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January 13, 2016

VIA ELECTRONIC SUBMISSION

rule-comments@sec.gov
Brent J. Fields, Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 2549-1090

Re: File Nos. S7-16-15 and S7-08-15
Comment on Open End Fund Liquidity Risk Management Programs and Swing Pricing Proposals

Dear Mr. Fields:

Invesco Ltd. ("Invesco") appreciates the opportunity to provide comments to the U.S. Securities and Exchange Commission ("Commission") in response to the Proposed Rule published October 15, 2015.[1] Invesco is a leading independent global investment manager with approximately $775.6 billion in assets under management ("AUM") as of December 31, 2015. We are pleased that the Commission, as the primary regulator for the asset management industry, is addressing systemic risk and liquidity concerns and support its efforts to reduce the risk that an open-end fund would not be able to meet its redemption obligations. The Commission has the greatest understanding of the asset management industry, a long history of prudent oversight and regulation of asset managers and our products and activities, and understands how best to balance the potential benefits and detriments of additional regulation to the U.S. capital markets, the capital formation process, and the interests of investors. In light of Invesco's 70 years of global industry experience, dedication to our clients, and comprehensive range of investment capabilities, we seek to provide you meaningful commentary in this letter ("Comment Letter"). [2]

[1] Open-End Fund Liquidity Risk Management Programs; Swing Pricing; Re-Opening of Comment Period for Investment Company Reporting Modernization Release, Investment Company Act Release No. 31,835, 80 Fed.Reg. 62,273 (proposed Oct. 15, 2015) ("Proposed Rule" or "Proposal").

[2] We appreciate the Commission's thoughtful consideration of our relevant views expressed in our comments to the FSOC Notice in crafting the Proposed Rule, which are further explained in this Comment Letter. *See* Financial Stability Oversight Council, Notice Seeking Comment on Asset Management Products and Activities, 79 Fed. Reg. 77488 (Dec. 24, 2014) ("FSOC Notice") and Comment Letter of Invesco Ltd. on the FSOC Notice (Mar. 25, 2015) ("Invesco FSOC Comment Letter").

Invesco is a global company focused solely on investment management, and our services are provided through a wide range of product types. In particular, our subsidiaries advise both mutual funds and open-end exchange-traded funds ("ETFs") (excluding our ETFs structured as unit investment trusts) for a broad client base with a combined AUM of approximately $357 billion as of December 31, 2015. The 145 mutual funds Invesco currently offers include a wide range of actively-managed, domestic, international/global, specialty (including bank loan and alternative), and fixed income mutual funds to help customize investors' portfolios to their unique needs. Invesco currently offers over 130 ETFs spanning seven broad categories: specialty, commodities and currencies, equity-based resources, factor driven, alternatively weighted, income, and quantitative. Also relevant to our discussion is our extensive experience and expertise with European investment funds. Invesco manages more than 80 Ireland and Luxembourg domiciled UCITs that use swing pricing across equity, fixed income, and alternative strategies offered to retail shareholders with an AUM of over $54 billion USD as of December 31, 2015 ("Invesco UCITs"). Invesco is well positioned to understand concerns regarding dilution of shareholder interests and risks associated with open-end fund shareholder redemptions.

I. Summary of Proposed Rule

The Proposed Rule would require each open-end mutual fund (except money market funds) and open-end ETF (collectively, "open-end funds" or "funds") to establish a tailored liquidity risk management program ("LRM program") under new rule 22e-4. The LRM program would include an ongoing classification of each portfolio position (asset)[3] into one of six liquidity buckets, which are based on the number of days in which the position would be converted to cash at a price that does not materially affect the value of that asset immediately prior to the sale, i.e. convertible to cash within 1 business day, 2-3 business days, 4-7 calendar days, 8-15 calendar days, 16-30 calendar days, and more than 30 calendar days. The classification would be based on a number of asset-level factors.[4] Funds would be required to disclose the classifications on proposed Form N-PORT, which entails reviewing the classifications at least monthly. The information would be made public for the last day of each quarter, on a 60-day delayed basis.

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[3] References to "assets" should be read to include "positions" or "portions thereof," as applicable.

[4] Some of the factors a fund must consider, as applicable, about each asset when classifying the assets include:

- existence of an active market for the asset, including whether the asset is listed on an exchange, as well as the number, diversity, and quality of market participants;
- frequency of trades or quotes and the average daily trading volume;
- volatility of trading prices;
- bid-ask spreads;
- whether the asset has a relatively standardized and simple structure;
- for fixed income securities, the maturity and date of the issue;
- restrictions on trading and limitations on transfer of the asset;
- the size of the fund's position in the asset relative to the asset's average daily trading volume and, as applicable, the number of units of the asset outstanding; and
- relationship of the asset to another portfolio asset.
  (Collectively, "asset-level factors").

The LRM program would also include a minimum percentage of each Fund's net assets invested in securities that can be converted to cash within three business days without materially affecting the value of the asset immediately prior to sale ("three-day liquid asset minimum"), which the Commission stated is the "cornerstone" of the program.[5] If a fund falls below its three-day liquid asset minimum, it would be prohibited from acquiring additional "less liquid" assets until the three-day liquid asset minimum is met. In addition, the Proposal would codify the current Commission guideline that open-end funds limit investments in assets that may not be sold or disposed of in the ordinary course of business within seven calendar days at approximately the value ascribed to it by the fund ("15% standard assets") to not more than 15% of a fund's total net assets (the "15% illiquidity maximum").

As part of the LRM program, each fund would need to assess and periodically review the portfolio's liquidity risk based on certain factors, such as size, frequency, and volatility of historical purchases and redemptions of fund shares during normal and stressed periods ("portfolio-level factors"). A fund's board, including a majority of the fund's independent directors, would be required to approve the fund's initial LRM program, including the fund's three-day liquid asset minimum, along with any material changes to the program. Large entities, such as Invesco, would have 18 months from the effective date to comply with the final rule.

The Commission also is proposing amendments to rule 22c-1 to permit a fund, under certain circumstances, to use swing pricing. Under the Proposed Rule, open-end mutual funds, except money market funds, would be permitted to adjust (or "swing") the net asset value ("NAV") upward if there is a daily net purchase of fund shares (such that transacting shareholders will bear the costs resulting from fund purchases of portfolio securities) or downward if there is a daily net redemption of fund shares (such that transacting shareholders bear the costs resulting from fund sales of portfolio securities). If the swing threshold (the predetermined net purchase or redemption amount) is met, a fund would adjust the NAV by a "swing factor," which is the amount, expressed as a percentage of the fund's NAV, that takes into account (a) any near-term costs expected to be incurred (including transaction costs and market impact); and (b) the value of assets purchased or sold by the fund to satisfy net purchases or net redemptions that occur on the day the swing factor is used to adjust the fund's NAV. Only the adjusted NAV would be disclosed in filings, performance reporting, and advertising materials. The board would be required to approve the swing policies and procedures. The rule would be immediately effective after the effective date of the final rules.

I. **<u>Executive Summary</u>**

In this Comment Letter, we discuss the following: (a) what we believe are important overarching considerations; (b) our experience and understanding of liquidity practices in open-end funds and swing pricing in UCITS; (c) our concerns regarding the proposed LRM program and swing pricing; and (d) a possible alternative regulatory framework for addressing liquidity that we believe would reduce liquidity risk without producing unintended adverse consequences for shareholders and the industry. This Comment Letter is divided in two main sections: the first section discusses liquidity risk management and the second section discusses swing pricing.

[5] Proposed Rule at 145.

A. <u>Liquidity Risk Management Proposal</u>

An overriding concern for Invesco is that the Proposed Rule is not solving for measurable redemption risk and that it is neither necessary nor beneficial to shareholders. We are unaware of investor protection concerns related to redemption risk, liquidity risk, or systemic risk that justify prescriptive liquidity risk management rules. The open-end fund industry poses minimal redemption risk or risk to the stability of U.S. or global financial markets. While open-end funds are subject to liquidity risk, liquidity risk is a basic element of investing. Prescriptive liquidity restrictions are not necessary for investor protection, not necessarily in the best of interest of shareholders, nor have we found it part of the Commission's statutory mandate. We request that the Commission engage in further study and analysis regarding the redemption and systemic risks posed by open-end funds and the likely efficacy of the Proposed Rule before adopting liquidity risk management rules.

Invesco has successfully managed redemptions, even during extraordinary periods of market stress, in the absence of prescriptive regulation. At the center of our liquidity risk management practices are our portfolio managers, who analyze macro-economic factors, asset-level markets, shareholder flows, and numerous additional factors to understand and manage a fund's liquidity risks. The portfolio managers, supported by data and analytics, use a variety of ways to meet shareholder redemption requests. We do not believe that portfolio managers rely most often on selling the most liquid assets first, which appears to be the assumption behind many of the proposed LRM program requirements.

Invesco believes in the effectiveness of our liquidity risk management practices and supports a requirement for a strong and effective baseline LRM program modeled upon the compliance program rule pursuant to Rule 38a-1, promulgated under the Investment Company Act of 1940 ("1940 Act"). The LRM program should be broadly required to address certain areas: the liquidity of the markets in which the portfolio has significant exposure, the liquidity of portfolio assets, the portfolio's strategy and disclosed risk appetite, historical flows, and sufficiency of supplemental liquidity tools in normal and stressed conditions. Invesco considers the required 15% illiquidity maximum an important and instrumental element of an LRM program. Each fund's board of directors should oversee the program by periodically reviewing the program, changes to the program, its effectiveness, and its policies and procedures; however, the board should not be required to approve a three-day liquid asset minimum because board members do not have the resources or appropriate expertise to make such determinations. The adviser should be free to determine the identity of the administrator of an LRM program without restrictions; Invesco believes portfolio managers are in the best position to administer the program with support from other departments due to their expertise and ability to move quickly in response to shifting environments.

The proposed LRM program is not effective because of the prescriptive and rigid classification system and three-day liquid asset minimum requirements, which have the effect of unduly restricting certain investment strategies. As a result of the position classification and three-day liquid asset minimum requirements, portfolio compositions of funds will homogenize, regardless of whether the fund had appropriate liquidity prior to the adoption of the Proposed Rule. This homogenization may lead to diminished diversification among funds and tightened market liquidity.

The proposed position classification system, in particular, is overly burdensome and ineffective. Invesco recommends a broad requirement to include the liquidity of a portfolio asset as a factor in determining the overall liquidity of a fund. We strongly urge the Commission to not require position classification because (a) a security's liquidity cannot be predicted with sufficient precision; (b) the criteria used to classify positions are difficult to obtain, costly, or simply not available; (c) consistency of classification amongst funds from different sponsors is highly unlikely and the inherent subjectivity required in performing a position classification renders the classification unhelpful to the Commission or shareholders; (d) the position classification potentially exposes funds to unacceptable amounts of liability; (e) the frequency of reviewing portfolio position liquidity is unreasonable and misguided in achieving objectives; and (f) the significant labor and cost required is not justified.

The three-day liquid asset minimum proposal will lead to unintended consequences; Invesco recommends, as an alternative, a required targeted range of three-day and/or seven-day liquid assets. The three-day liquid asset minimum as proposed will likely cause several unintended consequences: (a) increased portfolio uniformity and decreased diversification within the asset management industry as funds gravitate towards the same "liquid" assets; (b) tightened supply of eligible investments for mutual funds; (c) reduced performance frustrating investor expectations as funds are constrained from taking advantage of investment opportunities that might have a meaningful impact on performance; (d) loss of assets from the industry as investors seek alternatives to open-end funds; and (e) the inability of index funds to replicate the index to the degree expected. Moreover, a three-day liquid asset minimum will probably not be helpful for liquidity risk management or achieve its intended purpose in reducing redemption risk because it will either not be needed or will not be sufficient. If the Commission is determined to require a minimum amount of liquid assets in a fund, Invesco recommends a requirement to maintain a target of three-day and/or seven-day liquid portfolio assets within a reasonably narrow range. The use of a "target" range would allow the fund the flexibility to adjust the minimum during changing market conditions, such that the fund is not unnecessarily constrained and also allow enough diversification amongst funds to avoid some of the potential negative consequences.

