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July 20, 2020

Vanessa Countryman
Acting Director, Office of the Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Investment Company Act Release No. 33845 (File No. S7-07-20) - Good Faith Determinations of Fair Value

Dear Ms. Countryman:

Russell Investment Management, LLC ("RIM") appreciates the opportunity to comment on proposed Rule 2a-5 (the "Proposed Rule") under the under the Investment Company Act of 1940, as amended (the "1940 Act"), which seeks to modernize the requirements for determining fair value in good faith with respect to a fund for purposes of Section 2(a)(41) of the 1940 Act.[1] We are writing to respectfully request that the Securities and Exchange Commission ("SEC" or "Commission") reconsider certain aspects of the Proposed Rule in connection with any final rulemaking.

At the outset, we echo the sentiments expressed in the comment letter submitted by the Investment Company Institute – an organization of which Russell Investments is a member – related to the Proposed Rule.

I. Introduction

Background on RIM, the Funds, and Their Current Fair Valuation Process

RIM serves as investment adviser to Russell Investment Company ("RIC") and Russell Investment Funds ("RIF" and collectively with RIC, the "Registrants"). Each Registrant is organized as a Massachusetts business trust and is an open-end investment company registered under the 1940 Act. RIC and RIF currently offer 34 and 9 separate investment portfolios, respectively (each, a "Fund" and collectively, the "Funds"). The RIF Funds serve as investment vehicles for insurance products issued by one or more insurance companies.

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1 *Good Faith Determinations of Fair Value*, SEC Release No. IC-33845, 84 Fed. Reg. 28734 (May 13, 2020), available at https://www.federalregister.gov/documents/2020/05/13/2020-08854/good-faith-determinations-of-fair-value (the "Proposing Release").

RIM was established in 1982 and pioneered the "multi-style, multi-manager" investment method in mutual funds and, as of March 31, 2020, managed over $32.7 billion in 43 mutual fund portfolios. RIM provides or oversees the provision of all investment advisory and portfolio management services for the Funds. For most of the Funds, RIM selects (subject to the approval of the Funds' Boards of Trustees (the "Board")), oversees and evaluates the performance results of the Funds' sub-advisers, or "money managers," and allocates Fund assets among itself and multiple money manager investment strategies.

The Funds' administrator is Russell Investments Fund Services, LLC ("RIFUS"), a wholly-owned subsidiary of RIM. RIFUS, in its capacity as the Funds' administrator, provides or oversees the provision of all administrative services for the Funds.

The Funds value portfolio instruments according to Board-approved securities valuation procedures, which include market value procedures, fair value procedures and a description of the pricing services used by the Funds. Under the securities valuation procedures, the Board has delegated the day-to-day valuation functions to RIFUS, in its capacity as administrator, subject to oversight by an Oversight Committee established by the administrator comprised of representatives of the administrator, and which may also include non-voting representatives of RIM. The Board authorized the Funds' Treasurer to designate the membership of the Oversight Committee from time to time. However, the Board retains oversight over the valuation process and receives reports from RIFUS regarding valuation matters – including any material developments related to fair valuation determinations – at each quarterly Board meeting.

The Oversight Committee performs the functions and has the duties outlined in the securities valuation procedures. The Oversight Committee currently consists of four committee members, some of who are officers of the Funds, with over 100 years of combined valuation experience. In addition to the Oversight Committee members, Oversight Committee meetings generally include representatives from Legal, Compliance, and other Fund Administration associates. The Oversight Committee members work closely with the Fund Administration valuation team to ensure that all members stay current on the latest valuation issues. The Oversight Committee discusses each fair value recommendation received from a money manager on at least a monthly basis, or more frequently if circumstances warrant, and the Oversight Committee minutes reflect this discussion. In order to gain comfort with the pricing vendors utilized by the Funds, RIFUS has implemented a due diligence oversight program. Beyond gaining comfort with the methodologies and controls in place with the various pricing vendors, RIFUS has robust processes and controls in place to monitor and evaluate significant price movements. RIFUS monitors significant price movements through procedures including, but not limited to, (i) daily tolerance checks on all fixed income securities, (ii) comparing purchases and sales to current carrying costs with heightened review of security price differences exceeding certain tolerance thresholds, (iii) periodic vendor price comparisons, (iv) monthly review of money manager-level portfolio market values relative to fair valued securities, and (v) independent review and validation of pricing by the Funds' independent auditors on an annual basis. RIFUS also utilizes third-party fair valuation services in certain instances. Based on the foregoing, we believe that RIFUS' process for determining the fair valuation of Fund portfolio holdings has been and continues to be reasonably designed to result in reliable valuations.

