March 11, 2025

Via Electronic Mail

The Honorable Mark T. Uyeda
Acting Chair
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Recommendations to Promote Capital Formation, Improve Regulatory Efficiency, and Reduce Waste

Dear Acting Chair Uyeda:

In just a few short weeks under your leadership, the Securities and Exchange Commission ("**SEC**" or "**Commission**") has made noteworthy progress and reduced uncertainty in the markets about the policy direction of the new Administration. We commend you for genuinely listening to the concerns and interests of investors and market participants and taking appropriate regulatory action.

On Inauguration Day, MFA[1] sent you a letter outlining our "Day One" recommendations for actions that the Commission could take to address pressing items and have an immediate, positive impact on investors and the markets.[2] We are pleased to see that all of the urgent relief we recommended has been achieved through recent actions taken by the Commission.

We were further heartened to see the recent Presidential Executive Orders regarding a Regulatory Freeze ("**Regulatory Freeze EO**")[3] and Ensuring Lawful Governance ("**Ensuring Lawful Governance EO**").[4]

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1 Managed Funds Association (MFA), based in Washington, D.C., New York City, Brussels, and London, represents the global alternative asset management industry. MFA's mission is to advance the ability of alternative asset managers to raise capital, invest it, and generate returns for their beneficiaries. MFA advocates on behalf of its membership and convenes stakeholders to address global regulatory, operational, and business issues. MFA has more than 180 fund manager members, including traditional hedge funds, private credit funds, and hybrid funds, that employ a diverse set of investment strategies. Member firms help pension plans, university endowments, charitable foundations, and other institutional investors diversify their investments, manage risk, and generate attractive returns throughout the economic cycle.

2 The "Day One" recommendations urged you to (1) withdraw the SEC's appeal of the Dealer Rule, (2) extend the compliance date of Rule 13f-2, (3) extend the compliance date of the amended Form PF, and (4) halt the Commission practice of regulation through enforcement. *See* https://www.mfaalts.org/wp-content/uploads/2025/01/MFA-letter-to-Acting-Chair-Uyeda.1.20.25.pdf.

3 *See* Presidential Executive Order, *Regulatory Freeze Pending Review* (Jan. 20, 2025), available at: https://www.whitehouse.gov/presidential-actions/2025/01/regulatory-freeze-pending-review/.

4 *See* Presidential Executive Order, *Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative* (Feb. 19, 2025), available at:

Consistent with these Executive Orders, MFA stands ready to work with the SEC and the new Administration to further advance policies that support U.S. economic growth and the financial well-being of all Americans. We believe the SEC under the Trump Administration has an opportunity to turn the page by withdrawing all outstanding proposals and revisiting policies that have been piled on over the past four years, harming markets, investors, and the economy.

Pursuant to the President's Executive Orders, we encourage the Commission to review and reevaluate rules that impose significant, unjustified costs and burdens on investors and other market participants with little to no corresponding benefits. In particular, we urge the Commission to immediately halt, review, and provide relief from the policies outlined in the letter below to reduce costs and burdens on market participants and improve the efficiency of the financial markets consistent with the President's Executive Orders. Our recommendations for policy changes that we believe the SEC could make:

- Promote capital formation and enhance the American economy
- Improve the efficiency and the integrity of the financial markets
- Lower costs for investors and market participants
- Streamline Federal regulations and eliminate unnecessary and overreaching regulations
- Reduce waste and promote innovation

Executive Summary

Alternative asset managers are an important investor constituent and can be drivers of economic growth. Along with other market participants, years and layers of inefficient and mismatched regulatory burdens have weighed down the potential benefits asset managers provide to their investors, the markets, and the U.S. economy. We urge the Commission to take the following actions to promote capital formation, improve regulatory efficiency, and reduce waste:

Division of Investment Management

- Streamline New Form PF to make it consistent with its intended purpose—monitoring systemic risk—and less burdensome to reporting advisers
- Enhance investment opportunities for investors
- Update the custody rule to reflect market developments through targeted reforms

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https://www.whitehouse.gov/presidential-actions/2025/02/ensuring-lawful-governance-and-implementing-the-presidents-department-of-government-efficiency-regulatory-initiative/#:~:text=It%20is%20the%20policy%20of,overbearing%20and%20burdensome%20administrative%20state.

