ADVOCACY UPDATE

GLOBAL ADVOCACY NEWS AND UPDATE

JULY/AUGUST 2020

IN THIS ISSUE

FOR COMMENTS OR QUESTIONS, CONTACT

Kurt N. Schacht, JD, CFA
CFA Institute Policy Director
Washington, DC
advocacy@cfainstitute.org

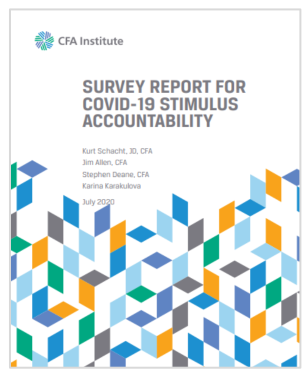
As summer winds down and we continue to navigate the murky waters of the global pandemic and its effects on the economy, CFA Institute remains focused on promoting our advocacy priorities. The results of our global membership survey are helping us make sense of how our industry is coping with the crisis. We also have been busy responding and advocating on important regulatory proposals, including the SEC's rules on proxy advice, fair value, and concerning changes to 13F reporting. As always, you will find highlights of our advocacy efforts, global events, and media coverage. We wish you a safe and healthy return to school!

—**Kurt N. Schacht, JD, CFA, CFA Institute Policy Director**

GLOBAL EVENTS & ACTIVITIES

SURVEY ON COVID-19 STIMULUS PIQUES INTEREST OF MEMBERS AND CONGRESS

COVID-19 Survey: In July, CFA Institute surveyed our US members on key coronavirus-related stimulus and market integrity issues, publishing the results in Survey Report for COVID-19 Stimulus Accountability. The survey sought members' views on the stimulus-induced deficits, the disclosure and oversight efforts, and the impacts of record stimulus on capital market functions.



Key results: The survey found good support (60%) for the current record levels of financial stimulus being delivered by Congress and the Federal Reserve; however, less than half (44%) think more financial support is needed. The majority of respondents also had deep concern over stimulus-induced US deficits and eventual inflation and about the dire need for proper oversight and accountability of the stimulus programs.

High interest: This survey initiative sparked a strong and decisive response from members with the highest response rate for any policy issue ever surveyed by CFA Institute. The survey results are being used in congressional debates regarding proper oversight, transparency, and accountability of the many programs being used to distribute the bailouts. Clearly, the market volatility and the historic economic response to the COVID-19 crisis has gained the attention of all stakeholders. As the debate in Congress of how to move forward continues, the challenges and concerns with balancing economic emergency relief with free-market capitalism remain crucial.

Media pick-up: The survey also received wide media coverage around the world, including *Morningstar*, *NASDAQ*, and *Financial Advisor*.

ADVOCACY IN ACTION

RECOGNITION METRICS

CFA Institute works to advance and promote policies that support investor protection and market integrity. To bolster our positions and get our voices heard, we attend global industry meetings, speak at key events, publish articles, and receive media coverage. Here is a recap of some of our key metrics for 2020 year-to-date:

- Global Partnership/Stakeholder Events: 74
- Key Industry Meetings: 341
- Bylined Articles: 52
- Media Coverage: 520

MEDIA ATTENTION

Morningstar (AUS) (17 August); *RFI Group* (14 August); *NASDAQ* (10 August); *Financial Advisor* (3 August); *Australian Financial Review* (4 August) covered the recent global membership survey from CFA Institute on COVID-19 stimulus views.

Hong Kong Economic Journal (7 August); Asia Asset Management (2 August): Mary Leung, head, Standards and Advocacy, CFA Institute Asia Pacific, wrote about the coronavirus pandemic's impact on the asset management industry.

Hindu Business Line (IND) (6 August): Sivananth Ramachandran, director, Capital Markets Policy, CFA Institute India, discussed the London inter-bank offered rate (LIBOR) transition.

Bloomberg (3 August); *MSN* (4 August); *Hexun* (CHN) (4 August) cited Josina Kamerling, head, Regulatory Outreach, CFA Institute, EMEA), on sponsored research.

Financial Investigator (NLD) (3 August) covered a CFA Institute survey on fintech.

Les Echos (FRA) (3 August) covered Systemic Risk Council Chair Paul Tucker on the importance of clearing houses.

Accounting Today (3 August) cited CFA Institute Financial Reporting Policy Head Sandy Peters about the billions set aside by credit card issuers.

