BOARD UPDATE

May 1, 2021

Board Update April 2020

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IDC News

A Message from Thomas Kim, IDC’s Managing Director

We hope you are well as many of our communities enter into their second month of shelter/work-in-place. With the impact of the COVID–19 pandemic, IDC has focused on delivering resources to assist the independent director community in navigating through these unprecedented times. As you may be aware, we have taken proactive steps to communicate regularly with fund directors during the crisis, developed specialized programming and outreach, and provided opportunities for virtual engagement. These wide-ranging efforts will continue until the public health crisis subsides. Please review IDC’s events section for information on upcoming programs.

We also continue to seek your input and feedback to help us provide the most useful programs and resources for fund directors. The more collective knowledge we can bring together, the more insights and assistance we can share with the broader director community. So, I would appreciate it if you could take some time to send me an email at tkim@ici.org with your input and feedback in the following areas:

- What topics would you like IDC to cover in a future education program (such as a webinar or conference call)?
- What have been some helpful practices your boards have followed to hold effective virtual board meetings?
- What reporting protocols has your board established with management to keep the board informed of the fund complex's operating status and any issues requiring the board's attention?

We at IDC thank you for your engagement with us and for all you are doing to serve the interests of fund shareholders during these uncertain times.

Best regards,

Thomas Kim
Managing Director
Independent Directors Council

IDC Comments on SEC's Reproposed Derivatives Rule

IDC expressed strong support for the SEC's reproposed derivatives rule in a recent comment letter. The reproposal addresses many of the concerns raised by IDC and other commenters to a previous proposal by the SEC. IDC stated that it continues to have reservations about the proposed reporting relationship of the derivatives risk manager to the board, however, and suggested the following modifications to better reflect an appropriate oversight role for fund boards:

- The adviser should be permitted to administer the derivatives risk management program subject to board oversight, and boards should not be subject to prescriptive regulatory requirements that, in our view, would effectively require review of the adviser's personnel.
- The rule should permit greater flexibility regarding the level of detail in board reports and allow them to be tailored to the circumstances of the fund, including its use of derivatives.
- Because of the broad oversight role that fund boards are required to exercise, any adopting release should refrain from dictating particular protocols that a board must follow in its oversight of the use of derivatives.

Regulatory and Legislative News

SEC Proposes Fair Valuation Rule

The SEC has proposed a new rule establishing a framework for funds' fair value determinations. Proposed new rule 2a-5 under the Investment Company Act of 1940 would establish requirements for determining the fair value in good faith of a fund's investments and would permit boards to assign the determination to the fund's investment adviser, subject to board oversight and certain other conditions. The rule would also define "readily available" market quotations for purposes of the Act. Comments on the proposal are due July 21.

$2.2 Trillion Legislative Package Enacted in Response to COVID-19 Pandemic

In response to the COVID-19 outbreak, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was enacted on March 27. ICI applauds the $2.2 trillion legislative package, the largest grant of fiscal relief in US history. It provides funding to address critical needs of hospitals and healthcare providers; direct payments and other forms of support to individuals and families; and vital assistance to states and localities, distressed industries, and employers. The package includes several provisions of interest to the fund industry: economic stabilization through Treasury support for certain businesses and Federal Reserve facilities; authority to establish a guarantee program for money market funds; relief relating to retirement plans and accounts; and certain tax provisions.

SEC Staff Grants Emergency No-Action Relief Under Rule 17a-9

On March 26, in response to a request from ICI, the staff of the SEC's Division of Investment Management agreed it would not recommend an enforcement action under Section 17(a) of the Investment Company Act of 1940 in certain circumstances. This emergency relief extends to any registered open-end investment company that does not hold itself out as a money market fund and is not an exchange-traded fund, if an affiliated person that is not a registered investment company purchases debt securities from the fund, in general accordance with the requirements of Rule 17a-9 with certain conditions.