- Cease requiring the provision of misleading information under the adviser marketing rule
- Revisit the appropriateness of penalties under the adviser political contribution restrictions

Division of Trading and Markets

- Ensure short position reporting is consistent with its intended purpose; reduce complexity of Regulation SHO
- Enforce Rule 105 of Regulation M as originally intended and enhance capital raising
- Improve Treasury market infrastructure in support of central clearing

Division of Corporation Finance

- Rescind new Schedule 13G Beneficial Ownership Reporting; modify to eliminate duplicative filing by allowing filers to rely on Form 13F

Cross-Divisional

- Provide greater legal certainty for regulation of digital asset securities

We believe each of these recommendations is consistent with the President's recent Executive Orders, which are designed to ensure lawful governance and reduce waste, and will go a long way toward reversing past policies that have harmed markets, investors, and the economy.

MFA Recommendations

A. Division of Investment Management

1. Streamline Form PF to Make it Consistent with its Intended Purpose—Monitoring Systemic Risk

We urge the SEC to grant a further extension of the compliance date of New Form PF to give the Commission time to review and reevaluate the rule, as required by the Regulatory Freeze EO and the Ensuring Lawful Governance EO. Delaying the requirement to use the New Form PF pending Commission review of Form PF is important because it avoids firms having to incur unnecessary costs to implement multiple changes to Form PF.

Over the past four years, the SEC amended Form PF, not once, but twice, to collect an even greater amount of information from private fund advisers, without regard to the burdens or practicality of such reporting.[5] New Form PF imposes unnecessary costs on market participants, without corresponding

[5] Form PF; Reporting Requirements for All Filers and Large Hedge Fund Advisers, 87 Fed. Reg. 53832 (Sep. 1, 2022), available at: https://www.govinfo.gov/content/pkg/FR-2022-09-01/pdf/2022-17724.pdf;

benefits to the Commission, and represents a distortion of the intended purpose of Form PF—namely, to provide the Commission and FSOC with data to assess potential systemic risk. This is in direct contradiction with the Regulatory Freeze EO and the Ensuring Lawful Governance EO, which requires agencies to identify "regulations that are based on anything other than the best reading of the underlying statutory authority or prohibition"[6] and "regulations that impose significant costs upon private parties that are not outweighed by public benefits."[7]

MFA has long supported the Commission's reconsideration of Form PF to better tailor the Form for its primary intended purpose. Indeed, during the last Trump Administration, we worked with the SEC and the CFTC on a project to revise Form PF, which was imposed more than a decade ago. We urge the Commission to resume the project and eliminate or revise questions in Form PF that are unnecessarily burdensome and/or provide information of limited value. We believe the Commission's recent amendments failed to provide an adequate cost-benefit analysis and fundamentally rewrote Form PF in ways that are inconsistent with the underlying statutory authority and will lead to the collection of less meaningful information while significantly increasing the burdens on reporting advisers.

Accordingly, we believe the Commission should revisit New Form PF with the goal of streamlining the requirements to make the form more consistent with its intended purpose and reduce the burdens on reporting advisers. Among other things, the Commission should amend New Form PF to:

- Focus the data collection on information relevant to potential systemic risk assessment and not readily attainable from other sources.
- Permit aggregated reporting and better align data requests with risk management practices to collect meaningful and accurate data.
- Narrow the scope of sensitive information collected on Form PF in light of cybersecurity and other risks that could result from inadvertent disclosures of Form PF information.
- Revise the definition of hedge fund, including by distinguishing between open-end and closed-end funds, to permit advisers to report information on Form PF in a manner that best represents the type of fund and the type of reporting that is most relevant to the fund.
- With respect to the Current Reports Requirement, eliminate the "Operations Event" trigger for reporting, which has proven very difficult to operationalize, and reevaluate the other triggers in

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Amendments to Form PF To Require Current Reporting and Amend Reporting Requirements for Large Private Equity Advisers and Large Liquidity Fund Advisers, 87 Fed. Reg. 9106 (Feb. 17, 2022), available at: https://www.govinfo.gov/content/pkg/FR-2022-02-17/pdf/2022-01976.pdf.

