DUFF & PHELPS

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

July 21, 2020

Reference: File No. S7-07-20 – Good Faith Determinations of Fair Value

Dear Ms. Countryman:

We are pleased to comment on the Securities and Exchange Commission's ("Commission" or "SEC") proposed rule 2a-5 ("Proposed Rule") to modernize the framework used to estimate fair value in the context of satisfying a board's good faith obligations as required by the Investment Company Act of 1940.

Duff & Phelps is the premier global valuation and corporate finance advisor with expertise in valuations for financial reporting and tax, complex valuation, dispute and legal management consulting, M&A, restructuring, and compliance and regulatory consulting. Our valuation advice is sought by hundreds of global clients annually as we work with them in developing pragmatic solutions for applying fair value techniques.

Our role in the financial statement preparation process is distinctive. We support boards and managers (fund advisers) by enhancing their internal control process as it relates to estimating fair value, in particular for those investments that are infrequently traded or not traded. We provide boards and advisers as requested with an independent opinion as to the fair value of specific investments or an opinion that the board's or adviser's assessment of fair value for specific investments is reasonable.

Boards/Advisers are responsible for the assertions contained in the financial statements and cannot abdicate this role to a third-party. However, they can enhance their valuation process by obtaining support from experienced valuation professionals. For example, it has become best practice of the largest Business Development Companies, and Private Equity and Hedge Fund investment managers/advisers to validate fair value estimates using a qualified, experienced third-party. Not only does this embed transparency and independence into the manager's/adviser's process but demonstrates a level of independence that is helpful to those that rely on the Fund financial statements for their own decision making. Investors have come to rely on enhanced internal control systems which appropriately include specialized valuation expertise.

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We fully support the SEC's efforts in modernizing the rules pertaining to a board's good faith obligation to determine fair value. Our specific comments with respect to the Proposed Rule follow. We would be pleased to discuss our comments with the SEC staff. Please reach out to us at the contact information provided below.

Sincerely,

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General Comments

Our general and specific comments are derived from years of experience supporting boards and management with their estimation of fair value. Annually, we perform more than 10,000 engagements for more than 5,000 clients including the majority of the largest Private Equity Funds, Hedge Funds, Fortune 100 companies, a significant number of Business Development Companies (BDCs) and more than one-third of the S&P 500. Our personnel support industry efforts to enhance consistency and transparency, including participation on, various AICPA and TAF (The Appraisal Foundation) taskforces and committees, and other industry bodies such as the International Private Equity and Venture Capital Valuations Board, and the International Standards Valuation Council.

Overall, we believe that the Proposed Rule is a significant step forward as it more fully aligns with the way sound valuation practice has evolved over the past decades, more fully aligns with current accounting standards including FASB ASC Topic 820, and reconfirms that a Fund's Board has ultimate responsibility in estimating fair value in good faith.

Should the Commission determine that modifications to the Proposed Rule are appropriate, we suggest that the following be given consideration:

- Reference to best practice fair value resource information (specifically or generally) such as:
    - The AICPA Accounting and Valuation Guide: *Valuation of Portfolio Company Investments of Venture Capital and Private Equity Funds and Other Investment Companies* (AICPA PE/VC Valuation Guide),
    - The International Private Equity and Venture Capital (IPEV) Valuation Guide,
    - The Alternative Investment Management Association (AIMA) Guide to Sound Practices for Hedge Fund Valuation, and
    - The CEIV and CVFI credentials and related performance frameworks. (Certified in Entity and Intangible Valuations (CEIV); Certified in the Valuation of Financial Instruments (CVFI); CEIV Mandatory Performance Framework; CVFI Financial Instruments Performance Framework).
- Stronger linkage to the new AS 2501, *Auditing Accounting Estimates, Including Fair Value Measurements*, which provide guidance on the usability of broker quotes and pricing service data to support fair value estimates; and
- Greater clarity of what is meant by pricing service versus the independent judgement and expertise provided by a third-party valuation specialist.

We have responded to only those specific questions where we believe our perspective may help in crafting potential enhancements to the Proposed Rule. Our comments are primarily focused on those investments that are not actively traded.

