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April 11, 2022

Ms. Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: *Shortening the Securities Transaction Settlement Cycle (Files No. S7-05-22)*

Dear Ms. Countryman:

The Investment Company Institute[1] strongly supports the Securities and Exchange Commission's proposal to shorten the standard settlement cycle from two business days after the trade date ("T+2") to one business day after the trade date ("T+1").[2] We previously supported shortening the settlement cycle from T+3 to T+2[3] and similarly support the move to T+1 settlement. In each case, shortening the settlement cycle should improve the securities markets' overall efficiency, reduce credit, market, and liquidity risks, and promote financial stability. Over the past year, ICI has helped to lead industry efforts to create the path to a shorter settlement cycle, and this work has been successful in identifying critical steps and considerations necessary to facilitate the transition to T+1 settlement.

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[1] The Investment Company Institute (ICI) is the leading association representing regulated investment funds. ICI's mission is to strengthen the foundation of the asset management industry for the ultimate benefit of the long-term individual investor. Its members include mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and UCITS and similar funds offered to investors in Europe, Asia, and other jurisdictions. Its members manage total assets of $31.0 trillion in the United States, serving more than 100 million investors, and an additional $10.0 trillion in assets outside the United States. ICI has offices in Washington, DC, Brussels, London, and Hong Kong and carries out its international work through ICI Global.

[2] *Shortening the Securities Transaction Settlement Cycle*, Release Nos. 34-94196, IA-5957 (Feb. 9, 2022), 87 Fed. Reg. 10436 (Feb. 24, 2022) (the "Proposing Release" or "Rule Proposal"), *available at* https://www.govinfo.gov/content/pkg/FR-2022-02-24/pdf/2022-03143.pdf.

[3] In 2017, ICI, the Securities Industry Financial Markets Association (SIFMA), and the Depository Trust & Clearing Corporation (DTCC) led the initiative to shorten the settlement cycle from T+3 to T+2 in a multiyear industry effort across multiple operations, functions, and regulations. This effort included issuance of various publications designed to help market participants meet the migration timeline to T+2. *See e.g.*, Industry Steering Committee (ISC) and Deloitte, *T+2 Industry Implementation Playbook* (Dec. 18, 2015), *available at* https://www.ust2.com/pdfs/T2-Playbook-12-21-15.pdf. Since early 2021, ICI, SIFMA, and DTCC have also led the initiative to further shorten the settlement cycle from T+2 to T+1.

Transitioning to T+1 settlement will be a complex, labor-intensive, and intricate undertaking that will require significant communication and coordination between all industry participants, including funds and fund advisers, broker-dealers, custodians, infrastructure providers, service providers, and others. We outline some of the likely challenges below and offer several recommendations to facilitate an orderly transition. These recommendations include:

- Adopting exemptions from T+1 settlement for US-listed ETFs that have a basket of securities that includes foreign securities and for American depository receipts (ADRs); and

- Allowing industry participants to comply with T+1 settlement by September 3, 2024.

We also urge the Commission not to mandate a written agreement between broker-dealers and their institutional customers requiring same-day allocation, confirmation, and affirmation.

Finally, we support the Commission not pursuing a move to T+0 settlement at this time and highlight some initial considerations.

I. Background

Since transitioning to a T+2 settlement cycle in 2017 (and prior to the Rule Proposal), ICI and other industry participants have continued to work towards decreasing risk in the securities trading system. In 2020, ICI, SIFMA, and DTCC began to discuss how to further shorten the settlement cycle. In February 2021, DTCC issued a white paper outlining the potential benefits for the industry and investors from moving to a T+1 settlement cycle.[4] Thereafter, ICI, SIFMA, and DTCC formed an Industry Steering Committee (ISC) and an Industry Working Group (IWG)[5] to formally consider the effort to shorten settlement and develop the roadmap for implementation. This initiative included identifying the impacts of an accelerated settlement cycle on all involved parties, evaluating potential risks, and developing an implementation timeline and approach.

As a result of this initiative, the ISC published a report in December 2021 that provides a roadmap for shortening the settlement cycle to T+1, including considerations, recommendations, and next steps for the transition.[6] Notably, the report strongly recommends that the Commission

[4] DTCC, *Advancing Together: Leading the Industry to Accelerated Settlement* (February 2021), *available at* https://www.dtcc.com/-/media/Files/PDFs/White%20Paper/DTCC-Accelerated-Settle-WP-2021.pdf.

