CFA Institute

ADVOCACY UPDATE

GLOBAL ADVOCACY NEWS AND UPDATE

APRIL 2021

IN THIS ISSUE

US Department of Labor "Fiduciary Rule" Saga Enters Next Chapter

CFA Institute to Examine SPAC Explosion

Now Is the Time for Money Market Fund Reforms

Promoting ESG Integration and Disclosure in APAC

Understanding Materiality in ESG Investment

Digging Deeper on COVID-19 Pandemic Global Perspectives

SEC Aims to Facilitate Disclosure of Climate Change Risks

Advocacy in Action

FOR COMMENTS OR QUESTIONS, CONTACT

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CFA Institute works to promote and advance policies and standards to improve market structure, transparency, and fairness for investors around the world. This issue includes updates on our positions and actions to the US Department of Labor (DOL) and the US Securities and Exchange Commission (SEC) on Money Market Fund (MMF) reforms and climate change disclosure. Environmental, social, and governance (ESG) issues in the investment industry remain a key focus, including ongoing advocacy, action, and events in Asia Pacific (APAC) and the United States. We are pleased to announce the completion of a second global membership study on the pandemic-related economic crisis, with results coming soon. Finally, you will find the latest roundup of our advocacy in action, including key events, activities, and media coverage.

INVESTOR PROTECTION

US DEPARTMENT OF LABOR "FIDUCIARY RULE" SAGA ENTERS NEXT CHAPTER

Unexpected move by the DOL: To the surprise of many in the investor community who expected a regulatory freeze on the former administration's DOL rule, Prohibited Transaction Exemption (PTE) — Improving Investment Advice for Workers and Retirees, the Biden administration–led DOL adopted the final rule, allowing Employee Retirement Income Security Act (ERISA) fiduciaries to receive otherwise-prohibited compensation from conflicted advice.

Our position: Overall, CFA Institute opposed the PTE as noted in our August 2020 comment letter and September 2020 hearing testimony. While we welcomed some of the new protections concerning rollover advice, we emphasized that the PTE's heavy reliance on the SEC's Regulation Best Interest is premature and misguided.

Investment guidance: Along with adopting the PTE, the DOL issued two investment advice guidance documents: (1) a list of questions a retirement investor should ask of their potential advice provider; and (2) a set of FAQs for investment advice providers considering reliance on the PTE. Significantly, the DOL stated that "future actions are under consideration to improve the exemption."

Guidance applauded: Acting SEC Chair Allison Lee praised the additional guidance, stating, "the DOL is taking important and thoughtful steps to protect investors' best interest and ensure that fiduciaries meaningfully address conflicts of interest that can undermine the advice investors receive." CFA Institute also welcomes the guidance provided to both investors and advice providers, and expects a greater discussion in the coming months about how to improve and potentially standardize investor protections across relevant rulemaking and guidance issued by the DOL and the SEC.

MARKET INTEGRITY & TRANSPARENCY

CFA INSTITUTE TO EXAMINE SPAC EXPLOSION

Special purpose acquisition company (SPAC) growth: In a year of unprecedented economic disruption, the US IPO market hit a record $170 billion in 2020, driven by a surge in the use of SPACs, which are essentially shell companies used to buy private companies and effectively take them public. SPACs now account for the majority of US IPOs. It is looking as though 2021 could become another record year, with approximately 300 US SPACs launched in the first of quarter alone, raising nearly $100 billion and beating levels for the *entire* 2020.

Raising red flags: Investor advocate and market integrity groups have sounded the alarm on SPAC marketing tactics, disclosure integrity, conflicts of interest, incentives, and dilution effects on retail investors. In "Five Things to Watch Out for Before You Invest in SPACs" (*MarketWatch*, 14 April), CFA Institute CEO and President Margaret Franklin raised "glaring investor protection issues" and drew similarities between today's SPAC hype and the dot.com bubble of the late 1990s. To be sure, today's SPAC boom has garnered the attention of policy makers in Washington, DC, as well as in other jurisdictions. The SEC already has ramped up its scrutiny of the SPAC boom, issuing multiple statements and guidance in less than a month.

Expert working group: Under consideration is the creation of a SPAC Working Group (SWG), comprising market participants, academics, and legal experts. The group would examine the popularity of the SPAC model as an alternative vehicle to traditional IPOs, including its structural features, disclosures, relevant listing standards, marketing practices, inherent conflicts of interests, and potentially misleading performance claims. The group would provide written perspectives to US and global regulators on potential initiatives around market best practices and relevant policy making. Stay tuned for updates on this important working group idea.

MARKET INTEGRITY & TRANSPARENCY

PROMOTING ESG INTEGRATION AND DISCLOSURE IN APAC

A focus on environmental, social, and corporate governance (ESG): CFA Institute continues to prioritize and raise awareness of the importance of ESG integration and disclosure in investment management across the APAC region with ongoing regulatory engagement, events, and society outreach efforts.

ESG integration: As investors increasingly recognize that ESG factors are economically material and incorporate these considerations in their investment decisions, the industry is facing pressure to meet the demand for ESG expertise. CFA Institute believes that integration of material ESG factors is an important component of a complete and thorough financial analysis for all asset classes. We support development of ESG knowledge and skills among investment professionals, to facilitate embedding ESG thinking in all investment settings.