Questions

Valuation Risks

We request comment on the proposal to require the assessment and management of the material risks associated with fair value determinations.

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?

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?

3. Should we provide any further guidance on how valuation risk should be managed?

Duff & Phelps Response

Whether a risk is deemed material is in the judgment of the Board/Adviser and Auditor. We agree that valuation risks depend on a number of specific facts and circumstances. Of significant concern when estimating fair value are the inputs used, the expertise of the valuer and the extent to which the valuation approach/methodology is congruent with both objective and subjective inputs and market participant assumptions.

Macro valuation risks should be re-assessed on a regular basis at least annually. and more frequently when new investment types are encountered.

Specific valuation risks with respect to valuation inputs, the nature of the investment being valued, current market conditions, methodology, experience of the valuer (internal or external) etc. require assessment each time fair value is reported.

Macro valuation risks are managed at the board level by ensuring an independent and rigorous process. Specific valuation risks are managed by utilizing valuers with expertise and experience and who exercise informed judgment and take into account the specific facts of circumstances reflective of the investment theses given current market and economic conditions.

Fair Value Methodologies

We request comment on the proposed requirement to establish and apply the methodologies for determining and calculating fair value.

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?

5. Do commenters believe we should provide additional guidance relating to this requirement? If so, on which elements of the proposed requirement should we provide additional guidance? For example, is the proposed requirement that boards or advisers "select" a methodology sufficiently clear?

6. Are there investments for which it is not feasible to establish a methodology in advance? If so, how should the rule address such situations? Is it clear what new investment types a fund may "intend" to invest in? Should we provide any further guidance on this? What processes do funds currently follow before investing in new types of investments to help to ensure that, after making the investment, the board will be in a position to determine fair value if required?

Duff & Phelps Response

Question 4: Consistency in the valuation process, oversight and governance should be required, however, the application of specific valuation judgement should follow the principles espoused by FASB ASC Topic 820. Changes in valuation methods or processes should be supported by sound rationale and should remain congruent with fair value accounting standards. Care should be taken to avoid having the Proposed Rule be too rigid at the expense of a principle-based approach (congruent with ASC Topic 820) taking into account current conditions and developments that a market participant would use in measuring value.

Question 5: Additional clarity should be provided that the board or the designated adviser select a methodology or methodologies (not necessarily just a single methodology) as facts and circumstances may dictate.

Question 6: No. It should be feasible to establish a valuation methodology concurrent with making an investment. The portfolio manager or deal team creates an investment memorandum identifying the investment thesis, the basis for the price paid and the return expectations. When new investment types are encountered, advisers (or boards) generally reach out to an experienced valuation provider to corroborate the valuation methodology used and to be used to estimate fair value.

Testing of Fair Value Methodologies

We request comment on the proposed rule's requirement to test the appropriateness and accuracy of the fair value methodologies.

7. Should the rule require particular testing types or minimum testing frequencies? For example, should we require tests to occur at least weekly, monthly, or quarterly? If so, should the frequency required be dependent upon the type of instrument? Should the rule

require all funds to use certain types of testing, such as back testing and calibration, at a minimum? Are certain types of methodology testing inappropriate or irrelevant for certain investment types.

8. What other types of testing of fair value methodologies are commonly used?

9. Should the rule require specified actions based on the results of the testing? If so, what would those actions be?

Duff & Phelps Response

Question 7: Testing should be based on the facts and circumstances, the nature of the investment being valued, the valuation methodologies employed, and who prepares and reviews the valuation analysis and conclusions. The AICPA PE/VC Valuation Guide includes a chapter on back testing which should be referenced as it provides excellent guidance on the use of and nuances associated with back testing.

Question 8: One of the primary valuation testing approaches is to use the services of an experienced, qualified, independent valuation specialist to provide insight to both Boards and Advisers.

Question 9: As noted in the AICPA PE/VC Valuation Guide, one of the primary purposes of back testing is to provide insight into how valuation processes can and should be enhanced.

Pricing Services

We request comment on the proposed rule's requirement to oversee pricing services.

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?

