May 11, 2025

Via Electronic Mail

The Honorable Paul Atkins
Chair
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

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

Dear Chair Atkins:

Congratulations on your new role as Chair of the U.S. Securities and Exchange Commission ("**SEC**" or "**Commission**"). MFA[1] welcomes your leadership and stands ready to serve as a resource to you and the Commission to 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 outstanding proposals and revisiting policies that have been piled on over the past four years or more, harming markets, investors, and the economy.

We were heartened to see the recent Presidential Executive Orders calling for a regulatory freeze, ensuring lawful governance, and reducing anti-competitive regulatory barriers.[2] Pursuant to these Presidential 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 connection with this review, we recommend the Commission withdraw the outstanding rules proposed under the last Administration and going forward ensure that it conducts a

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 *See* Presidential Executive Orders: Regulatory Freeze Pending Review (Jan. 20, 2025) ("**Regulatory Freeze EO**"), Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative (Feb. 19, 2025) ("**Ensuring Lawful Governance EO**"), and Reducing Anti-Competitive Regulatory Barriers (Apr. 9, 2025) ("**Anti-Competitive Regulatory Barriers EO**"). These Presidential Executive Orders require agencies such as the SEC to review and reevaluate rules that are unlawful or impose significant, unjustified costs and burdens on investors and other market participants with little to no corresponding benefits.

thorough cost-benefit analysis of any new proposed rule, including considering the costs and benefits of related rules proposed at or near the same time.

MFA emphasizes the importance of right-sized regulations adhering to statutory authority that effectively balance oversight and innovation to support a dynamic and resilient financial ecosystem. Fostering continued growth in both public and private markets is essential to maintaining investor confidence and ensuring the stability of the broader economy. It is imperative to provide market participants with clear and consistent rules, enabling them to navigate the regulatory landscape with certainty and contribute to economic growth. This may involve rescinding certain rules or adopting new rules (or guidance) that provide more flexibility for market participants to comply with statutory provisions.

MFA also recognizes that appropriate government collection of data is an important mechanism to ensure markets are understood and well-regulated and regulators have the information they need to monitor for systemic risk. However, we are greatly concerned that several recently adopted rules require disclosure of excessive information by market participants. The immense amount of data collected by the government is out of control and largely not serving a legitimate policy objective. In many cases, recently adopted regulations are unlawful because they exceed agencies' statutory authority or were not adopted pursuant to a robust cost-benefit analysis. Many rules also require collection of significant proprietary information. The recent breaches of senior Treasury Department officials' computers[3] and the OCC's email system[4] and the hack of the SEC's EDGAR system[5] demonstrate the government's data protection shortcomings and the real dangers to investors and the economy when the government collects sensitive information.

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. 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

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[3] *See* https://www.reuters.com/technology/cybersecurity/chinese-hackers-accessed-yellens-computer-us-treasury-breach-bloomberg-news-2025-01-17/.

[4] *See* https://www.occ.gov/news-issuances/news-releases/2025/nr-occ-2025-32a.pdf.

[5] *See* https://www.sec.gov/files/litigation/complaints/2019/comp-pr2019-1.pdf.

Executive Summary

Alternative asset managers are an important investor constituent and can be drivers of economic growth. Years and layers of inefficient and mismatched regulatory burdens have weighed down the potential benefits alternative 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

- Rescind the 2023 and 2024 Form PF Amendments; Amend Form PF to Make it Consistent with its Intended Purpose—Monitoring Systemic Risk
- Enhance Investment Opportunities for Investors
- Update the Custody Rule to Reflect Market Developments Through Targeted Reforms
- Revisit the Appropriateness of Penalties under the Adviser Political Contribution Restrictions
- Further Clarify the Adviser Marketing Rule for Private Funds

Division of Trading and Markets

- Rescind the 2023 Short Position and Securities Lending Reporting Rules; Reduce Complexity of Regulation SHO
- Enhance Capital Raising by Enforcing Rule 105 of Regulation M as Originally Intended
- Stop the Unlawful Interpretation of the Dealer Definition; Adopt an Interpretation Consistent with the Statute and Avoid Over-Regulation
- Improve Treasury Market Infrastructure in Support of Central Clearing

Division of Corporation Finance

- Rescind 2023 SEC Schedule 13G Beneficial Ownership Reporting Amendments; Modify to Eliminate Duplicative Filing by Allowing Filers to Rely on Form 13F

Cross-Divisional

- Provide Greater Legal Certainty for the Regulation of Digital Asset Securities

We believe each of these recommendations is consistent with the Presidential Executive Orders and will go a long way toward reversing past policies that have harmed markets, investors, and the economy.