Invesco believes the depth and frequency of the proposed public disclosure of position classifications are inappropriate. We agree that information about each fund's LRM program and liquidity risks should be described and disclosed in such a way that shareholders will find it useful in understanding the anticipated liquidity of the portfolio and potential redemption risks. However, the proposed disclosure requirements pose the following concerns: (a) we believe that the asset-level data proposed to be provided under the Disclosure Proposal,[6] Commission exams and reviews of the LRM program, and board oversight obviates the need for position classification for Commission oversight purposes; (b) the information is overly subjective and would be confusing to shareholders and unhelpful to the Commission; and (c) disclosure would be harmful to the funds and advisers because of the confidential and proprietary nature of the information.

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[6] Investment Company Reporting Modernization, Investment Company Act Release No. 31,610, 80 Fed.Reg. 33,590 (proposed June 12, 2015); Amendments to Form ADV and Investment Advisers Act Rules, Investment Advisers Act Release No. 4,091 (May 20, 2015), 80 Fed.Reg. 33,718 (proposed June 12, 2015) (the "Disclosure Proposal").

Invesco recommends that the Commission consider the in-kind nature of most ETF redemptions and exclude ETFs from the LRM program requirements. The classification proposal is based on time to convert portfolio holdings to cash and assets are not typically converted to cash by an ETF. When an authorized participant redeems in cash, the variable transaction fee that an ETF may impose to offset transaction costs should address both dilution and liquidity concerns. The three-day liquid asset minimum is particularly challenging, if not impossible, for an index ETF to meet because of the ETF's need to track the index.

Finally, Invesco requests Commission assistance regarding interfund lending, redemptions in-kind, and centralized trading to improve liquidity. Interfund lending's usefulness as an LRM tool in extraordinary circumstances could be enhanced if some of the current restrictions imposed by exemptive orders are relaxed, such as the ability to have an outstanding loan for more than seven days and curbing the effect of a decline in NAV on an outstanding loan. We also welcome efforts by the Commission to promote and facilitate funds' ability to use redemptions in-kind with entities that are able to receive securities. Invesco urges creating centralized trading platforms and other initiatives to shorten settlement periods as a way of improving liquidity without harming shareholders, markets, or funds.

B. Swing Pricing Proposal

Invesco agrees that partial swing pricing may help in mitigating potential dilution of fund shareholders. Invesco believes swing pricing (a) must be mandatory in order to have funds use it, (b) funds must receive investor flow information in sufficient time for swing pricing to be operationally feasible, and (c) there must be a safe harbor for good faith decisions and actions that shield funds from potential liability. If these concerns are addressed, Invesco recommends that:

- The calculation of the swing factor must be quantitative, automatable, and transparent in order to avoid errors and potential liability;

- The cost of market impact in meeting net redemptions or subscriptions is not a quantifiable, automatable, or transparent amount so it should not be used in calculating the swing factor;

- It is inappropriate to include the adjusted NAV in the balance sheet, results of operations and performance calculations in a fund's financial statements or other performance related disclosure documents;

- The 2% variable fee cap should be lifted for ETFs (preferred option); or ETFs should be permitted to use swing pricing;

- Each fund's board of directors should oversee the swing pricing program, but not be required to approve the swing factor or threshold.

II. Comment on Liquidity Risk Management Proposal

Invesco generally supports the establishment of baseline LRM programs for open-end funds; however we have concerns regarding various prescriptive elements of the Proposed Rule. In this section of the Comment Letter, we discuss the following: (a) Invesco's current

liquidity risk management practices and our management of redemptions; (b) our thoughts on the purpose and purported benefits of the Proposal; (c) specific concerns regarding, in particular, the position classification system, the three-day liquid asset minimum and proposed disclosure requirements; and (d) Invesco's suggested recommendations for alternatives or alterations to these elements.

A. Invesco Has Strong and Exemplary Liquidity Risk Management Practices.

1. Invesco Has Successfully Managed Redemptions, Even During Extraordinary Events of Stress, Without Prescriptive Regulation.

Invesco has successfully managed redemptions, even during extraordinary events of market stress and fund-specific stress, [7] in the absence of prescriptive regulation, such as the Proposed Rule. Invesco's funds have not experienced unmanageable strain in meeting redemptions, even during periods of extraordinary market events. We reviewed daily flows, redemptions, and asset changes in our high yield fixed income funds during the global financial crisis, sovereign debt crisis, and other periods of market stress and found that even funds that experienced their highest level of net outflows during those periods were able to meet redemption requests capably.

Invesco would have to either (a) abandon our carefully tailored and robust liquidity risk management practices in favor of the Commission's untested, one-size fits all proposals, which we find to be overly burdensome and not beneficial or (b) run two parallel processes.

2. Invesco's Liquidity Risk Management Practices Facilitated Our Ability to Meet Shareholder Redemptions.

Invesco devotes a great deal of resources and time to the prudent assessment and management of the different risks that affect a portfolio, including liquidity risk. Invesco effectively manages liquidity using a three-pronged approach: (a) prudent risk management by strong, well-resourced portfolio management teams and their CIOs (defined below); (b) supplemental liquidity management tools and techniques; and (c) risk oversight and governance. Our investment teams are supported by data and analysis provided by a dedicated team of independent professionals.

Prudent Risk Management by Strong Portfolio Management Teams. Our portfolio management (or investment) teams form the center of our practices. Invesco has more

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[7] During the "Taper Tantrum" in 2013, open-end municipal funds experienced the largest redemption event since 1985 with over $50 billion in net outflows. Invesco's open-end municipal funds experienced net outflows of $1.3 billion during that same period and the Invesco High Yield Municipal Fund alone represented $1 billion of those outflows. At all times the Invesco funds were able to meet their redemptions within standard market practices without taking any extraordinary measures.

In late 2013, a high-profile manager of Invesco's two largest UK onshore products announced his departure from the firm; over the next eight months, one of the funds, with AUM of approximately $16 billion USD, experienced net outflows of over $6.9 billion USD. The fund met all redemptions on a timely basis and shareholders were able to trade in and out of the fund without difficulty. The fund's portfolio managers maintained liquidity through prudent cash management and trading strategies and limited use of an overdraft facility provided by the fund's custodian.

than 750 investment professionals worldwide in specialized investment teams who are committed to our culture of strong risk management. Each team operates under the supervision of its Chief Investment Officer ("CIO") and Invesco's executive management. The investment teams have access to advanced investment technology, proprietary tools, and investment platforms. Thus equipped, the portfolio managers actively monitor liquidity, consider liquidity as a criterion in selecting instruments for their portfolios and make frequent, typically daily, liquidity determinations, such as how much cash or cash equivalents they should hold or whether to sell less desirable positions to meet shareholder redemptions. Given the breadth of experience, education, information, expertise, and investment tools available to our portfolio managers, Invesco believes that these individuals are in the best position to evaluate and make the liquidity determinations for each of the portfolios they manage. No one understands the assets and the markets for the assets as well as the portfolio managers; therefore, we appropriately rely on their judgment to assess liquidity risks and needs.

Liquidity Management Tools. Invesco's portfolio management teams manage funds for normal and foreseeable conditions and prepare for and consider stressed and extraordinary circumstances. The investment teams may meet normal or foreseeable redemptions in a number of ways. Normally, cash flows from sources such as gross subscriptions (including new purchases and reinvested dividends on fund shares), dividend and interest payments on portfolio securities and maturities of debt securities held in portfolios, or cash in the portfolio are sufficient to meet normal redemption levels. When a fund has large redemptions, the investment team, in discussion with back office support, considers various options. Their decision is based on the best interest of the fund and operational feasibility. This point is important because the three-day liquid asset minimum and the position classification proposals appear to be based on the inaccurate assumptions that (a) funds generally sell their most liquid assets to meet shareholder redemptions; and (b) such redemptions cause harm. Some of the ways that our portfolio managers meet redemptions are described below.

- A fund may redeem in-kind (typically with respect to positions held by large insurance company separate accounts in connection with the liquidation of the account's entire position pursuant to a substitution order). While this option is not always available, Invesco has been able to redeem in-kind on numerous occasions. We have found that certain security types are more amenable to redemptions in-kind, such as domestic securities. We discuss some of the challenges of redeeming in-kind later in this Comment Letter.

- A fund may be able speed up settlement times. For instance, in August/September 2011, one of our bank loan funds was able to accelerate loan settlements during its heaviest period of redemption activity. Although a fund cannot consistently rely on the ability to speed up settlements, it typically has some control over the duration of the settlement period. Usually, a seller (a fund) does not have incentive to speed up settlement because the seller collects interest during the period. Thus, a buyer is often incentivized to accelerate settlement.

- Invesco's portfolio managers, more often than not, opportunistically sell assets (if they determine to sell assets to meet redemptions). Invesco portfolio managers may seek to reposition portfolios and use redemptions as a catalyst for such changes. Depending upon prevailing market conditions, prudent investment

managers, such as Invesco, consider remaining shareholders in meeting redemptions. For example, in falling markets, portfolio managers may use redemptions as an opportunity to sell assets such that the fund has less credit risk.

- Invesco may also sell assets pro rata. However, we have found that certain situations are not appropriate for selling assets pro rata because of "practical limitations on a fund's ability to sell a pro rata slice of its portfolio, such as minimum trade sizes, transfer restrictions, illiquid assets, tax complications from certain sales, and avoidance of odd lot positions"[8] or we found it unfavorable to remaining shareholders. If portfolio managers determine to sell assets to meet redemptions and the funds do not have these limitations, they tend to rely more heavily on selling assets pro rata.

- Invesco portfolio managers may sell the most liquid assets in a portfolio when there is a need to raise cash (whether to fund redemptions or for other purposes). The Proposed Rule is, in part, built on the theory that a fund usually sells its most liquid assets first. Across asset strategies, we have not found that to be the case. Even if a portfolio manager does decide to meet redemptions by selling the most liquid assets first, it does not necessarily mean that the remaining shareholders are worse off or that all of the most liquid assets are sold. Selling the most liquid assets to meet redemptions may, in fact, benefit remaining shareholders since more liquid assets are generally lower yielding. Once these are sold, the remaining, relatively less liquid assets will increase the earnings of the fund and help maintain its dividend rate. Furthermore, those sales transactions can create tax loss carryforwards that may be used to offset gains, avoiding or reducing the distribution of taxable capital gains to shareholders. Moreover, it is usually easier and more cost efficient to repurchase the most liquid assets, in the event the fund experiences inflows and the portfolio manager chooses to repurchase such assets. Portfolio managers also have deliberately improved the liquidity of a fund by focusing on more liquid assets or even cash in anticipation of market stress. For example, many Invesco funds, such as our municipal funds, gradually increased cash and liquid holdings following the market disruptions of late 2008 and 2010.

Supplemental Tools and Techniques. Invesco has supplemental tools and techniques upon which to rely to meet unanticipated levels of redemption. Invesco received exemptive relief permitting interfund lending and borrowing for its long-term U.S. mutual funds. In practice, however, Invesco has not used this relief since 2005. We are supportive of Commission efforts to make interfund lending more useful in the future as discussed in more detail later in this Comment Letter. Invesco has in place a line of credit for the Invesco Floating Rate Fund[9] and the PowerShares Senior Loan Portfolio ("BKLN") (a listed ETF investing in bank loans). These lines have been used to meet extraordinary redemption

[8] Proposal at 19, n.38.

