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IHS Markit

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

Uploaded to http://www.sec.gov/

January 4, 2021

Re: Tailored Shareholder Reports, Treatment of Annual Prospectus Updates for Existing Investors, and Improved Fee and Risk Disclosure for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements (Nov. 5, 2020)

Dear Ms. Countryman,

IHS Markit is pleased to comment on the Securities and Exchange Commission's ("SEC" or "Commission") proposed rulemaking concerning *Tailored Shareholder Reports, Treatment of Annual Prospectus Updates for Existing Investors, and Improved Fee and Risk Disclosure for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements* ("Proposal"). [1]

IHS Markit is a global information and services company that provides data, insight, and solutions across 17 industries, including financial services[2] IHS Markit is a NYSE-listed public company under the ticker "INFO." IHS Markit has approximately 15,000 employees in 35 countries, including over 5,000 employees in the United States with offices in 21 states and the District of Columbia.[3] Among its Financial Services products and services,[4] IHS Markit is a leading independent index provider with over $140 billion in ETF AUM referencing our indices.[5]

## I. **Executive Summary**

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| We welcome the Proposal and support its goal of updating the information that investors receive to help investors better assess and monitor their fund investments and make informed investment decisions. |

[1] Tailored Shareholder Reports, Treatment of Annual Prospectus Updates for Existing Investors, and Improved Fee and Risk Disclosure for Mutual Funds and Exchange-Traded Funds; Fee Information in Investment Company Advertisements, 85 FR 70716, Nov. 5, 2020, https://www.federalregister.gov/documents/2020/11/05/2020-17449/tailored-shareholder-reports-treatment-of-annual-prospectus-updates-for-existing-investors-and.
[2] For more information regarding IHS Markit's solution offerings for these 17 industries, please see https://ihsmarkit.com/products.html.

[3] See https://ihsmarkit.com/about/locations.html.

[4] See https://ihsmarkit.com/industry/financial-markets.html.

[5] See https://ihsmarkit.com/products/indices.html.

Among other things and as detailed below, IHS Markit recommends the Commission make amendments to the Proposal that:

> (1) The proposed definition of "broad-based index" is too narrow given disconnect between a fund's investment objectives and overall returns in the debt or equity markets. The definition should be refined to allow for selection of a broad-based index appropriate given a fund's objective, e.g., by allowing them to select a broad-based index representative of returns within the appropriate asset class, credit grade, sector, and risk profile. This is especially true for funds that invest in bonds and other forms of debt.
>
> (2) The optional "narrow-based index" definition should contain the same limitation on self-indexing incorporated into the broad-based index definition.
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> (3) Funds could ensure that an index provider follows best practices regarding governance, due diligence, and other standards by reviewing their adherence with the IOSCO Principles for Financial Benchmarks.

## II. <u>Comments on Request for Comment Questions</u> ("RFCQs")

*50. Should we modify the definition of "appropriate broad-based securities market index," as proposed? If not, why not? If so, is the proposed definition appropriate, or should we modify it in any way? For example, should we permit funds to use blended indexes only as secondary indexes, as proposed (as an index could be "broad-based" only if it represents the overall applicable equity or debt markets), or should we permit funds to use these indexes as primary appropriate broad-based securities market indexes under certain circumstances?*

The proposed definition of "broad-based index" is too narrow given disconnect between a fund's investment objectives and overall returns in the debt or equity markets. The definition should be refined to allow for selection of a broad-based index appropriate given a fund's objective, e.g., by allowing them to select a broad-based index representative of returns within the appropriate asset class, credit grade, sector, and risk profile. This is especially true for funds that invest in bonds and other forms of debt.

*If we were to permit this, what if any conditions would be appropriate to ensure that the index remains "broad-based"? For example, should there be requirements limiting a fund to the number of indexes that could be blended for this purpose (e.g., 2), or the types of indexes that could be blended? Similarly, should we modify current requirements that permit funds to use non-securities market indexes only as secondary indexes, and not as appropriate broad-based securities market indexes? Are there concerns with certain funds using blended indexes or non-securities market indexes as secondary, rather than primary, indexes, such as concerns about investor understanding or costs associated with disclosing multiple indexes (e.g., index licensing fees)? Do blended or non-securities market indexes provide an appropriate point of comparison for an investor to evaluate his or her fund's performance?*

In order to ensure that an index remains "broad-based" and serves as a performance indicator of the overall *relevant* market, the Commission should require that the selected broad-based index perform as an appropriate indicator of or benchmark for performance for the specific investment objectives of the fund. If the fund's objectives not intended to generate returns reflecting returns in the "overall market," then it should clearly indicate this in its prospectus.