MFA Recommendations

Division of Investment Management

I. Rescind the 2023 and 2024 SEC Form PF Amendments and Revamp Form PF to Make it Consistent with its Intended Purpose—Monitoring Systemic Risk

In 2023 and 2024, Form PF was amended twice to require the disclosure of considerable additional data from private fund managers. The first set of amendments, adopted solely by the SEC, imposed burdensome event reporting requirements on Large Hedge Fund Advisers and Private Equity Fund Advisers, even though the event reporting triggers are poor indicators of systemic risk.[6] The second set of amendments, adopted jointly by the SEC and the Commodity Futures Trading Commission ("**CFTC**"), require the reporting of a huge amount of information from private fund advisers, without regard to the burdens or practicality of such reporting or whether such collection of information is consistent with the statute or even useful to regulators.[7]

We believe these recent amendments to Form PF fundamentally rewrite Form PF in ways beyond its original statutory purpose of providing the SEC, CFTC, and FSOC with data to assess potential systemic risk. As such, these two rulemakings were unlawful and should be rescinded. This would be consistent with the Regulatory Freeze EO and the Ensuring Lawful Governance EO, which require agencies to identify "regulations that are based on anything other than the best reading of the underlying statutory authority or prohibition"[8] and "regulations that impose significant costs upon private parties that are not outweighed by public benefits."[9] We further believe the original Form PF needs to be amended to serve, and be consistent with, its intended purpose—monitoring systemic risk.

To begin with, we urge the Commission 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. *With the compliance date of the New Form PF fast approaching (June 12), it is critical that the Commission act on this request expeditiously.* Private fund managers will soon need to begin gathering information to complete Form PF, and the information they

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6 Form PF: Event Reporting for Large Hedge Fund Advisers and Private Equity Fund Advisers; Requirements for Large Private Equity Fund Adviser Reporting, 88 Fed. Reg. 38146 (June 12, 2023), available at: https://www.govinfo.gov/content/pkg/FR-2023-06-12/pdf/2023-09775.pdf.

7 Form PF; Reporting Requirements for All Filers and Large Hedge Fund Advisers, 89 Fed. Reg. 17984 (Mar. 12, 2024), available at: https://www.govinfo.gov/content/pkg/FR-2024-03-12/pdf/2024-03473.pdf.

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

9 *Id.* at ¶ 2(v).

gather will depend on whether they need to complete the New Form PF or the prior (existing) version of the form.

Moreover, MFA is increasingly concerned about the cybersecurity risk at government agencies as data reporting requirements continue to escalate. MFA encourages the SEC to ensure that measures are in place to adequately protect the market and participant data that it collects and to continually evaluate and strengthen those protections as new threats emerge.[10]

Accordingly, we believe the Commission should rescind the 2023 and 2024 Form PF amendments 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 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 2023 event reporting requirement, at a minimum, eliminate the "Operations Event" trigger for reporting, which has proven very difficult to implement, and reevaluate (or eliminate) the other triggers in the rule to reduce burdens on reporting advisers and avoid over-reporting.

II. Enhance Investment Opportunities for Investors

Private markets have become a larger and more important part of our capital markets over the last fifteen years. Retail investors have limited ability to access these markets. When fund managers have tried to provide retail investors with greater access to those markets through appropriate investments within registered investment products, they have been stymied by SEC staff impediments to their development, approval, and distribution.

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10 The House and Senate both adopted report language last summer directing the SEC and CFTC to report to Congress on their data collection and protection procedures. *See* House Report 118-556, at 79: https://www.congress.gov/118/crpt/hrpt556/CRPT-118hrpt556.pdf; Senate Report 118-206, at 63: https://www.congress.gov/congressional-report/118th-congress/senate-report/206/1.