6 Ensuring Lawful Governance EO at ¶ 2(iii).

7 Ensuring Lawful Governance EO at ¶ 2(v).

the rule to ensure they are properly calibrated to reduce burdens on reporting advisers and avoid over-reporting.

2. Enhance Investment Opportunities for Investors

MFA believes that the Commission should streamline the process for the development of investment products that invest in private markets under the Investment Company Act framework. In recent years, the SEC staff has stymied retail investment opportunities by impeding the approval, development, and distribution of investment products that invest in private markets. These include time-consuming and unnecessarily complex exemptive applications and restrictive informal SEC staff positions on business development companies ("**BDCs**") and other closed-end investment companies seeking to provide individual investors with an appropriate level of exposure to private market investments and alternative asset classes in a regulated investment pool structure, with the safeguards and oversight that come with that structure.

In particular, MFA encourages the SEC staff to:

- Streamline the current form of co-investment orders to tailor conditions to avoid unduly restricting investor opportunities to participate in alternative asset classes.
    - MFA supports the approval of more principles-based co-investment applications, such as the FS Credit Opportunities Corp., *et al.* exemptive application.[8] We believe such products offer retail investors the ability to diversify their investment portfolio in an appropriate manner, and that the SEC should streamline the process to create an equal playing field for issuers.
- Expand the availability of multi-class relief to privately placed closed-end funds electing to be regulated as BDCs and streamline the multi-class exemptive order process for all closed-end funds and BDCs, which facilitates the efficient distribution of these investment products to investors.
- Retract its informal position limiting a closed-end funds' investments in private pools to 15%.
    - We believe the staff position, which is not based on law, unnecessarily limits a closed-end manager's discretion as a fiduciary in managing the fund's strategy.

[8] In the Matter of FS Credit Opportunities Corp., *et al.*, Application for an Order Pursuant to Sections 17(d) and 57(i) of the Investment Company Act of 1940 and Rule 17d-1 under the Investment Company Act of 1940 Permitting Certain Joint Transactions Otherwise Prohibited by Sections 17(d) and 57(a)(4) of Rule 17d-1 Under the Investment Company Act of 1940 (Feb. 20, 2025), available at: https://www.sec.gov/Archives/edgar/data/1501729/000119312525030936/d909521d40app.htm.

- Modernize the definition of "knowledgeable employees" to make it easier for investment advisory firms to allow their accredited investor employees to invest and clarify that employee securities companies ("**ESCs**") that invest in a single Section 3(c)(7)-exempt private fund are permissible as part of a program of ESCs.

MFA believes that expanded access should be explored while also recognizing the merit in multiple regimes, with appropriately calibrated rules for sophisticated institutional and high-net worth investors and others for broader investor participation. MFA encourages the Commission to assess current access to alternative asset classes and evaluate—along with Congress—whether rule-based, statutory, or other changes should be made to further democratize investment opportunities, while also ensuring investors are appropriately protected. We stand ready to work with the Commission and Congress as you consider these issues.

3. Update the Custody Rule to Reflect Market Developments through Targeted Reforms

MFA recommends that the 2023 custody proposal be withdrawn and that the Commission take a fresh look at the appropriate scope of the Custody Rule taking into consideration how markets have evolved. MFA supports sensible custodial practices for private funds and their managers and suggests targeted revisions to address certain longstanding issues and potential uncertainty relating to digital assets that are securities.