[5] IWG participants consisted of more than 800 subject matter experts representing over 160 organizations, including buy- and sell-side firms, custodians, vendors, and clearinghouses.

[6] *See* ICI, SIFMA, DTCC and Deloitte, *Accelerating the U.S. Securities Settlement Cycle to T+1*, 6-7 (Dec. 1, 2021) ("ISC Report"), *available at* https://www.ici.org/system/files/2021-11/21_ppr_t1.pdf. The ISC is in the process of

provide enough time for market participants to assess the changes they need to undertake, program the necessary systems, develop appropriate processes and procedures, and conduct comprehensive industry-wide testing. This timeline also provides regulators with the opportunity to complete critical regulatory changes needed for the industry to move to a shorter settlement cycle.[7] Additionally, the report notes that further shortening the settlement cycle to T+0 is not feasible in the short term, as doing so would require an extensive overhaul of the clearance and settlement infrastructure, changes to business models, revisions to regulatory frameworks, and the potential implementation of real-time currency movements along with newly designed systems to support such movements.[8]

II. Adoption of T+1 Settlement Cycle

We strongly support shortening the settlement cycle from T+2 to T+1.[9] Doing so would reduce systemic, counterparty, and operational risk across the settlement ecosystem, as well as help modernize settlement infrastructure and standardize industry processes. Importantly, a T+1 settlement cycle would enhance funds' cash and liquidity management. Given that fund shares typically settle on a T+1 basis, a shorter settlement cycle would help align the settlement of a fund's portfolio securities and the settlement of its shares. While adopting a T+1 settlement cycle will be challenging and require significant coordination and effort by industry participants, we agree with the Commission that, overall, the anticipated benefits of a shortened settlement cycle justify the anticipated costs.

We offer our views below and recommend that the Commission adopt certain adjustments to the Rule Proposal. These recommendations seek to address the impact of T+1 settlement on certain US-listed ETFs and ADRs, as well as the proposed same-day allocation, confirmation, and affirmation requirement.[10]

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developing an industry playbook which will provide a timeline with milestones and dependencies to meet the industry's carefully chosen implementation timeframe. The playbook is targeted for release in early summer of 2022.

[7] *Id.* at 6-7.

[8] *Id.* at 10-11. The IWG considered the impacts and benefits of moving to T+0 settlement, and the issues listed in the ISC Report led the ISC and IWG to conclude, by consensus, that T+0 is not achievable in the near future. *Id.*

[9] Specifically, Rule 15c6-1(a) would be amended to prohibit broker-dealers from effecting or entering into a contract for the purchase or sale of a security (other than exempted securities, government securities, municipal securities, commercial paper, bankers' acceptances, and commercial bills) that provides for payment of funds and delivery of securities later than the first business day after the trade date, unless otherwise expressly agreed to by the parties at the time of the transaction.

[10] Proposing Release at 10453–56 (Proposed Rule 15c6-2).

A. Exemption for US-Listed ETFs with Foreign Securities

We recommend that the Commission exempt from T+1 settlement any US-listed ETF with a basket of securities that includes foreign securities to address the subsequent misalignment between US and non-US settlement cycles. As part of the creation process for these ETF shares, authorized participants (APs) (*i.e.*, broker-dealers) typically purchase foreign securities components in the respective foreign markets, and the settlement of those securities occurs in accordance with that foreign market's settlement timeframes (*i.e.*, T+2).