> *If we were to allow blended indexes or non-securities market indexes as a primary index, how could we tailor this approach to make sure that investors receive a performance indicator of the overall applicable market? Is the proposed definition clear? For example, is it clear that an index composed of securities of firms in a particular industry or group of related industries would not be broad-based?*

We do not think that there should be a categorical limitation on blended or non-securities indexes to serve as the selected broad-based index. Instead, and as we have described above, we think the broad-based index should be selected on the basis of whether it serves as an appropriate indicator of performance for the specific investment objectives of the fund.

Moreover, a short explanation presenting the reasons why a particular broad-based index was selected would further mitigate concerns regarding a fund's use of a broad-based index that is not appropriate and may present a misleading picture of investment performance.

> *51. Are there other changes we should make to the definition of appropriate broad-based securities market index, or to the framework for providing index performance more generally? For example, are there ways we could facilitate an investor's ability to understand the relevance of an appropriate broad-based securities market index, while maintaining funds' flexibility to select an appropriate and cost-effective benchmark? As another example, are there ways we could address concerns that some funds may choose an index for the purpose of making the fund's performance look better? Are there other instructions or guidance we could provide regarding the selection of an appropriate broad-based securities market index?*
>
> *53. Should funds have discretion to provide information in shareholder reports about the performance of more narrowly based indexes that reflect the market sectors in which the fund invests, as proposed? Is the information these indexes provide helpful to shareholders, or does additional index performance information make the disclosure more difficult for shareholders to understand?*

The Commission should continue to allow funds to disclose information relating to indexes other than the mandatory broad-based index regardless of whether it adopts our suggestion above. Additional information, with adequate explanation, will enhance the ability of investors to understand the fund's investment strategy and performance.

In preserving the option to disclose information relating to a narrowly based index, we recommend that the SEC minimize potential conflicts of interest inherent in situations where an affiliate of the fund is also the index provider. This could be done by requiring that narrowly based indexes meet the same administration requirement contained in the proposed definition of "broad-based index," namely that these indexes be "administered by an organization that is not an affiliated person of the Fund."

> *54. Should index providers be required to meet certain governance, due diligence, or other similar standards if an index's performance will be included in fund disclosure? Why or why not? If we imposed any such requirement, how would funds expect to determine whether those standards have been met?*

We note that the IOSCO Principles for Financial Benchmarks ("IOSCO Principles") contain a framework for index provider governance, due diligence, and other standards that reflect index provider best practices.[6] We refer to these principles generally and, in particular, Principle 11, Content of the Methodology which addresses:

> The publication of the rationale of any proposed material change in [an index] Methodology, and procedures for making such changes. These procedures should clearly define what constitutes a material change, and the method and timing for consulting or notifying [fund managers and other] Subscribers (and other Stakeholders where appropriate, taking into account the breadth and depth of Benchmark use) of changes.

Funds could ensure that the IOSCO Principles have been implemented by verifying whether the index provider has undergone an internal or external audit and reviewing the results of such an audit as a part of its due diligence in selecting the index provider. We note that under the IOSCO Principles, index providers are to appoint" independent internal or external auditor with appropriate experience and capability to periodically review and report on the Administrator's adherence to its stated criteria and the requirements of the Principles." (Principle 17)

The marginal cost of requiring adherence to the IOSCO Principles for index providers whose indexes are used as a "broad-based index" should be minimal given that the IOSCO Principles are now generally accepted best practices for index providers.

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IHS Markit appreciates the opportunity to provide these comments to the Commission. We would be happy to elaborate on or further discuss any of the points addressed above. If you would like to follow up on our comment letter, please contact Ed Chidsey, Senior Vice President and Global Head of Financial Information Services, [redacted], [redacted].

[6] See https://www.iosco.org/library/pubdocs/pdf/IOSCOPD415.pdf.