The Custody Rule should be updated to reflect the types of securities and other contractually-based assets currently managed under the Advisers Act. Examples include for the SEC to:

- Expand the concept that applies to "privately offered securities" to other asset classes subject to the Custody Rule that are beyond the services offered by qualified custodians.
- Provide guidance regarding the applicability of the Custody Rule for investments that settle on a non-delivery versus payment basis in the context of the authorized trading exception previously adopted by the Commission.
- Provide guidance or potential relief for the audit requirements for funds that are winding down or otherwise have a "stub period" beyond the twelve-month audit period.
- Revise the Custody Rule to address advisers' obligations relating to digital assets (in addition to working with the CFTC and other agencies regarding cryptocurrency regulation generally).

4. Cease Requiring Misleading Information Under the Adviser Marketing Rule

MFA recommends that the SEC staff clarify the scope of the Marketing Rule as it relates to institutional investors in private funds or separately managed accounts. We urge the SEC staff to prioritize revisions to its FAQs on several points relating to private funds, including clarifying those instances where gross performance alone is appropriate for managers to private funds that are available solely to qualified purchasers and other institutional-level investors.

In early 2023, the SEC staff began issuing new FAQs requiring advisers, including private fund advisers, to provide performance information to investors on a net basis if gross performance is provided. Private fund advisers provide a variety of such information to investors and prospects, who often demand portfolio attributions, case studies and similar information to assess components of fund performance or the construction of a fund's portfolio. These staff positions have had the effect of serving as a blanket rule for all performance and portfolio information and have resulted in significant investor confusion and the presentation of potentially misleading model "net" performance information. Private funds often hold illiquid or complex investments and may have pass-through fee structures. In our experience, a one-size-fits all approach requiring private fund managers to calculate on a "net" basis all information that could be provided or requested is inaccurate and unhelpful to investors.

MFA greatly appreciates the SEC staff's engagement with the private fund industry on the Marketing Rule. We look forward to further engagement with the SEC staff on additional provisions and/or guidance that have led to confusion for private fund managers and their investors, such as performance presentations (*e.g.,* model fees and hypothetical performance), substantiation, testimonials, and endorsements. In addition, we support the Commission's efforts to ensure that its exam staff are aligned with its guidance when engaging with the industry.

5. Revisit the Appropriateness of Penalties under the Adviser Political Contribution Restrictions

MFA recommends reassessing the Political Contributions of Advisers Rule.[9] Today's Political Contributions of Advisers Rule operates as a strict liability penalty against advisers already subject to fiduciary obligations by prohibiting a manager or its employees from engaging in the political contributions process for state and local candidates in amounts greater than $150 (unless eligible to vote for the candidate). The penalty is for the adviser to forgo investment advisory compensation for two years after the donation. The Commission has an opportunity to correct the mismatch between the rule's onerous penalty and the underlying conduct.

MFA recommends that the SEC consider a different approach that would move beyond the draconian penalties exacted under the current rule. It should not be the case that the rule's excessive penalties are triggered under the flawed premise that a manager can somehow influence the selection process through a campaign contribution of $351.[10] MFA recommends that the SEC propose for comment a Political Contributions Rule that would require managers to maintain policies and procedures to monitor campaign contributions by employees and other covered persons, including placing limits on contribution

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9 17 CFR § 275.204(4)-5. *See* Political Contributions by Certain Investment Adviser, 75 Fed. Reg. 41018 (July 14, 2010), available at: https://www.govinfo.gov/content/pkg/FR-2010-07-14/pdf/2010-16559.pdf.

10 And yet, previous Commissions have brought enforcement actions citing modest campaign contributions that, while technically prohibited under the rule, cannot credibly be described as influencing the manager selection process. *See e.g.,* In re: Oaktree Capital Management, Inv. Adv. Act Rel. No. 4960 (Jul. 10, 2018), available at: https://www.sec.gov/files/litigation/admin/2018/ia-4960.pdf (covered associate made $500 contribution to candidate for California State Superintendent of Public Instruction).

amounts. The policies and procedures would be reasonably designed to comply with the Advisers Act and applicable law and tailored to the manager's business. These controls would be reviewed and considered under the manager's existing annual compliance obligations.

