International Valuation Standards Council
4 Lombard Street, London EC3V 9AA
United Kingdom
Tel: +44 (0) 20 3698 5500
www.ivsc.org

To whom it may concern,

Reference: SECURITIES AND EXCHANGE COMMISSION 17 CFR Parts 210 and 270
Release No. IC-33845; File No. S7-07-20

The IVSC appreciates the opportunity to comment on File Number S7-07-20 (ic-33845). The IVSC considers the SEC's Proposed Rule 2a-5, Good Faith Determinations of Fair Value, to be a step in the right direction by providing guidance on addressing valuation practices and the role of the Board of Directors with respect to the determination of fair value of the investments of a registered investment company or business development company.

The IVSC is broadly in agreement with the requirements in Proposed Rule 2a-5. More specifically the IVSC agrees with the Proposed Rule 2a-5 requiring:

- assessing and managing material risks associated with fair value determinations;
- selecting, applying, and testing fair value methodologies;
- overseeing and evaluating any pricing services used;
- adopting and implementing policies and procedures;
- and maintaining certain records.

Our responses to the specific questions are outlined below.

The International Valuation Standards Council (IVSC)

The International Valuation Standards Council (IVSC) is a UN registered not-for-profit organisation that acts as the global standard setter for the valuation profession, serving the public interest. The IVSC is responsible for setting the International Valuation Standards (IVS) which are applied by valuation professionals in more than 100 countries.

IVSC works in partnership with a network of member organisations to advance the global valuation profession. Members of the IVSC include valuation professional organisations, statutory regulatory authorities, multilateral organisations, academic institutions, other standard setters and corporates. These organisations share a belief that raising standards of international valuation practice benefits the wider public interest. Better standards improve the transparency and stability of financial markets, contribute to the growth of stronger economies and lead to improved confidence for investors and users of valuation services.

II.A.1. Valuation Risks

Question 1: Is this requirement appropriate? Should we further define what risks would need to be considered or provide guidance on the types of valuation risks that a fund may face? Are there additional sources or types of valuation risk that we should address? If so, what sources?

The IVSC is in agreement with the requirement to assess Valuation Risk. The IVSC is of the view that Valuation Risk is the risk that a financial instrument mis-valued for its intended use. Factors contributing to Valuation Risk include the complexity of the financial instrument, incomplete or inaccurate data, market instability, financial modelling uncertainties and insufficient infrastructure, processes and controls. The level of Valuation Risk will vary by the type of financial instrument being valued and the processes and controls that the entity valuing the financial instrument has implemented.

There needs to be an understanding and assessment of the Valuation Risk associated with instruments, as well as a clear statement of a Valuation Risk appetite, that allows for the determination (e.g. proportionality) of processes and controls needed to determine fair value.

In the area of material conflict of interest, the IVSC would like to note that often there is a perceived conflict of interest risk that can arise from the relationship between the asset manager and the valuer. The Board of Directors needs to make sure that there is segregation of duties and an appropriate level of transparency, review and challenge. Ideally, the valuer and fund manager should not be one and the same and even in circumstances where they are different it is possible that the fund manager is the source of the most relevant information about an asset. To avoid such a risk, it is advisable to have a clear separation of duties between the asset manager and the valuer and oversight by the Board of Directors.

Question 2: Should we require a certain minimum frequency for re-assessing valuation risk (e.g., annually or quarterly)? Should the rule specify types of market events or investment strategy changes that would require a re-assessment of valuation risk? If so, what events or changes should prompt such a review?

The frequency for re-assessing Valuation Risk should depend on the nature of the financial instruments to be valued and the infrastructure of the fund supporting the valuation process. The fund's Valuation Risks and Valuation Risk appetite should be re-assessed annually by the Board of Directors at a minimum. In addition, these should be monitored throughout the year for compliance with the fund's risk appetite statement. If market conditions adversely change or the type of financial instrument becomes more complex or less liquid causing them to fall outside of the fund's risk appetite, a reassessment should be performed and reported to the Board.

II.A.2. Fair Value Methodologies

Question 4: This requirement includes several specified elements, discussed above, relating to the fair value methodologies. Are these elements appropriate? Are there additional elements that

commenters believe should be included under this requirement? Should we modify or remove any of the proposed elements? Should we require application of the methodologies in a reasonably consistent manner, or as consistently as possible under the circumstances?

