

IDC UPDATE

October 18, 2021

IDC Update: October 14, 2021

Join Us Next Week for IDC's 2021 Virtual Fund Directors Conference

There is still time to [register](#) for IDC's [2021 Virtual Fund Directors Conference](#) on October 20-21! Among the engaging sessions, Sarah ten Siethoff, acting director of the Securities and Exchange Commission (SEC) Division of Investment Management, will sit down with IDC Managing Director Tom Kim to discuss regulatory issues of importance to the fund director community. The complete conference program is available [here](#). Don't delay!

IDC Governing Council Reelects Chair and Elects Vice Chair

The Independent Directors Council has [reelected](#) Kathie Barr to a second one-year term as chair of its Governing Council and elected Cynthia Plouché as its vice chair. Barr is an independent director for William Blair Funds and Professionally Managed Portfolios, while Plouché is an independent director for Northern Trust Funds. Please join IDC in congratulating Kathie and Cynthia!

ICI Board of Governors Appoints New Chair

ICI's Board of Governors has [elected](#) Yie-Hsin Hung, chief executive officer (CEO) of New York Life Investment Management (NYLIM), to serve as its chair. Hung has been CEO of NYLIM since 2015 and is also a member of New York Life's Executive Management Committee. She succeeds George Gatch, CEO of J.P. Morgan Asset Management, who had served as chair since October 2018. Gatch, as immediate past ICI chair, has been elected to serve as vice chair of the Board of Governors for a one-year term.

ICI Submits Supplemental Response to SEC on Cross Trading

ICI recently submitted [additional information](#) in response to the SEC staff's [request for feedback](#) on funds' cross trading practices under Rule 17a-7 of the Investment Company Act. The submission provides the results of a member survey on funds' equity cross trading activity, supplementing its [earlier report](#) on fixed-income cross trading. In the submission, ICI emphasizes that it is important for the SEC to address the negative impact of guidance contained in its [adopting release](#) for the fair value rules, as it relates to funds' fixed-income cross trading activity. ICI's memorandum summarizing its submission is available [here](#) (login required).

SEC Chair Gensler Directs Staff to Study ETPs

SEC Chair Gary Gensler recently issued a [public statement](#) noting that he has directed SEC staff to study the potential risks of complex financial products that are listed and traded on exchanges, "as part of a broader look at exchange-traded products" (ETPs). Gensler noted that leveraged and inverse ETFs, or complex ETPs, may present risks to even sophisticated investors and create system-wide risks "by operating in unanticipated ways when markets

experience volatility or stress conditions.” Gensler said he has directed SEC staff to present recommendations for the Commission’s consideration on potential rulemaking to address those risks.

Commissioners Lee and Crenshaw Urge Commission to Update Regulatory Framework for ETPs

Recently, SEC Commissioners Allison Herren Lee and Caroline Crenshaw released a [joint statement](#) emphasizing the importance of updating the regulatory framework for ETPs, in which they urged the Commission to adopt a consistent regulatory approach to ETPs that have similar objectives and present similar risks. In addition, Lee and Crenshaw said the Commission should take a comprehensive approach to the listing processes for ETPs that considers the products’ ability to cause or contribute to risk in the financial system. They also urged the Commission to adopt and implement a tailored sales practices framework for the recommendation and trading of complex ETPs.

DOL Proposes Rule to Lift Barriers to Considering ESG Factors in Plan Management

On October 13, the US Department of Labor issued a proposed rule, “[Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights](#),” that would expand plan fiduciaries’ ability to consider environmental, social, and governance (ESG) factors when selecting investments and exercising shareholder rights. The proposed rule is consistent with [Executive Order 14030](#), signed by President Biden, that directs the federal government to implement policies to help safeguard Americans’ financial security from climate-related financial risk that may threaten their life savings and pensions. In the accompanying [press release](#), Acting Assistant Secretary for the Employee Benefits Security Administration Ali Khawar stated “[a] principal idea underlying the proposal is that climate change and other ESG factors can be financially material and when they are, considering them will inevitably lead to better long-term risk-adjusted returns, protecting the retirement savings of America’s workers.”

SEC Chair Gensler Testifies on Themes from SEC’s Unified Agenda

In recent [testimony](#) before the US House of Representatives Committee on Financial Services, SEC Chair Gary Gensler addressed some themes from the SEC’s [Unified Agenda](#) of Regulatory and Deregulatory Actions. Gensler said he has directed SEC staff to work with other regulators on how they can better enhance resiliency and competition in the Treasury and equity markets. Likewise, he has asked staff for recommendations on how to bring greater efficiency and transparency to the non-Treasury fixed-income markets. Gensler also said he has asked SEC staff to consider how they may work with other financial regulators to bring investor protection to the crypto asset markets. In addition, he has asked SEC staff to develop proposals for the Commission’s consideration on disclosures around climate risk, human capital, and cybersecurity.

Gensler also addressed potential reforms in the fund and investment management space. First, he noted the growing number of funds that are marketed as “green,” “sustainable,” and “low-carbon,” and said he has asked staff to consider how to determine what information supports those claims and ensure that the public has the information required to understand investment choices. Second, Gensler said SEC staff is developing a proposal for the Commission’s consideration on cybersecurity risk governance. Third, Gensler said he believes private fund disclosures may be enhanced, particularly with respect to managers’ conflicts of interest. Fourth, Gensler said he has asked SEC staff for recommendations on how to build greater resiliency in money market funds and open-end bond funds.

Mark Your Calendar for Upcoming Events

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

IDC Conference

- [Virtual Fund Directors Conference: October 20 and 21](#)

Panel Discussion

- [IDC Panel on Boards and CCOs: November 10, 2:00 p.m.](#)

Please email [Jennifer Odom](#) to receive a calendar invitation with the Zoom link for the session.

Industry Segment Calls

- [Directors of ETFs: November 8, 2:00 p.m.](#)
- [Directors of Small Funds: November 11, 3:00 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.

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.