

## ICI QUARTERLY UPDATE

July 31, 2024

# ICI Quarterly Update, August 2024

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## Your Voice Was Heard: SEC Backs Down on Costly Open-End Fund Rules

In a major victory for ICI members, the Securities and Exchange Commission (SEC) is reproposing two regulatory proposals that would have disastrous consequences to shareholders and the asset management industry: swing pricing and predictive data analytics.

The open-end fund liquidity and mutual fund swing pricing rule proposal was based on flawed reasoning and posed a risk to millions of American investors. ICI and its members have been opposed to the proposal since its announcement, with President & CEO Eric Pan saying that it would fundamentally alter how funds are managed, priced, bought, and sold while hindering investors' financial goals.

The swing pricing proposal also faced significant opposition from financial professionals, shareholders, and policymakers, with more than 32 fund boards, more than 4,000 American investors, and 38 Members of Congress—Democrats and Republicans—urging the Commission to withdraw the proposal. The SEC's decision to reconsider the proposal is a positive step toward protecting the interests of retail investors.

In another regulatory win, the SEC is reconsidering its predictive data analytics proposal. The rule aimed to establish a new conflicts-of-interest regime for broker-dealers and investment advisors who use technologies that predict, guide, forecast, or direct investment-related behaviors or outcomes. However, as written, the proposal would roll back the clock on technology that investors use every day, calling everything from the most sophisticated technologies to simple spreadsheets into question under the new standard, and would be almost impossible to comply with.

ICI has warned that the proposed rule would raise constitutional issues by unduly restricting advisers' communications with investors. Pan [criticized](#) the proposal, saying it will disrupt almost every aspect of a firm's operations and interactions with investors while eviscerating the certainty and stability on which innovators and investors depend.

ICI is encouraged that the SEC is paying attention to the serious concerns raised by our members, thousands of retail investors, and Congress as they move away from these harmful proposals. ICI stands ready to aid regulators in devising a stronger and more

sensible regulatory framework.

## Worth a Click

- [US retail investment under attack from bunk 'common ownership' theory](#)
- [Looking Back on a Century of Innovation](#)
- [Five Takeaways from the 2024 Fact Book](#)
- [ICI Hosts Undergraduate and Graduate Students at the 2024 Leadership Summit](#)
- [ICI President & CEO named one of Washington DC's 500 Most Influential People of 2024](#)



## See You There

### [Tax and Accounting Conference](#)

September 22-25 in Boca Raton

Join 2024 TAC to hear from industry leaders and gain insights on how the latest issues in tax and accounting affect the asset management industry.

### [Securities Law Developments Conference](#)

October 8 and 10 (Virtual)

The 2024 Securities Law Developments Conference will feature expert takes on the industry from some of the top compliance and regulatory names.

### [IDC Fund Directors Conference](#)

October 21-23 in Chicago

Join the Independent Directors Council in Chicago to celebrate the 20th anniversary of the IDC.

### [Closed-End Fund Conference](#)

November 12 in New York

ICI's 2024 Closed-End Fund Conference will offer essential trends, strategies, and networking opportunities for fund sponsors, shareholders, directors, lawyers, and service providers.

## Supporting Members

### Leading the Way to T+1

Global markets took an important step forward in late May when the US and several other countries shortened their securities settlement to one day after trade execution, better known as T+1.

The move has been a resounding success. Since the implementation of T+1 in the US, [Bloomberg](#) reported on steady transaction activity, [SEC Chair Gary Gensler](#) touted T+1's tangible benefits, and [EU regulators](#) further signaled their own likely transition to one-day settlement.

Of course, as ICI members know, switching to T+1 is no easy task. Its implementation in the US marked the end of a multi-year process in which industry participants upgraded technology, performed robust testing, and revamped operational procedures.

Alongside our partners at DTCC and SIFMA, ICI was proud to lead the industry toward T+1, coauthoring the T+1 roadmap, convening market participants to overcome hurdles in the transition process, and serving as a critical communications hub in the days leading up to implementation.

Now we are preparing to play a similar role in European jurisdictions as they lay the groundwork for T+1 adoption. As markets in Europe and elsewhere make progress toward that objective, ICI is emphasizing the need for regulatory coordination, particularly among deeply interconnected markets, to lessen the risks and costs of misaligned settlement cycles.

We remain in close dialogue with international regulators regarding their T+1 plans and will provide members with timely information and resources as those plans take shape. Together, we can advance the shared objectives of faster settlement to improve markets for all investors.

#### **Bolstering Our Support for BDCs**

ICI is ramping up its advocacy efforts, technical guidance, and research on behalf of business development companies (BDCs). Amid growing interest in these products, ICI is committed to ensuring a sensible regulatory environment as we work to solve the most complex issues facing BDC sponsors.

By educating Capitol Hill offices, engaging regulators through meetings and comment letters, and pursuing thoughtful advocacy strategies, ICI has made headway on several key issues, both those specific to BDCs and those affecting closed-end funds (CEFs) broadly.

ICI hosts member committees and working groups that address issues facing BDCs and other CEFs, and we highly encourage participation in those forums. In addition to supplying legal and operational guidance, the forums facilitate an open exchange of ideas and identify members' top priorities, enabling us to carry out our work with the right strategies in place.

