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New Regulations Will Promote Consistency, Transparency, and Efficiency in the Marketplace and Strengthen Investor Protections

Washington, DC; September 24, 2018—The Investment Company Institute (ICI) offered strong support for a rule proposal by the US Securities and Exchange Commission (SEC) to modernize the framework for exchange-traded funds (ETFs) in a [comment letter](#) filed with the Commission.

“We commend the SEC for proposing a rule that will help bring greater consistency, transparency, and efficiency to the regulatory framework for ETFs,” said ICI General Counsel Susan Olson. “ETFs have been one of the most successful, popular financial innovations in recent years. By advancing this rule, the SEC sends a signal that ETFs are an investment product that deserves its own uniform regulation under the Investment Company Act of 1940. Once in place, this new rule and related disclosures will help provide an updated framework for this growing industry and enhance the ETF investor experience.”

Summary of the SEC Rule Proposal

Under the proposed Rule 6c-11, most ETFs will be permitted to operate within the scope of the Investment Company Act of 1940 without applying for individual exemptive orders. The rule does not distinguish between index-based ETFs and actively managed ETFs. The Commission also proposes certain disclosure amendments intended to provide investors who purchase and sell ETF shares in the secondary market with additional information to help them understand ETF trading costs.

ICI Outlines Strong Support for the SEC’s ETF Rule Proposal

In its letter, ICI supports key components of the rule, including:

- Permitting index-based and actively managed open-end ETFs to operate with equal treatment under the proposed rule (page 7)
- Establishing a definition of a “creation unit” (page 12)
- Adopting and implementing policies and procedures for ETF basket composition (page 13)
- Permitting an ETF to use “custom baskets” that do not reflect a pro-rata representation of the fund’s portfolio to help improve efficiency and tradability while lowering costs and enhancing tax benefits for investors (page 14)

ICI Proposes Recommendations to Accommodate Current ETF Practices

In addition to strong support for the underlying rule proposal, ICI’s comment letter conveyed the following key recommendations for the SEC to consider as it continues work on the rulemaking proposal:

- Providing alternative disclosures to help investors understand ETF trading costs (page 28)
- Urging the Commission to consider ways to streamline the regulation of ETFs under both the Securities Exchange Act of 1934 and the Investment Company Act of 1940 (page 32)

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