To avoid any delay in ETF share creation due to the misalignment, the APs would likely need to post collateral and establish credit lines to satisfy those foreign market requirements. This would likely increase balance sheet constraints on the AP. In the case of a cash-settled ETF that must sell foreign securities to meet a redemption, the ETF may not be able to complete that transaction in the foreign market in time to meet T+1 settlement in the US. Ultimately, the misalignment in settlement cycles between the US and foreign jurisdictions, coupled with time zone differences, may increase the risk of failed trades, accrual differences, net asset value miscalculations, and investment guideline breaches (*e.g.*, too much leverage). Providing a targeted exemption from the shortened T+1 settlement cycle would mitigate these issues and minimize unintended liquidity risks for these products.[11]

B. Exemption for ADRs

We similarly recommend that the Commission exempt ADR transactions from T+1 settlement. ADRs of a foreign issuer company are created and sold by a broker-dealer to investors in the US market, including funds, based on a corresponding purchase of shares of the issuer in its respective local overseas market. Given the resulting misalignment in settlement cycles between the US and foreign market upon transitioning to T+1, an ADR provider may incur borrowing and other costs related to the underlying foreign security to facilitate T+1 settlement of the ADR. These costs would likely be passed down to investors and thus make it more expensive to obtain investment exposure to foreign markets. Therefore, an exemption for ADRs would help to avoid such costs and create more congruence between the Commission's exemption from T+1 settlement for underlying foreign securities and regulatory treatment of the ADR.

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[11] Providing an exemption also would be consistent with the Commission's longstanding exemptive relief from Rule 15c6-1 for securities that do not generally trade in the US (*i.e.*, securities that do not have facilities for transfer or delivery in the US). In issuing the exemptive order, the Commission recognized that Rule 15c6-1 "may create difficulties for broker-dealers that purchase or sell securities in foreign markets to satisfy their obligations to their customers for transactions in the [US] because the purchase or sale executed in the foreign market will settle in accordance with the local market's settlement period." *See Securities Transactions Settlement, Grant of Exemption*, Release No. 35750 (May 22, 1995), 60 Fed. Reg. 27994, 27995 (May 26, 1995), *available at* https://www.govinfo.gov/content/pkg/FR-1995-05-26/pdf/95-12986.pdf.

C. Same-Day Affirmation

We oppose mandating that broker-dealers establish a written agreement with each institutional customer requiring the parties to complete allocations, confirmations, and affirmations[12] as soon as technologically practicable and no later than by the end of the trade date.[13]

The Commission believes that the same-day affirmation agreement would further accelerate same-day affirmation, improve the accuracy and efficiency of institutional trade processing, and reduce the potential for settlement failures.[14] While we believe that achieving same-day allocation, confirmation, and affirmation is important as a standard practice, we recommend a more flexible, industry-driven approach that supports existing efforts to move toward that standard.[15]

Requiring a written agreement that mandates same-day allocation, confirmation, and affirmation would impose unnecessary logistical and practical burdens and costs. First, it would be impracticable for institutional customers, which includes funds and their advisers, to enter into such written agreements because they often rely on other parties to complete elements of the allocation, confirmation, and affirmation process. For example, institutional customers must rely on broker-dealers to generate trade confirmations and conduct account mapping for allocations. In some cases, institutional customers also must rely on custodians or prime brokers to serve as the affirming party. If any of these parties fails to perform (or fails to meet a cutoff time because of a difference in time zones or local holidays), then an institutional customer would fail to meet its commitments under the written agreement for reasons completely outside of its control.

Second, institutional customers would need to negotiate, exchange, and amend (when necessary) a separate written agreement with each of its broker-dealers. This would present operational challenges and costs given the number of parties potentially involved—at a minimum, they

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[12] Proposed Rule 15c6-2 does not define the terms "allocation," "confirmation," and "affirmation," as the Commission believes they are widely understood by the industry. Proposing Release at 10453. The Proposing Release nevertheless specifies that "confirmation," for purposes of the proposed rule, refers to the operational message that contains the trade details provided by a broker-dealer to verify trade information so that a trade can be prepared for settlement on a T+1 basis, which is distinct from the confirmation that broker-dealers must otherwise provide under rule 10b-10. *Id.* Additionally, the Proposing Release explains that "allocation" refers to the process by which an institutional investor allocates a large trade among various client accounts, while "affirmation" refers to the customer's message responding to the broker-dealer's confirmation of the trade details. *Id.* at 10464.

[13] We refer to this agreement hereinafter as the "same-day affirmation agreement."

[14] Proposing Release at 10483. Specifically, the Commission suggests that the proposed rule would reduce "the likelihood of exceptions or other errors with respect to trade information that can prevent a transaction from settling [on T+1]." *Id.* at 10454.