Wall Street Journal (2 August) quoted Jim Allen, head, Capital Markets Policy, CFA Institute, on favoring bullish analysts.

Exame (BRA) (27 July) quoted CFA Institute Head of Capital Market Policy Jim Allen on active fund performance.

IR Magazine (23 July) cited CFA Institute comments on new SEC proxy adviser reforms.

Morningstar (23 July) quoted CFA Institute on the new Department of Labor rule to limit environment, social, and governance (ESG) options in retirement plans.

City AM (UK) (21 July): CFA Institute EMEA Advocacy Head Oliver Fines discussed results of the COVID-19 survey.

Economic Times (IND) (21 July) (and other media in India) covered results of the CFA Institute survey on the COVID-19 impact on the financial industry.

Wall Street Journal (17 July) quoted CFA Institute Financial Reporting Policy Head Sandy Peters on quarterly guidance for corporations.

Pensions & Investments (13 July) cited CFA Institute Advocacy Director Kurt Schacht on the Regulation Best Interest standard.

AsianInvestor (9 July); *Hong Kong Economic Times* (8 July); *Hong Kong Economic Journal* (8 July); *CNBC Europe* (9 July); *Fund Selector Asia* (8 July) covered the CFA Institute survey on the impact of the COVID-19 pandemic on the financial industry.

Business Times (SGP) (7 July) reported on the rise of ESG investing from a 2019 survey from CFA Institute.

L'Agefi (FRA) (3 July) quoted Josina Kamerling, head, Regulatory Outreach, CFA Institute, EMEA, on equity financing for European companies.

The Hill (30 June) CFA Institute Capital Markets Policy Head Jim Allen discussed the implementation of Regulation Best Interest.

The Telegraph (UK) (25 June); *Yahoo Finance* (24 June) cited Systemic Risk Council Chair Paul Tucker's warning that the Bank of England's independence is at risk.

MARKET INTEGRITY & TRANSPARENCY

SYSTEMIC RISK COUNCIL PUSHES BACK ON CCP GUIDANCE

SRC response: The Systemic Risk Council (SRC) filed a comment letter in response to the Financial Stability Board (FSB) request (on 4 May 2020) for comment on the safety and soundness of Central Clearing Counterparties (CCP). CCPs are entities that facilitate trading in various European derivatives and equities markets, including over-the-counter derivatives trading as directed by the Dodd-Frank Act following the 2008 financial crisis.

Serious issues: The SRC stated that the proposed guidance is "not fit for purpose as it currently stands, since it does not provide a clear, internationally agreed solution to the problems of procyclicality and the currently inadequate incentives embedded in plans based on clearing houses' existing rules." A key issue is the increased volume and size of exposures now cleared by these CCPs and the ability of these new exchange platforms to withstand a surge in defaults or counterparty failures. In particular, details on how to resolve a failing CCP and its impact of broader systemic resilience is a growing concern as the economic impacts of COVID-19 continue to play out. The SRC is concerned that, as things stand, the FSB's guidance would leave the world relying on recovery mechanisms that could, in some circumstances, seriously exacerbate or even trigger a financial crisis.

SRC position: According to the SRC, the adequacy of CCP resources and backstops to facilitate an orderly liquidation if needed must be a higher priority and focus of global prudential regulators. The SRC advocates "moving to a position where owners' equity would be extinguished rather than preserved, with CCPs issuing bonds to the members or owners that could be used to cover excess losses and to recapitalize a failed clearing house without the destabilizing, pro-cyclical effects threatened by parts of the current recovery plans."

MARKET INTEGRITY & TRANSPARENCY

SEC ISSUES NEW RULES ON PROXY ADVICE

New rules: On 22 July, the Securities and Exchange Commission (SEC) released its new rules governing proxy voting advice and proxy advisory firms. The adopted amendments are designed to ensure that clients of proxy voting advice businesses have reasonable and timely access to more transparent, accurate, and complete information on which to make voting decisions.

CFA Institute influence: Showing our steadfast advocacy on this issue, the final rule cited CFA Institute comment letters in 15 areas. Most important, one of our primary objectives was achieved — that is, the elimination of requiring proxy analysts to preclear their proxy research and recommendations with the issuer before they send them to the client. We also opposed the requirement that proxy advisers include an issuer's rebuttal in the final report, which was eliminated in the final rule.