11. Should there be a specific requirement in the rule to periodically review the selection of the pricing services used and to evaluate other pricing services?

Duff & Phelps Response

Question 10 & 11: The Proposed Rule should be enhanced by differentiating between pricing services that provide a mechanical or automated value and a valuation specialist that exercises informed judgement in determining valuation inputs, methodologies and the legitimacy of a valuation conclusion. PCAOB AS 2501 which provides guidance on auditing information provided by pricing services highlights that auditors and thus Boards and Advisers must understand the basis for values provided by pricing services including the extent to which they are based on contemporaneous and actionable transaction data for a similar unit of account. If the pricing service does not provide sufficient transparency to allow a Board/Adviser to understand the source,

process and inputs used in developing prices, the values provided by a pricing service are not sufficient to allow a Board/Adviser to conclude on fair value.

In addition, the Alternative Investment Management Association has produced a guide focused on sound practices for Hedge Fund Valuation. This guide provides insight on governance processes with respect to using and challenging pricing service prices.

Fair Value Policies and Procedures

We request comment on the proposed fair value policies and procedures requirement.

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)?

13. Are we sufficiently clear on the interaction between rule 38a-1 and the policies and procedures under proposed rule 2a-5? Should we provide any further guidance on their interaction?

Duff & Phelps Response

No comment

Recordkeeping

We request comment on the proposed recordkeeping provisions.

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

15. Where the board assigns fair value determinations to an adviser under proposed rule 2a-5(b), should the rule require the adviser, rather than the fund, to maintain these records?

16. Are the proposed retention periods sufficient to evidence compliance? Why or why not? Should we require a longer (e.g., six years) or shorter (e.g., four years) retention period?

17. Are key terms used in this aspect of the proposal sufficiently understandable? For example, as stated above, "appropriate documentation to support fair value determinations" under the proposed recordkeeping requirement would include documentation that would be sufficient for a third party to verify the fair value determination. Should we define these or other terms or provide further guidance relating to them?

Duff & Phelps Response

Question 14 & 17: The Mandatory Performance Framework associated with the CEIV credential and the Financial Instruments Performance Framework associated with the CVFI credential provide excellent documentation best practice including sufficient documentation that would allow a third party to assess a fair value conclusion.

Question 15: Yes.

Question 16: The length of time should mirror the fund documents and statutory requirements. A retention period of 6 to 7 years is common.

Performance of Fair Value Determinations

We request comment generally on the role of the board of directors when it does not assign the fair value determination to an adviser to the fund.

18. For boards that elect to conduct fair value determinations themselves, should we provide any guidance on the level of assistance they can receive from service providers, while fulfilling their obligations under section 2(a)(41)? Do we need to provide any guidance on how a board should obtain and oversee such assistance if needed? If so, what guidance should we provide?

Duff & Phelps Response

Question 18: Given that a Board retains the ultimate responsibility for fair value conclusions, even if the process and documentation is delegated, the extent to which valuation service providers can be engaged should be a matter of Board judgement depending on the facts and circumstances.

Board Oversight

We request comment on this aspect of the proposal:

19. Should we permit boards to fulfill the statutory function to fair value one or more fund investments in good faith by assigning that fair value determination to an adviser to the fund as described above? Would the proposed rule change the services provided by advisers with respect to valuation and, if so, would such a change have any implications for the board's consideration of the advisory contract under section 15(c) of the Act (e.g., changes in compensation)? If so, are there additional responsibilities under the proposed rule for which advisers would seek additional compensation?

20. The 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 94 Proposed rule 2a-5(b)(1)(ii). 39 the proposed rule? For example, should we only permit assignment to nonadvisers if they have a fiduciary duty to the fund or if they are regulated by the Commission? Why or why not?

21. As proposed, the rule would require that an assignment to an investment adviser cover all elements of paragraph (a) for a given investment or investments. Should we permit the assignment of particular elements of paragraph (a) to an investment adviser or different advisers? If so, what safeguards should we include to ensure that the determinations of fair value in good faith are conducted consistent with the proposed rule?