B. Division of Trading and Markets

1. Ensure Short Position Reporting is Consistent with its Intended Purpose; Reduce Complexity of Regulation SHO

MFA has challenged the Commission for acting arbitrarily and capriciously in adopting inconsistent rules with respect to securities lending and short position reporting rules.[11] Notwithstanding any future court opinion, we encourage the Commission to review Rule 13f-2 and Form SHO in light of the Ensuring Lawful Governance EO, which requires agencies to identify "regulations that impose significant costs upon private parties that are not outweighed by public benefits"[12] and regulations that "impose undue burdens on small business and impede private enterprise and entrepreneurship."[13]

MFA has longstanding concerns with the wholesale development of a new, duplicative short position reporting regime. The SEC should consider revising Rule 13f-2 to leverage the short interest reporting regime that FINRA has operated for years. Any information the SEC or FINRA collects must protect the critical private fund investment and trading strategies, which as the Commission has explicitly recognized, are critical to private funds' willingness to engage in fundamental research and contribute to stock price efficiency.

As the SEC considers a new Rule 13f-2 and/or Form SHO that is consistent with the President's executive orders, we urge the Commission to:

- Eliminate the overly burdensome Table 2 in existing Rule 13f-2.
- Make certain other changes to the rule to make it less burdensome to market participants (*e.g.,* by clarifying the scope of Form SHO so that it aligns with the SEC's position in its reply brief that only short positions due to short sales subject to Regulation SHO trigger reporting).

In connection with modifying Rule 13f-2, we also encourage the Commission to enhance the operational efficiency of trading by reducing the complexity and burden of Regulation SHO. The definition of a short sale under Rule 200(a) of Regulation SHO focuses upon the securities positions held by a particular "seller" of securities. Rule 200(c) of Regulation SHO specifically requires that a "person" shall be

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11 *See NAPFM, et al. v. SEC*, No. 23-60471 (5th Circuit).

12 Ensuring Lawful Governance EO at ¶ 2(v).

13 Ensuring Lawful Governance EO at ¶ 2(vii).

deemed to own a security only to the extent that he has a net long position in such security. In this regard, we encourage the SEC to:

- Streamline Reg SHO to reduce the burdens to funds surrounding order marking requirements.
- Reverse staff interpretations that significantly increase the cost of Reg SHO (*e.g.,* FAQ 2.5, which requires a firm to count open/unexecuted orders when calculating real-time net position).
- Provide aggregation unit relief to registered investment advisers, which would allow investment advisers who have established "separate accounts" for purposes of compliance with Rule 105 of Regulation M to determine their net long positions within such aggregation units/separate accounts without regard to net long positions within the same entity, but in a separate account.

2. Enforce Rule 105 of Regulation M as Originally Intended and Enhance Capital Raising

Facilitating capital formation is a core part of the Commission's mission. Regulation M is designed to prevent market manipulation by participants in a securities offering by regulating certain activities. We support the general purpose of Rule 105 of Regulation M to prohibit short selling of equity securities before an underwritten public offering that can artificially depress market prices which can lead to lower than anticipated offering prices, thus causing an issuer's offering proceeds to be reduced. However, the way the SEC Enforcement staff has aggressively pursued potential violations of Rule 105 has unnecessarily impeded capital formation.

It has become apparent that the SEC Enforcement staff has taken a "blunt instrument" approach to identifying potential violations of Rule 105, which results in burdensome and costly subpoena requests, even when there has been no intentional manipulation. Unfortunately, the SEC Enforcement staff has applied a "strict liability" approach to Rule 105, even where the trading activity in question does not raise the anti-manipulation concerns that Rule 105 was designed to address.

