

# ICI Quarterly Update

## Celebrating 100 Years

By Eric J. Pan, President and CEO

The first mutual fund in the United States was created in 1924, which means that mutual funds and other pooled investment products have been part of our country's economic success story for one hundred years. **This anniversary** is an opportunity to reflect on the profound impact these investment products have had on achieving the American Dream and making possible the American Century.

From making long-term investing accessible to all Americans, regardless of wealth or education, to facilitating distribution of capital to American businesses, investment funds are a cornerstone of the financial landscape, creating a thriving and prosperous American middle class.

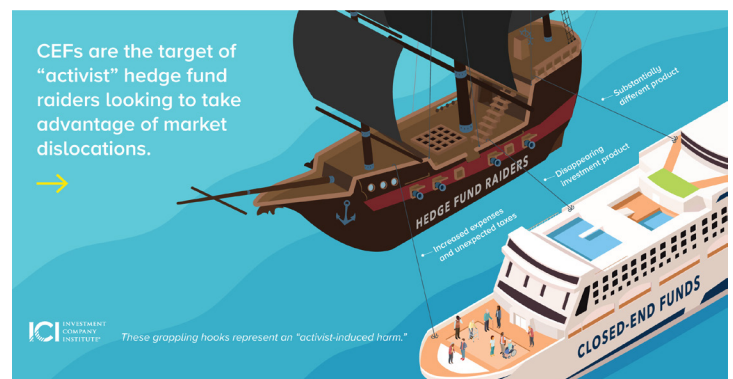
The 100th anniversary of mutual funds is both a celebration of the past and a call to action for the future. By supporting necessary and thoughtful regulation, providing more choices, and expanding access to a broader audience, we can build on this legacy and pave the way for another American century of financial empowerment and opportunity for all.

The Investment Company Institute will be commemorating this important milestone throughout the year alongside policymakers, our members, and the millions of Americans investing to secure their financial future. We're proud to be part of this remarkable journey.

JANUARY 2024

## WORTH A CLICK

- » **Driving Headlines: Could the SEC Pull a Bait-and-Switch on Swing Pricing?**
- » **T+1: The Next Step for Evolving Markets Globally**
- » **ICI's Strategic Communications Team Wins PR Week's Best Places to Work**
- » **SEC Proposal Slams the Brakes on Tech Progress**
- » **Closed-End Funds Are Under Siege by Activist Investors**



## SEE YOU THERE

### ICI Innovate—Unlocking the Future of Asset Management: February 6–8 in San Diego, CA

This premier event will bring together thought leaders, innovators, and experts to discuss the latest trends in artificial intelligence, robotics, distributed ledger technology, machine learning, and more.

### Investment Management Conference: March 17–20 in Palm Desert, CA

Hear directly from regulators and industry experts about the most pressing issues facing asset managers and where the industry is headed.



# WANT DAILY UPDATES?

Was your New Year's resolution to start every day with the latest news in the funds industry? You're in luck!

[Sign up for the ICI Daily News today!](#)

## ICI Daily News

By ICI Strategic Communications • Jan 30, 2024

## SUPPORTING MEMBERS

### ASSISTING WITH IMPLEMENTATION PRIORITIES

On the back of a historic regulatory agenda, ICI's Operations department is working tirelessly to provide members with expert advice and timely assistance on implementation priorities.

Working alongside colleagues in ICI's Legal department, Operations personnel are helping members prepare for changes under SECURE 2.0, legislation passed in late 2022 that will improve Americans' ability to prepare and save for retirement. Additionally, Operations continues to lead the industry toward more liquid and efficient markets as the US, Canada, and Mexico transition to **T+1 settlement** in May. The department is also intensely focused on

the SEC's enhanced proxy voting disclosure, the various liquidity risk management proposals in the US and abroad, and the controversial fund *Names Rule* changes.

As always, we are committed to helping members identify and work through implementation challenges. And with the pace of rulemaking showing no signs of slowing, we continue to actively engage industry participants to better understand the potential operational impacts of proposed regulations. For additional resources on these issues or to get connected with any of our operations-focused member committees, please visit ICI's various [committee pages](#).