Question Posed In Connection with the Proposed Rule

The Proposed Rule seeks to modernize the requirements for determining fair value in good faith with respect to fund holdings for purposes of Section 2(a)(41) of the 1940 Act. Among other things, the Proposed Rule would permit a fund board to assign its fair valuation responsibilities under Section 2(a)(41) to an investment adviser (including one or more sub-advisers) of the fund subject to certain conditions, including continued board oversight. The Proposing Release requests comment on a variety of issues associated with these conditions, including board oversight over any assignment of fair value determination responsibilities. Among others, the Proposing Release requested comment on the following issue:

> The [Proposed Rule] would permit boards to assign the determination of fair value only to an adviser to the fund. Are there other parties to which we should permit boards to assign such determinations? For example, would it be appropriate to allow boards to assign these determinations to pricing vendors or accounting firms? Are there any parties that fund boards currently rely upon to help make fair value determinations that could adequately be relied upon in the same way as a fund adviser? If we do permit other parties to be assigned the determination of fair value under the final rule, what safeguards, if any, should we include to ensure that the determinations of fair value in good faith are conducted consistent with the proposed rule? For example, should we only permit assignment to non-advisers if they have a fiduciary duty to the fund or if they are regulated by the Commission? Why or why not?

For the reasons set forth below, we believe that a fund board should be permitted to assign responsibility for fair value determinations to an entity other than an investment adviser (or sub-adviser) to a fund. Specifically, we respectfully request that the SEC, as part of any final rulemaking, permit a fund board to assign responsibility for fair value determinations to an affiliate of the investment adviser. Although such affiliate may not be regulated by the Commission or have a fiduciary duty to the fund, we believe that such an assignment could be structured to provide a fund board with the level of oversight contemplated by the Proposed Rule. Alternatively, if the SEC is not persuaded that fair valuation responsibilities can be effectively assigned to an entity other than fund's investment adviser, we respectfully request that the SEC clarify as part of any final rulemaking that an investment adviser to whom fair valuation determination responsibilities has been assigned may delegate such responsibilities to an affiliate subject to the adviser's oversight.

II. *Permitting Assignments only to Investment Advisers would Unnecessarily Alter Existing Practices*

By permitting a fund board to assign fair value responsibilities only to a fund's investment adviser(s), the Proposed Rule, if adopted, would result in many fund complexes having to restructure existing processes that have not been shown to result in unreliable valuations of portfolio holdings. We note that the Proposing Release does not provide support for the view that existing fair valuation processes implemented by an entity other than a fund's investment adviser have led to unreliable fair values. We believe that the significant management and Board resources that would be required to effectuate this restructuring would outweigh any perceived benefits.

Moreover, a requirement that only investment advisers may be assigned fair value responsibilities does not appear to serve the Commission's stated policy objectives. Specifically, the Proposing Release states that:

- The Proposed Rule is intended to "reflect the increased role . . . accounting and auditing developments play in setting fund fair value practices, as well as the growing complexity of valuation and the interplay of the compliance rule in facilitating board oversight of funds,"[2] and that

- Determining the "fair value of fund investments in good faith requires a certain minimum, consistent *framework* for fair value and standard of *baseline practices* across funds."[3]

Taken together, these statements suggest that the SEC's policy goal is to modernize the *process for deriving* the fair value of a fund's holdings in light of developments since Accounting Series Release 113 (ASR 113) and Accounting Series Release 118 (ASR 118).[4] RIM respectfully submits that whether or not the entity responsible for *implementing* the fair value process is an investment adviser does not affect the nature or quality of fair value services or the scope of board oversight. Based on the Funds' experience relying on the Funds' administrator – rather than investment adviser – for day to day fair valuation tasks, RIM believes that the Funds' existing fair valuation process has provided reliable fair valuation determinations, and that the decision by a fund board to assign fair value responsibilities to a fund's investment adviser or another affiliated service provider would not meaningfully impact the valuation process.

In light of the foregoing, we respectfully request that in connection with a final Rule 2a-5, the SEC permit a fund board to assign responsibility for fair valuation processes to either (i) an investment adviser of the fund; or (ii) the fund's administrator, provided that such entity is an affiliate of the fund's investment adviser (an "Administrator Assignment").

III. Assignments of Fair Valuation Determination Responsibilities Need Not Be Limited to Entities Owing a Fiduciary Duty to a Fund

RIM respectfully requests that the Commission expressly permit an Administrator Assignment notwithstanding the absence of a fiduciary duty owed by a fund administrator to a fund.