[15] We support requiring the proper recordkeeping of allocations, confirmations, and affirmations and believe that such recordkeeping, coupled with the amendments to the settlement cycle rule, should suffice to achieve the Commission's policy objectives without imposing additional burdensome documentation requirements.

include multiple broker-dealers, the institutional customer, the investment adviser, and the customer's bank custodian.[16] The provisions in each written agreement also may vary between broker-dealers, who could each impose other unrelated provisions (*e.g.*, their "terms of business") that would make it even more difficult and complex to put these agreements into place. Institutional customers would ultimately bear a disproportionate burden of negotiating different versions of the same written agreements with various broker-dealers, which would be costly and highly time-consuming.[17] Moreover, the same-day affirmation agreement could trigger more challenges if the written agreements are subject to other rules that may trigger additional regulatory implications (*e.g.*, if the written agreement is characterized as a "qualified financial contract" under US prudential regulations). Such operational and regulatory complexities would likely divert high demand resources that industry participants need to focus on the transition to T+1 settlement and other important regulatory initiatives and changes.[18]

Contrary to the Commission's belief, we further note that the proposed same-day affirmation agreement could increase the number of trade failures if the required allocation, confirmation, and affirmation do not occur on the trade date, even if they occur at a time that still allows the trade to settle on a T+1 basis. Indeed, there are instances in which it may be difficult to complete allocations and affirmations on the trade date, including:

- affirmations for newly established brokerage accounts,[19]
- when delays occur in the reporting of average pricing for block trades,[20]
- when there is a difference in time zone and/or local holiday for an institutional client, custodian, or prime broker; or

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[16] *See id.* at 10453. We note that a central matching service provider (CMSP) may also be part of the process, to the extent that institutional investors, investment advisers, broker-dealers, and bank custodians, rely on the CMSP to transmit confirmations and affirmations or match the trade details to prepare a trade for settlement.

[17] It is unclear how the written agreement requirement might satisfy a cost/benefit analysis, since the cost of implementing the requirement would be significant, whereas the proposed benefit (*e.g*., moving to T+1 settlement more efficiently) may not be achieved because of the time and resources that would be diverted to determining how the written agreements might be put in place.

[18] The Commission believes that Rule 15c6-2 would incentivize market participants to commit to operational and technological upgrades that facilitate same-day affirmation. *Id.* at 10454. We do not believe that the required development of multiple written agreements would directly contribute to this objective.

[19] Current procedures for setting up new brokerage accounts are triggered by the placement of an initial trade with the broker-dealer and in many instances are not completed on trade date.

[20] When an adviser places a large order or series of orders to buy or sell a security on behalf of a fund, pieces of the order(s) are executed over the course of the day at different prices. The broker-dealer then provides an average price for all the trades executed in that security on behalf of the fund that day. Currently, broker-dealers do not provide the average price until after 4:00 p.m. on trade date. Final trade allocations cannot be prepared and submitted by the fund until the average price is received.

- when other technological issues cause unanticipated delays.

Under any of the above circumstances, one of the parties may elect to cancel a trade for fear of not satisfying the requirements under the written agreement, even if the trade would otherwise be scheduled to settle on T+1.[21]

Additionally, we believe a written agreement requirement to be unnecessary, as funds and their advisers continue to work and devote substantial resources toward achieving same-day allocations, confirmations, and affirmations, which are considered to be industry best practices.[22] While the Commission believes that the current 68% rate of same-day affirmations is insufficient, this level has been attained *without a regulatory written requirement* and the industry is actively working to improve the adoption rate (emphasis added). Funds and advisers, along with the industry, recognize the importance of same-day allocations and affirmations and are focusing their efforts in good faith to implement such controls without a regulatory mandate. Accordingly, we expect the same-day affirmation rate to continue to increase as market participants improve their processes and adopt electronic processing protocols to facilitate T+1 settlement. Therefore, the Commission should monitor the affirmation rate after the adoption of any final rule and only then reassess whether some form of written requirement is necessary to address any identified and persistent shortcomings that are impeding T+1 settlement.