Many institutional investment managers may be reluctant to commit capital to participate in certain public securities offerings due to fears of being subject to aggressive enforcement investigations and actions by the SEC. This most notably arises in connection with SEC Enforcement staff scrutinizing investment managers' reliance on the rule's "separate account" exception.[14] Reliance on this exception is particularly confusing for investment managers who execute multiple strategies out of a single fund.

As a result, many investment managers have become reluctant to commit capital to be investors in Rule 105 covered offerings. This is to the detriment of issuers and selling shareholders who desire to raise

[14] *See* 17 CFR § 242.105(b)(2) (permitting "a purchase of the offered security in an account of a person where such person sold short during the Rule 105 restricted period in a separate account, if decisions regarding securities transactions for each account are made separately and without coordination of trading or cooperation among or between the accounts").

capital. We would thus like to work with the Commission to obtain common sense relief or guidance that will restore Rule 105 back to its original purposes and support capital raising.

3. Improve Treasury Market Infrastructure in Support of Central Clearing

The U.S. Treasury securities markets are the deepest and most liquid market in the world. Maintaining robust and liquid markets for U.S. Treasuries is crucial to financial market functionality, as well as to U.S. and global financial stability. We support efforts to enhance Treasury market efficiency and resiliency by modernizing market architecture.

We appreciate that the SEC has voted to extend the compliance date of the Treasury Clearing Rule[15] for twelve months.[16] It is critical that the Commission work with the Inter-Agency Working Group on Treasury Market Surveillance, clearing agencies, and market participants in allowing for the development of the Treasury market infrastructure before requiring clearing for cash and repo Treasury transactions.

We believe the first priority among these efforts should be to expand the availability of central clearing. Without this, requirements for some transactions to be centrally cleared will be counter-productive, decreasing market efficiency and resiliency by making it more difficult and expensive for investors to transact, and, ultimately, increasing market concentration and risk.

Given the critical importance of the U.S. Treasury markets to the U.S. and global economies, it is imperative that the Commission take certain steps to facilitate greater client access to clearing and make other critical improvements to the Treasury clearing ecosystem before the clearing mandate goes into effect. In particular, we recommend the Commission:

- Take steps to prohibit the forced bundling of execution and clearing services and ensure the availability of "done-away" clearing (i.e., where a participant trades with a third party and then submits the trade to a clearing member for clearing). This forced bundling is inconsistent with investment managers' fiduciary duties to their clients to get best execution and also inconsistent with how other regulated cleared markets operate.
- Consider measures to facilitate broader cross-margining to permit market participants to calculate risk-based margin requirements across correlated positions, such as interest rate futures, which are cleared at different clearinghouses.

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15 SEC Rel. No. 34-99149 (Dec. 13, 2023), 89 Fed. Reg. 2714 (Jan. 16, 2024).

16 *See* Extension of Compliance Dates for Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule With Respect to U.S. Treasury Securities, 90 Fed. Reg. 11134 (Mar. 4, 2025), available at: https://www.govinfo.gov/content/pkg/FR-2025-03-04/pdf/2025-03351.pdf.

- Address the narrowness of the inter-affiliate exception from the Treasury clearing mandate.[17]

- Ensure covered clearing agencies have adequate time to develop their models and rules and take whatever other steps are necessary to improve the Treasury market ecosystem.

C. Division of Corporation Finance

1. Rescind New Schedule 13G Beneficial Ownership Reporting; Modify to Eliminate Duplicative Filing by Allowing Filers to Rely on Form 13F

Requiring investment managers to take on the burden of filing Schedule 13Gs on a quarterly basis has immensely increased compliance burdens on Schedule 13G filers. Consistent with the Presidential Executive Orders, we urge the Commission to consider rescinding this requirement. This increased burden on investment managers comes with little benefit to the market. Investment managers' trading activity is already subject to significant scrutiny by the Commission and the public through the filing of Forms 13F. Form 13F includes information about the issuers and securities in which investment managers are invested, the number of shares owned, and their fair market value.