Remaining concerns: In its new guidance, the SEC conditioned the availability of exemptions from certain federal proxy rules on a requirement that proxy advisers provide issuers with a report "at or prior to" when the clients receive the report. The rules present proxy adviser and investment adviser professionals with possible liabilities if they fail to give the issuer rebuttal rights before voting proxies. We believe regulators are improperly trying to stifle independent proxy advice and analysis.

Moving ahead: Compliance with the final rule begins 1 December 2021 and the guidance to investment advisers is effective immediately. Institutional Shareholder Services (ISS), the world's largest proxy advisory firm, is pressing ahead with its lawsuit against the SEC over the final rule.

MARKET INTEGRITY & TRANSPARENCY

CFA INSTITUTE RESPONDS TO EU GREEN DEAL AGENDA

EU Green Deal: On 15 July, CFA Institute submitted its response to the European Commission public consultation on the Renewed Sustainable Finance Strategy. We highlighted our views on the EU Green Deal agenda, which focuses on the necessary investment efforts and policy actions to accelerate the sustainability transition of the EU financial sector. It is expected to be adopted by the end of this year.

Our position: CFA Institute believes significant challenges are yet to be addressed in the EU to mainstream sustainability in the financial sector, including insufficient disclosure of standards, and the lack of comparable and audited data. Enhanced coordination of policy and combined action from national governments and the EU also are needed. Governments should have a fiscal policy supporting those firms that voluntarily move to long-term sustainable policies (e.g., with the introduction of tax incentives). We also urge agreement on a global price on carbon that would adequately price in the externalities of carbon emissions.

INVESTOR PROTECTION

WEIGHING IN ON DEPARTMENT OF LABOR RULES

ESG in retirement investing: CFA Institute responded to two US Department of Labor (DOL) consultations (with limited 30-day comment periods) on important issues related to retirement accounts. The first proposal focuses on ensuring that factors used in the management of investor funds are based solely on the plan's financial risks and returns, and the interests of plan participants. The proposal emphasizes that ESG factors must be considered alongside other relevant economic factors to evaluate the risk and return profiles of alternative investments. A large majority of comment letters accuse the DOL of threatening investment managers with fiduciary violations even if plan participants want the option of an ESG related strategy.

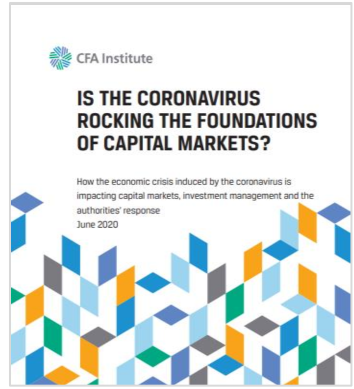
Our position: As noted in our comment letter, CFA Institute disagreed with the DOL's warnings on the use of ESG factors in analyses, recommendations, and investment decisions, arguing that ignoring these would overlook important elements of investment decisions. We believe certain ESG factors are material and are integral in investment decision-making, although greater consistency and disclosure of ESG data by public companies is needed.

Improving investment advice: The DOL also released its proposal with changes to the regulation of investment advice, including the return to its "five-part test" to determine whether an individual or firm must act as a fiduciary.

Our position: As stated in our comment letter, we support enhancing the investment options available to retirement investors; however, we believe many of the proposal's provisions will weaken the fiduciary regime that is the very foundation of the Employee Retirement Income Security Act (ERISA) (the law that sets minimum standards for retirement and health plans). Most objectionable about the proposal was its reliance on the SEC's untested Regulation Best Interest to provide advisers (including fiduciaries) exemption from their fiduciary obligations and still receive commissions and other payments. We expressed concern that the test would give agents and fiduciaries two mechanisms to avoid the fiduciary obligations intended under ERISA. We also fear it may cause investor confusion in understanding differences in "fiduciary" and "best interest" advice and in comprehending the quality and independence of the advice they receive.

GLOBAL EVENTS & ACTIVITIES

LAUNCH OF COVID-19 IMPACT SURVEY IN ASIA PACIFIC



New survey report: CFA Institute launched its global membership survey report *Is the Coronavirus Rocking the Foundations of Capital Markets?* in the Asia-Pacific region. The report focused on how the coronavirus-induced economic crisis is affecting capital markets and the investment management industry, highlighting members' views on regulatory intervention, market impact, ethics, asset management business model, and employment in the financial space. Results showed that most respondents believe the economic recovery will be slow. Most indicated that they are taking a wait-and-see approach to strategic asset allocation and think the crisis could result in asset mispricing.