[9] The Invesco Floating Rate Fund, a fund that invests primarily in bank loans, used its line of credit as a preferential investment option to assist in meeting shareholder redemptions during periods of historically high outflows for bank loan funds. We use this opportunity to correct an earlier statement in the Invesco FSOC Comment Letter: the Fund used the line of credit on more than two separate occasions for redemptions.

activity on an infrequent basis. After a careful evaluation of our diverse product line-up, we did not find that any other fund warranted the additional shareholder expense associated with a committed line of credit in light of our comfort with our risk management practices and historical abilities to meet redemptions, even under stressed conditions. Invesco has not taken advantage of the statutory ability to extend settlement of mutual fund redemptions to seven days, as permitted by Section 22(e) of the 1940 Act and disclosed to shareholders; Invesco has always settled mutual fund redemptions within the applicable market practice settlement period. Similarly, Invesco has never sought extraordinary relief from the SEC to suspend mutual fund redemptions under Section 22(e)(2) of the 1940 Act.

Risk Oversight and Governance. Invesco's executive management oversight and governance includes the Invesco Global Performance and Risk Committee ("GPR Committee"),[10] which oversees Invesco investment teams, and reviews portfolio risk and positioning. Invesco's Global Performance Measurement & Risk group ("GPMR") offers the GPR Committee comprehensive, detailed information and analysis regarding investment teams and the products they manage. Additionally, Invesco management carefully considers portfolio construction during the design phase of new funds. For example, in developing BKLN, Invesco used its extensive experience and expertise from managing daily liquidity in senior loan registered investment companies since the mid 1990's. We spent over a year thoughtfully planning the launch and management of BKLN. At the forefront of all our discussions was structuring a product that would provide investors access to the private loan market in an exchange-traded fund format, treating liquidity with great importance.

Independent Risk Data and Analysis. GPMR also supports the investment teams and management by providing independent investment risk information, including with respect to investment portfolio liquidity.[11] GPMR provides analysis to help inform portfolio managers' understanding of risk in their portfolios and provide insight for investment team CIOs and others who provide oversight. We consider the data and analyses provided by GPMR as an important component of our risk oversight practices, but also recognize its limitations and relative importance with respect to portfolio manager analysis and trading insight. Therefore, GPMR's data and analyses are not central to portfolio managers' analyses.

GPMR provides information that can be used as an input for portfolio managers' analysis of portfolio liquidity, but they do not direct the decision-making of any portion of portfolio management. Investment team oversight at Invesco is the ultimate responsibility of the Chief Investment Officer, facilitated by the GPMR teams. Through rigorous portfolio analysis, the primary objective of the process is to monitor potential sources of risk and help ensure adherence to stated mandates, process, and style. We believe that measuring and defining liquidity risk itself is a multi-dimensional undertaking and recognize that assessing risk requires human judgment with the aid of quantitative tools. GPMR assists our portfolio managers and CIOs to better understand market risks in the funds that they

[10] The committee is chaired by the Chief Executive Officer and includes those Invesco Senior Managing Directors (executive officers reporting to the CEO) who oversee Invesco investment teams.

[11] GPMR provides comprehensive, detailed information and analysis to the investment teams and internal groups. GPMR utilizes the best of breed analytical tools across all asset types underpinned by global data architecture and proprietary software applications for performance attribution and portfolio analysis that provides the framework for value added insight.

manage; however, Invesco also recognizes the need for flexibility in that analysis to account for the different asset classes, products, and strategies Invesco deploys.

By way of example, our fixed income assessment of liquidity considers three levels of liquidity analysis: market, sector, and fund-specific. Market level parameters are used to gauge trends and as early warning signals. Market level factors used to determine liquidity impact may include implied volatility, funding costs and risk aversion (among others). Sector level technicals provide further insight; the factors to determine liquidity impact for each asset class necessarily vary. Examples of factors in various sectors include new issuance, trading volumes and sector level bid/ask spreads. Finally, GPMR analyzes the liquidity risk profile of each fund in combination with stress testing. Examples of analysis used to inform and challenge portfolio managers regarding the implications of current positioning relative to varying market environments include (a) measuring trading volume at the security level for equity portfolios; and (b) the ability to quantify cost to liquidate using pro-rata, lowest cost and minimum market impact ordering methods for fixed income portfolios.

Many portfolio managers find GPMR's liquidity information and stress testing helpful in the evaluation of risks relative to a fund's investment objective while others find more limited value with respect to their investment process. Portfolio managers have identified certain common challenges regarding the current liquidity information provided by GPMR or market vendors/suppliers, such as that the information may not reflect current market dynamics, may be duplicative of what they already know, or does not consider the market expertise of the traders or portfolio manager. Certain portfolio managers may not find as much value in the stress testing because they feel that their daily, market-oriented, real-time management obviates the need for theoretical exercises whose results may correlate poorly with actual market dynamics. As a result, Invesco continues to rely first and foremost on the portfolio management team's judicious use of such data and analysis.

The bucketing approach for categorizing the liquidity of portfolio holdings mentioned in the Invesco FSOC Comment Letter consisted of breaking down each fund's holdings into liquidity buckets based on the cost of liquidation. The liquidity analysis, combined with stress testing and captured within portfolio analytics tools, continues to be enhanced as the markets and those tools evolve. Because the bucketing approach had several disadvantages, including the inability to test stressed conditions and gaps or incompleteness of certain data elements, we have since modified our approach. We supplanted bucketing with a methodology that provides liquidation cost over several horizons and expanding stress testing. The new framework continues to be based on liquidation cost rather than days to liquidate.

We wish to also make clear that the bucketing or grouping approach mentioned in the Invesco FSOC Comment Letter should not be confused with the Commission's proposed classification system. Invesco may indeed group elements of information that form our liquidity view; however, we do not group or classify holdings by the number of days to liquidate. Furthermore, that information is not disclosed publicly, which is also a critical difference from the Proposal. As we explain in this Comment Letter, the validity and scarcity of data, subjectivity of position-level classification determinations, and ephemeral nature of the information (even the most readily available equity trading volume information can change quickly) suggests that this information can be quite misleading for investors and potentially opens the door for unnecessary and unproductive litigation.

B. <u>We Have Concerns Regarding the Purpose and Benefit of the Proposed LRM Program</u>.

The Commission has stated that the goal of the Proposed Rule is to "promote investor protection by reducing the risk that funds will be unable to meet their redemption obligations, elevating the overall quality of liquidity risk management practices, and mitigating potential dilution of existing shareholders' interest."[12] We consider mitigating redemption risk, *i.e.*, the risk that a fund cannot meet its regulatory responsibility to meet shareholder redemptions under normal or reasonably foreseeable stressed conditions, an important goal of Commission regulation stemming from Section 22(e). We have not found investor protection concerns related to redemption risk, liquidity risk, or systemic risk that justify prescriptive liquidity rules.[13] Our concern, thus, is that the Proposed Rule is not solving for measurable redemption risk and is neither necessary nor beneficial.

1. Open-End Funds Pose Minimal Redemption Risk Such That Additional Rulemaking is Not Necessary.

The open-end fund industry poses minimal redemption risk. While Invesco supports carefully tailored rulemaking to reduce the risk that a fund cannot meet its redemption obligations, we do not believe that open-end funds are exposed to sufficient redemption risk to require a prescriptive LRM program in normal or foreseeable, stressed circumstances. First, the industry has generally demonstrated its ability to meet shareholder redemptions for 75 years (including through a global recession and other financial crises) through prudent portfolio management in a solid regulatory framework.[14] Second, asset managers

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[12] Proposal at 275.

[13] We suggest that liquidity risk and the Proposed Rule be reviewed holistically in light of the impact of other rulemakings addressing data reporting, derivatives, and transition planning. The objectives of the rulemakings are interrelated. Each potential regulation affects redemption risk and liquidity risk since they interact with other risks, regulatory requirements, and policies. The holistic view is similar to the liquidity risk view of UCITS: "[l]iquidity risk for UCITS should be regarded in a holistic manner as it often interacts with other types of risk, with regulatory requirements as well as procedures and control activities." UCITS Liquidity Risk Management, Assoc. of the Luxembourg Fund Industry, 3 (Mar. 2013) ("ALFI Guidelines"). For example, while still considering the implications of the Commission's recently released proposal regarding the use of derivatives and leverage, we consider the prudent use of derivatives and leverage as significant considerations of whether a fund can meet redemption expectations. The enhanced data reporting, including asset level reporting, that the Commission proposed in order to improve the quality and type of information provided, should also contribute to the oversight of redemption, liquidity, and systemic risks. Furthermore, if a rule is finalized and implemented, the data received will be invaluably informative in better assessing the need for and construction of the liquidity rules. Additionally, the risk that a fund is unable to meet redemption requests is directly related to the purposes of stress testing although we note that the Commission determined to *not* require stress testing for liquidity risk management. *See* Proposed Rule at 109. We also consider the discussion of liquidity fees and redemption gates to be tied to transition or resolution planning, as that is most likely the only situation in which such fees and gates would be introduced.

[14] In a rare failure of a mutual fund, Third Avenue Focused Credit Fund ("Third Avenue FCF") announced it was liquidating assets due to redemption requests and "general reduction of liquidity in the fixed income markets." David Barse, Letter to Shareholders of Third Avenue Funds Focused Credit Fund (Dec. 9, 2015), http://thirdave.com/wp-content/uploads/2015/12/FCF-Shareholder-Letter-12-2015.pdf. Third Avenue FCF, Heartland Advisors' three municipal bond funds in 2001, and two Schroder municipal bond funds in 2008 represent

have strong incentives, without prescriptive regulation, to manage redemption risk and liquidity risk. The risk/return of the fund, reputation of the fund and the manager, and income of the asset manager are directly affected by the prudent management of these risks. For example, a fund (such as Third Avenue FCF) that cannot meet redemption requests faces full closure and liquidation. Third, the Commission has already promulgated guidance, rules, and regulations that have had the effect of helping to ensure sufficient liquidity. Investors have benefited from the 15% illiquidity guideline, leverage limits, clear and plain English shareholder disclosure requirements, asset concentration limits, and a multitude of Commission pronouncements that have had the effect of ensuring sufficient liquidity. This collection of federal rules and regulations, in part, enabled the proper functioning of the funds during historic periods of stress. Finally, neither the Proposed Rule

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the isolated failures in mutual fund history, all of which were idiosyncratic events. Idiosyncratic risks and events do not justify imposing broad, prescriptive liquidity rules with substantial negative consequences for the entire industry.