Alongside those efforts, the Independent Directors Council (IDC) offers education and networking opportunities, including industry segment meetings, webinars, and conferences, for independent directors of BDC funds.

For individual assistance, information about our committees and working groups, or other BDC-related resources, please contact the ICI Membership Department at [memberservices@ici.org](mailto:memberservices@ici.org). As the industry continues to expand and evolve, we are committed to providing unique value for BDCs and other types of closed-end products that serve retail investors.

#### **BDCs Have Flourished in Recent Years**

##### **Modernizing the Japanese Retirement System**

ICI has been active in Japan this year in a push to modernize the Japanese defined contribution framework, converting a culture of savers into a culture of investors. The

Japanese government approved the “Basic Policy on Economic and Fiscal Management Reform 2024” on June 21, with several reforms, including increasing contribution limits and providing more opportunities for older workers to save, having been specific recommendations made in an [ICI policy paper released in February](#).

The US retirement system is well regarded in Japan, where calls to bring its direct contribution plans closer in line with the advantages of the US 401(k) account are commonplace. “We encourage policymakers from around the world to look to Japan as a model for positive policies that encourage retail household participation in the capital markets, strengthen long-term investing, and unlock household savings to better finance the real economy,” ICI CEO Eric J. Pan said in a statement following the new reforms.

## **Advocating for Investment Funds**

### **Voicing Opposition to the New York Legislature’s Bill on Sovereign Debt**

New York state legislators introduced the [Sovereign Debt Stability Act](#) last year in an attempt to lessen the overall economic impact of addressing the sovereign debt of emerging market countries should they become insolvent. While well-intentioned, this legislation would do more harm than good for emerging markets. In a [joint comment letter](#), ICI and several organizations representing industry and New York businesses strongly opposed the measure, outlining the negative impacts the legislation could have on global markets in the event a foreign country sought to restructure its New York-issued sovereign debt.

Emerging market debt is held by a wide range of investors, who would bear increasing costs as a result of this legislation. If passed, the bill’s far-reaching, unintended consequences would harm long-term investors, who could see their capital tied up during protracted and complicated debt restructuring legal processes. Developing and middle-income countries would be hit hardest, as they would see a substantial risk premium added to their cost of borrowing, with the poorest countries experiencing the highest increase in borrowing costs.

ICI will continue to monitor the bill and educate stakeholders and the public about its consequences.

### **ICI Brings Leaders Together**

ICI hosted another successful Leadership Summit in May, bringing together central figures in asset management, technology, and government, sparking thought-provoking conversations about the future of investing. Accenture CEO Julie Sweet kicked off the conference with words that resonated: “Lead with excellence, confidence, and humility.”

ICI was pleased to welcome Congressman Patrick McHenry (NC-10), Chair of the House Financial Services Committee, who discussed the state of Congress, his policy priorities, and lessons on the art of legislating. The 20-year Capitol Hill veteran also expressed concern that not everyone appreciates the strides that have been made to improve the lives of American retirement savers. “The rest of the world is trying to emulate the United States,” Rep. McHenry said. “It is very frightening to me to see policymakers who think we should do away with 401(k)s and IRAs.”

SEC Chair Gary Gensler defended the SEC’s work in a discussion with ICI President & CEO

Eric J. Pan. Pan pushed the SEC Chair on the interconnectedness of recent SEC proposals and their cumulative impact, to which Gensler responded, “We take interconnectedness into account if the rule changes the baseline.” ICI is grateful for Chair Gensler’s time and for every speaker who shared their voice at Leadership Summit.

### **ICI Wants to Restore Confidence in Regulators**

In June, ICI joined the Chamber of Commerce and other industry groups to call on the Securities and Exchange Commission to put in place reforms that will improve the agency’s rulemaking process and restore public faith in the regulator. The groups released a [whitepaper](#) documenting concerns with the SEC’s agenda, explaining the significance of how federal courts view lawsuits challenging certain regulations, and recommending reforms to improve how the agency approaches rulemaking.

Along with the release of the whitepaper, ICI Deputy General Counsel Dorothy Donohue joined former SEC leaders on a panel at the Chamber of Commerce, where she raised concerns about the SEC’s aggressive approach to rulemaking and failure to recognize how their interconnected web of proposals will ultimately harm investors.

### **In the News**



“For more than 20 years, U.S. bank regulators have concluded that regulated funds’ passivity commitments ensure they do not exercise control over the banks in which they invest,” said a spokesperson for the Investment Company Institute, which represents investment funds.

[\[link to article\]](#)



“We thank the SEC for recognizing the myriad issues contained within the [swing pricing] proposal and look forward to continuing our work with the commission on ways to help retail investors build a secure financial future,” the Investment Company Institute trade group said in an emailed statement.

[\[link to article\]](#)



“When global markets don’t transition on a similar date, it does create a lot of operational complications. That was the case between 2014 and 2017. It’s going to be the case here,” said RJ Rondini, director of securities operations at the Investment Company Institute. “Our members are hoping that the UK, EU, Switzerland and other developed markets come to T+1 relatively soon.”

[\[link to article\]](#)



“To date, all T+1 implementation activities have been completed according to plan,” said Jeff Naylor, chief industry operations officer at ICI.

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