CFA Institute

ADVOCACY UPDATE

GLOBAL ADVOCACY NEWS AND IMPACT

March 2018

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The month of March has found the Advocacy team marching ahead in our global advocacy with significant progress and some investor wins. We have issued multiple comment letters and reports to protect investors, including in Hong Kong on shareholder voting rights; in the EU on the European Securities and Markets Authority (ESMA) Prospectus Regulation; and in the United States on system risk, materiality issues, and fiduciary duty. We issued informative reports on the importance of trust in the investment industry and have been actively participating in events and important meetings around the world. You will also find highlights of our recent media attention. Please reach out with questions and comments.
—**Kurt Schacht, CFA, Managing Director of Advocacy**

INVESTOR PROTECTION

PROMOTING "ONE-SHARE, ONE-VOTE" IN HONG KONG

Protecting shareholders: CFA Institute promoted its views on maintaining "one-share, one-vote" for shareholders in a 21 March comment letter to the Hong Kong Stock Exchange (HKEX). Since last year, stock exchanges in the Asia-Pacific region (including Hong Kong and Singapore) have initiated a series of consultations on the subject of weighted voting rights (or dual-class shares). There are indications that companies with such structures may be allowed to list on the HKEX.

Our position: In response, CFA Institute issued a letter recommending that safeguards be in place to protect minority shareholders. Shareholders are entitled to voting rights as a tool to express their views on important, and at times contestable, matters related to companies in which they have invested. The introduction of a structure permitting the allocation of disproportionate votes to one group of shareowners would allow a minority shareowner to override the desires of most owners for reasons potentially not in the best interests of shareholders as a whole. It remains our primary position that Hong Kong should retain the corporate governance gold standard of "one-share, one-vote."

MARKET TRANSPARENCY & FAIRNESS

SIGNIFICANT WINS FOR INVESTORS ON FASB MATERIALITY ISSUES

CFA Institute advocacy efforts pay off: CFA Institute and the US SEC Investor Advisory Committee (IAC)—chaired by Kurt Schacht, CFA, Managing Director of Advocacy at CFA Institute—have been strong opponents of the Financial Accounting Standards Board's (FASB) proposed change to the definition of materiality (which incorporated the legal definition of materiality) in the US GAAP Conceptual Framework. Last month, the FASB decided to reverse course. In its March 2018 board meeting, it agreed to the final version of the changes, marking a significant win for investors.

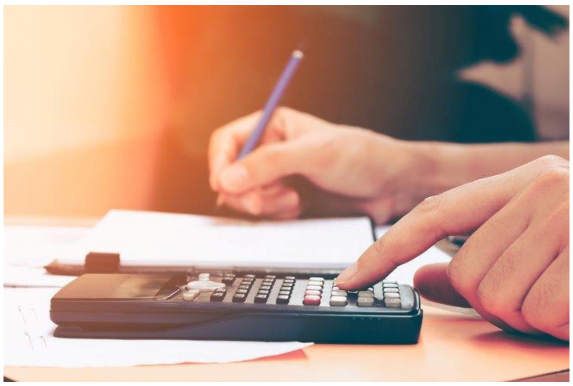
Increasing transparency: CFA Institute has also long advocated against another FASB proposal, "Notes to Financial Statements (Topic 235)—Assessing Whether Disclosures Are Material." In a 2016 influential comment letter, CFA Institute objected to the premise that investors are overloaded with information and expressed concern that the proposal emphasized management discretion in determining which disclosures were unnecessary, potentially omitting information meaningful to investors. At its March 2018 board meeting, the FASB agreed to not move forward on this proposal and acknowledged that "disclosure overload" is an issue that some companies promote, but most investors do not necessarily experience. Our efforts on this issue began as early as 2013 with the CFA Institute report, *Financial Reporting Disclosures: Investor Perspective on Transparency, Trust, and Volume*, which highlighted our member survey supporting this view. This is another win in increasing transparency for investors.

Working for investors: These accomplishments are important examples of how persistent and collaborative efforts with other investor organizations, and on related committees, can amplify our positions and ultimately shape policy to benefit investors.

INVESTOR PROTECTION

COURT OVERTURNS DOL FIDUCIARY DUTY RULE

Rule vacated: Just when it looked like the US Department of Labor (DOL) was going to outdistance legal challenges to its fiduciary duty rule, on 15 March, the Fifth Circuit Court of Appeals vacated it, leaving the future of the rule in limbo. The DOL has until 30 April to request a rehearing of the decision by a full panel of Fifth Circuit judges, and until 13 June to petition the US Supreme Court for review.