Based on a review of its disclosures, the Third Avenue FCF's failure is perhaps not shocking. Third Avenue FCF was an unusual fund and was not comparable to the investment strategies or portfolio holdings employed by more traditional high yield funds. As evidenced by its disclosures, it had a significant focus in distressed debt and concentrated its investments in few names, i.e. the portfolio construction was extremely aggressive and took on significant amounts of credit, industry concentration, and diversification risk for a mutual fund. "To be sure, Third Avenue's portfolio was far riskier and more concentrated than the average junk-bond mutual fund. More than 50% of its assets were unrated by credit agencies, while another 28% of the fund held bond issues rated CCC. That's nearly triple the proportion held by high-yield peers, according to S&P Capital IQ. 'These are the most illiquid bonds in an already illiquid market,' says Morningstar senior fixed-income analyst Sumit Desai. 'In hindsight, the strategy probably shouldn't have been in a mutual fund wrapper.'" Amy Feldman, Third Avenue Focused Credit Closes, Barron's (Dec. 12, 2015), http://www.barrons.com/articles/third-avenue-focused-credit-closes-1449899465. Most high yield and bank loan funds are far more diversified by issuer and hold a substantially greater amount of higher quality and more liquid assets. Unlike other high yield and bank loan funds that met shareholder redemptions during extreme market stress and outflows in the 2008 global credit crisis or 2013 Taper Tantrum, Third Avenue FCF was launched in 2009 after the credit crisis when the fund's strategy had been in the markets' favor. Until more recently, we did not observe Third Avenue FCF experiencing turbulent market conditions that tested its strategy. The consequences of the Third Avenue FCF failure are material to the fund, its shareholders, and its sponsor, the chief executive officer departed, and the asset manager sustained a material reputational impact. It was, otherwise, an idiosyncratic, not systemic, event that affected a limited number of entities with minimal impact on the broader financial system. For instance, Invesco's higher yielding fixed income funds did not experience significant redemption pressure (although there were higher than average redemptions for a few days) because the asset classes had natural buyers that softened any imbalance from the sellers, among other reasons. Some lessons can, nevertheless, be gleaned from what we understand to date. Despite an uncommitted line of credit and about 10% of assets in cash, Third Avenue FCF was unable to meet shareholder redemptions. As discussed further below, we believe that a three-day liquid asset minimum or a portfolio position classification system would not have changed the outcome. Third Avenue FCF highlights the need for thoughtful portfolio construction. In addition, we believe in limiting a portfolio's 15% standard assets to the 15% illiquidity guidelines. *See* Landon Thomas, Jr., A New Focus on Liquidity After a Fund's Collapse, New York Times (Jan. 11, 2016), http://www.nytimes.com/2016/01/12/business/dealbook/a-new-focus-on-liquidity-after-a-funds-collapse.html?_r=1 indicating 15% standard assets may have been more than 15% of the portfolio. Finally, Third Avenue FCF is a case study on transition planning, including the ability to suspend redemptions as part of a liquidation plan, rather than liquidity risk.

nor the DERA study[15] provide evidence of a significant redemption risk. Similarly, the Commission has not provided evidence that the prescriptive elements of the Proposed Rule (namely, the proposed classification system and the three-day liquid asset minimum) may likely be effective particularly in light of their implementation cost.

2. Liquidity Risk is a Fundamental Element of Investing.

The Commission cited liquidity risk as a purpose of the LRM program and defined it as "the risk that the fund could not meet requests to redeem shares issued by the fund that are expected under normal conditions, or are reasonably foreseeable under stressed conditions, without materially affecting the fund's net asset value."[16] We do not believe that mitigating liquidity risk is an appropriate goal for rulemaking. Liquidity risk is a fundamental element of investing and liquidity restrictions are not necessary for investor protection. As the Commission has explained to shareholders, all investments involve risk and an investor with higher risk tolerance has greater potential rewards.[17] In fact, liquidity risk is embedded in the concept of a mutual fund, which is the sharing and pooling of risks, expenses, and rewards. The risk and rewards associated with liquidity risk is a reason why the absence of or mitigated liquidity risk does not necessarily equate to a better, more desirable fund for shareholders. The robust disclosure regime for open-end funds has helped shareholders understand these concepts. We note also that asset managers are incentivized to prudently manage liquidity risks (just as redemption risk) without additional prescriptive regulations. We also question whether mitigation of liquidity risk and potential dilution are part of the Commission's statutory mandate. We have not found that Section 22(e) and rule 22c-1 under the 1940 Act or any other regulation support rulemaking that avoids "materially affecting the fund's net asset value" or the mitigation of dilution risk.[18] As discussed, the inherent nature of investing in open-end funds includes affecting the fund's net asset value, *i.e.* the fund's value will change.

3. Open-End Funds Do Not Pose Systemic Risks.

The open-end fund industry poses minimal risk to the stability of U.S. or global financial markets, such that we do not believe prescriptive liquidity rules are justified on the

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[15] Paul Hanouna, Jon Novak, Tim Riley, Christof Stahel, SEC Division of Economic and Risk Analysis, Liquidity and Flows of U.S. Mutual Funds (Sept. 2015) ("DERA study"). We note that the DERA study appeared limited to equity funds and extrapolations about municipal funds.

[16] Proposal at 103. We support the definition without the phrase "materially affecting the fund's net asset value."

[17] *See* Commission Office of Investor Education and Advocacy, *Beginners' Guide to Asset Allocation, Diversification, and Rebalancing*, https://www.investor.gov/sites/default/files/Beginners-Guide-to-Asset-Allocation.pdf (last visited Jan. 11, 2016). Through a diligent regulatory disclosure system, which has long been the crux of the federal securities laws, investors understand that liquidity risk is a component of investment performance. See The Investor's Advocate: How the SEC Protects Investors, Maintains Market Integrity, and Facilitates Capital Formation, http://www.sec.gov/about/whatwedo.shtml (last visited Jan. 11, 2016).

[18] *See also,* Simpson Thacher Registered Funds Alert, *SEC Proposes Minimum Liquidity Requirement for Open-End Funds; Raises Questions Regarding the Relationship Between Liquidity and Valuation* (Nov. 2015), http://www.stblaw.com/docs/default-source/Publications/registeredfundsalert_november2015.pdf (discussing the Commissions' authority to enact liquidity requirements). As the LRM program is not apparently intended to mitigate dilution risk, we address dilution risk further as part of the discussion of the swing pricing proposal.

basis of systemic risk concerns. There is neither historical precedent nor empirical evidence that open-end funds pose a threat to the U.S. or global financial systems, even if they are unable to meet shareholder redemption requirements. We incorporate the explanations and data provided in the Invesco FSOC Comment Letter and by the Investment Company Institute ("ICI") and the Securities Industry and Financial Markets Association ("SIFMA") that demonstrate the lack of a systemic problem with mutual fund liquidity.[19] It is also crucial to understand whether any systemic risks are associated with a fund's failure to meet redemptions before adopting rules intended to curb systemic risk. It is important that the Commission create rules that address a real problem, not FSOC's conjectural problems.

4. The Commission Should Engage in Further Study and Analysis.

We ask that the Commission engage in further study and analysis to determine whether there actually is a problem, what that problem may be, and how it might be best addressed. After a period of study by the Commission of the existence of redemption and systemic risks, data from the Disclosure Proposal, and the application of the LRM programs, the Commission may find that the LRM program requirements should evolve. The UCIT industry in Europe necessarily evolved its LRM program due to the realities of and changes in the market. Our own liquidity risk management practices have also evolved with changing strategies, available information, and experience.

The Commission cited alternative and high yield fixed income strategies as a source of concern and stated the "[DERA] study found that alternative strategy mutual funds had cash flows that were significantly more volatile than other strategies, indicating that these funds may face higher levels of redemption risk."[20] We believe that may be an oversimplification. The DERA study offered refutable analysis on the effect of cash flows and volatility on levels of liquid assets, but did not link cash flows and volatility to redemption risk or even substantial liquidity risk in the portfolio. Without additional information, it is not sufficient to support requiring position classification or a three-day liquid asset minimum. We support Commission efforts to study the comparative volatility and behavior of varying asset classes, particularly in times of stress, and its direct effect on redemption risk. We agree that high yield and alternative strategies may be subject to more volatility when the markets generally are stressed; however, there are times when they experience less volatility than the overall markets. For instance, during the interest rate volatility from the Taper Tantrum, we found that bank loan funds performed well and were relatively stable while investment grade funds under-performed. In mid-December 2015, we found that loans were relatively insulated from broader market volatility (although not immune) because the defensive nature of the asset class, *i.e.,* its senior position in the capital structure, secured status, and short duration served as a form of capital protection. The differences in behavior amongst asset classes are a crucial reason for diversification in an investor's portfolio and why investors do not look to every fund for near-term liquidity needs. The Commission should study whether particular strategies or asset classes pose a risk of not meeting shareholder redemptions that must be addressed and determine the unique cause of that risk. If the Commission finds, with evidentiary support, that certain

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[19] Invesco FSOC Comment Letter; ICI, Comments on Notice (Mar. 25, 2015) ("ICI Comment Letter"); SIFMA, Comments on Notice (Mar. 25, 2015); Chamber, Comments on Notice (Mar. 24, 2015).

[20] Proposal at 29.

strategies or asset classes pose systemic risk or material redemption risk, then we recommend tailored rulemaking to reduce such risk.

C. Invesco Supports a Strong and Effective Liquidity Risk Management Program and Certain Required Elements of that Program for the Protection of Shareholders.

1. Invesco supports a baseline liquidity risk management program.

Invesco supports the requirement for each fund sponsor and adviser to have a baseline LRM program. Our liquidity management practices, described above, are an integral part of our investment management services and we consider it to be part of our responsibility to strive to maintain adequate liquidity to meet investor expectations. We also recognize that the Commission found certain asset managers had "substantially less rigorous"[21] liquidity risk management practices.[22] The failure of a fund affects the reputation of the industry and may affect funds in similar asset classes. As such, we appreciate that the Commission seeks to enhance liquidity risk management practices to ensure all asset managers incorporate "an enhanced minimum baseline requirement for fund management of liquidity risk."[23] To aid the effort, we recommend every adviser establish and maintain a principles-based, written LRM program.

Invesco recommends a requirement to implement a principles-based LRM program, comparable to the compliance programs under Rule 38a-1, for each open-end fund[24] reasonably designed to manage redemption risk. Funds need the flexibility to establish reasonable methods to implement such a program without overly prescriptive requirements in order to avoid frustrating investor choice and expectation, significantly weakening performance, tightening liquidity supply, and homogenizing and damaging the industry. The program should "provide[] fund complexes with flexibility so that each complex may apply the rule in a manner best suited to its organization."[25] Additionally, "funds and advisers are too varied in their operations for the rules to impose of [sic] a single set of universally applicable required elements. Each adviser should adopt policies and procedures that take into consideration the nature of that firm's operations."[26] For similar reasons, UCITS are required to establish, implement, and maintain an adequate and documented risk management process that includes identifying the risks to which the UCITS are exposed,

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[21] Proposal at 39.

[22] We do not believe poor performance or using the compliance function to monitor the 15% illiquidity guideline are indications that a fund was in danger of not meeting redemptions; therefore, we believe that the LRM program is not intended to ensure funds meet redemption requirements.

[23] Proposal at 39.

[24] We agree that unit investment trusts, interval funds, money market funds, and closed-end funds should be excluded for the reasons that the Commission set forth in the Proposed Rule.

[25] Compliance Programs of Investment Companies and Investment Advisers, Investment Company Act Release No. 26,299, 68 Fed.Reg. 74,714 (Dec. 24, 2003) ("Compliance Rule").

[26] *Id.*

such as liquidity risk.[27] Therefore, we submit that the Commission's compliance program rules (Rule 38a-1 under the 1940 Act and Rule 206(4)-7 under the Investment Advisers Act of 1940) can provide an adaptable philosophical framework and model for a rule requiring an LRM program. The Commission should require that advisers establish, adopt, and implement written LRM programs that are reasonably designed to prevent violations of Section 22(e) of the 1940 Act.

The LRM program should be broadly required to address certain areas: the liquidity of the markets in which the portfolio has significant exposure, the liquidity of the portfolio assets, the portfolio's strategy and disclosed risk appetite, historical flows, and sufficiency of tools in normal and stressed conditions. We agree that the portfolio-level factors in proposed rule 22e-4(b)(2)(iii) are appropriate considerations for a liquidity risk assessment of a fund. We recommend using the broad factor that requires the fund to review the liquidity of each position instead of a classification system. The factors should be sufficiently flexible to apply to differing strategies, funds, markets and other circumstances. Therefore, we recommend that the Commission provide the portfolio-level factors as guidance for fund managers and that funds maintain records of the factors that were considered.

2. Invesco Supports a 15% Standard Asset Maximum.

We also agree that a principles-based program alone may not be sufficient to deter bad actors or prevent failing to meet redemption requirements. Invesco considers the required 15% illiquidity maximum an important and instrumental element of the LRM program. We support the prohibition of acquiring 15% standard assets if immediately after the acquisition the fund would have invested more than 15% of its total or net assets in 15% standard assets. The 15% illiquidity guideline serves the important purpose of reducing redemption risk, can be applied with reasonable effort, works within the realities of the markets, and will not have the unintended, harmful effects of the prescriptive classification and three-day liquid asset minimum. The asset management industry has worked very well with the definition of illiquidity based on the 15% illiquidity guidelines for years and finds it sufficient.