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 of 1940 framework. The SEC staff process currently includes 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. We are encouraged by the SEC staff's recent approval of a more principles-based exemptive application for co-investment relief filed by FS Credit Opportunities Corp.[11] and by the staff's recent expansion of multi-class exemptive relief to non-traded BDCs.[12]

MFA also encourages the SEC staff to:

- Retract its informal position limiting a closed-end fund's investments in private pools to 15%. We believe the staff position, which is not based on law, unnecessarily limits a closed-end fund manager's discretion as a fiduciary in managing the registered fund's strategy.

- 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.

Moreover, MFA believes that employer-sponsored or defined-contribution retirement plans should have appropriate access to investment options that contain alternative asset classes, as many investors in these plans have a long-term investing horizon. Assets in 401(k) plans now far outnumber defined-benefit pension plans as employees' only retirement savings option at work. It is critical that those plans contain enough long-term assets to enhance retirement outcomes. Plan sponsors serve as Employee Retirement Income Security Act ("**ERISA**") fiduciaries for 401(k) plans. The SEC should encourage Congress to work with the Department of Labor ("**DOL**") to identify ways to provide the clarity and safeguards needed for

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11 In the Matter of FS Credit Opportunities Corp., *et al.*, Investment Company Act Release No. 35561 (Apr. 29, 2025) (order), available at: https://www.sec.gov/Archives/edgar/data/1568194/999999999725002145/filename1.pdf; *see* Application for an Order Pursuant to Sections 17(d) and 57(i) of the Investment Company Act of 1940 Permitting Certain Joint Transactions Otherwise Prohibited by Sections 17(d) and 57(a)(4) of and Rule 17d-1 under the Investment Company Act of 1940 (amended Apr. 3, 2025), available at: https://www.sec.gov/Archives/edgar/data/1568194/000119312525071964/d920107d40appa.htm.

12 In the Matter of Ares Core Infrastructure Fund, *et al.*, Investment Company Act Release No. 35523 (Apr. 8, 2025)(order), available at: https://www.sec.gov/files/rules/ic/2025/ic-35523.pdf; *see* Application for an Order Granting Exemptions from Sections 18(a)(2), 18(c), 18(i) and 61(a) of the Investment Company Act of 1940, available at: https://www.sec.gov/Archives/edgar/data/1449853/000110465925019211/tm257881d1_40appa.htm (Feb. 28, 2025).

plan sponsors to offer appropriate diversification to allow retirement savers to best meet their long-term objectives.

MFA believes that expanded access should be explored while also recognizing the need for and the merit of multiple regimes, with appropriately calibrated rules and structures for sophisticated institutional and high-net worth investors and others for broader investor participation. MFA encourages the SEC and the DOL 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.

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

MFA recommends that the SEC's 2023 custody proposal be withdrawn and that the Commission take a fresh look at the appropriate scope of the adviser 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 Investment Advisers Act of 1940. 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).

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

MFA recommends reassessing the political contributions of advisers rule.[13] 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

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13 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.

donation. The Commission has an opportunity to correct the mismatch between the rule's onerous penalty and the underlying conduct.

MFA recommends the Commission 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.[14] MFA recommends that the SEC either adopt a blanket order imposing conditions for exemptive relief or 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 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.

V. Further Clarify the Adviser Marketing Rule for Private Funds

MFA greatly appreciates the SEC staff's engagement with the private fund industry on the marketing rule and the recent updated FAQs regarding extracted performance and portfolio characteristics. Importantly, these FAQs will prevent advisers from needing to provide potentially misleading information to investors. Other provisions of the marketing rule, which covers a broad waterfront, need similar clarification and/or relief to make them better suited for private funds. 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.

Division of Trading and Markets

I. Rescind the 2023 SEC Short Position and Securities Lending Reporting Rules; Reduce Complexity of Regulation SHO

MFA has challenged the Commission for acting arbitrarily and capriciously in adopting inconsistent rules with respect to short position and securities lending reporting.[15] Notwithstanding any future court opinion, we encourage the SEC to review the short position and securities lending rules in light of the Ensuring Lawful Governance EO, which requires agencies to identify "regulations that impose significant

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14 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).