Consistency is a key feature of any valuation and ensures the alignment of valuation methods and practices across an organization to ensure that management is making sound decisions. However, the application of a particular methodology should not only be driven by consistency just for the sake of consistency as this may prevent the application of most recent valuation methodologies and approaches that have developed in the market.

II.A.4. Pricing Services

Question 10. Do commenters agree that the proposed rule should require oversight of pricing service providers, if used? Should the rule cover any service providers other than pricing services? If so, which service providers should be included? Should the rule further clarify who qualifies as a pricing service?

The IVSC agrees that oversight and evaluation of pricing services should be required, where used. All valuations should involve a critical examination of all information to ensure a fit-for-purpose valuation, including data providers where the fund is using this data to perform valuations.

II.A.5. Fair Value Policies and Procedures

Question 12. Are there specific elements that the proposed fair value policies and procedures should include other than the required elements of proposed rule 2a-5(a)?

In addition to the required elements of proposed rule 2a-5(a), the following elements should be considered: A limit on the duration a valuation service providers provide valuations on an asset before being rotated out should be considered.

- Should valuations be subject to certain transparency requirements to unit holders, on an asset-by-asset basis, or even assumption basis then there should be adequate transparency to allow for oversight of such requirements;
- In the event a fund owns a part interest in an asset (say 15%), should all funds be required to retain the same valuer or have at least two valuers to ensure consistency (i.e., a valuer appointed at an asset level, not a fund level)?

II.A.6. Recordkeeping

Question 14. Are there any additional types of records that we should require? If so, which records and why?

The records should include details (for example, academic background, professional experience, subject matter expertise, credentials held) of valuation professionals who have undertaken or contributed to the valuation engagement should be maintained.

II.B.1. Board Oversight

The IVSC agrees with the requirement that the Board of Directors (or a proxy in the case of unit investment trusts) oversees the fair value determination. In order to accomplish this, the Board of Directors needs to have sufficient transparency to oversee effectively the process to determine fair values of fund investments. The IVSC is of the view that the Board of Directors should be responsible for assessing governance and valuation processes. This should include reviewing senior management's assessment of the appropriateness and adequacy of people, processes and controls to allow the valuation to be fit-for-purpose. When a valuation is significant, the Board of Directors should asses the decisions of the fund manager over the valuation process including decisions and assumptions made in the determination of the valuation. The Board of Directors should understand the fund manager's assessment of Valuation Risk and Valuation Risk appetite and the fund's compliance with the its Valuation Risk appetite.

Question 25. Is our proposed requirement that a board "oversee" the adviser sufficient? Should we prescribe in rule 2a-5 additional steps to mitigate the risk of conflicts of interest and other issues related to the fair value process, such as a third party review of the fair value process, or an attestation by the adviser? If so, what should those steps be? What additional costs would they add, and who would bear those costs?

It might be reasonable for certain funds to be required to use a third-party review of the fair value process or an attestation by the advisor. The financial instrument's Valuation Risk and the entity's risk appetite (proportionality) should determine the amount of effort and the nature and extent of processes and controls needed to be performed, such as the use of a third-party review. In general, the Board should understand any conflicts of interest that might exist and assess how they were addressed.

Question 26. As noted above, the proposed rule would define "board" as either the fund's entire board of directors or a designated committee of such board composed of a majority of directors who are not interested persons of the fund. Are there any actions required in the proposed rule that we should require the full board, rather than a committee, to perform?

The Board of Directors should develop oversight policies and procedures that specify when the whole Board of Directors is required rather than a committee.

Question 27. Would boards assign the fair value determination to an investment adviser with respect to some investments and determine the fair value of other investments themselves? If so, what types

of investments would boards most likely assign to an adviser and under what circumstances, and which would they fair value themselves? Should we provide any additional guidance as to how boards would determine the fair value of fund investments where the board does not assign those determinations to an adviser?

The fund should ensure that for all fair value determinations there exists adequate separation of duties and responsibilities to ensure a fit for purpose valuation. There should be processes that ensure adequate transparency and skills to oversee and challenge through escalation and other controls.

Yours faithfully,

Mark Zyla
Chair, IVSC Standards Review Board

Gavin Francis
Chair, IVSC Financial Instruments Board