If the Commission nonetheless identifies a basis to adopt a requirement, then we recommend a more principles-based approach. For example, the rule could require broker-dealers to adopt and implement policies and procedures reasonably designed to ensure that allocations, confirmations, and affirmations are completed on a timeline that allows settlement on T+1. This approach would relieve the parties to an allocation, confirmation, and affirmation process from the burden of negotiating a written agreement; incentivize broker-dealers to work with their customers to complete the process in a timely manner; and allow broker-dealers greater flexibility to comply in a manner best suited to their existing infrastructure, customers, and resource levels.[23]

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[21] Additionally, there is no clear mechanism to enforce the required written agreement, nor is it clear what the ramifications would be if a party does not meet its contractual obligations. The Proposing Release does not appear to have considered the risk of unnecessary and burdensome litigation arising from this proposed rule, which could inhibit transactions between market participants.

[22] The ISC has recommended "encouraging" the completion of allocations and affirmations on the trade date, at least since 2015 when the ISC led the move to T+2. *See* ISC and PwC, *Shortening the Settlement Cycle: The Move to T+2* (June 2015), *available at* https://www.ust2.com/pdfs/ssc.pdf (noting that "to provide even greater processing efficiencies, organizations should consider matching and affirming trades on trade date").

[23] We note that the proposed approach contrasts with the ISC Report's recommendation of "encouraging" the completion of allocations by 7:00 p.m. ET to meet the recommended affirmation cut-off time of 9:00 p m. ET on the trade date. ISC Report at 13. The ISC Report recommended adhering to these timelines to help meet a T+1 settlement cycle by increasing the time that firms would have to process allocations and, thus, the likelihood of timely affirmation.

III. Compliance Date

We urge the Commission to set the compliance date for T+1 settlement to no earlier than Tuesday, September 3, 2024.[24] This date would provide crucial additional time for implementation beyond the proposed date of Sunday, March 31, 2024 (*i.e.*, end of Q1 2024). Importantly, September 3 would fall on the day immediately after the three-day Labor Day holiday weekend in 2024, during which time both the US and Canadian financial markets will be closed.[25] It is especially important that both markets will be closed for a three-day weekend which will not be the case on any other long US holiday weekend in 2024. As a general industry practice, major system changes typically are scheduled over three-day weekends to provide sufficient time to install, test, validate the accuracy of all related processes, and administer the changes in a manner that permits any necessary adjustments to address unexpected issues before trading begins the following business day.[26] This approach would maximize the amount of time for industry participants to:

- assess, build, and install necessary system updates;
- enter into appropriate contracts;
- update processes, procedures, applications, and other documents;
- coordinate with counterparties as appropriate;
- perform all industry-wide testing as needed;
- remediate any issues identified during testing; and
- resolve any outstanding technical or operational issues with minimal disruption to actual market operations prior to the markets' opening on Tuesday, September 3.

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[24] We emphasize that our requested compliance date is contingent upon the date on which the Commission adopts a final rule for transitioning to T+1 settlement.

[25] When the industry transitioned from T+3 to T+2 settlement, the Commission also set the compliance date for the shortened settlement cycle for the day immediately after the three-day Labor Day weekend (*i.e.*, September 5, 2017). *See Securities Transaction Settlement Cycle*, Release No. 34-80295 (Mar. 22, 2017) 82 FR 15564 (Mar. 29, 2017) ("T+2 Adopting Release"), *available at* https://www.govinfo.gov/content/pkg/FR-2022-02-24/pdf/2022-03143.pdf.

[26] We note that the Commission's proposed compliance date falls on the Easter Sunday holiday in 2024, which means that the US equity markets will be closed on Good Friday, Friday, March 29, while the U.S. bond markets will likely close earlier (at 2 p.m.) on the prior day (Thursday, March 28). *See e.g.*, NYSE, *Holidays & Trading Hours*, https://www.nyse.com/markets/hours-calendars; SIFMA, *Holiday Schedule*, https://www.sifma.org/resources/general/holiday-schedule/#US. We acknowledge that the Commission's proposed compliance date would also provide industry participants with a three-day weekend to conclude final testing prior to the completion of implementation; however, we believe that allowing for approximately five additional months to complete this process will give the industry the flexibility to finalize implementation efficiently and effectively.