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

costs upon private parties that are not outweighed by public benefits"[16] and regulations that "impose undue burdens on small business and impede private enterprise and entrepreneurship."[17]

MFA has longstanding concerns with the wholesale development of a new, duplicative short position reporting regime. The SEC should consider revising the short position reporting rule to leverage the short interest reporting regime that the Financial Industry Regulatory Authority ("**FINRA**") has operated for years. Furthermore, any information the SEC or FINRA collects must protect the critical private investment and trading strategies, which as the SEC 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 Presidential Executive Orders, we urge the Commission to:

- Eliminate the overly burdensome Table 2 in existing Rule 13f-2 because it exceeds the Commission's statutory authority.[18]

- 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 in the ongoing litigation 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 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

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

17 *Id.* at ¶ 2(vii).

18 When the SEC adopted Rule 13f-2, both Commissioner Hester Peirce and Commissioner Mark Uyeda objected to the inclusion of Table 2 in the rule, arguing that it "goes well beyond anything required by the statute" (Uyeda) and that "[t]he statute does not require the Table 2 information" (Peirce). *See* https://www.sec.gov/newsroom/speeches-statements/uyeda-statement-short-sale-101323 and https://www.sec.gov/newsroom/speeches-statements/peirce-statement-short-sale-101323.

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.

II. Enhance Capital Raising by Ensuring Enforcement of Rule 105 of Regulation M as Originally Intended

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

III. Stop the Unlawful Interpretation of the Dealer Definition; Adopt an Interpretation Consistent with the Statute and Avoid Over-Regulation

The SEC adopted a rule in 2024 that further defined the meaning of "as a part of a regulatory business" in the definitions of the terms "dealer" and "government securities dealer" in a manner that exceeded the Commission's statutory authority and was arbitrary and capricious, potentially subjecting many traders and investors to unnecessary and inappropriate regulation as dealers. The U.S. District Court

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[19] *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").

for the Northern District of Texas agreed and vacated the rule.[20] The court's decision affirmed that to be a "dealer" under the Securities Exchange Act of 1934 it is necessary for a person to provide "dealer services" to "customers.[21]

We appreciate that the Commission has withdrawn a number of enforcement actions brought over the last four years alleging unregistered dealer activity in which the SEC had advocated for an unlawful interpretation of who a securities dealer is, with no footing in the statutory text or history. However, we are concerned that in the future the SEC may revert to an overly expansive view of the term dealer. To prevent the unlawful over-regulation of market participants in the future, we urge the SEC to adopt an interpretation of the dealer definition consistent with the statute and clarify that to be a dealer a person must provide dealer services to customers, not merely engage in trading activity that has the effect of providing liquidity. It is critical that the SEC take steps to prevent future Commissions from engaging in unlawful over-regulation of market participants, which could have significant deleterious effects on capital raising and the U.S. economy.

IV. 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[22] for twelve months.[23] 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

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20 *See* Nat'l Ass'n of Priv. Fund Managers v. SEC, No. 4:24-cv-00250 (N.D. Tex. Nov. 21, 2024); Crypto Freedom All. of Tex. v. SEC, No. 4:24-cv-00361 (N.D. Tex. Nov. 21, 2024).

21 *See id.*

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

23 *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.

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.

- Address the narrowness of the inter-affiliate exception from the Treasury clearing mandate.[24]

- 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

Division of Corporation Finance

I. Rescind 2023 SEC Schedule 13G Beneficial Ownership Reporting Amendments; 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. There is a better, more efficient way to require reporting of beneficial ownership.

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 SEC and the public through the filing of Form 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

[24] *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.

filer.[25] Given these facts, the 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 SEC is committed to requiring more frequent reporting by investment managers, it should consider modifying how it collects such information. Revisions to Form 13F, 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.[26]

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 impose substantial burdens without a clearly articulated benefit as compared to requiring the same disclosure on Form 13F filings.

Cross-Divisional

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

We appreciate the steps the Commission 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

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25 *See* 17 CFR § 240.13d-1(b)(1)(i).

26 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.

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.

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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/ Bryan Corbett

Bryan Corbett
President and CEO