Clarifying investment adviser titles: US SEC Chair Jay Clayton says that the Fifth Circuit decision will not affect the SEC's continued efforts to draft a rule addressing the various standards and titles that currently exist for financial advice providers. In comments provided to the US SEC in January on "Standards of Conduct for Investment Advisers and Broker-Dealers," CFA Institute called upon the US SEC to clarify the definition of "investment adviser" to ensure that all who provide personalized investment advice, and imply the provision of such advice, are subject to a fiduciary standard of care. We also recommended that broker–dealers be required to provide ongoing disclosure that they are acting as agents of the firms that employ them, and do not represent the interests of retail customers. US SEC commissioners Michael S. Piwowar and Hester M. Peirce have publicly endorsed the need for a clarification of titles as they apply to advice providers. CFA Institute will remain active in its advocacy on this important issue.

INVESTOR PROTECTION

ADVOCACY EFFORTS ON SYSTEMIC RISK

Sir Paul Tucker, SRC Chair, and Sheila Bair, SRC founding member

CFA Institute and the Systemic Risk Council (SRC) (which CFA Institute sponsors) have been working hard for investors, sending influential letters to US federal regulators concerning important systemic risk matters.

Cautionary response to Dodd-Frank rollback: In its letter to Congress, the SRC submitted a cautionary response to US Senate Bill 2155, the *Economic Growth, Regulatory Relief, and Consumer Protection Act*, which seeks to roll back certain systemic protections intended to mitigate the next financial crisis. The letter urged four main modifications:

- The threshold for enhanced oversight for banks with $250 billion in assets should not be raised (from the current $50 billion)
- Banking regulators should be allowed to conduct ad-hoc stress tests when warranted by financial system instability or increased uncertainty about banking system resiliency
- Calculation of banks' supplemental leverage ratio should not exclude initial margin placed with central counterparties
- Banks' reserves with the US Federal Reserve should be excluded only temporarily when needed for monetary policy

Asset management regulation: CFA Institute delivered its own letter to the US Department of the Treasury highlighting areas on which we agreed with the recommendations in that department's report, *A Financial System That Creates Economic Opportunities: Asset Management and Insurance*. Issued last fall, this report is the third in a series directed by the Trump administration to assess the current US economy and recommend changes. Among the positions CFA Institute supports are:

- using an activities-based framework for identifying systemic risks within asset management, rather than using size-based criteria;
- rejecting stress-testing and other prudential regulation for investment advisers and managers;
- withdrawing the US SEC's business continuity rule;
- rejecting prudential regulation of asset management companies as the most effective way to mitigate systemic risks; and
- recognizing that non-money market funds are seldom the source of "runs" during financial crises that lead to contagion.

PROFESSIONAL PRACTICE

HELPING SHAPE ESMA PROSPECTUS REGULATION

Society Advocacy Advisory Committee (SAAC) priority: CFA Institute has submitted a comment letter on the ESMA draft regulatory technical standards under the new Prospectus Regulation, including our positions on several questions dealing with key financial information (KFI). The Prospectus Regulation is one of the first concrete legislative outcomes from the EU's Capital Markets Union (CMU) agenda, which has been a SAAC-defined CFA Institute policy priority area. The CMU's goal is to improve the functioning of the EU's capital markets and increase the share of public capital market formation in the EU.

Our position: Broadly, CFA Institute believes that the summary prospectus should not introduce new information that is not available in the full prospectus, but may be relatively permissive in the types of KFIs, alternative performance measures, and pro forma statements that can be included. These positions were, in part, informed by our 2017 thought leadership report, *Designing a European Summary Prospectus Using Behavioural Insights*. We proposed a template for the disclosure document, which we believe is compatible with the KFI requirements in the ESMA consultation.

FUTURE OF FINANCE

NEW GLOBAL STUDY ANALYZES THE NEXT GENERATION OF TRUST

Importance of trust: A new CFA Institute global survey released in March analyzes the importance of trust in the investment industry and provides a roadmap with actionable steps that investment professionals can use to build credibility, professionalism, and ultimately, trust. The study, which covered a dozen global markets, reveals key gaps in retail investor expectations and their satisfaction with their financial advisers, including in the areas of transparency and performance. Among investors surveyed, 84% said trust in advisers is driven mostly by full disclosure of fees, yet only 48% are satisfied with current disclosure.

