

[Securities Regulation Daily Wrap Up, INVESTMENT ADVISERS—In letter to Uyeda, IAA highlights four top policy recommendations, \(Feb. 4, 2025\)](#)

Securities Regulation Daily Wrap Up

[Click to open document in a browser](#)

By [Anne Mathews, J.D.](#)

Stressing that the investment adviser industry is made up of small businesses, IAA requests review and relief from new regulations.

The Investment Adviser Association wrote to Acting SEC Chairman Mark Uyeda to present its top-priority recommendations for regulatory and policy actions. IAA cites the first-day [executive order](#) freezing rulemakings pending review. Specifically, it [asks](#) the Commission to work with FinCEN to reopen the comment periods for new AML and CIP rules, extend the compliance periods for five new rules, review existing rules and guidance with industry input, and generally adopt a principles-based, “right-sized” approach to regulating advisers.

AML/CIP. IAA's top priority is reopening the comment periods for new anti-money-laundering and Customer Identification Program rules. The comment period for the [CIP Proposal](#) closed on July 22, 2024, and the [AML Rule](#) was finalized on August 28, 2024. Accordingly, IAA members did not have a chance to comment on the CIP Proposal in the context of the final AML Rule.

Reopening the comment period would allow advisers to address challenges under the new rules. IAA writes that advisers:

- will need to allocate significant time and resources to establishing an AML program even if their business and operations present little or no AML risk;
- do not have physical custody of client assets and do not transact in cash for clients;
- will be required to set up new systems and/or processes to track the specific requirements of the new rule, even if they had previously voluntarily adopted AML policies;
- will face significant expenses to hire personnel or retain consulting resources to comply with the new AML compliance officer and independent testing requirements; and
- lack clarity on how to rely on or contractually delegate a required function to a third party, especially since most advisers lack the leverage to negotiate with service providers.

IAA recommended “tailoring the scope of combined requirements to better achieve an appropriate balance between having an effective regulatory regime to combat illicit finance while minimizing duplication and unnecessary burdens on advisers.”

Extending compliance periods. Next, IAA recommended extending the compliance periods for five new rules: Regulation S-P (12 months); Form PF (6 months); the Fund Names rule (18 months); Form SHO (18 months); and Treasury clearing (12 months).

The association says that the new rules present compliance, operational, and technological challenges and risk significant unintended consequences. The need to negotiate with third parties complicates compliance, as does a lack of clarity or guidance from the SEC, IAA writes.

Review of existing rules. IAA also asks for a review of some existing rules. It calls on the SEC to withdraw FAQs for the Marketing Rule that have led to different calculations of “net performance,” hindering comparability and increasing confusion among investors. The group also says that a retrospective review of the rule is warranted to garner industry feedback from three years of experience with the rule.

IAA also requests a review of the rules on capital formation and investment access, e-delivery, pay-to-play, and custody of client assets.

Principles-based regulation. Finally, IAA highlights a request for principles-based, “right-sized” regulation of investment advisers. Regulation should be strategy-neutral and recognize that value cannot be measured solely by cost. The SEC should also formally integrate into its rulemaking process a comprehensive impact analysis that considers both the economic costs and the compliance challenges for advisers; this should assess how rules interrelate.

In line with the “right-sizing,” IAA recommends that the SEC amend its definition of small adviser for cost-benefit purposes and that it consider the recommendations of, and reconvene, the Asset Management Advisory Committee.

Finally, the SEC should use its examinations and enforcement authority to address misconduct and investor harm, not to penalize technical infractions. Enforcement actions should not be used to establish new rules, interpretations, or undertakings in place of notice-and-comment rulemaking.

IndustryNews: Enforcement ExchangesMarketRegulation InvestmentAdvisers InvestorEducation
SECNewsSpeeches