As a general matter, Section 17(d) of the 1940 Act and Rule 17d-1 thereunder generally prohibit certain affiliated persons of a fund from participating with the fund in a "joint enterprise or other joint arrangement or profit-sharing plan." The SEC staff has taken the position that service arrangements between a fund and an affiliated person (an "affiliated service provider") may be

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[2] *Id.* at 14.

[3] *Id.* (emphasis added).

[4] Statement Regarding "Restricted Securities," Accounting Series Release No. 113 (Oct. 21, 1969); Accounting for Investment Securities by Registered Investment Companies, Accounting Series Release No. 118 (Dec. 23, 1970).

subject to this prohibition, unless "adequate safeguards" are in place to prevent overreaching.[5] Specifically, the SEC staff guidance in this regard is conditioned on a majority of a fund's independent board members making the following findings, among other findings that they deem relevant:

(i) the services to be rendered under the contract are required for the operation of the funds,
(ii) the affiliated service provider can provide services of equal nature and quality as those provided by others offering similar services,
(iii) the fees charged under the contract are fair and reasonable in light of the usual and customary charges made by others for services of the same nature and quality, and
(iv) the contract with the affiliated service provider is in the best interest of the fund and its shareholders.

The practical implication of these requirements is that on an annual basis, typically in connection with the annual contract renewal for a fund's investment advisory agreement, a fund board is asked to review and renew the administration agreement with an affiliated service provider. As part of this process, the fund board requests and management provides information regarding the nature and quality of services provided by the affiliated service provider – including, in the case of the Funds, with respect to valuation services – to the fund. Under these circumstances, a fund board is uniquely positioned to engage in oversight of the affiliated service provider generally and with respect to the conflicts of interest potentially arising in connection with the fair valuation process cited by the SEC in the Proposing Release.[6]

RIM believes that this combination – an affiliation between administrator and adviser as well as a fund board's annual review of the administrator's services – strongly suggests that (i) the affiliated administrator must have the capability to effectively perform its fair valuation responsibilities; and (ii) if the nature or quality of its services was not of an acceptable level, the fund board would possess the means to exercise oversight and take appropriate remedial action.

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5 *See, e.g.,* Norwest Bank Minnesota, N.A., SEC No-Action Letter (May 25, 1995); Washington Square Cash Fund, Inc., SEC No-Action Letter (July 9, 1990); The Flex Fund, SEC No-Action Letter (Nov. 22, 1985); Northern Trust Co., SEC No-Action Letter (June 1, 1983).

6 *See Proposing Release* at 36 ("We also believe that, consistent with their obligations under the Act and as fiduciaries, boards should seek to identify potential conflicts of interest, monitor such conflicts, and take reasonable steps to manage such conflicts. In so doing, the board should serve as a meaningful check on the conflicts of interest of the adviser and other service providers involved in the determination of fair values. In particular, the fund's adviser may have an incentive to improperly value fund assets in order to increase fees, improve or smooth reported returns, or comply with the fund's investment policies and restrictions. Other service providers, such as pricing services or broker-dealers providing opinions on prices, may have incentives (such as maintaining continuing business relationships with the adviser) or may otherwise be subject to pressures to provide pricing estimates that are favorable to the adviser. In overseeing the adviser's process for making fair value determinations, the board should understand the role of, and inquire about conflicts of interest regarding, any other service providers used by the adviser as part of the process, and satisfy itself that any conflicts are being appropriately managed.")

IV. *As an Alternative, Any Final Rulemaking Should Clarify that a Fund's Investment Adviser May Delegate Assigned Fair Valuation Determination Responsibilities to an Affiliate*

In the event that the SEC determines that it is not appropriate to permit a fund board to assign fair valuation responsibilities directly to an affiliated service provider through an Administrator Assignment, we respectfully request that the SEC clarify as part of any final rulemaking that an investment adviser to whom fair valuation responsibilities are assigned may delegate one or more components of those responsibilities to an affiliated service provider. For the reasons discussed above, such an arrangement would provide a fund board with the means through which to exercise effective oversight over the services provided. In addition, this approach would result in the least disruption to existing fair valuation processes utilized by certain fund boards in satisfying their statutory obligation under Section 2(a)(41) with respect to fair value.

V. *Conclusion*

We thank the Commission for the opportunity to provide comment on the Proposed Rule. We would be pleased to provide further information or to answer any questions at the convenience of the Commission's staff.

Sincerely,

/s/ Peter Gunning

Peter Gunning
Chairman and President, Russell Investment Management, LLC