3. Boards of Directors Should Oversee But Not Be Required to Approve Certain Aspects of the LRM Program.

The board of directors of a fund serves an important independent oversight purpose. The board, including a majority of its independent directors, should be required to adopt written policies and procedures reasonably designed to prevent violations of Section 22(e) of the 1940 Act. We support the board's initial and annual review of a fund's LRM program, including any material changes to the program. The policies and procedures should be reviewed annually to determine their adequacy and effectiveness and should consider the need for interim reviews for significant changes in the markets, funds, or regulations. An LRM program should require periodic reporting and reporting of any breaches to the board.

However, we do not believe that the board should approve individual and specific details of an LRM program, such as the three-day liquid asset minimum (should the minimum be required). Managing liquidity risk requires investment expertise and the time and ability to use investment data that the board and individual directors may not possess.

[27] AFLI Guidelines at 5 (citing EU Directive 2010/43/EU).

The board's role is oversight and does not encompass processing data or making investment judgments necessary for prudent liquidity risk management. Also, the board cannot logistically move as quickly and nimbly as may be necessary to respond to rapidly evolving market conditions.

Independent scrutiny by the board at the level suggested by the Commission is unnecessary. With respect to risk, as explained above, the interests of the adviser are aligned with those of the shareholder. Additionally, requiring the board to approve a LRM program that is reasonably designed to manage redemption risk would provide sufficient independent oversight. There is not a need for the board members to make judgments about specific elements of a program that is beyond their expertise.

4. Each Adviser Should Determine the Appropriate Administrator of a Fund's LRM Program.

The Commission should not dictate who should or should not administer a fund's LRM program. Invesco believes that portfolio management is in the best position to administer a LRM program with support from GPMR, the compliance department and other back office support functions. The administrator must have a deep understanding of the markets, portfolios, assets, strategies, and the program, which are skills resident within the investment function. Moreover, the administrator must be able to move swiftly at times of stress to appropriately manage redemptions and the portfolio management teams will be the first to know of or expect such situations. An administrator independent from or divorced from portfolio management would cause the liquidity assessment to be compartmentalized away from the investment process, which we believe could be disadvantageous to the fund and investors. Furthermore, since the interest of the investment team is generally aligned with the need to provide adequate liquidity, a potential conflict of interest is not likely to be a concern. The administrator should report to the board regarding the LRM program in the context of regular board reporting on the risk and performance of the fund. We believe our portfolio management teams and their CIOs are best suited for this task.

D. Invesco Opposes the Asset Level Classification System Because it is Unworkable and Unhelpful in Reducing Either Liquidity or Redemption Risk.

Assessing the liquidity of assets is a significant consideration in prudent liquidity risk management, but classification is not a suitable method to evaluate position-level liquidity. Invesco portfolio managers firmly believe that the classification of assets will not be useful in the reality of liquidity management across a variety of strategies. Liquidity is a fluid, relative concept dependent on numerous considerations that does not lend itself to a classification system. Moreover, the classification system in the Proposed Rule is overly burdensome and ineffective because (a) liquidity cannot be predicted with sufficient precision; (b) the criteria used to classify assets is difficult to obtain, costly, or simply not available; (c) consistency of classification amongst funds is highly unlikely and subjectivity renders classification unhelpful to the Commission or shareholders; (d) the position classification potentially exposes funds to unacceptable amounts of liability; (e) the frequency of classifying portfolio asset liquidity is unreasonable; and (f) the significant labor and cost required is not justified. We recommend a broad requirement to include the liquidity of a portfolio asset as a factor in determining the overall liquidity of a fund.

1. Position Classification is Inappropriate Because Liquidity Cannot Be Predicted with Precision.

Liquidity cannot be predicted with sufficient precision to classify all of the funds' holdings appropriately. An infinite number of unpredictable, ever-changing factors affect liquidity, such as sector conditions, market structure, or fund ownership, and even a simple announcement about asset purchases from the Federal Reserve such as the announcement that threw the market into a Taper Tantrum. It is possible that a liquidity analysis was accurate in the morning, but became inaccurate and dated in the afternoon. Regardless of how much data, expertise, and analytics are thrown at the question, that degree of precision and clairvoyance is not possible. An asset manager does not know the liquidity of an asset with precision until they have tried to sell the asset.

Additionally, in the fixed income space, without a comprehensive source of data,[28] liquidity is challenging to measure. The classification system is particularly unhelpful for fixed income funds, such as corporate bond funds. As the DERA study noted, fixed income instruments require high quality data, which is not readily available, and there is not a common measure of liquidity available.[29] The liquidity measures for fixed income "are typically more complex and tailored to the data available for each [asset] class….In addition, the infrequent trading of many fixed-income securities can introduce both stale and inaccurate measures of liquidity into the calculation of a fund's bottom-up liquidity."[30] These challenges are, in part, why Invesco relies on the qualitative opinion of our experienced and knowledgeable portfolio managers, whose judgment incorporates even unapparent information. Portfolio managers know the securities in their portfolios intimately and do not find the proposed classification to be useful in their management of fund liquidity. To the contrary, our portfolio managers find the proposed classification system arbitrary and a potential unnecessary constraint on their investment discretion.

2. Position Classification is Inappropriate Because the Criteria for Classification are Not Realistic.

The criteria for classification (i.e., "the number of days within which the fund's position in a portfolio asset (or portions of a position in a particular asset) would be convertible to cash at a price that does not materially affect the value of that asset immediately prior to sale") are unworkable. First, the condition of not moving the market is not realistic. There is a cost to liquidity that shareholders deliberately bear, for example, when an investor chooses an investment grade fixed income fund over a money market fund and is accordingly compensated for the increased risk. Liquidity analysis must allow for reasonable price movement. Also, the price of a large position in any asset class will

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[28] Some fixed income data is generally provided voluntarily by market participants or trading venues, but there is not a comprehensive source as with securities that have central clearing.

[29] DERA study at 31-32.

[30] *Id.* at 32. The challenges in the fixed income space highlight another concern about the proposed classification system. We do not believe the asset-level factors will fit for all funds; funds need the ability to view the liquidity of portfolio-level assets more specifically to that fund's objective and strategy. Asset-level analysis should be dependent on the fund's strategy, among other factors. For instance, a senior loan fund may need different types and more in-depth analysis for each asset than a large cap equity fund.

move in a normal market environment; not permitting a price movement band would make it potentially questionable and certainly more difficult to maintain a large position in any security even if such position is in the best interest of the fund. For such reasons, a large fund may be perceived by shareholders as less liquid than a smaller fund because a portion of its larger holding in the same asset held by the smaller fund will have a less liquid classification compared to the smaller fund, even if the large fund is actually more liquid at the portfolio-level. Similarly, for certain assets, such as those that are thinly traded, any position size may move the market for that security. Second, the phrase "materially affecting" is subjective and thus does not provide a reliable and common measure for funds to use. Finally, the asset-level factors are not always necessary, feasible, or reasonable considerations in determining the liquidity of an asset.

3. Position Classification is Inappropriate Because Subjectivity Renders Classification Unhelpful or Harmful and Consistency is Improbable.

Consistency of liquidity classification practices and analysis amongst funds is highly unlikely and, we believe that, the inherent subjectivity renders classification unhelpful to the Commission or shareholders and exposes funds to inappropriate potential liability. We appreciate that the Commission "recognize[s], and anticipate[s], that different funds could classify the liquidity of identical portfolio positions differently, depending on their analysis…."[31] There are several subjective elements to the classification, such as the analysis of the factors, the inclusion or exclusion of applicable factors, and the determination of the "materially affecting" standard, that will lead to variations in analysis. We anticipate that, in addition to differing good faith analysis, some asset managers may use less conservative classifications based on claims of broader access to markets or expertise in trading. The subjectivity also gives aggressive fund complexes the opportunity to abuse the subjectivity, further exacerbating the variations and unreliability of the analysis. The inherent subjectivity required to classify fund holdings makes the classification an unhelpful view of comparative liquidity for shareholders and the Commission. We believe that the Commission and shareholders will, therefore, be unable to use the classification system as a common measure of liquidity.

Additionally, the subjectivity and estimation (e.g., forward-looking assessments) also exposes funds to inappropriate levels of potential liability, even when such determinations and decisions are made in good faith. Funds need a high threshold of intent before any liability attaches to the LRM program; specifically, liability should require that conduct be at least reckless or with malicious intent. Only the Commission should be able to enforce the LRM regulation. There should not be a private right of action.

4. Position Classification is Inappropriate Because the Frequency of Classification is Unreasonable.

The frequency of classifying portfolio asset liquidity is unreasonable. Even under normal market conditions, liquidity is a constraint on the investment process that managers address on a daily basis, and in some funds on a trade-by-trade basis. Managers continually analyze liquidity, cash positions, fund flows, and other aspects of their assets, funds, and markets. Although portfolio managers can be aware of and consider asset liquidity in real-time, they cannot classify the assets in real-time. Classifying assets each time the liquidity of an asset changes is not practical because the liquidity of an asset

[31] Proposal at 67-68.

changes constantly. The Commission indicated that classification should occur at least on a monthly basis, but even monthly is not practical because of the amount of time and effort involved. Moreover, monthly classification data is likely to be stale and unhelpful. The classification system will be a significant burden that fails to produce an important benefit.

5. Position Classification is Inappropriate Because the Significant Costs are Not Justified.

Given that the classification system does not fit into the realities of asset management and does not provide a discernible benefit, the extensive burden on the adviser is unwarranted. Invesco has more than 63,000 portfolio positions that would need to be monitored and updated. Assuming we can automate the classification process and based solely on preliminary inquiries, we estimate more than $2 million in initial costs and more than $650,000 in annual recurring costs. However, we do not believe that one can fully automate the proposed classification system. Since a manual decision needs to be made by an investment professional on each position based on the complex classification system, the information would be labor-intensive and very difficult (if not impossible) to fully automate. Certain assets, such as over-the-counter (OTC) instruments, or factors, such as the quality of market participants, will need to be analyzed manually, requiring substantial time and resources. Additionally, reviewing the relationship of one asset to another, such as linking the liquidity of a derivative, the collateral covering the derivative, and the hedged security, will be a significant challenge because it will require an onerous transaction-by-transaction classification, which is a departure from current industry practice. The individuals in the best position to determine the liquidity of the assets (the portfolio managers) would spend substantial time classifying positions rather than managing their funds. We would need to hire additional investment professionals with asset class specialties as well as additional GPMR and compliance support individuals for that task alone. None of these individuals would be as knowledgeable as the portfolio manager. Furthermore, third-party service providers that provide certain asset-level data may require additional fees to permit the use of data for classification purposes if the classifications are ultimately disclosed to the public. The Commission's estimate of costs is a gross underestimate of expenses[32] and investors will bear the impact of the higher costs.

We agree that third party services can be used to assist the adviser in liquidity risk management and that the responsibility is ultimately with the adviser and the fund for the efficacy of the program. However, it is too early to determine whether third party solutions will be available, viable, or widely acceptable in the industry, if their analysis is sufficient for the funds or acceptable to the Commission, and how costly this will be for fund shareholders. The manual, labor-intensive analysis will probably not be supported by any third party service providers. We are also mindful of the lessons learned in using third party credit rating agencies.

[32] Also, the Commission cited a lack of information multiple times in determining what the costs may be. *See e.g.* Proposal at 318 (citing lack of information as one of the reasons why the Commission is unable to estimate potential costs).

6. **Invesco Proposes a Broad-Based Requirement to Review Portfolio Asset Liquidity.**

Rather than using the proposed classification system, Invesco recommends that funds be required to evaluate portfolio asset liquidity as one factor in portfolio-level liquidity management. Each fund manager would determine how to best assess asset liquidity for each fund. Such a requirement would achieve the need to include portfolio asset liquidity in determining the overall liquidity of the fund and ensure that shareholders are not exposed to avoidable redemption risk.