Credibility and professionalism lead to trust: “Higher trust comes with higher expectations, and we are not there yet until we can consistently prove our value to clients by providing solutions, not simply products. We need universal disclosure of fees and performance to drive home this message,” stated Paul Smith, CFA, President and CEO at CFA Institute. Rebecca Fender, CFA, Head of Future of Finance at CFA Institute, added, “These findings provide a roadmap for how our industry can increase its credibility and address investor concerns.” By adhering to the core tenets of professionalism—putting clients first, being transparent about fees and performance, demonstrating expertise—advisers will earn the trust of their clients.

Visit the survey results site to explore the interactive and downloadable survey data and read the full report.

ADVOCACY IN ACTION

MEDIA & INDUSTRY ATTENTION

Asia Asset Management (6 March) quoted Mary Leung, CFA, Head of Advocacy, Asia Pacific, at CFA Institute, on the Principles for Responsible Investment Asia Network.

The Hill (5 March) ran a story by Kurt Schacht, CFA, Managing Director of Advocacy at CFA Institute, about the proposed Dodd-Frank rollback and the Systemic Risk Council’s cautionary response.

The Asset (Hong Kong) (5 March) reported on CFA Institute support of Hong Kong’s traditional “one-share, one-vote” structure and quoted Mary Leung, CFA, Head of Advocacy, Asia Pacific, at CFA Institute.

Thomson Reuters Checkpoint (28 February) reported on a CFA Institute report on new revenue recognition standards and quoted Sandy Peters, Head of the Financial Reporting Policy Group at CFA Institute.

The Business Times (28 February) cited CFA Institute data on the prevalence of environmental, social, and governance (ESG) investing in Asia.

Financial Times (26 February) reported that in a letter to US Treasury Secretary Steven Mnuchin, the Systemic Risk Council warned of gaps in financial regulation.

BBC News (14 February) Josina Kamerling, Head of Regulatory Outreach EMEA at CFA Institute, discussed strategies for business.

GLOBAL ACTIVITIES & EVENTS

GLOBAL ADVOCACY MEETINGS AND EVENTS

WASHINGTON, D.C.

12 March: CFA Institute held an advanced pension trustee training program for some of the largest pension plans in the world at the Council of Institutional Investors (CII) annual meeting. The program focused on fiduciary and fund management skills, including skills in advanced asset allocation and private fund investments. A session on dealing with the chronic and serious problems facing many underfunded plans drew strong attendance. The program's final session exploring trustee-staff relationships in an environment of growing political, beneficiary, and funding pressures was on target and hit a nerve with many of those present. CFA Institute conducted the program for CII as part of the annual CII meeting in Washington, D.C., which draws more than 500 attendees from across the nation. The high-quality CFA training has become a regular offering for trustees in attendance.

Trustee training program at the Council of Institutional Investors (CII) annual meeting

OPEN POSITIONS IN ADVOCACY

With the movement of Rhodri Preece to become Head of Industry Research at CFA, the Head, Advocacy EMEA position is open and under active recruitment.

We are also recruiting for a Director, Financial Reporting Policy Advocacy (EMEA) in London.

INDIA

9 February: CFA Society India and MSCI Inc. co-organized an informative ESG forum. Senior executives from CFA Institute, MSCI, SBI Mutual Fund, Tata Steel, Unifi Capital, and Yunus Social Business shared their insights on the corporate governance landscape in India, key ESG trends, and ESG integration into investment portfolios. The forum was the first Asia-Pacific Research Exchange (ARX) continuing professional development event in India.

WASHINGTON, D.C.

20 February: Sandy Peters, CFA, Head of Financial Reporting Policy at CFA Institute, met with Jay Brown, newly appointed member of the Public Company Accounting Oversight Board (PCAOB), the US public company audit regulator, to provide background on CFA Institute and our positions on audit issues. With a complete turnover of the five-member board, CFA Institute is meeting with new members (four of five have been seated) to provide our perspectives.

TOKYO

27 February: CFA Institute met with investment professionals, including representatives of the Tokyo Stock Exchange, at the International Integrated Reporting Council (IIRC) meeting. Participants agreed that the recent introduction of the Stewardship Code and Corporate Governance Code in Japan has been conducive to enhancing corporate governance and corporate-investor engagement. The meeting highlighted the current and future collaboration between IIRC and CFA Institute.

TOKYO

28 February-March 1: CFA Institute attended the International Corporate Governance Network (ICGN)–IIRC conference, which focused on the progress of reforms undertaken since the advent of Abenomics. Stakeholders in the audience generally agreed that the shift in focus toward long-term corporate value has seen steady progress, driven by the introduction and the continued improvement of Japan's Stewardship Code and Corporate Governance Code. They acknowledged that ample room exists for improvement to strengthen industry participants' understanding of ESG matters, both in Japan and in other Asian markets.