Importantly, the Labor Day holiday is the only three-day weekend that is also considered a holiday ("Labour Day") in Canada,[27] the market with the most inter-listed securities with the US[28] and the only western jurisdiction transitioning from T+2 to T+1 settlement in concert with the US. Since the publishing of the ISC report, during conversations with our Canadian counterparts, it has become apparent that adopting a T+1 settlement cycle in the US before Canada could lead to an increase in cross-border fails and the need for buy-ins. Aligning the US T+1 implementation date with that of Canada will ensure an orderly transition in both countries and prevent the issues that could otherwise arise from a temporary misalignment in settlement cycles.

Providing additional time for compliance would not undermine the Commission's objective to have market participants "prepare expeditiously" for T+1 settlement. Given the significant number of technical, operational, and legal steps involved, however, a more flexible date would help to facilitate transitions at the individual firm level and account for different resource availabilities and other firm-based considerations. Further, a more flexible date would mitigate the potential harms of trying to resolve any unforeseen implementation issues amid operating under a shortened settlement cycle.[29] Such issues could include, for example, market-wide events that affect the ordinary course of trading and settlement, as well as other enhancements or additional testing needed both at the firm and industry levels.

We also note that it would be impracticable for industry participants to meet a March 2024 compliance date. Many funds and broker-dealers institute system "freezes" annually from November through February to facilitate the production and delivery of various tax forms and statements to shareholders and investors. During the freeze period, market participants are unable to implement or test any system updates or enhancements.[30] Therefore, adopting the shorter compliance date as proposed would effectively reduce the timeframe in which market participants can actively prepare their systems for the transition to T+1.

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[27] *See* MarketBeat, *Toronto Stock Exchange Stock Market Holidays*, https://www.public-holidays.us/CA_EN_2024_Toronto%20Stock%20Exchange.

[28] Currently, there are approximately 235 Canadian companies cross-listed. Stock Market MBA, *available at* https://stockmarketmba.com/canadiancompaniesthattradeonusexchanges.php#:~:text=There%20are%20currently%20235%20Canadian,exchanges%20at%20the%20same%20time.&text=Brookfield%20Asset%20Management%20Inc

[29] In proposing a compliance date of Sunday, March 31, 2024, the Commission suggests that the "planning for testing" and the "industry-wide testing" needed for the transition to T+1 can take place earlier than the ISC recommended. Proposing Release at 10464. The Commission, however, does not provide any evidence to support its suggestion. Indeed, we believe that our recommended timeline is appropriate, as it allows the industry time to react to any unforeseen circumstances that may arise when pursuing an industry-wide initiative of this size.

[30] Critical system patches designed to protect systems from vulnerabilities and cybersecurity events are allowed during a year-end system freeze.

We are further concerned that the Commission's extensive regulatory process may delay the adoption of the necessary regulatory changes and/or related guidance.[31] Specifically, the Commission will need to provide time for the self-regulatory organizations (SROs) and other regulators[32] to put in place conforming regulatory changes, which can only occur after a multi-step rulemaking process. Providing additional time will provide a buffer and ideally eliminate the need for the Commission, the SROs, or other regulators, to face industry requests for more time to complete essential work to execute the critical transition to T+1 settlement.[33] Any delay in making all the necessary regulatory changes would impact the industry's ability to meet any implementation.

IV. Electronic Delivery

The Commission notes that "in part to lessen the likelihood that shortening the settlement cycle might negatively affect operational risk, the Commission and market participants have emphasized" the importance of, among other things, improving the delivery of "electronic trade confirmation."[34] The Commission solicits comment on whether it is necessary to update what constitutes "delivery" for electronic confirmations under Rule 10b-10 in a T+1 environment.

The Commission acknowledges that while Rule 10b-10 does not directly refer to the settlement cycle, it requires that a broker-dealer send a customer a written confirmation disclosing specified information "at or before completion" of the transaction. We recommend that the Commission facilitate funds' and broker-dealers' ability to comply with delivering information in a T+1 environment by making electronic delivery ("e-delivery") the default method for them to provide trade confirmations under Exchange Act Rule 10b-10.[35] E-delivery tends to be faster, more efficient, and more reliable than physical mailing of trade confirmations through the postal service.

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[31] *See* ISC Report at 6-7 (noting that the industry migration timeline assumes that the necessary regulatory changes will be adopted in time to implement T+1 settlement).