22. The proposed rule would permit boards to assign the determination of fair value in good faith to the fund's primary investment adviser or one or more subadvisers. Should we allow boards to assign this process to sub-advisers, or only allow the fund's primary investment adviser to fulfill this role? Why or why not? Should we impose any obligations for the adviser to oversee any assigned subadviser? If so, what obligations? For example, should we require in the rule that a fund must establish reconciliation procedures to address situations where subadvisers have differing views on the fair value of a fund investment?

23. Should we limit the assignment to a single adviser in order to minimize the issues relating to having multiple advisers assigned determinations of fair value under the Act? If so, why? Conversely, should we require additional safeguards in the case of multiple assigned advisers? If so, what should they be? For example, should we require specific policies and procedures or reports, beyond those 40 already required, or those that would be required, under rule 38a-1 or the proposed rule?

24. Should we permit or require anyone other than the trustee of a UIT to perform the functions described in paragraph (a), such as a person appointed by the trustee? Should we, for example, allow the trustee to assign these determinations to the UIT's sponsor, principal underwriter, or depositor? Would these or any other parties be better equipped to determine the fair value of investments? If the rule were to permit the trustee to assign these determinations to another person, should we require that person to report to the trustee like the adviser would to a board for management companies? What kind of oversight responsibilities should the trustee have? Are there other modifications to the proposed rule that we should make to apply it to UITs given their unmanaged nature and different governance structure compared to other funds?

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?

26. As noted above, 95 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. 96 Are there any actions required in the proposed rule that we should require the full board, rather than a committee, to perform?

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?

Duff & Phelps Response

Questions 19 through 27: Consistent with the SEC's recent risk alert, fees and expenses should be charged consistent with the overriding fund documents and related disclosures. There is a cost to estimating fair value on a rigorous and reliable basis. Further, information provided by the adviser's portfolio managers or deal teams is a necessary part of the information required to estimate fair value. It may be necessary to clarify that the Proposed Rule does not specifically require or prohibit how fees and expenses should be charged or allocated. Such allocation should be based on the governing fund documents and agreements between investors, managers, advisers, funds and relevant service providers.

Board Reporting

We request comment on our proposed requirement that advisers periodically provide a written evaluation of the adequacy and effectiveness of the adviser's process for determining the fair value of the assigned portfolio of investments, including, at a minimum, certain specified summaries or descriptions.

28. Is the proposed periodic reporting requirement appropriate? What resources would be required for an adviser to provide the required quarterly assessment of the adequacy and effectiveness of the adviser's process? Are there additional or different matters that we should require advisers to address in the periodic reports? Are there some items that we should not require? If so, which, and why?

29. Should we require a different minimum reporting frequency for periodic reports? Should we, for example, require advisers to provide these reports monthly or in connection with each regularly scheduled board meeting? Should we require some or all of the specified information to be provided less frequently, such as annually?

30. Is what should be included in an assessment clear? Should we include additional guidance to explain what this entails? Are the other key terms used in the proposal, such as "assess," and "material" sufficiently understood or is further guidance advisable for those terms? Should they be defined in the rule, and, if so, how? Should the rule use different terms, and, if so, which terms?

31. Are there circumstances in which boards should receive specific information on each individual portfolio holding that received a fair value during the quarter or certain such holdings?

32. We are proposing to require that all price overrides be reported as supplemental information to the board as part of the periodic report. Should we limit which price overrides

must be reported, and, if so, how? Alternatively, or in addition, should we require reporting regarding all price challenges, even those that do not lead to overrides?

33. Is there additional specific information that we should require to be part of these periodic reports? Are there any other reports that some boards currently receive that should be required under the proposed rule?

34. In light of their importance, should the rule impose specific requirements beyond reporting regarding pricing services? For example, should any pricing services used be explicitly approved by the board? Should there be a required finding or report by the adviser as to pricing services' adequacy and effectiveness?

Duff & Phelps Response

Questions 28 through 34: It may be appropriate to change the reference from Material Valuation Risks to Significant Valuation Risks. While Material vs Significant may be just semantics, Material does have a specific meaning in the Audit profession and therefore could be misunderstood in other contexts. At a minimum, the distinction between material for financial statement purposes and material for valuation purposes, if there is a distinction, should be clarified.

