

ICI Applauds SEC Staff Action to Protect Closed-End Fund Shareholders

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Regulatory change provides funds with a critical tool to fight activist profiteers

Washington, DC; May 28, 2020—ICI President and CEO Paul Schott Stevens issued the following statement in response to the US Securities and Exchange Commission (SEC) staff decision to immediately withdraw a 2010 no-action response, *Boulder Total Return Fund, Inc.*, that limited closed-end funds' ability to combat activist campaigns seeking short-term profits:

"ICI is truly grateful the SEC staff took this important step to further protect closed-end fund shareholders from growing attacks by activist private funds. This action helps repair a regulatory imbalance that has prevented closed-end funds from using common takeover defenses that other entities can deploy when besieged by corporate raiders.

"Withdrawing the *Boulder* letter is a commonsense decision that is consistent with the Investment Company Act of 1940's goals of protecting fund shareholders from outsiders that own large amounts of the closed-end fund's shares. Furthermore, closed-end funds are critical investment vehicles that can help realize the SEC's goal of providing retail investors with exposure to various asset classes, including the private markets. We believe today's action will help bolster this important segment of the regulated fund industry and protect the interests of millions of fund shareholders. We look forward further discussions with the staff on whether additional Commission action is warranted in this area."

Additional Information on ICI's Advocacy to Withdraw the *Boulder* Letter

Targeted by professional activists, a significant portion of the closed-end market is at risk of liquidation or conversion to open-end structures. Since the financial crisis, more closed-end funds have merged or

liquidated than have opened. Only 494 traditional exchange-listed closed-end funds were in operation at year-end 2019, a 25 percent decline from year-end 2007. Closed-end fund sponsors are becoming increasingly reluctant to launch new funds and to pay related up-front costs when their products are at risk to activist attacks.

ICI [submitted a report](#) to the SEC in March 2020 recommending the Commission or its staff withdraw the *Boulder* letter and issue guidance clarifying that closed-end funds can employ common takeover defenses. The submission provides extensive legal analysis explaining why the conclusions in the *Boulder* letter are incorrect.

ICI's submission also contains detailed data and context on the history of the closed-end fund market, recent activist campaigns, and the harm those campaigns have caused to closed-end funds and their long-term shareholders.

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