ESG disclosure: CFA Institute believes that a voluntary, global industry standard, enabling asset managers to clearly communicate the ESG-related features of their investment products, will provide greater product transparency and comparability for investors and help them better incorporate ESG factors into their decision making.

Recent engagement and activities: The CFA Institute APAC advocacy team has coordinated and participated in many events and activities to promote awareness, foster discussion, and elicit feedback about ESG integration and disclosure, including, most recently, the Future of Sustainability in Investment Management webinar, presented by Asia-Pacific Research Exchange (ARX), in collaboration with the Hong Kong Green Finance Association; and the ESG Disclosure Standards for Investment Products presentation to the Securities and Exchange Commission of the Philippines (SECP), part of a larger series of events to engage regulatory authorities and societies in the region.

INVESTOR PROTECTION

NOW IS THE TIME FOR MONEY MARKET FUND REFORMS

SEC seeks input on reforms: In a span of just over a decade, the Federal Reserve has intervened twice to support money market funds (MMFs): first at the start of the global financial crisis in 2008, and again in March 2020 during the recent economic crisis caused by the global pandemic. In response to these bailouts, the SEC has requested public comments for a renewed look at policy reforms to make MMFs and short-term funding markets more resilient and to reduce the likelihood of future volatility.

Systemic Risk Council (SRC) response: The SRC, a CFA Institute initiative, welcomes the SEC's initiative for reforms as long overdue and necessary to ensure money funds do not jeopardize financial stability. In its comment letter, the SRC emphasized that the underlying problem arises when asset classes, like MMFs, are widely perceived as safe and liquid even when they are inherently fragile. There is a need to confront the systemic problem of shadow banking and for authorities working with Congress to determine what money-like instruments will be backed by Federal Reserve liquidity insurance and other regulatory requirements.

Time for change: Paul Tucker, chair of SRC, said: "Shadow banking vulnerabilities are the financial system's Achilles' heel, but have been neglected for years. Short-term financing markets have been driven by a widespread perception that money funds are safe, making it almost inevitable the federal government provides rescue facilities when trouble hits. Something has to change."

Our position: In our response, CFA Institute voiced support for a combination of reforms, including a requirement for funds to build a capital buffer to absorb some potential losses, and a mechanism to discourage investors from running at the first hint of trouble. In addition, we advocated for the SEC to adopt countercyclical measures to encourage MMFs to draw on their most liquid assets, instead of hoarding them, in times of stress and to extend a floating net asset value (NAV) to all funds, thus completing a previous partial reform on the share price and valuation of MMFs.

MARKET INTEGRITY & TRANSPARENCY

UNDERSTANDING MATERIALITY IN ESG INVESTMENT

A growing issue: Asset management firms are increasingly incorporating material ESG information in the investment process, but the issue of materiality, and how to define and best implement it, is complicated. ESG factors are considered "material" if they have a meaningful impact on a company's financial performance, but this can vary by industry and company. It is up to the individual analyst or investment team to determine what issues are material to their investment processes.

Working sessions: To provide guidance, CFA Institute is meeting with investors, issuers, policy makers, and other associations to examine the important issue of materiality in using ESG data. Our aim is to help investors and others in the industry better understand the practice, and provide a resource on how to better approach integration of material ESG in the investment process. To date, we have held three listening sessions (two in Europe, the Middle East, and Africa (EMEA), and one in the Americas) with more to come (in the Americas and APAC).

Our position: CFA Institute encourages all investment professionals to consider material ESG factors, when relevant, as an important part of the analytical and investment decision-making process, regardless of investment style, asset class, or investment approach. Our goal is to be a thought leader on ESG issues by developing practitioner-focused research and resources that educate investment professionals on ESG practices and inform the investment industry.

ADVOCACY ENGAGEMENT & ACTIVITIES

DIGGING DEEPER ON COVID-19 PANDEMIC GLOBAL PERSPECTIVES

Follow-up pandemic survey: In March 2021, CFA Institute completed its second global membership survey on the effects of the economic crisis caused by the COVID-19 global outbreak. This latest survey and research measure how CFA Institute members have changed their perspectives since the pandemic started and explore the impact that stimulus measures and an eventual exit are having on capital markets and the investment industry.

First survey: The first COVID-19 impact survey, conducted in April 2020, revealed that the strong support measures implemented by governments and monetary authorities to prevent a severe economic impact also affected the dynamics of the relationship between private economic agents, society, and the government. In general, our members were more cautious about the likelihood of a swift recovery, yet they were divided on the need for continuing stimulus measures and interventions to support the economy and markets. Respondents also felt that regulation should not be relaxed for the sake of facilitating a market recovery, as they believe regulators have a role to play and should pay attention to the risk of unethical behavior by the finance professionals in this turbulent time.

One year later: As the financial industry grapples with a full year of slowdown and instability, the follow-up survey explores important areas, including the changes in the expected shape of the recovery, the impact of volatility on portfolio management, the new role of big tech, questions surrounding inflation, the impact of relief programs and stimulus measures, key regulatory risks, and corporate reporting.