Outreach: The CFA Institute Asia-Pacific team conducted extensive outreach promoting the survey results, including Hong Kong SAR, media promotion; a series of regulator and society events, including with the Capital Markets Division of the Monetary Authority of Singapore, the Hong Kong Securities and Futures Commission, the Singapore Exchange Regulation; and to society advocacy chairs at CFA® Societies in India, Japan, Malaysia, Pakistan, and Singapore.

INVESTOR PROTECTION

SEC'S NEW 13F REPORTING THRESHOLD CAUSES CONCERN

New SEC rule: In July, the SEC introduced a rule proposal that would dramatically raise the thresholds for the important quarterly equity holdings reports filed by institutional investment managers on Form 13F. The disclosures are required for institutional investment managers if they exercise investment discretion for accounts of equity securities of at least $100 million. The proposed rule would significantly raise that threshold to $3.5 billion or greater, eliminating nearly 90% of 13F filers. These disclosures are intended to enhance investor confidence in the markets, to serve as a repository of data on the holdings of institutional investment managers, and facilitate consideration of their influence and impact on the securities markets. The SEC argues that the change would reduce burdens on smaller investment firms. CFA Institute believes, however, that the proposal poses serious transparency concerns.

Clear opposition: The issuer and investor communities who consult 13F information regularly are creating an uproar against the proposal. A vast majority of respondents fiercely objected to the proposal as it would reduce market transparency and make it more difficult to invest. With investor protection and market integrity in mind, CFA Institute will issue its letter in opposition to the proposal before the 29 September deadline.

MARKET INTEGRITY & TRANSPARENCY

COMMENTING ON SEC'S NEW FAIR VALUE PROPOSAL

SEC proposed rule: CFA Institute issued a comment letter to the SEC regarding its proposed rule, Good Faith Determinations of Fair Value. We support the goal of the SEC to provide a consistent, minimum framework for overseeing the fair value determination process by an investment adviser. The proposed rule, however, moves away from previous clear guidance on the role of the fund board in fair value determination, allowing for delegation to advisers. As stated in our letter, we believe it is critical that the SEC emphasize as a foundational principle that the board may ***delegate the process*** of determining fair value but ***must always retain its responsibility*** for such determinations. CFA Institute has long advocated for high-quality standards regarding the determination of fair value and is dedicated to promoting fair and transparent capital markets and advocating for investor protections.

GLOBAL EVENTS & ACTIVITIES

KEY ENGAGEMENTS

COVID-19 blog series: Our *Second Quarter 2020 Amid COVID-19, Investor and Audit Committee Considerations,* includes the following installments:

- Cash Is Not Just King, It Is Everything
- Going Concern: A Necessary Analysis for Investors
- Evaluating the Business (Looking Back, Looking Forward)
- Non-GAAP Measures: EBITDAC, or Not, Investors Be Aware

XBRL Europe Digital Week, 15–18 June: Mohini Singh, director, Financial Reporting Policy, at CFA Institute, presented at the XBRL Europe Digital Week Conference, focused on the implementation and data quality issues surrounding electronic reporting and the European Single Electronic Format, the mandatory electronic reporting format for issuers in all EU member states as of 2020.

XBRL International Board meeting, July 2020: Mohini Singh, director, Financial Reporting Policy, at CFA Institute, has been elected a member of the board of directors of XBRL International, Inc. and participated in its July board meeting, focused on the Annual Data Amplified Conference, broadening the membership and revenue bases, and consortium governance and modernization.

Joint meeting of the Corporate Disclosure and the Capital Markets Policy Committee with Public Company Accounting Oversight Board (PCAOB), July 2020: This key meeting focused on the PCAOB's newly revised inspection reports, the recent debate on the PCAOB's access to foreign workpapers assurance over sustainability reporting, and auditors' responsibilities with respect to the detection of fraud.

Asia Pacific Society Advocacy Engagement Workshop, August; Mary Leung, head, Standards and Advocacy, Asia Pacific, and Scott Lee, director, Asia Pacific Research Exchange, CFA Institute, participated in three sessions of this online event, including "SAE Policy Advocacy and Regulator Engagement" (8 August), "How Society Can Leverage on CFA Institute Content" (10 August), and "Update on ESG-Related Advocacy Plans and Activities" (17 August).