

## COMMENT LETTER

March 21, 2020

# ICI Letter to the National Governors Association on Shelter in Place (pdf)

March 21, 2020 The Honorable Larry Hogan The Honorable Andrew Cuomo Governor of Maryland Governor of New York Chair, National Governors Association Vice Chair, National Governors Association 444 North Capitol Street, Suite 267 444 North Capitol Street, Suite 267 Washington, DC 20001 Dear Governor Hogan and Governor Cuomo, On behalf of members of the Investment Company Institute,\* I am writing to ask you and your fellow Governors to take the mutual fund industry and providers of critical services to funds into account as you impose “stay-at-home” directives across jurisdictions. As additional measures are taken to mitigate the spread of coronavirus-19 disease (COVID-19), we ask that you and your fellow Governors please be sensitive to the vital role played by many firms, particularly financial firms, that might not immediately come to mind when thinking about “critical infrastructure.” Many states are home to headquarters or critical operations for numerous mutual fund sponsors where Americans have entrusted their savings to meet a wide range of financial goals— to buy a home, to pay for schooling for themselves or their children, to retire, or to enhance their financial security generally. Those mutual fund companies must remain in operation to ensure access to invested monies for shareholders across the country. We believe that a March 19 memorandum from the head of the US Cybersecurity and Infrastructure Security Agency will serve as useful guidance for any US jurisdiction considering a shelter-in-place order. It names financial services as an industry that provides critical infrastructure and identifies categories of workers who should be deemed essential. Further there is historical precedent in presidential directives identifying financial services as a component of the nation’s critical infrastructure. In 1998, Presidential Decision Directive 63 issued by President William J. Clinton produced a workable and innovative framework for critical infrastructure protection. In that Directive, the \* The Investment Company Institute (ICI) is the leading association representing regulated funds globally, including mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and similar funds offered to investors in jurisdictions worldwide. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. ICI’s members manage total assets of US\$25.2 trillion in the United States, serving more than 100 million US shareholders, and US\$7.7 trillion in assets in other jurisdictions. ICI carries out its international work through ICI Global, with offices in London, Hong Kong, and Washington, DC. Federal government set a clear example for the rest of the United States of how to protect critical infrastructure. Further, in 2013, President Barack Obama issued Presidential Policy Directive 21 – Critical Infrastructure Security and Resilience. As Directive 21 states, “The Nation’s critical infrastructure provides the essential services that underpin American society. Proactive and

coordinated efforts are necessary to strengthen and maintain secure, functioning, and resilient critical infrastructure – including assets, networks, and systems – that are vital to public confidence and the Nation's safety, prosperity, and well-being.” Crucially, Directive 21 defined the 16 critical infrastructure sectors of the US economy, including the financial services sector. As a vital part of the financial services sector, mutual funds must be treated as critical infrastructure to allow them to maintain efficient and seamless services in support of shareholders. Mutual fund sponsors have risen to the challenge of COVID-19. As part of their robust business continuity plans, most firms have ordered much of their staff to work from home. Not all vital functions, however, can be completed from home. Critical information technology and data security activities, such as maintaining optimal computer systems’ performance to support shareholder needs and protect shareholders’ information from cyber criminals, require personnel physically present at a facility. Staff also need to pick up and process mail to ensure that shareholder transactions, like purchases and redemptions, are completed quickly and efficiently on behalf of retail investors. Call centers where fund shareholders contact the fund complex with questions and concerns may need some staff in the facilities to maintain full support of the fund shareholders. If staff are prohibited from accessing facilities, mutual funds may be forced to curtail their activity, with severe impact on shareholders across the country. Many mutual fund complexes also rely on a network of service providers that deliver vital support to the servicing of the mutual fund shareholders and the operation of the fund. Many of the critical services described above are outsourced to service providers and without their support, the mutual fund may find itself unable to meet the critical needs of fund shareholders. For example, some funds will outsource their transfer agency to service providers that may not fall into the obvious categories included in the definitions of essential services. Without those providers however, certain mutual fund shareholders may be precluded from accessing their investments at a time when the ability to redirect or redeem their money is vital. It is critical that those providers also be considered when determining essential services exemptions for shelter in place orders. As you and your colleagues consider shelter-in-place orders and other measures, it is imperative that mutual funds be granted the same exemption that states would provide to the banking community to ensure mutual fund shareholders can manage and access their savings during such anxious and trying times. We strongly support the efforts of our nation’s Governors to mitigate the spread of the virus in every way possible and appreciate your consideration of the exceptional nature of the infrastructure that supports America’s 100 million mutual fund investors. With sincerest thanks for your attention to these concerns. Paul Schott Stevens President & CEO Investment Company Institute Cc: NGA Executive Director Bill McBride NGA Government Affairs Director Susie Perez Quinn