While we do not agree that a position classification system is meaningful and believe it to be overly burdensome and potentially harmful, if the Commission is determined to require a position classification system, we suggest the following, which we believe is similar to the alternative classification system proposed by SIFMA and one of the alternatives proposed by ICI. Funds could provide to the Commission (1) the percent of portfolio assets that can be converted to cash in one business day under normal market conditions; (2) the percent of portfolio assets that can be converted to cash within two or three business days under normal market conditions; (3) the percentage of 15% standard assets and (4) all other assets. The proposed factors for evaluating an asset's liquidity is more appropriately issued as elective guidance rather than mandatory considerations because not every asset will require an in-depth analysis (e.g., treasury securities), and some factors are not feasible to incorporate without intensive manual involvement.

E. **Invesco Opposes the Three-Day Liquid Asset Minimum as Potentially Harmful and Unhelpful in Reducing Liquidity or Redemption Risk.**

We fear that the three-day liquid asset minimum will lead to several unintended consequences as well as be ultimately unhelpful. The three-day liquid asset minimum may unnecessarily cause fund performance to decline.[33] A prohibition on acquiring assets if the three-day liquid asset minimum is not met may cause a fund that cannot acquire favorable three-day liquid assets to be in the difficult position of selling favorable, less liquid assets in the portfolio or acquiring less favorable three-day liquid assets. It may also cause the fund to lose a valuable, time-sensitive investment opportunity, which may be particularly unnecessary during times of liquid markets. Also, without a specific exemption, an index fund will not be able to track the performance of the index it follows as expected by the shareholders and the market. In any of these circumstances, the result is a decline in fund performance and a limit on the risk/reward ratio of the average investor. Such a result is contrary to investor expectations. Individual investors depend on open-end funds to meet their financial needs in a cost effective manner. Mutual funds and ETFs permit investors to access assets with high performance potential that may be considered less liquid, such as bank loans and high yield bonds, in a cost effective manner.

Moreover, the requirement will probably not be helpful or achieve its intended purpose because it will either not be needed or will not be enough. The amount of liquid assets needed is dynamic – it changes depending on the facts and circumstances and changes in the fund, shareholders, and markets. Unfortunately, an asset manager cannot predict the conditions of an extraordinary (unforeseeable) market. In an extraordinary

[33] We anticipate that some asset managers will be incentivized to increase leverage in portfolios in order to recover lost returns if they need to carry higher levels of cash and/or three-day liquid assets.

market, liquidity may be unpredictable, fast moving, and so tight that no particular amount of one-day liquid assets may be enough. In an unforeseeable stressed environment (i.e., an extraordinary environment) where redemption risk is present, the three-day liquid asset minimum will likely be insufficient. Third Avenue FCF reportedly had a cash position of at least 10% of assets, which was shown to be insufficient.[34] In any normal or foreseeable stressed environment, the three-day liquid asset minimum is not needed since portfolio managers determine adequate liquid asset level requirements daily based on current facts and circumstances.

As discussed in the next section, we also believe that the three-day liquid asset minimum may cause decreased diversification across funds with similar strategies, tightened supply of assets, and loss of assets from the industry as investors seek alternatives to open-end funds.

In sum, the three-day liquid asset minimum may diminish diversification in open-end funds, unnecessarily weaken performance, further concentrate portfolios into certain assets (tightening liquidity), cause funds to not meet their principal investment strategies or closely track their index, and cause investors to seek alternatives to open-end funds. If the Commission is determined to require a liquid asset minimum, Invesco recommends a requirement to maintain a "target" of three-day and/or seven-day liquid portfolio assets within a reasonably narrow range. These assets could be converted to cash within three days and/or seven days under normal market conditions, as determined by the adviser. A fund could opt to maintain a certain percentage range in three-day assets and another percentage range in seven-day assets, or just a percentage range in three-day assets or seven-day assets. The fund would not be prohibited from acquiring any asset if the minimum is not met, but must acquire a three-day or seven-day liquid asset within a reasonable amount of time of dropping below the minimum. For example, an equity fund could determine to maintain three-day liquid assets between 1% and 3% at all times.[35] The Fund could go above 3% at any time, but if the three-day liquid assets drop below 1%, the fund must make reasonable efforts to increase to 1%. A different type of equity fund could determine to maintain 3% to 5% in seven-day liquid assets at all times. The Fund could go above 5% at any time, but if the seven-day liquid assets drop below 3%, the fund must make reasonable efforts to increase to 3%. Instances and explanations of dropping below the minimum range must be reported to the board, after-the-fact, and at least on an annual basis. We recommend that the targeted range be disclosed to shareholders. The range would allow the fund the flexibility to adjust the minimum on changing market conditions, such that the fund is not unnecessarily constrained in highly liquid markets. The range would also allow enough diversification amongst funds to avoid some of the potential harms discussed above and the industry is less likely to homogenize. The fund could consider the factors as Commission-issued guidance, but be permitted to consider any current or near-term considerations. Problems with the portfolio-level factors include the fact that forward-looking information is often unreliable. We suggest an option of three days or seven days since Section 22(e) of the 1940 Act requires seven days to meet redemptions, not three days; however, we appreciate the Commission's argument that the Commission required funds to meet broker-dealer redemptions in three days.

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[34] *See* Joe Morris, *Extraordinary Outflows Buried Focused Credit*, Ignites (Dec. 18, 2015).

[35] The percentages are meant for illustration and are not indicative of potential actual percentages.

F. The Position Classification and Three-Day Liquid Asset Minimum Requirements of the Proposed LRM Program Will Not Likely be Effective, Carefully Tailored, or Preserve the Core Features of an Open-End Fund.

We ask that the Commission ensure that any rulemaking (a) is effective in accomplishing the goal of minimizing liquidity risk to the extent that it poses a threat to a fund's ability to meet redemptions; (b) is carefully tailored to address that goal; (c) preserves the utility and core features of an open-end fund (such as investor choice and risk-based performance) in order to avoid harming the industry; and (d) minimizes other unintended, potentially destabilizing consequences. We are concerned that the prescriptive elements of the proposed LRM program do not meet these criteria.

As discussed in the previous two sections, we believe that the position classification and three-day liquid asset minimum elements of the liquidity risk management proposal are unlikely to achieve the proposed goal of minimizing a threat to a fund's ability to meet redemptions. Third Avenue FCF is illustrative. Neither the proposed classification system nor the three-day liquid asset minimum would likely have affected the outcome with Third Avenue FCF. Regardless of whether the asset manager misestimated how much to hold in cash or cash-equivalent assets, the amount was insufficient due to market conditions and shareholder redemption pressure overwhelmed the holdings. It is unlikely that a requirement to have a three-day liquid asset minimum would have changed the course of events. Even if Third Avenue FCF had increased the percentage of cash held, it is unclear what particular amount would have been sufficient given their portfolio holdings and strategy, outflows, market conditions, and poor performance. We also concluded that a position classification system as proposed would not have caused shareholders to have acted differently. While we do not make a judgment as to whether FCF's disclosures were sufficient, appropriate, or met regulatory requirements, we do note that the fund discussed its high concentration of distressed debt and illiquid assets and liquidity risk and provided its schedule of assets. Third parties, particularly sophisticated third parties, had sufficient information to identify its vulnerabilities and understand its risks.

It is our view that the position classification system and three-day liquid asset minimum will detrimentally impact investor expectations and change certain core features of mutual funds and ETFs, which will lead to potential unintended consequences, as discussed below.

1. The Position Classification and Three-Day Liquid Asset Minimum Will Likely Diminish Diversification Among Open-End Funds Investing in Similar Strategies.

The position classification and three-day asset minimum will likely diminish diversification among open-end funds investing in similar strategies. The Proposed Rule may cause funds with similar strategies to buy the same assets and increase their investments in the same "liquid" investments resulting in similar portfolio compositions amongst the funds. As a result, investors will have fewer truly distinct fund options available to them. Furthermore, mutual funds and ETFs will be unable to compete with less expensive and outperforming non-registered products (such as collective trusts) with similar strategies that do not have to operate under the same restrictions. Also, competition among fund families will diminish as funds with similar strategies will appear identical, which in turn may cause funds to close and assets to move away from the industry. As an example of the unfavorable effects of Commission rules that change core features of mutual

funds, we can consider money market reform. Due to the July 2014 money market reforms instituted by the Commission that require implementing floating NAVs, redemption gates, and liquidity fees on prime money market funds, there have been significant money market fund strategy changes and conversions from prime to government funds.[36] In addition, several fund families have announced their intention to close their money market fund business altogether, in part because of the money market reforms, further homogenizing the money market industry.[37]

2. The Increasing Correlation of Investment Portfolios May Lead to a Liquidity Crunch.

The increasing correlation of investment portfolios may lead to tightened market liquidity. A requirement to possess a defined amount of three-day liquid assets will cause a high demand in three-day liquid assets. Further, because every fund has specific investment objectives and restrictions, only certain three-day liquid assets are available to each fund. Just as the three-day liquid assets will be in higher demand, the less liquid assets will become even less liquid. The consequences of the demand are multi-fold. The asset management industry is a crucial player in the buy-side of our capital markets, providing vital benefits to capital formation. There will be less capital available to small or other businesses that rely on buyers such as mutual funds as investments are diverted to three-day liquid assets. Additionally, if the entire asset management industry is required to concentrate a percentage of all assets in the same set of limited assets, then it could have a tightening effect on the market of those assets, leave other assets without a market, and exacerbate volatility. Furthermore, if one were to assume that the herd behavior and fire sale theories promulgated by FSOC were true, the prescriptive limits and parameters of the

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[36] A recent JP Morgan securities analyst estimated that $600 billion to $650 billion of assets of prime money market funds could convert to government money market funds (42%-45% of all prime funds). We also understand that intermediaries and investors will move more assets closer to the major money market reforms implementation date (October 2016).

[37] "Mergers and acquisitions trimmed the money funds industry from 75 providers in the United States last summer to just 67 this year, according to Crane Data, an industry research service…So many large players have resisted getting out of the business until now, but it's just a matter of the costs and uncertainty of money fund reforms proving to be overwhelming to some players." Trevor Hunnicut, *Blackrock to Buy Bank of America's $87 billion Money-Market Fund Business*, Reuters (Nov. 3, 2015), http://www.reuters.com/article/2015/11/03/us-bank-of-america-blackrock-funds-idUSKCN0SS1HJ20151103#vAgQ0dSujY8j1cBr.97 (internal quotations omitted). For example, William Blair Funds is liquidating its sole money market fund as of November 2015, *see* William Blair Funds, Supplement to Prospectus (May 1, 2015); Huntington Asset Advisers, Inc. and Reich & Tang sold their money market businesses to Federated Investors, Inc. with about $5 billion in combined AUM (*see* Federated Press Release, Federated Investors' Money Market Funds to Acquire Approximately $1 Billion in Assets from Huntington Money Market Funds (Sept. 9, 2015) and Federated Press Release, Federated Investors, Inc. Completes Transition of Shareholder Assets from Reich & Tang Money Market Funds (July 28, 2015)); and BofA Global Capital Management sold its $87 billion money market mutual fund business to BlackRock, Inc. (*see* Bank of America Press Release, Bank of America Corporation agrees to transfer investment management responsibilities of BofA Global Capital Management to BlackRock, Inc. (Nov. 3, 2015)). The ICI reported that the share of prime versus government funds moved to 47% and 44% respectively (from 54% and 37% respectively). Press Release, ICI Reports Money Market Fund Assets, Investment Company Institute (Dec. 3, 2015).

