Statement at Open Meeting on Investment Company Liquidity Disclosure (Final Rule)

Commissioner Michael S. Piwowar

June 28, 2018

From my earliest days as SEC Commissioner, I have advocated that we engage in thoughtful retrospective review of our rules to ensure they achieve their intended objectives. I am happy, in the last open meeting of my tenure, to vote in support of a final rule which is the product of such a review.

In late 2016, we adopted rules requiring that mutual funds and exchange-traded funds disclose to investors information specifying, in aggregate, the liquidity of assets in their portfolios. The simple goal of this requirement was to provide investors with information to help them make better investment decisions.[1] However, as industry participants began classifying the liquidity of assets in their portfolios according to our rules, and prepared to disclose this information to the public, it became clear that the information generated by our requirements would not benefit investors as we had intended. Rather, this overly simplistic disclosure was misleading and would likely have a *negative* effect on investors' decision-making.

Acknowledging the unintended and unexpected results of our rules is neither common nor comfortable. That is why I would like to thank the Director of the Division of Investment Management, Dalia Blass, for being attuned to this feedback from industry participants and for wasting no time in developing a recommendation for the Commission to correct course. Thank you also to the staff who worked so diligently to devise this rule proposal, consider commenter feedback, and present it to the Commission for adoption.

As I mentioned when voting on this rule proposal a few months ago, I would have preferred for us to go further in revising the onerous requirements of Rule 22e-4.[2] The one-size-fits-all methodology for classifying the liquidity of assets in a fund's portfolio has turned out to be more costly and complex than we anticipated,[3] and industry participants have found more effective ways to manage their liquidity risk.[4] My favored approach would have been the one recommended by the U.S. Treasury in its detailed report on regulation of the asset management industry,[5] namely a revised rule that sets forth a principles-based framework for funds to manage their liquidity risk.

While I am disappointed not to be voting on such a rule today, I am consoled by the explicit statement in this release that the SEC staff will review requests for exemptive relief from funds that find it more effective to keep using their own systems for managing liquidity risk than to use the rigid approach set forth in the Commission's rules. Hopefully, this commitment will help funds avoid the costly make-work that would be

created if funds had to maintain two liquidity risk management systems side-by-side in an effort to both effectively manage their risk and check a regulatory box.[6]

Thank you. I have no questions.

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[1] Press Release, Securities and Exchange Commission, *SEC Adopts Rules to Modernize Information Reported by Funds, Require Liquidity Risk Management Programs, and Permit Swing Pricing* (Oct. 13, 2016), https://www.sec.gov/news/pressrelease/2016-215.html; Commissioner Michael S. Piwowar, "Statement at Open Meeting on Investment Company Liquidity Risk Management Programs, Investment Company Swing Pricing, and Investment Company Reporting Modernization Releases" (Oct. 13, 2016), https://www.sec.gov/news/statement/piwowar-statement-open-meeting-101316.html.

[2] Commissioner Michael S. Piwowar, "Statement at Open Meeting on Investment Company Liquidity Disclosure" (March 14, 2018), https://www.sec.gov/news/public-statement/statement-piwowar-open-meeting-fund-liquidity-2018-03-14.

[3] Securities and Exchange Commission, Investment Company Liquidity Risk Management Programs; Commission Guidance for In-Kind ETFs, Release No. IC-33010, https://www.sec.gov/rules/interim/2018/ic-33010.pdf.

[4] *See*, *e.g.*, Letter from the Investment Company Institute to The Honorable Jay Clayton (July20,2017), https://www.ici.org/pdf/liquidity_sec_clayton_ltr.pdf .

[5] U.S. Department of the Treasury, "A Financial System that Creates Economic Opportunities: Asset Management and Insurance" (Oct. 2017), https://www.treasury.gov/press-center/press-releases/Documents/A-Financial-System-That-Creates-Economic-Opportunities-Asset_Management-Insurance.pdf ("Treasury Report").

[6] Treasury Report at 34.