The Asset Management Industry
SERVING INDIVIDUAL INVESTORS
INVESTMENT COMPANY INSTITUTE

IDC UPDATE

October 5, 2021

IDC Update: September 30, 2021

ICI Opposes Wyden Proposal That Would Penalize ETF and Mutual Fund Investors

On September 15, Senate Finance Committee Chair Ron Wyden published draft legislation seeking to repeal Section 852(b)(6) of the Internal Revenue Code. That section permits all open-end investment companies, including exchange-traded funds (ETFs), to transfer in-kind property, typically portfolio securities, to a redeeming shareholder in lieu of cash without having to recognize capital gains on the redeemed securities that must be distributed to the ETF's remaining shareholders.

ICI President and CEO Eric J. Pan issued a statement opposing this proposal, noting that the proposal will harm middle-income investors by subjecting them to more-frequent and larger capital gain distributions on which they will have to pay taxes. Pan said "[t]he tax code's current treatment of in-kind redemptions…helps prevent investors from incurring unexpected tax bills, but still ensures that fund investors pay all the tax that they owe when they ultimately sell or redeem their shares." Pan also addressed Wyden's proposal in his keynote address at ICI's 2021 Tax and Accounting Conference.

SEC Proposes to Increase Proxy Voting Disclosure by Investment Funds and Institutional Investment Managers

On September 29, the SEC proposed amendments to Form N-PX—the annual report of the proxy voting record of a registered management investment company—that would increase the information mutual funds, ETFs, and certain other funds are required to report about their proxy votes. Among other things, the proposal would require funds to link the description of each voting matter to the issuer's proxy and to categorize each matter. Funds also would be required to disclose information regarding their securities lending activity. In addition, institutional investment managers would be required to disclose how they voted on executive compensation, consistent with the Dodd-Frank Wall Street Reform and Consumer Protection Act. The public comment period will remain open for 60 days after the proposal is published in the *Federal Register*.

SEC Staff Releases Sample Letter to Companies Regarding Climate Change Disclosures

The staff of the Division of Corporation Finance of the Securities and Exchange Commission (SEC) recently published a sample comment letter that it may issue “to companies regarding their climate-related disclosure or the absence of such disclosure.” In the accompanying guidance, the division staff notes that SEC rules may require information related to risk and opportunities associated with climate change to be included in disclosures related to a company’s “description of business, legal proceedings, risk factors, and management’s discussion and analysis of financial condition and results of operations.” The sample letter focuses on companies’ compliance with the 2010 Commission Guidance Regarding Disclosure Related to Climate Change. The staff notes that the comments contained in the sample letter do not constitute a complete list of the issues companies should consider.

SEC Focusing on Digital Engagement Practices

At a recent meeting of the Asset Management Advisory Committee, Sarah ten Siethoff, acting director of the SEC’s Division of Investment Management, discussed the Commission’s current focus on digital engagement practices. The acting director explained that the Commission seeks a better understanding of the “analytical tools and other technology used by investment advisers to develop and provide investment advice to clients.” The Commission also is “assessing the impact of digital engagement practices such as behavioral prompts, differential marketing or game-like features on advisers’ interactions with their clients.” Finally, ten Siethoff noted that the Commission recently issued a request for information and comment on, among other things, digital engagement practices and related tools and methods.

Registration Now Open for Additional IDC Virtual Industry Segment Calls in November

Registration is now open for IDC’s virtual industry segment calls for directors of ETFs and directors of small funds. IDC’s industry segment calls are informal and director-driven discussion forums among peers and are open only to directors of ICI member funds. Industry segment calls scheduled for November are listed below. We hope you will join us!

Registration Now Open for IDC/ICI Panel on Fund Boards and CCOs on November 10

IDC will team up with ICI’s Chief Compliance Officer (CCO) Committee on Wednesday, November 10 (2:00–3:15 p.m. ET) to discuss the board/CCO relationship. Panelists include Stephanie Capistron, partner at Dechert; CCOs Charles Park (BlackRock) and Katie Primas (Dodge & Cox); and independent directors Kathie Barr (William Blair Funds and

Professionally Managed Portfolios) and John Boyer (Voya Funds). Discussion topics will include board reporting practices, insights into how the relationship has evolved, and how the remote environment has affected engagement between CCOs and fund boards. If you're interested in participating, please email Jennifer Odom to submit a question and receive a calendar invitation with the Zoom link for the session.

Mark Your Calendar for Upcoming Events

*All times are shown in **eastern time (ET)**.*

Industry Segment Calls

- Directors of ETFs: November 8, 2:00 p.m.
- Directors of Small Funds: November 11, 3:00 p.m.

IDC Conference

- Core Responsibilities: October 13 and 14
- Virtual Fund Directors Conference: October 20 and 21

Panel Discussion

- IDC Panel on Boards and CCOs: November 10, 2:00 p.m.

Please contact Paul Mussoni for additional information. A list of IDC events can be found on IDC's website.

For more information about IDC, please contact idc@ici.org. If you are experiencing technical problems, please contact webmaster@ici.org. To opt out of receiving *IDC Update*, please contact memberservices@ici.org.