CENTER FOR CAPITAL MARKETS COMPETITIVENESS

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The Honorable Elisse Walter
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Walter:

The U.S. Chamber of Commerce ("Chamber") is the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region. The Chamber created the Center for Capital Markets Competitiveness ("CCMC") to promote a modern and effective regulatory structure that facilitates capital formation needed for economic growth and job creation. Accordingly, we support strengthening and ensuring the vibrancy and utility of money market mutual funds ("MMMFs"), an essential cash management and short-term financing tool through which businesses and municipalities manage liquidity.

We understand that the Securities and Exchange Commission ("SEC") is working toward a proposal that seeks to enhance the safety and soundness of MMMFs and may be considering concepts included in the Financial Stability Oversight Council's ("FSOC") proposed recommendations for MMMF reform. One of FSOC's proposed alternatives is the adoption of floating net asset values ("NAVs") along with the elimination of amortized cost accounting that facilitates a stable net asset value. Corporate treasurers and other investors, however, continue to express concerns regarding a floating net asset value because it eliminates a primary benefit of money market mutual fund investments while introducing a myriad of complex and costly accounting, tax, and operational obstacles.

While we continue to believe that a floating NAV is not the right way to prevent perceived run risks, a floating NAV rule that does not fully address the accounting, tax, and operational changes needed to make it work would simply make the product unusable. Any regulatory action by the SEC incorporating a floating NAV into Rule 2a-7 should be done in concert with other standard-setting, regulatory, and legislative bodies whose actions may be necessary to ensure the continued utility and viability of MMMFs. The SEC by itself cannot make a floating NAV work without rendering the utility of MMMFs useless. It is therefore incumbent on the SEC to work jointly with other bodies to ensure all issues are addressed before any rule change is adopted.

Accordingly, we would like to highlight some of the many issues that companies, states and municipalities, and others would face with a floating NAV and raise questions that the SEC may wish to consider.

<u>Operational Implications</u>

1. The move to a floating NAV would require complex and costly changes to treasury workstations and accounting systems for corporate investors. These financial systems are set up to accept the aggregate investment amount (e.g., $10,000,000 in MMMFs) rather than being programmed to calculate the number of shares owned multiplied by the current net asset value of a share that must be transmitted in on a daily basis. A floating NAV, regardless fluctuation size, would require corporate investors to switch to a different module. As these systems are customized by company, designed to accommodate one's unique business model and treasury operations, an off-the shelf software package will not work for all companies. Thus, any modifications or upgrades to software and hardware will be substantial and costly.

    a. Specifically, what kinds of treasury system and software changes would be needed to accommodate floating NAVs in corporate cash management systems?

    b. What is the development timeframe for the software changes and upgrades, and what is the timeframe for systems testing and implementation?

   c. What is the cost of the system upgrades, installation, and testing?

   d. How quickly will corporate treasury departments be able to get approval for these IT capital expenditures if there are other existing IT and other projects in the pipeline?

   e. What fraction of corporate treasuries will stop using MMMFs because their cash management systems cannot accommodate floating NAV instruments, and what fraction of corporate cash balance would this affect?

2. Many states and municipalities face similar operational issues described above. How is the SEC addressing these same questions from a state and local government perspective?

3. Banks and brokerage firms offer sweep accounts to their customers. A floating NAV would present operational issues for these accounts. How does the SEC intend to address this issue? And what types of systems changes are required for sweep accounts to accommodate a floating NAV?

4. Many companies have investment policies that prohibit investing cash in funds that do not have stable NAVs. Has the SEC staff determined which companies have these prohibitive investment policies and how many of these companies' boards would be willing to modify policies?

5. Investment of cash into products with a floating NAV could violate contractual obligations to third parties such as loan and bond agreements with restrictive eligible investment criteria. How does the SEC plan to address existing investment restrictions that are outside of the control of investors?

6. Has the SEC staff attempted to quantify the budgetary impact that a floating NAV requirement would have on a Local Government Investment Pool's ("LGIPs") municipal investors stemming from transition costs and lower returns on other investments?

Accounting Implications

1. A floating NAV could prevent companies from recording investments in MMMFs as cash equivalents. What is the SEC's view on this? Does the Financial Accounting Standards Board ("FASB") share the SEC's view? Is the SEC willing to advocate or regulate that investments in floating NAV MMMFs should remain classified as "cash and cash equivalents" on the balance sheet?