Proposed Rule would cause funds to behave similarly (creating herd behavior),[38] which would cause tightened supply (liquidity crunch) and fire sales in the event of stress. As an example, the capital requirements imposed on dealers have caused tightened supplies and increased treasury volatility, among other things.[39] Additionally, money market reform has led to an increased demand for government securities, at a time when supply was already limited.

3. Fund Behavior Will Likely Change Regardless of Whether a Fund had Appropriate Liquidity, Leading to Negative Effects.

The Commission argued that certain negative effects, such as diminished diversification, will not occur because fund changes will occur only "if a fund were to determine it needs to adjust…."[40] We disagree. We believe that the composition of portfolios will likely change as a result of the prescriptive elements of the proposed LRM program regardless of the liquidity profile of the fund. Funds will change because of competitive pressure. We expect that asset managers with a propensity for conservativeness will have an unnecessary large three-day asset minimum and competitive pressure will cause other funds to maintain a similar three-day liquid asset minimum. Many funds may feel they are required to change the portfolio composition in order to satisfy the Commission's interest in aligning the classifications and practices of the funds and demonstrate the effectiveness of the rulemaking. If the prescriptive elements of the proposed LRM program do change fund behavior, then the industry and investors will face diminished fund diversity, reduced fund performance, and other potential, unintended market liquidity problems.

G. Invesco Finds the Depth And Frequency of the Proposed Disclosure Requirements Inappropriate.

The depth and frequency of the proposed disclosure requirements are inappropriate because (a) we do not believe that position classification is needed for the Commission's oversight purposes; (b) the information would be confusing to shareholders; and (c) funds would be harmed due to the confidential, proprietary nature of the information. However,

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[38] FSOC and FSB have continued to speculate (without any evidentiary support) that asset management products pose a threat to financial stability because of herding behavior by investors, but the asset management industry has not found that to be reflective of how the markets behave. *See* Juliet Samuel, *Runs on Investment Funds Could Pose Systemic Risk, UK Regulator Says*, Wall Street Journal (Dec. 8, 2015). If, however, one is to accept that herd behavior and fire sales are existent among asset managers, then the prescriptive elements of the LRM program would exacerbate such problems. We continue to maintain that investors in the registered fund space do not engage in herd behavior and fire sales is a negligible risk.

[39] *See* Joe Rennison, *Liquidity Deteriorates for U.S. Treasuries*, Financial Times (Nov. 23, 2015) (liquidity is already tightening from lack of dealer support stemming from more rigid capital requirements). "Higher bank capital standards increased the capital cost of trading books and securities financing activities, reducing their return on equity. The Volcker Rule requires banks and their affiliates to refrain from proprietary trading, although the rule does not prohibit market making. These regulatory reforms addressed critical systemic vulnerabilities revealed by the financial crisis; they have also affected trading and funding liquidity in securities market." Department of Treasury, Office of Financial Research, Financial Stability Report (Dec. 15, 2015).

[40] Proposal at 317.

we think that information about each fund's LRM program and liquidity risks should be described in such a way that shareholders will find it useful in understanding the anticipated liquidity of the portfolio and the redemption risks.

1. Position Classification Disclosure is Not Needed for the Commission's Oversight Purposes.

We believe that the Commission's oversight of funds' liquidity risk can be best handled by reviews of the LRM programs through the Commission's Staff in Investment Management and the National Exam Program and supplemented by data analysis.[41] Such data should be helpful in ensuring that the industry maintains minimal redemption risk or systemic risk (to the extent any exists). The information proposed to be disclosed and as proposed to be amended by Invesco on Form N-PORT should provide sufficient data for the Commission to identify the portfolio assets and the assets' liquidity.[42] For example, the Commission will have such sufficient data from (a) the schedule of portfolio assets and (b) certain metrics for debt and derivative instruments (both, as described in the Disclosure Proposal with proposed amendments).[43] If needed, the Commission can use its own analytics[44] or third parties for analysis, which would also ensure uniformity in review, protect funds from liability of differing and subjective analysis, avoid shareholder misunderstanding, and avoid competitive disadvantages. While we anticipate that the current and proposed data to be collected by the Commission through proposed Form N-PORT will be sufficient for the Commission's oversight purposes, the Commission could require additional data after the opportunity to test and analyze initial sets of data.

2. Position Classification Disclosure Would Be Confusing to Shareholders.

Classifying and disclosing each position would be confusing to shareholders. The Commission has worked for years at simplifying information provided to shareholders and eliminating unnecessary information, but the classification proposal is directly contrary to that movement. Liquidity analysis is inherently complex and cannot be simplified into a classification system without being confusing.[45] Many retail investors are not sufficiently

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[41] In fact, the Commission's 2016 exam priorities include review of "liquidity controls," which "will include a review of various controls in these firms' expanded business areas, such as controls over market risk management, valuation, liquidity management, trading activity, and regulatory capital." Commission National Exam Program, Office of Compliance Inspections and Examinations, Examination Priorities for 2016 (Jan. 11, 2016).

[42] We incorporate our comment letter on the Disclosure Proposal. Invesco Comment Letter to the Disclosure Proposal (Aug. 11, 2015).

[43] *Id*.

[44] We assume that Commission has the ability to analyze the massive data requested to make it useful in its oversight function.

[45] Even the Wall Street Journal overly simplified illiquidity, misapplied equity concepts to fixed income, and "produced results that we consider erroneous and misleading to investors." *See* Andrew H. O'Brien, *Bond Funds: Solid Answers to Key Liquidity Questions* (Sept. 24, 2015), https://blog.lordabbett.com/blog/2015/09/bond_funds_solid_answers_to_key_liquidity_questions.html

sophisticated to understand how the classifications were determined and what they mean, why one fund company has a different classification than another for the same asset, or how classification fits into the liquidity of the portfolio. Investors engage asset managers because understanding the liquidity of a collection of assets is challenging and must be understood in the context of other risks and considerations, such as issuer/quality and performance. Also, the lack of uniformity and standardization associated with the classifications makes the public disclosure of this item not helpful to investors at best, and potentially confusing at worst. Furthermore, with a two month time lag, the liquidity determinations will be stale and unreliable since liquidity can change even intraday. Finally, the classification system will likely have the effect of creating an over-emphasis on the liquidity of portions of an asset position when there are numerous considerations that must be analyzed in determining the liquidity of an entire portfolio.

Public disclosure of the classifications could have the additional unintended consequences of stifling robust liquidity risk management processes as well as causing fund complexes to use boilerplate liquidity determinations, such as from third party services. The burden and cost to abide by the classification rule could be too harsh to allow for multiple processes and would lead to less thoughtful liquidity determinations. For example, a fund could currently have robust processes, but abandon them to abide by a classification rule that is less effective but required by regulation. Additionally, the Commission also proposed that Form N-1A include disclosures about cash redemptions, but disclosing ways a fund may redeem would inappropriately limit the fund in its methods to meet redemptions to those that were previously disclosed. We request the flexibility to use any and all means available, without being limited to what may have been disclosed under different market environments. Also, it does not serve a purpose for investors to know precisely how the fund meets their redemption requests – so long as they receive their redemption proceeds within the period prescribed by regulation.

3. Position Classification is Confidential and Proprietary Information and Disclosure Would Be Harmful to Funds.

Disclosing our liquidity determinations and the analysis of factors used would be releasing proprietary information to the public and competitors and be substantially harmful to funds and their advisers. The disclosure requests are so invasive and detailed that funds may lose some of their competitive advantage. Both position/asset-level and portfolio-level liquidity analytical determinations consist of confidential financial information that is commercially valuable and used extensively in our asset management services – our business. For these reasons, we do not customarily release such information. For example, a fund's view of liquidity of an asset is a crucial part of its trading strategy and directly affects the cost of the asset. If this is disclosed publicly, trading counterparties may charge fees and other costs based upon those disclosed liquidity parameters even if they hold a more or less aggressive view. Furthermore, competitors can benefit from the fund's substantial labor by mimicking the fund's determinations or taking advantage of the fund's publicly disclosed determinations when the competitor later trades in the same asset. In addition, providing the credit agreement for a fund's line of credit will be disclosing proprietary and competitive information, even if fee information is redacted. We are also concerned about the security of the sensitive information filed with the Commission due to recent high-profile cybersecurity breaches both in the governmental and private sectors.

(discussing Matt Wirz and Tom McGinty's September 21, 2015 article titled *The New Bond Market: Some Funds Are Not as Liquid as They Appear*).

4. Certain Disclosures Regarding the LRM Program Should Be Required.

It is important for investors to understand the liquidity and the redemption risks of a fund and information about the LRM program may aid in that understanding. Therefore, funds should disclose a narrative of the program with information that an investor would find helpful in each fund's statement of additional information. We also recommend that the prospectus have a statement about the liquidity risk appetite of each fund. However, if position classification is required in any form, we adamantly request that it not be disclosed publicly.

H. We Ask that the Commission Consider the In-Kind Nature of Most ETF Redemptions and Exclude ETFs from the LRM Program Requirements.

ETFs that transact in-kind are the majority of ETF assets and should be wholly excluded from the LRM proposal. Although the Commission has provided guidance that funds "assess the liquidity characteristics of an ETF's underlying securities, as well as the characteristics of the ETF shares themselves, in classifying an ETF's liquidity," we do not believe that to be workable guidance given that the liquidity classification is based on time to convert to cash and these assets are not converted to cash by the ETF. The classification also disregards the exemptive orders under which the ETFs operate and expect redemptions in-kind whenever possible to minimize liquidity problems (among other reasons). Additionally, the Commission has noted in the Proposed Rule that redemptions in-kind minimize the risks with which they are concerned. Following that logic, these funds do not pose the risks that the Commission is trying to mitigate with the LRM program. Alternately, if ETFs are not excluded from the scope of the Proposed Rule, we recommend a classification bucket for assets that are redeemed in-kind.

We also request an exemption for index funds. The three-day liquid asset minimum is particularly challenging to impossible for an index ETF to meet. The investment team does not have discretion regarding the assets it includes in the portfolio, if they follow a replication strategy. Furthermore, the exemptive orders require a 5% maximum tracking error, which may be easily exceeded depending on the level of the three-day liquid assets contained in a particular index or size of the fund. We also have concerns regarding the potential adverse ramifications on the index providers' strategies if the Proposed Rule is passed in its current form. Moreover, there has not been a documented problem concerning the liquidity of ETFs that redeem in-kind.

III. Invesco Requests Commission Assistance Regarding Interfund Lending, Redemptions In-kind, and Centralized Trading to Improve Liquidity.

A. Invesco Requests Commission Relief Regarding Interfund Lending.

Invesco believes that interfund lending could be a more useful tool to an LRM program in extraordinary circumstances if some restrictions are relaxed. For instance, it would be helpful if an interfund loan could be outstanding for longer than seven days. Currently, the loan may only be outstanding for the lesser of the time required to receive payment for securities sold, or seven days. In an extraordinary, stressed environment, seven days may be insufficient time (otherwise redemption risk would not be present). Even if the seven-day requirement is changed, the loaning fund still has the right to demand repayment at any time. In addition, funds would benefit from less restrictive terms

triggered by an NAV decline or redemptions. Currently, if the borrowing fund has more than 10% in aggregate outstanding loans because of a decline in NAV, redemptions, or similar reason, then within one business day, the fund must repay the interfund loan, reduce all borrowings below 10%, or secure the interfund loan with 102% margin until it is below 10%.

B. Invesco Favors Redemptions In-kind and Requests Commission Assistance.

Invesco considers the ability to redeem in-kind an important tool in the proper management of open-end funds. Each fund that uses redemptions in-kind should have written procedures. The primary problem with using redemptions in-kind to meet large redemptions is the willingness and ability of the redeeming entity to receive securities instead of cash. While there are times when the receiving entity is unable to handle the transfer of assets, other times the entity is simply unwilling to do so. We welcome efforts by the Commission to aid in facilitating funds' ability to use redemptions in-kind with entities that are able to receive securities. Also, it would be clearer to eliminate Rule 18f-1 in order to clarify that all funds may redeem in-kind or in cash.