Reporting frequency and reporting content should not result in "check the box" communication. Reports should be substantive and should include an assessment of valuation risks.

Care should be taken that reporting is not just on "material" investments. In particular, if an investment is significantly undervalued it may not trigger a materiality filter if materiality is based on the reported fair value of the investment. Further, PCAOB AS 2501 provides guidance on the usability of pricing service prices and broker quotes.

Prompt Board Reporting

We request comment on our proposed requirement regarding prompt reporting on certain matters associated with the adviser's process that materially affect, or could have materially affected, the fair value of the assigned portfolio of fund's investments.

35. Are the proposed prompt reporting requirements appropriate? Are there additional or different matters that we should require advisers to address in their prompt reports?

36. Should the trigger for prompt reporting be tied to a specific bright line or instead be dependent on facts and circumstances? For example, instead of the trigger being when the adviser becomes aware of the matter should it instead be when the event occurs? If so, would advisers reasonably be able to know when such events occur such that they could report in a timely fashion? Alternatively, should it be 52 when the adviser determines and verifies the impact of the event regardless of how long it takes after the adviser becomes aware of the matter?

37. Are the standards of “materially affecting” or “could have materially affected” sufficiently understood? Should we provide more context on what these terms mean, specifically as they relate to the context of material weaknesses? Should we instead adopt a different standard, such as one that uses specific triggers, to identify matters for prompt reporting? If so, which triggers? For example, should we instead require reporting when a specific number of price overrides have occurred?

38. Should we identify any other issues that the adviser should report promptly to the board? For example, instead of requiring any changes to the fund’s fair value methodologies to be reported during the periodic reports, should we instead require that they also be reported promptly? Alternatively, are there matters that would be required to be reported promptly that should instead be reported as part of the periodic report?

39. Is the specified timeline for prompt reporting appropriate or should we consider different time frames? For example, should we require that an adviser report to the board within 1 or 10 business days? Should the time frame be different for certain types of circumstances? If so, which ones?

40. Will advisers be able to make the appropriate determinations in the limited time discussed above? Will advisers need more than three business days to make such a materiality decision? Is three days too long? Should we specify a time for making materiality decision in the rule?

41. The proposed rule would require all reports to be in writing, including prompt reports. Should we provide that in the case of prompt reports, advisers could make oral reports so long as adequate records are kept?

42. Should we require that, if the report is not made to the full board, the designated board committee make a report to the full board within a specified time frame, such as at the next regularly scheduled meeting?

43. Should we permit the adviser to make prompt reports to a pre-identified individual director? What controls should we require if we did permit this? For example, should that director be required to be one of the independent directors?

Duff & Phelps Response

Question 35: Yes, though quantification may be difficult. Prompt reporting should enhance the Boards oversight function. However, depending on the facts and circumstances, it may be difficult for and Adviser to immediately quantify the impact. Reliable quantification of the impact of a matter may require additional time.

Questions 36 & 37: The reporting trigger needs to be judgmental and based on facts and circumstances.

Questions 38-40: To a great extent, prompt board reporting will be defined by the frequency for investor reporting. In many cases, fair value is reported on a daily basis, while in others, such as with BDCs fair value may be reported on a monthly or quarterly basis.

Questions 41-43: No comment

Specification of Functions

We request comment on this proposed requirement.

44. Should the rule require assigned advisers to reasonably segregate the process of making fair value determinations from the portfolio management of the fund? 122 See Liquidity Risk Management Release, supra footnote 3, at section III.H.1 56 Would this pose any difficulty for particular types of entities, for example funds managed by small advisers?

45. Is there a better way to prevent conflicts between a portfolio manager's incentives and a fund's interest, for example, in determination of investment values that do not result in dilution of purchasing or redeeming investors? Should we provide any additional clarification regarding the proposed reasonable segregation requirement? If so, what changes should we make? Should we add or change any specific requirements? For example, should we prohibit portfolio management from having any involvement in the fair value process or should we generally prohibit their involvement outside of certain situations beyond making fair value determinations? If so, what level of involvement should we permit? Further, should we exempt smaller advisers from this requirement or clarify that this is a key risk and thus, where feasible, such personnel should be segregated, without making segregation an explicit regulatory requirement? Are there effective steps, other than segregation, that funds currently use to manage the potential conflicts of portfolio management personnel that the rule should require instead of segregation? If so, what are they and why should they be required instead?