SEC Staff Provides Temporary No-Action Relief for Money Market Funds

The SEC Division of Investment Management staff granted temporary emergency relief on March 19, agreeing not to recommend enforcement action against any money market fund or any bank that is an affiliated person of the fund if the affiliated bank purchases securities from the fund in accordance with certain conditions. ICI requested this relief because of the significant securities market disruptions caused by the national COVID-19 emergency.

Investment Company Act Rule 17a-9 provides an exemption from the prohibitions under Section 17(a), conditionally permitting affiliated persons of a money market fund to purchase securities from the fund. The no-action relief permits bank affiliates to purchase securities from their affiliated money market funds, which otherwise would be unable to do so in reliance on Rule 17a-9 because of conflicting regulations to which they are subject.

ICI News & Research

ICI's Work with Members and Regulators in Response to COVID-19

As fund firms continue to provide the very best service to shareholders during this critical time, ICI is exerting maximum effort to support members as they cope with novel challenges and heightened risks. ICI's staff is bringing together the collective expertise of its members to identify threats, share information, and seek solutions. ICI is bolstering connections between the industry and key utilities, vendors, and suppliers. And ICI is in constant contact with regulators to make them aware of challenges and to facilitate any needed efforts to clear bottlenecks and ease strains.

ICI has established a COVID-19 Resource Center, which includes a wealth of information to help you stay informed about the latest developments. The resource page includes the special reports that ICI President and CEO Paul Schott Stevens has communicated directly via email to members, including fund directors, to provide updates and additional information.

ICI Applauds SEC's New Derivatives Rule and Recommends Additional

Clarifications

In a comment letter to the SEC, ICI strongly supported the Commission's reproposed rule governing funds' use of derivatives and similar instruments and recommended additional clarifications to improve its effectiveness. Proposed Rule 18f-4 permits funds to use derivatives in more than a minimal amount, if they implement a derivatives risk management program and if their derivatives use does not exceed specific risk-based leverage limits. ICI urged several recommendations be put in place to improve the effectiveness and clarity of the rulemaking and to mitigate the risk of market disruption. They include excluding certain instruments from the derivatives definitions, reflecting fund investment strategies in the relative value-at-risk (VaR) test, and raising leverage limits that take market data into account.

The Latest ICI Research

The vast majority of mutual fund investors consider fees and expenses when selecting a fund, according to survey results released in "What US Households Consider When They Select Mutual Funds, 2019." The report found that about nine in 10 mutual fund–owning households reviewed the fees and expenses of a fund in 2019, with more than 40 percent indicating that this information was "very important" to their fund selection decision. The survey also found that mutual fund investors pay close attention to the historical performance of a fund as well as a fund's performance compared with an index.

The average expense ratios of equity, hybrid, and bond mutual funds—including both actively managed and index equity and bond mutual funds—have declined substantially over a period of more than 20 years, according to Trends in the Expenses and Fees of Funds, 2019. The report found that equity mutual fund expense ratios averaged 0.52 percent in 2019 compared with 1.04 percent in 1996—a 50 percent decrease. Hybrid mutual fund expense ratios averaged 0.95 percent in 1996 and fell to 0.62 in 2019; and similarly, bond mutual fund expense ratios averaged 0.84 percent in 1996, falling to 0.48 percent in 2019.

Upcoming Events

Webinars

SEC Emergency Relief in Light of COVID-19:
An Overview for Fund Directors May 1 Fund Board Oversight in the Age of COVID-19 May 12

Industry Segment Conference Calls

Small Fund Directors and Committee Members
May 7

Directors of ETFs May 11 Board Leaders June 11 Audit Committee Chairs June 15 Directors of ETFs June 16 Governance Committee Chairs June 17 Directors of Small Fund Complexes June 18

Foundations for Fund Directors®

Foundations for Fund Directors®
Washington, DC September 16–17

Conference

2020 Fund Directors Conference
Chicago October 21–23