### GLOBAL INFLUENCE

The Financial Stability Board (FSB) and the International Organization of Securities Commissions (IOSCO) recently released final reports on open-end fund liquidity risk management, aiming to address purported vulnerabilities associated with the open-end fund structure. The final reports incorporate feedback from public consultations, including with ICI Global, and replace the proposed one-size-fits-all approach requiring all open-end funds to use a liquidity management tool (LMT) with flexibility for fund managers in the use of LMTs—a key focus of ICI Global's advocacy.

In a statement, Michael Pedroni, Head of ICI Global, welcomed the reports. "The FSB and IOSCO's respective

guidance on liquidity risk management for open-end funds provides a common-sense approach in balancing the need for robust liquidity management with viable measures to address investor protection concerns."

ICI Global also responded to the European Securities Market Authority's (ESMA) call for evidence on shortening the settlement cycle in EU markets, voicing support for adopting a T+1 settlement cycle as the global standard following the move by North American markets to T+1 in 2024. ICI Global also encouraged EU authorities to coordinate with the UK and Switzerland to avoid fragmentation across European markets and pledged ICI and ICI Global's support for a smooth transition.



The US timeline for adopting T+1 settlement, left, could cause long-term misalignment with European capital markets if EU authorities don't follow suit.

# ADVOCATING FOR INVESTMENT FUNDS

## SOUNDING THE ALARM ABOUT THE SEC'S HARMFUL LIQUIDITY PROPOSAL

ICI has been warning policymakers about the harms that will befall investors if the SEC adopts its proposed amendments to the current liquidity risk management (LRM) requirements for open-end funds.

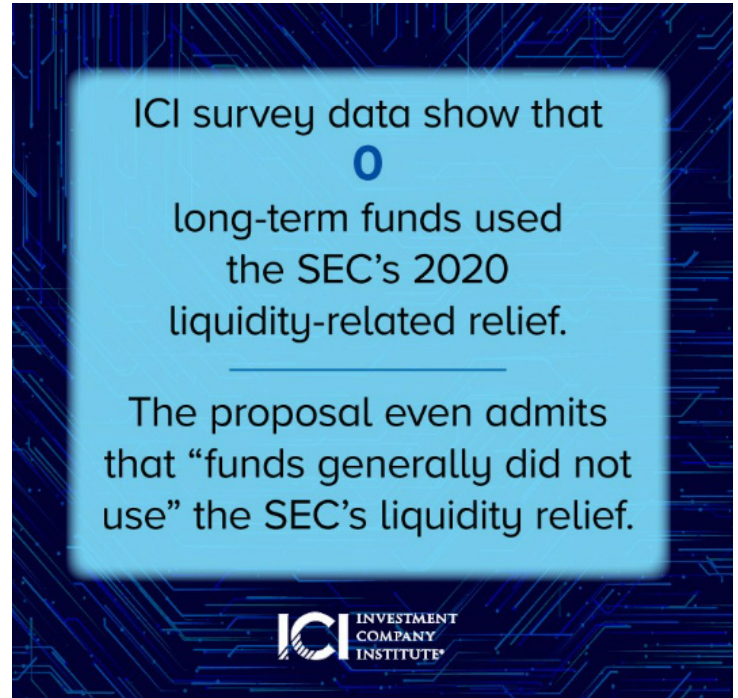
As ICI experts emphasized in a recent [blog post](#), the proposed LRM requirements would saddle fund investors with higher costs, unexpected tax bills, and lower returns. They would also make some of the most popular and liquid funds in the world, such as S&P 500 index funds, unviable when they reach a certain size.

By arbitrarily expanding the definition of an illiquid investment, the LRM proposal would cause a wide variety of funds to exceed the 15 percent cap on illiquid assets. As ICI Associate General Counsel Matt Thornton stressed in a separate [blog post](#), no type of fund is more vulnerable to that change than bank loan funds, as they typically invest at least 80 percent of their assets in loans that would be deemed illiquid under the SEC's proposal.

But bank loan funds prudently manage liquidity risk using a variety of tools and have weathered several periods of market stress over the past 20-plus years without incident.

If adopted, the LRM proposal would drive bank loan funds out of business, threatening real-world harm to their shareholders and companies in need of capital. Instead of

this extreme approach, the SEC should pursue the policy recommendations put forth by ICI and others to deliver genuine reform and preserve the viability of bank loan funds for the benefit of investors.



## ICI ECONOMISTS GIVE THE DOL A FAILING GRADE

Upon close examination of the Regulatory Impact Analysis in the Department of Labor's latest fiduciary rule proposal, ICI economists [found](#) obsolete data, bad math, huge costs, and [zero quantitative benefits to investors](#).