[32] Some of those SROs and regulators include the Municipal Securities Rule Making Board (MSRB), the Financial Industry Regulatory Authority (FINRA), the New York Stock Exchange (NYSE), Nasdaq, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Federal Reserve. *See id.* at 35-36 (listing some of the rules that the regulatory community should review to transition to a T+1 standard settlement cycle).

[33] The Commission suggests that "[i]f the proposed rules and rule amendments are adopted, [] the systems and operational challenges necessary at the industry level can be planned, tested, and implemented in advance of March 31, 2024." *Proposing Release* at 10464.

[34] Proposing Release at 10477.

[35] Fund transfer agents deliver confirmations to customers that hold their accounts directly with the fund.

Consistent with this, the Commission should also allow funds to make broader use of e-delivery to communicate with their investors. In November 2020, the SEC's Asset Management Advisory Committee voted to recommend that the SEC permit firms to e-deliver documents to investors, subject to appropriate investor protections.[36] ICI has repeatedly advocated for the Commission making e-delivery the default method for funds to communicate with their investors and strongly believes such change is long overdue.[37] Making e-delivery the default would facilitate positive fund investor engagement, allow funds to better satisfy investor preferences, reduce costs for fund investors, and reduce the environmental impact of tons of discarded paper every year.

V. T+0 Settlement Considerations

We support the Commission moving to a T+1 rather than a T+0 settlement cycle.[38] Migrating to T+1 settlement is a significant endeavor that will require all industry members to perform extensive planning, coordination, socialization, and testing over a multi-year period. Moving to T+0, however, would be more complex and require even more time and resources, including a fundamental reengineering of legacy trading and settlement processes. Further, we have focused our efforts, time, and resources on the T+1 settlement-related issues and risks that will need to be addressed by both industry participants and regulators. While the Commission is "actively assessing" the benefits and costs of moving to T+0, we emphasize that it must not base any regulatory approach or reasoning on that objective when adopting final rules for T+1 settlement, especially given the meaningful differences between these two settlement cycles.[39]

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[36] Recommendations Regarding COVID-19 Operational Issues, Asset Management Advisory Committee, U.S. Securities and Exchange Commission (Nov. 5, 2020), available at https://www.sec.gov/spotlight/amac/operational-issues-amac-recommendations-final-110520.pdf.

[37] *See* Letter from Dorothy Donohue, Deputy General Counsel–Securities Regulation, Sarah Holden, Senior Director, Retirement & Investor Research, and Joanne Kane, Senior Director, Operations & Transfer Agency, ICI, to Dalia Blass, Director, Division of Investment Management, SEC (Sept. 10, 2020), *available at* https://www.ici.org/system/files/attachments/pdf/20_ltr_edelivery.pdf; Letter from Dorothy Donohue, Deputy General Counsel–Securities Regulation, Sarah Holden, Senior Director, Retirement & Investor Research, and Joanne Kane, Senior Director, Operations & Transfer Agency, ICI, to the Honorable Jay Clayton, Chairman, SEC (Dec. 10, 2020), *available at* https://www.ici.org/system/files/attachments/pdf/20_ltr_secedelivery.pdf; Letter from Susan Olson, General Counsel, and Dorothy Donohue, Deputy General Counsel - Securities Regulation, ICI, to Vanessa Countryman, Secretary, SEC (Dec. 21, 2020), *available at* https://www.ici.org/system/files/attachments/pdf/20_ltr_disclosure.pdf.

[38] We highlight the ISC Report's discussion of certain key areas that would be impacted by a move to T+0 settlement, which include re-engineering of securities processing; securities netting; funding requirements for securities transactions; securities lending practices; prime brokerage practices; global settlement; and primary offerings, derivatives markets, and corporate actions. *See* ISC Report at 10-11; *see also* Letter from Eric Pan, President and CEO, ICI, Kenneth Bentsen, President and CEO, SIFMA, and Michael Bodson, President and CEO, DTCC, to Chair Gary Gensler, SEC at 3 (Aug. 13, 2021), *available at* https://www.sifma.org/wp-content/uploads/2021/08/2021.08.13-T1-SEC-Gensler-Letter.pdf.

[39] Proposing Release at 10465.