Duff & Phelps Response

Question 44: Yes, there should be independence in the valuation process. While this may create difficulties for funds managed by small advisers, the necessity for independence in the valuation process remains.

Question 45: Portfolio Management should **not** be prohibited from involvement in the valuation process. Rather, it may be worthy of mandating their involvement in the process, with proper controls that mitigate any natural bias that the portfolio managers may have in the valuation process. They should not have final say and as previously stated there should be independence in the valuation process, but as they should have the most relevant investment specific information pertaining to the investment, such information is necessary to estimate fair value.

Records of Assignment

We request comment on these proposed additional recordkeeping requirements.

46. Are there any additional types of records that we should require the fund to maintain in connection with the assignment process? Why or why not?

47. Should we apply any or all of the proposed recordkeeping requirements of this section to the adviser, rather than the fund? If so, which requirements?

48. Are the holding periods sufficient to evidence compliance? Why or why not? Should they be different (e.g., six years)?

Duff & Phelps Response

Question 46-48: No comment

Readily Available Market Quotations

We request comment on our proposed definition of when market quotations are readily available for purposes of section 2(a)(41) and rule 2a-4.

49. Is the proposed definition of when market quotations are readily available under the Investment Company Act appropriate? Should we look elsewhere than or in addition to ASC Topic 820?

50. How should we address investments in pooled vehicles, such as registered investment companies, that are valued at NAV, not at a market price? Do funds currently treat such investments as securities that are fair valued? What would be the burdens on boards of funds that invest substantially in such vehicles (e.g., funds of funds)? To the extent that a board assigned the determination of fair values of such investments to a fund's adviser, would the adviser's use of NAV involve the conflicts of interest or other concerns underlying paragraph (b) of the proposed rule?

51. Would this provision cause any compliance issues with other elements of the proposed rule, ASC Topic 820, or any other provision of the federal securities laws?

52. This definition is designed to track concepts in U.S. GAAP. Should we instead expressly refer to U.S. GAAP in the rule text to ensure that consistency with U.S GAAP in case of changes over time? For example, should the rule instead provide that "market quotations are readily available for purposes of section 2(a)(41) of the Act with respect to an investment

only when the investment's value is determined under generally accepted accounting principles of the United 61 States based solely on quoted, unadjusted prices in active markets for identical investments that the fund can access at the measurement date?"

53. Should the Commission define readily available market quotations via rulemaking as proposed, or should we instead provide interpretive guidance?

54. Do practitioners understand what it means in this context for the fund to have access to identical investments at the measurement date? Should some other standard be used, such as "readily access" or "reasonably access"?

Duff & Phelps Response

Questions 49: No. Congruence with ASC Topic 820 is appropriate and preferable.

Question 50: While we understand the desire of the SEC to not tie their rules to those of FASB or other entities in case subsequent modifications result in a position which the SEC cannot support, we would consider such risk remote. Therefore, especially in the context of using reported NAV as the fair value estimate for a fund interest, the guidance espoused by ASC Topic 820 and the guidance included in the AICPA PE/VC valuation guide pertaining to NAV and fund interests, provides the most pragmatic guidance for estimating fair value in such circumstances.

Question 51. Not to our knowledge.

Question 52: If practical, given our observation with respect to Question 50, specific referenced to US GAAP and ASC Topic 820 would be preferable.

Question 53: Additional definitions or rulemaking beyond congruence with level I inputs as defined in ASC Topic 820 is not necessary.

Question 54: Practitioners should have such understanding as long as it is clear that the Proposed Rule is congruent with ASC Topic 820.

Rescission of Prior Commission Releases

We do not propose to modify the Commission's prior guidance regarding the use of the amortized cost method because the Commission recently considered this topic in the 2014 Money Market Fund Release, and we do not believe that further guidance in this area is required at this time.

