.

Second, importantly, they confirmed that the SEC has no intention of engaging in rulemaking through enforcement in this space. That's important to hear because there were some that were concerned that that was what the SEC was looking to do: announce changes to legal obligations through an enforcement action. So, it's assuring to hear that the SEC had no intent of doing that.

Third, they said that the enforcement investigations really are looking into areas of black-and-white. They're not looking to pursue areas that are in the gray zone where legal obligations—firms have done the best they can but the legal framework is a little bit unclear.

**Ortbals-Tibbs:** Those are some pretty key takeaways. We also can talk, I think, a bit about this dialogue that was going on over the role of fund directors—very important—and the role of fund managers, and how to share those responsibilities correctly.

**David Blass, ICI General Counsel:** Fund directors obviously play a very critical role in overseeing funds—especially the role of independent directors and trustees—and there is a lot of discussion about the era we're in right now, where there are a lot of regulatory changes and just a lot of changes, period. And there's concern that directors will be pulled away from their oversight responsibilities into more of a granular level of engagement that doesn't make use of their core expertise, which is oversight of managers' compliance, performance, and the duties entrusted to the manager.

**Ortbals-Tibbs:** And so the hope is that both of these groups, the boards and the asset managers themselves, can talk about that issue and work out how to work through this increasingly difficult terrain with everyone keeping their eyes on the right balls?

**David Blass, ICI General Counsel:** That's right, and also with the regulators and avoiding this "responsibility creep" that really pulls directors away from their areas of core expertise.

**Ortbals-Tibbs:** You know, we're talking about some really current issues but there's also a lot of history surrounding this year's meeting.

**David Blass, ICI General Counsel:** So, it's the 75th year of the modern U.S. fund industry, which is a big event and a big year. We should all be proud in the industry that we've arrived at the place that we have.

We credit a lot of the success back to our foundational documents—that's the Investment Company Act of 1940 and the Investment Advisers Act of 1940. They created a regulatory framework with investor protections and flexibility for innovations that have led to 93 million investors entrusting funds with their financial savings needs, including their retirement savings.

**Ortbals-Tibbs:** Conference highlights, including Blass's keynote speech, are on the website.

That's this week in funds. See you next week.

## Additional Resources

- [Highlights from the 2015 Mutual Funds and Investment Management Conference](#)