IDC Independent Directors Council
Promoting Excellence in Fund Governance

ICI: Mandatory Swing Pricing Would Harm Millions of American Investors

Washington, DC; February 14, 2023—Investment Company Institute (ICI) President and CEO Eric Pan released the following statement regarding the Securities and Exchange Commission's (SEC) proposal to amend open-end fund liquidity risk management programs and impose mandatory swing pricing for mutual funds:

"The SEC's liquidity, swing pricing, and hard close proposal would seriously harm the more than 100 million Americans who use mutual funds to invest for their financial future.

"Mutual funds have existed for almost a century. Over the years, they have withstood shocks ranging from depressions to global wars. Mutual funds work. They help people build financial security, and 68% of mutual fund-owning households earn less than $150,000 annually. The SEC's unworkable and costly proposal would severely damage these funds, targeting middle-class Americans and making it harder for families to achieve their financial goals.

"The Commission's rulemaking seeks to re-engineer the entire mutual fund product, fundamentally altering how mutual funds are managed, priced, bought, and sold by everyday investors. The agency wants to mandate that all mutual funds manage liquidity under prescriptive new rules. Even worse, the proposal would mandate that funds 'swing' their daily share price, artificially changing it on most business days, under SEC conditions, unseen by investors.

"The SEC is also proposing a 'hard close' on mutual fund orders at 4 p.m. Eastern Time. This is a dramatic change. It will require intermediaries like brokers and retirement plans to institute cut-off times well before the market closes at 4 p.m. in New York, even at times as early as 7 a.m. on the West Coast—meaning that mutual fund investors will lose full access to trading at today's price during normal market hours.

"The Commission presents scant evidence of a real problem to solve. ICI estimates that daily dilution for U.S. mutual funds is on average far too small—typically just hundredths or tenths of a basis point per day—to incentivize shareholders to redeem heavily, contrary to what the Commission assumes.

Even a scenario where dilution amounted to a few basis points annually is highly unlikely to outweigh investors' other concerns, in particular the daily gyrations of the stock market. Over the longer-term, any potential dilution would be greatly offset by the returns investors earn in mutual funds. The data simply do not support the SEC's proposed heavy-handed approach.

"The SEC already has a mandatory liquidity risk management rule and an optional swing pricing rule on the books. The SEC has failed to demonstrate that the enormous changes they are contemplating, including the 4 p.m. hard close, would be beneficial to investors. Similarly, the agency has not fairly analyzed whether the changes would be workable for funds, given that they would require a complete overhaul of operational systems and the conscription of thousands of fund staff. The hard close would be particularly harmful to retirement savers, since we know that 61% of 401(k) plan assets are held in mutual funds.

"We are also seriously concerned by the burdensome obligations envisioned for Form N-PORT filers. The information would include public disclosure of holdings that the Commission has previously found could encourage predatory trading. This would harm fund shareholders and should be discarded.

"The SEC should leave the current liquidity risk management regime in place, letting each fund determine if an anti-dilution measure is needed, and which measure to use. We cannot support this costly proposal, as it would deny mutual fund investors a level playing field. ICI urges the Commission to study the data we have presented and put investors over academic theories and one-size-fits-all requirements."

Click here to read ICI's comment letter.