The Proposing Release requests comments on challenges that may impede T+0 implementation. We believe that it is impractical at this juncture to offer detailed feedback on those challenges. Among other significant reasons, meaningful consideration of the issues related to T+0 settlement must be informed by the industry's experience with implementing and operating under T+1 settlement. Nonetheless, we provide some initial thoughts that reflect high-level concerns for funds and advisers below:

- ***Mutual Funds*****:** Under the Investment Company Act, funds are required to price their shares daily at a time determined by the fund's board of directors (typically 4:00 p.m. ET), and to sell and redeem fund shares at net asset value (NAV) next computed after receipt of a purchase order or redemption request.[40] In a T+0 environment, however, funds may need to consider an earlier cutoff time for pricing their shares to allow for sufficient time to calculate the NAV as well as process and settle transactions.

- ***Same Day Settlement Processing*****:** T+0 settlement would raise a host of different issues related to trade processing. For example, the cutoff for the Depository Trust Corporation's (DTC) batch processing and settlement service would need to be extended to capture additional transactions on the same trade date, as well as the window for Federal Reserve's settlement systems (*i.e*., National Settlement Service and Fedwire).[41] Additionally, various ancillary post-trade workflows for market participants, such as those related to margin collateral and financing, and position and cash management reporting, would need to be significantly enhanced to operate on a more frequent or even real-time basis. Currency movements for transactions involving FX settlement would likely also need to occur in real-time.

- ***Multilateral netting*****:** Maintaining the benefits of multilateral netting under a T+0 settlement environment would likely require significant enhancements to the National Securities Clearing Corporation's Continuous Net Settlement System, which nets obligations daily in a manner that minimizes security movements and associated costs. Otherwise, adhering to T+0 settlement would require large volumes of securities and cash

[40] *See* 17 C.F.R. 270.22c-1 ("Pricing of redeemable securities for distribution, redemption and repurchase").

[41] Currently, the processing and settlement window for the DTC batch processing and settlement service closes shortly after 3:00 p.m. on settlement day for valued transactions. A same-day settlement cycle would require this window to be extended to capture additional transactions on the same trade date, in particular "market-on-close" equity security trades at the 4:00 p m. ET market close. As the Commission notes, the National Settlement Service and Fedwire would also need to maintain their relevant settlement windows continuously open beyond the existing 6:30 p.m. cut-off to facilitate same-day settlement.

to move throughout the trading day, thereby increasing the risk of trade errors and settlement failures.[42]

- ***Access to Funds and/or Prefunding Transactions*:** Institutional investors (and retail investors) would likely need to pre-fund accounts in a T+0 settlement environment, which may raise numerous regulatory and risk issues that may make such pre-funding impracticable. Funds would need to set aside more cash or rely more on short-term funding instruments for same-day settlement, which would create a drag on a portfolio's performance and increase tracking error. Further, T+0 settlement would also make it difficult for funds to take advantage of trading opportunities, given that it would need to quickly raise the cash that day to execute the buy order.

- ***Further Misalignment of Different Settlement Cycles***: Moving to T+0 would further misalign the US settlement cycle with the settlement cycles of most non-US jurisdictions, which currently settle on a T+2 cycle. An adviser's clients and custodians may be located in different time zones with different local holidays and would not be able to settle on a T+0 timeframe. Additionally, as we have highlighted with respect to T+1 settlement, ETFs with underlying foreign components would be affected by settlement cycles being misaligned with other jurisdictions. Further shortening of the settlement cycle will exacerbate the operational and liquidity risks associated with that misalignment.

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ICI and its members look forward to working with the Commission and the SROs as they continue their efforts to support a T+1 standard settlement cycle. In the meantime, if you have any questions with respect to this comment letter, please contact Joanne Kane at [redacted] or Nicolas Valderrama at [redacted]

Sincerely,

/s/ Susan Olson	/s/ Joanne Kane
Susan Olson General Counsel	Joanne Kane Chief Industry Operations Officer

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[42] *See* Proposing Release at 110467, Request for Comment 73.

cc: The Honorable Gary Gensler
The Honorable Hester M. Peirce
The Honorable Allison Herren Lee
The Honorable Caroline Crenshaw

Haoxiang Zhu, Director
Josephine Tao, Assistant Director,
John Guidroz, Branch Chief
Division of Trading and Markets