Moreover, almost all investment managers currently filing Schedule 13Gs have expressly disclaimed any intent to change or influence the control of the issuer, rendering information about their holdings less urgent and crucial from the market's perspective than those of a Section 13D filer.[18] Given these facts, the additional information included in Schedule 13G is not sufficiently important to the market to warrant requiring quarterly, security-by-security Schedule 13G filings. The previous system of annual filing provided specific information regarding beneficial ownership close in time to the issuer's preparation of its proxy statement or annual report on Form 10-K or 20-F, which would then summarize the beneficial ownership of all more-than-5% owners. The previous system still required interim disclosure for material changes, such as when persons acquired more than 10% beneficial ownership or had subsequent 5% acquisitions or dispositions. We continue to believe that the previous annual Schedule 13G reporting, especially when combined with Form 13F obligations, provided the market with sufficient information without overburdening managers.

If the Commission is committed to requiring more frequent reporting by investment managers, it should consider modifying how it collects such information. Revisions to Form 13F,

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17 *See* Letter from MFA, AIMA, IAA, and SIFMA AMG to Gary Gensler, Chair, SEC (Dec. 18, 2024), available at: MFA-Treasury-Clearing-Mandate-Exemption-Request-inter-affiliate-exception-As-submitted-12.18.24.pdf.

18 *See* 17 CFR § 240.13d-1(b)(1)(i).

and the ability to rely on Form 13F to fulfill an investment manager's Schedule 13G filing obligation, would achieve the goals of Schedule 13G at a significantly less onerous cost to investors.[19]

This approach would permit substituted compliance for investment managers, so long as they do not beneficially own any securities for that issuer beyond the beneficial ownership reported by the investment manager. This approach would provide the market and the investing public with substantially similar information as issuer-by-issuer Schedule 13G filings. However, it would significantly reduce the burden on investment managers relative to near-duplicative filings, which imposes substantial burdens without a clearly articulated benefit as compared to requiring the same disclosure on Form 13F filings.

D. Cross-Divisional

1. Provide Greater Legal Certainty for Regulation of Digital Asset Securities

We appreciate the steps the SEC has taken to date to foster a framework where the evolving digital asset can mature, such as the creation of a Crypto Task Force and the repeal of SAB 121, and we support your efforts in engaging with the public to better understand this new asset class. MFA members are interested in a framework that provides legal certainty to the industry whether through guidance, rulemaking, or Congressional action so that market participants understand the rules of the road and investors understand the risks and are adequately protected. In particular, we seek:

- Confirmation by the Commission that private funds may invest in digital asset securities without running afoul of custody requirements.
- The ability of private fund managers to engage in digital assets transactions with bank and broker-dealer counterparties without the banks and broker-dealers being subject to punitive capital requirements.
- A regulatory framework that is fair and transparent to investors.

[19] For example, Form 13F could be used to capture the material Schedule 13G information by simply adding a column to Form 13F requiring filers to check a box, and thereby explicitly note, for each voting class that is registered under Section 12(b) or 12(g) and is a "Section 13(f) security," whether the filer holds over 5% beneficial ownership at the end of the reporting period. If the box is checked, Form 13F could permit the disclosure of the investment manager's beneficial ownership under Rule 13d-3 in a separate column along with the Central Index Key for that issuer. Form 13Fs can then be indexed using the relevant issuers' Central Index Key numbers, so that members of the investing public researching a particular issuer can readily see the Form 13F filers who have disclosed a greater-than-5% position in that issuer. Investment managers with more than 5% beneficial ownership can agree to provide beneficial ownership information upon request to the Commission, its staff, or the management or board of directors of the issuer.

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MFA appreciates your consideration of our recommendations. We look forward to working with the Commission to improve securities regulation to protect investors, support U.S. economic growth, and promote capital formation. We would be pleased to discuss our recommendations in further detail. Please do not hesitate to reach out to me.

Sincerely,

/s/ Jennifer W. Han

Jennifer W. Han
Chief Legal Officer & Head of Global Regulatory Affairs
MFA