55. Do commenters agree that all of the guidance provided in ASR 113 and ASR 118 has been rendered unnecessary by subsequent developments, including developments in the fund industry, subsequent Commission statements, rulemakings, and developments related to U.S. GAAP, and the requirements of the proposed rule, if adopted? Is there any

guidance contained in either of ASR 113 and ASR 118, accounting or otherwise, that commenters believe it is necessary or desirable to retain?

56. To the extent prior guidance has not already been incorporated into U.S. GAAP, is there any prior guidance that should be recommended for incorporation into U.S. GAAP by the FASB?

57. We have previously stated that fair value is what "the owner might reasonably expect to receive . . . upon [a] current sale." Are the concepts of "current sale" in ASR 118 and "exit price" in U.S. GAAP identical? If not, what are the differences between the two standards and how should we address such gap?

58. The proposal does not address the views the Commission has expressed related to the use of amortized cost in valuing portfolio securities with maturity dates of 60 days or less.154 Is there other valuation guidance that the proposal should address? Do funds or advisers look to any other guidance on valuation that would be relevant for the Commission to address?

59. Our proposal to rescind ASR 118 would eliminate the Commission's statement in that release regarding verification by an independent accountant of all quotations for securities with readily available market quotations at the balance sheet date. Should we maintain that position regarding independent verification of quotations for all securities for which market quotations are available? What are the benefits or costs associated with independent verification of quotations for all portfolio investments?

60. Is there any other Commission valuation rule (such as rule 6.02(b) of Regulation S-X) or guidance that we should consider rescinding or amending in light of the proposal? If so, why?

Duff & Phelps Response

Question 55. Yes, ASR 113 and ASR 118 are rendered unnecessary. Concepts which are desirable to retain have conceptually been included in the Proposed Rule.

Question 56: No

Question 57: No comment

Question 58: While there may be specific circumstances where amortized cost could be appropriate, generally we believe that investments should be reported consistently on a fair value basis. For example, recent market volatility associated with the COVID-19 crisis could have rendered amortized cost to be significantly different than fair value.

Question 59: Such questions should be in the purview of the SEC.

Question 60: No comment

Existing Staff No-Action Letters, Other Staff Guidance, and Proposed Transition Period

We request comment on the proposed rescissions and transition period.

61. Are there any other staff letters or guidance pieces that should be rescinded or withdrawn should proposed rule 2a-5 be adopted?

62. Alternatively, should the Commission codify any staff letters or other staff guidance pieces, for example, FAQ 2 in the 2014 Valuation Guidance Frequently Asked Questions? If so, commenters should identify the positions and explain why commenters believe they should be codified.

63. Do commenters agree that a one-year transition period to provide time for funds and their advisers to prepare to come into compliance with proposed rule 2a-5 is appropriate? Should the period be shorter or longer?

64. Should the transition period be the same for all funds that would be subject to proposed rule 2a-5, as proposed? Alternatively, should we adopt tiered transition periods for smaller entities? For example, should we provide an additional six months in the transition period for smaller entities (or some other shorter or longer period)?

65. Instead of a fixed transition period of one year, should we tie the transition period to the fiscal year end of funds? For example, should the transition period instead start for each fund at the beginning of its fiscal year end after the one-year period following adoption of any rule?

Duff & Phelps Response

Question 61-63: No Comment

Question 64: Yes

Question 65: No Comment

Economic Analysis

We request comment on all aspects of our economic analysis, including the potential costs and benefits of the proposed rule and alternatives thereto, and whether the proposed rule, if adopted, would promote efficiency, competition, and capital formation. Commenters are requested to provide empirical data, estimation methodologies, and other factual support for their views, in particular, on costs and benefits estimates.

Duff & Phelps Response

We agree that most fund boards will assign fair value determinations to the investment adviser. That said, investment advisers may or may not have relevant valuation expertise for all investments. Therefore, depending on the facts and circumstances it may be appropriate to augment the board or adviser with expertise from a qualified, experienced independent valuation service provider.