The DOL's analysis relies on a fund business model that hasn't been in regular use since 2008. For at least 15 years, investors have bought no-commission products in increasingly large numbers, a reality ignored in the DOL's analysis.

The Department also dramatically underestimates the costs of the proposed rule. First-year costs could

easily exceed \$2.9 billion, more than 10 times the DOL's \$253 million estimate.

This isn't the first time the DOL has flunked impact analysis. In a previous attempt to expand the scope of ERISA fiduciary status—a 2016 rule that was vacated by the Fifth Circuit—the Department presented an estimate of the rule's benefits overblown by at least 15 to 30 times due to a math error.

ICI will continue to hold the DOL accountable for these fundamental shortcomings and demand better on behalf of individual investors.

“If finalized, the (DOL's) proposal could result in large portions of the middle-class losing access to crucial investment information and guidance and having fewer choices in the marketplace.”

—ERIC J. PAN, PRESIDENT & CEO, ICI

## DC UPDATE

Here's the latest news on recent and coming legislation that ICI is watching in 2024:

- » A draft bill released December 6, 2023, puts forth a number of technical corrections and clarifications pertaining to the SECURE 2.0 legislation signed into law a year before. The most major fix adds back in the ability of participants in 401(k), 403(b) and 457(b) plans to make catch-up contributions in pretax and Roth plans.
- » H.R. 3063, the Retirement Fairness for Charities and Educational Institutions Act of 2023, adds the capability for 403(b)s to invest in collective investment trusts, fixing a further oversight in the SECURE 2.0 Act. ICI supports passage of the bill.
- » A bipartisan letter from 50 members of Congress was delivered to the Department of Labor early in January in opposition to the administration's fiduciary rule. This follows DOL's denial of requests from members of Congress and from trade groups including ICI to extend the comment period on the rule.
- » Also breaking in January 2024, a new federal bill, the Review of the Expansion of Government (REG) Act, would require the Securities and Exchange Commission to review its own rules every five years and consider the "totality of the rulemaking" in its economic analysis for all proposals. ICI welcomes the bill, which was introduced by Rep. Young Kim (R-Cal.) and cosponsored by five other members of Congress, including four of Rep. Kim's fellow subcommittee chairs in the House Financial Services Committee.

Stay tuned to the next *Quarterly Update* for more on the progress of these bills and regulations.

## IN THE NEWS



"It's important for us to help folks cover shorts...but when you impose all the costs, a lot of funds are just going to say, 'Is it worth even engaging in securities lending?'" said Stephen Bradford, ICI's spokesperson. "It's another example of the SEC citing expansive but vague benefits but giving very short shrift to the costs and the knock-on effects."

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



Switching a fund to an open-ended structure often translates to money managers having to sell assets they had expected to hold long-term. The fund's assets will often shrink further, as will its fee income. Investors who remain can be hurt, according to Kenneth Fang, associate general counsel at the Investment Company Institute, a trade group. He called activist hedge funds "pirates."

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



"[The SEC's Names Rule] sweeps more than three-quarters of all the funds in the U.S. into its dragnet, going far beyond ESG funds—the supposed root of the rulemaking—with no justification," Eric Pan, CEO of the Investment Company Institute, a major Washington funds group, said in a statement on Wednesday.

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

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## THE WALL STREET JOURNAL

The Investment Company Institute noted recently in a public comment that the [SEC’s Predictive Data Analytics rule] exceeds the agency’s statutory authority and raises “constitutional issues by unduly restricting firms’ ability to communicate with investors.”

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

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## FT FINANCIAL TIMES

Asset managers contend that [tightened liquidity rules] will drag down returns and force the closure of retail funds that buy bank loans. “This would disrupt funds’ abilities to pursue their investment objectives and potentially harm fund performance,” the Investment Company Institute, which lobbies for fund managers, wrote.

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

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## AMERICAN BANKER

The ICI, in the [comment] letter, pushes back against the idea that bank fund loans pose a large enough threat to justify these changes, and says that there are less stringent measures the SEC and the funds could take to mitigate the risks that bank loan funds present.

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

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## Bloomberg

Investment Company Institute President & CEO Eric Pan discusses the state of markets in the US and Asia.

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