2. Non-U.S. investors also invest in U.S. MMMFs, so a move to a floating NAV would require modifications to international accounting standards as well in order to count floating NAV funds as cash equivalents.

    a. Does the SEC recommend making these changes to US GAAP, International Financial Reporting Standards ("IFRS"), or both?

    b. If both or IFRS only, and given the status of the convergence project, what do International Accounting Standards Board ("IASB") and FASB need to do to ensure IFRS could accommodate a floating NAV?

3. Many states that manage LGIPs have state laws that allow for investment in stable value products only. Governmental Accounting Standards Board ("GASB") accounting treatment requires that in order to have a fixed value for their share price, LGIPs must operate in a manner consistent with Rule 2a-7. Has the SEC staff worked with GASB to address problems a floating NAV will present to LGIPs? Is the SEC willing to advocate to the GASB to modify rules so that LGIPs are not impacted by a change to Rule 2a-7 mandating a floating NAV?

Tax Implications

1. Corporate treasurers utilize MMMFs as a cash management tool. Companies that experience significant fluctuations in daily cash balances may engage in frequent investment and redemptions. This would create multiple short-term and long-term capital gains and losses if a floating NAV is in place, and the frequent transactions could result in numerous apparent "wash sales" in which an asset is sold and then repurchased within 30 days. Is the SEC working with

the IRS and Congress to identify the potential accounting and tax reporting burdens and working to address them within the same timeframe?

2. It is clear that requiring MMMFs to float their NAV will have complicated tax implications. Can the IRS remedy these tax consequences administratively or will legislative changes to the Internal Revenue Code be required? Will the SEC and the FSOC support such legislative changes, if necessary?

3. What steps has the SEC taken with the IRS to address the tax issues that a floating NAV will create? Is the SEC prepared to advocate a remedy such as netting capital gains and losses, or an exemption for *de minimis* gains?

In taking a comprehensive look at inclusion of a floating NAV in the proposal, the SEC may wish to consider the following general questions.

1. Some argue that a floating NAV will sensitize investors to fluctuations in the underlying value of the portfolio. This can also be accomplished by the daily disclosure of the shadow NAV without creating major tax, accounting, and operational issues for both funds and investors. Could the simple requirement of daily disclosure of the shadow NAV, as already being implemented by a number of funds, be sufficient? Why or why not?

2. The FSOC proposed, in conjunction with the implementation of a floating NAV requirement, rescission of the Rule 22e-3, which allows a fund board to suspend redemptions and begin an orderly liquidation if the fund has broken or is about to break the dollar. Is repeal of this rule necessary to implement a floating NAV? Could repeal of Rule 22e-3 exacerbate the "first mover" problem that critics of MMMFs allege is a major lingering concern with the current structure of MMMFs?

3. The FSOC proposed, in conjunction with the implementation of a floating NAV, rescission of the Rule 17a-9, which allows money market fund affiliates to purchase portfolio securities for a fund for a variety of purposes including helping the fund maintain a stable NAV. Is repeal of this rule necessary to implement a floating NAV? Is it not true that ad hoc support from a fund

sponsor has been successfully used in the past to assist funds in overcoming short-term liquidity problems that could have resulted in liquidation?

The Chamber believes that early consideration of these and other issues in the pre-proposal stage and working in conjunction with other regulatory bodies is necessary to work out complications entailed in a transition to a floating NAV if the goal is to preserve MMMFs as a viable investment product for all the investors who currently use them. If a floating NAV is incorporated into a final rule, the SEC should not adopt it until other standard-setting, regulatory, and legislative bodies have made the necessary changes to address accounting, tax, and operational issues associated with a floating NAV. At the same time, we encourage the SEC to consider these factors and conduct a thorough economic impact analysis to ensure that any regulatory changes proposed promote efficiency, competition, and capital formation.

We appreciate the opportunity to continue working with the SEC, and we would be glad to discuss our concerns in more detail.

Sincerely,

David Hirschmann

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cc: The Honorable Troy Paredes
The Honorable Luis Aguilar
The Honorable Dan Gallagher
Mr. Norm Champ