Results coming soon: The survey results and analysis will be released in May 2021.

MARKET INTEGRITY & TRANSPARENCY

SEC AIMS TO FACILITATE DISCLOSURE OF CLIMATE CHANGE RISKS

Assessing ESG disclosure: The SEC is asking for comments on how to get reliable and consistent reporting on risks posed by climate and environmental impacts, as it evaluates its current disclosure rules, and embarks on an effort to set up a comprehensive reporting regime.

Meeting investor demand: Investor demand for information on climate change risks, impacts, and opportunities has grown dramatically in the past decade. Currently, the risks posed by climate and ESG factors that companies have been reporting are not meeting investor needs, according to SEC Acting Chair Allison Lee, who discussed the request during a 15 March discussion, "Meeting Investor Demand for ESG Information," convened by the Center for American Progress. She called for public input on the effort to facilitate the disclosure of consistent, comparable, and reliable information on climate change.

Our position: CFA Institute advocacy and financial reporting teams are working together to draft a thorough and thoughtful response to this request for comment. We are focusing on the needs of investors and other stakeholders who require timely, complete, and consistent climate and ESG-related disclosures to make informed investment decisions. CFA Institute supports including all material ESG information in the investment process as noted in our recent ESG policy statement.

ADVOCACY IN ACTION

MEDIA ATTENTION

Thomson Reuters (14 April) cited CFA Institute ESG initiative as a sign of positive momentum.

ThisWeekinFM (UK) (14 April) quoted Sivananth Ramachandran, director of Capital Markets Policy at CFA Institute India, on defining green activities according to the EU taxonomy.

China Daily (13 April) cited a 2020 CFA Institute report on eco-friendly investment in China.

Economic Times (IND) (10 April): Sivananth Ramachandran discussed stewardship codes in improving corporate governance.

Politico Europe (9 April) quoted CFA Institute Head of Regulatory Outreach, EMEA, Josina Kamerling on the uniqueness of today's pandemic financial challenges.

CNBC Europe Squawk Box (7 April) featured Systemic Risk Council Founding Chair Sheila Bair on US lender risk controls in the Archegos scandal.

Bloomberg Law (6 April) quoted CFA Institute Financial Reporting Policy Advocacy Head Sandy Peters on the Financial Accounting Standards Board (FASB) goodwill amortization rule.

Business Standard (IND) (6 April): Sivananth Ramachandran examined the effects of SPACs on market in India and urged caution.

Asia Asset Management (1 April): CFA Institute Capital Markets Policy Director Matt Orsagh discussed the financial industry's role in fighting climate change.

Forbes (30 March) cited a CFA Institute report on financial reporting for investors.

IPE (23 March) covered CFA Institute support for the International Finance Reporting Standards (IFRS) proposed approach to materiality.

The Wall Street Journal (22 March) quoted Sandy Peters on companies sharing more data on employee turnover after disclosure requirements.

EVENTS & ACTIVITIES

Corporate Governance and ESG Disclosure in the EU (March/April): CFA institute Brussels participated in several events to present its 2021 report, including to the European Confederation of Directors' Associations and other financial groups.

EVENTS & ACTIVITIES

Annual meeting of the International Forum of Independent Audit Regulators (IFIAR) (21 April): CFA Institute Policy Director Kurt Schacht, a member of IFIAR's investor advisory group, spoke to an assembly of more than 100 global regulators on the importance of getting investor input into the standard-setting process. In particular, the IFIAR was interested in hearing investor views on the recent episodes of accounting fraud in Europe and whether the duties of auditors to detect and address fraudulent reporting should be updated.

Capital Markets Policy Council (CMPC) Meeting (25 March): CMPC, a global group of external investment professionals and finance experts that guides and advises the advocacy team at CFA Institute, held a virtual meeting to provide guidance on critical, timely topics. First, SPACs raise many questions about dilution, sponsor incentives, and conflicts of interest. The CMPC discussed SPAC developments and possible investor safeguards in several global markets. Second, dual-class shares, currently prohibited in the United Kingdom, have returned to the spotlight with a proposal to permit them on London exchanges. Three, ESG and climate change are priorities for both the new presidential administration and the new SEC. The CMPC assessed how CFA Institute should respond to the SEC request for public comment on this issue.

ESG Disclosure Standards for Investment Products (24 March): Mary Leung, head of advocacy for Asia Pacific, presented our proposed standards to the SECP.

Future of Sustainability in Investment Management (23 March): ARX, with the Hong Kong Green Finance Association, presented a webinar on a CFA Institute 2020 report. The panel addressed the issues of talent shortage, talent development, staffing challenges for investment firms, and opportunities for investment professionals.

Future of Investing in Disruptive Innovation (2 March): ARX hosted a high-profile online event in collaboration with MSCI and Wind, and moderated by Dr. Zhen Wei, CFA, managing director at MSCI, which attracted a record-shattering 11,260 live viewers. The speakers presented their insights on investment in disruptive innovation philosophy, valuation models, and portfolio construction.