

Congress of the United States
Washington, DC 20510

September 28, 2023

The Honorable Gary Gensler
Chairman
The Securities and Exchange Commission
700 F Street, NE
Washington, DC 20549

Dear Chairman Gensler:

We write regarding the Securities and Exchange Commission's (SEC) June 2022 request for comment on whether index providers should be required to register as investment advisers under the Investment Advisors Act of 1940 (RIN 3235-AM95).

Index based funds provide retail investors a passively-managed investment option that seeks to track the returns of a market index or sector of wider financial markets. At the end of 2021, U.S. index mutual funds and index ETFs had a total of approximately \$12.5 trillion in assets under management. In many cases, index funds offer broad market exposure at lower fees than those of actively managed products, making them an attractive investment vehicle for consumers, families, and pensions that represent teachers and first responders. In fact, passively-managed equity index funds have saved families an estimated \$403 billion in management fees over the past twenty-six years. It is essential that the Commission to fully consider the costs and benefits for retail investors and consumers of regulatory changes in this space because of the growing popularity of index funds among retail investors.

Consistent with the SEC's important role in protecting retail investors and ensuring that our markets are functioning properly, we encourage the Commission to thoroughly consider all feedback submitted in response to this request for comment. Whether the SEC tailors their approach for index providers or determines additional regulation is not warranted, we hope that a thorough analysis is completed before any outcome is considered. As you know, there are costs associated with Advisers Act registration that may be passed onto middle-class families in the form of increased management fees. Americans are currently grappling with price increases across the broader economy. It is essential to consider feedback from relevant stakeholders to determine whether Advisers Act registration is the best solution to address the concerns raised by the Commission.

We ask that you share whether or how the SEC intends to move forward on this request for comment. In addition, we ask that the SEC consider the impact of this potential change on retail investors' access and choice of investment options as you contemplate changes to the regulation of passively-managed funds. Finally, we request a staff-level briefing on this topic with you or members of your staff.

Thank you in advance for your consideration.

Sincerely,



Josh Gottheimer
MEMBER OF CONGRESS



Bill Huizenga
MEMBER OF CONGRESS