C. Invesco Urges Creating Centralized Trading Platforms to Shorten Settlement Periods.

Certain market-wide solutions may improve liquidity in the capital markets without causing unintended harmful consequences. For example, Invesco supports initiatives which would shorten the settlement period of fixed income instruments (such as leveraged loans) through standardization of terms and the automation of the settlement process and other evolving industry initiatives. Similarly, Invesco supports the creation of centralized fixed income trading platforms and standardization of fixed income issuance. It was not long ago that equity securities settled on a T+7 basis rather than today's T+3 standard and initiatives are underway to shorten that time to T+2. Many futures contracts and derivative instruments settle on a T+1 basis. A reduction in the settlement time frame of investment instruments would increase the robustness of the capital markets generally while at the same time mitigating liquidity risks.

IV. Comments on Swing Pricing Proposal

In theory, Invesco supports swing pricing as a tool that may help in mitigating the potential dilution of fund shareholders due to large share purchases or redemptions. However, we believe that there are fundamental issues and questions that must be addressed prior to effective implementation of swing pricing in the U.S.

A. Partial Swing Pricing May Help in Mitigating Potential Dilution of Fund Shareholders.

Currently, on those occasions when a fund incurs transaction costs to meet shareholder subscriptions or redemptions, the subscribing or redeeming shareholders do not bear those costs; rather, the long-term shareholders do. Swing pricing endeavors to shelter those long-term shareholders from the impact of the actual cost of purchasing or selling the underlying assets of a fund when those costs deviate from the carrying value of these assets in the funds' valuation due to commission charges, taxes, and any spread between the buying and selling prices of the underlying assets (i.e. dilution). We have found partial

swing pricing successful in meeting its stated objective in the Invesco UCITS, which have used swing pricing since at least 2007.[46] In measuring dilution since swing pricing was introduced, we have generally found levying trading costs through an appropriate swing factor has saved the funds notable transaction costs.[47] Although certain investors who redeem or purchase may have an extra price burden or windfall based on the actions of other shareholders, our experience suggests that the value to the remaining shareholders outweighs this concern. We are concerned that there may be investors who would prefer not to use a vehicle with the potential for swing pricing, but we believe those would be a minority of investors and the impact to the industry will be manageable.

While we concur that partial swing pricing would mitigate dilution, we have not found that Section 22(e) and rule 22c-1 under the 1940 Act or any other regulation support rulemaking that lessens dilution. Swing pricing, while useful in minimizing dilution, does not affect the ability to meet redemptions. Additionally, we have observed that asset managers already have a strong interest in minimizing dilution and thus take actions to reduce dilution with tools currently available. Finally, we do not believe swing pricing is necessary for investor protection, particularly as it is a disclosed cost of a fund's liquidity.

B. We Identified Three Fundamental Issues with Partial Swing Pricing: It Must Be Mandatory, Funds Must Receive Investor Flows in Sufficient Time; and There Must Be a Safe Harbor from Potential Liability.

1. First And Foremost, Operationally Implementing Partial Swing Pricing for U.S. Mutual Funds Is Not Feasible.

Operationally implementing swing pricing for U.S. mutual funds is not currently feasible. As the Commission has noted, "swing pricing requires the net cash flows for a fund to be known."[48] Our experience suggests that reasonably accurate net flow information must be available to calculate the swing threshold sufficiently in advance of calculating the swing factor and the net asset value (NAV). First, estimates based on interim feeds received from the transfer agent or distributor prior to the NAV calculation are insufficient. The net flow of a fund can vary wildly intraday making an estimate unreliable. Additionally, a significant portion of transaction information comes in after the NAV is calculated. Of the omnibus activity that we receive for the mutual funds (generally between 50%-80% of the daily volume), we ascertained that: about 23% of omnibus trades are received before 3 p.m. CT; about 40% of trades are received between 3 p.m. CT and 7:30 p.m. CT; and 37% are received the next day at 5:30 a.m. CT. We receive the trade information too late to be able to use partial or full swing pricing. Second, the application of swing pricing and calculation of the swing threshold should be based on quantitative,

[46] Invesco opposes the ability to use full swing pricing. Full swing pricing may introduce significant price volatility and be entirely unnecessary when funds do not incur trading costs to meet redemptions; partial swing pricing can meet the stated objective without introducing material price volatility or creating other material ancillary problems.

[47] For instance, one Invesco UCIT had about $18 million in total dilution since implementing swing pricing resulting from approximately 400 swing events. However, this fund was on the high side of the curve. Several other funds had few to no swing events and/or very little dilution.

[48] Proposal at 238. Flow information is required for either partial or full swing pricing.

automatable data, rather than unreliable estimates in order to alleviate potential errors and certain liability concerns. Third, the consequence of wide-ranging estimates could result in swinging the price the wrong way. Contrary to the U.S. mutual funds, Invesco UCITS receive net flow information on a timely and reasonably accurate basis. These funds receive transaction requests by noon local time and calculate net flows by 2 p.m. The NAV is calculated at approximately 4 p.m. local time the same day. Therefore, the NAV is calculated at a moment where the transaction volumes are certain.

The current regulatory requirements and industry practices preclude a fund from receiving timely net fund flows. Accurate redemption and purchase information is not received until *after* the net asset value is calculated each day. Each fund's daily net asset value is calculated at 4 p.m. (industry standard); however, shareholder transaction information is received by the fund up until 10 a.m. the following day, as described above. Furthermore, shareholders are required to receive the next calculated NAV after receipt of a redemption or purchase order[49] and industry practice allows intermediaries to submit orders that that they have received from clients before 4:00 p.m. to the funds until 10 a.m. the next day.

We request that the Commission create a regulatory obligation that intermediaries provide trade information to fund sponsors on a time-table that allows all funds to use swing pricing. Establishing an earlier cut-off for intermediaries to send transaction data would resolve the operational challenge by assisting the funds in receiving flow information in sufficient time and be aligned with global practices. The solution would be a fundamental change for intermediaries and require significant system upgrades across the industry (both for the fund industry and our intermediaries). The industry and our intermediaries are unlikely to make these changes voluntarily. If the Commission permitted swing pricing without enabling a solution to the operational challenges, then funds with shareholders who invest through intermediaries could not reliably use swing pricing and it would create an unfair advantage for funds that do not have shareholders through omnibus accounts, wirehouses, or other such platforms that provide transaction information after the NAV calculation.

2. **Partial swing pricing must be mandatory across open-end mutual funds.**

Partial swing pricing must be mandatory across open-end mutual funds if it is to be used effectively.[50] Swing pricing will require a fund to take competitive and liability risks, incur significant financial expenses to upgrade systems, make substantial changes to the way of doing business, and cause business partners to also incur costs. Those funds that choose not to implement partial swing pricing will have a competitive advantage, particularly in short-term performance. While partial swing pricing has benefits to shareholders, it may not outweigh these costs to most funds and will be a tool left unused.

[49] *See* Rule 22c-1(a) of the 1940 Act.

[50] For similar reasons, Invesco agrees that once the swing threshold is met, a fund must apply the swing factor. Making implementation optional would enable gaming and permit conflicts of interest.

3. Finally, Potential Liabilities Associated with Swing Pricing Are Too Great to Bear.

The third fundamental concern is the potential liability associated with swing pricing. The consequence and likelihood of making a decision that is not favorable to a particular shareholder significantly discourages the use of swing pricing. The following scenarios pose significant concerns: (a) individual shareholders who paid a higher price or sold at a lower price than NAV because they were caught on a swing day; (b) good faith market impact estimates used in determining the swing factor and net flow estimates used in calculating the swing threshold that are later found to be inaccurate; (c) the determination to use swing pricing when similar funds chose to or not to use swing pricing; and (d) information received after implementing the swing factor that would have had a material effect on the adjusted NAV. We believe that scenario (b) can be remedied by eliminating the use of market impact from the calculation of the swing factor and (c) can be remedied by making swing pricing required for all funds. The remaining scenarios, however, are inevitable incidents that will occur without unreasonable action or error by the fund and/or the fund's administrator. We do not support swing pricing without safe harbors from liability in these scenarios.

Mutual funds also need safe harbors based on non-material error or clear error (*i.e.,* in the absence of recklessness or malicious intent) and a statement that there is not a private right of action. The Proposed Rule, as drafted, exposes a fund and the fund's administrator to numerous other potential liabilities because of the onerous administrative burden and the significant number of estimates and calculations that must be performed in a short timeframe. Common industry and regulatory practice in Europe is to report immaterial NAV errors and report and compensate for material NAV errors only. We agree with that approach.

C. <u>The Calculation of the Swing Factor Should Be Quantitative, Automatable, and Transparent</u>.

The calculation of the swing factor is an important element of the Proposal, so it should be quantitative, automatable, and transparent.[51] To decrease miscalculations from manual calculation, subjectivity, and lack of time and to avoid potential conflicts of interest, the calculation of the swing factor should be based on actual amounts and reasonable estimates. To that end, Invesco supports the calculation of swing factor that includes transaction fees and charges, under the proposed definition, *i.e.* brokerage commissions, custody fees, and any other charges, fees, and taxes associated with portfolio purchases and sales, and spread costs. These costs can be calculated using actual costs and reasonable estimates.

Market impact and other amounts that the fund or fund administrator finds cannot be reasonably estimated must be excluded from calculation or be permitted to be excluded

[51] The swing factor should be employed regardless of whether it is a downswing or an upswing. Otherwise, the shareholders will not benefit from the use of their investment while purchasing, but must share in the cost of redemptions. We have learned that it has been beneficial to swing either way in the Invesco UCITS.

from calculation. We do not believe that "market impact"[52] is an appropriate consideration in the swing factor because it is subjective, difficult to quantify, and unpredictable; therefore, a reasonable estimate is unattainable. Market impact can generally only be determined after securities are traded. Invesco UCITS have not used a similar market impact concept in calculations while successfully mitigating shareholder dilution; market impact has not been found to be an important factor in meeting the objective. Additionally, a fund should be able to determine that a cost cannot be reasonably estimated and thus excluded from the swing factor calculation. For instance, if a foreign tax cannot be reasonably estimated prior to the NAV publication, it should not be included in the calculation. We would be willing to include market impact if we were granted a safe harbor for using good faith estimates.

Calculating the swing factor using "information about the value of assets purchased or sold by the fund to satisfy net purchases or net redemptions that occur on the day the swing factor is used to adjust the fund's NAV (if that information would not be reflected in the current NAV of the fund computed on that day)"[53] is reasonable. Unfortunately, such information will not usually be readily available in the event that a fund does not receive advance notice of shareholder activity and is required to engage in securities transactions that day. A fund may only have minutes to determine and apply the swing factor. Funds should endeavor to include such information if readily available or reasonably estimable at the time of determining the swing factor, but not be required to do so. Invesco UCITS have found that using actuals at the time of determining and applying the swing factor is generally not possible. Instead, Invesco UCITS use a third party (overseen by Invesco UCITS) to calculate the swing factor on a monthly basis, based on current market spreads plus annualized average transactional charges incurred by the fund. The swing factor may be re-calculated if needed to account for changing conditions.

D. Invesco Supports Certain Disclosures and Using the Unadjusted NAV in Performance and Financial Statement Calculations.

The Proposal requests comment on several specific issues regarding swing pricing financial statement disclosure considerations. First, we agree that the swing factor should not be disclosed, except for the voluntary disclosure of the maximum swing factor, and the swing threshold should not be disclosed. Disclosure of the swing factor or swing threshold will enable gaming by large investors who could divide their trade to just below the threshold amount, cause confusion to shareholders, and increase potential liability. We support disclosing the swing price policy and swing price in the footnotes to the financial statements.

We also believe that funds should be required to use the unadjusted NAV in their performance calculations. Use of the adjusted NAV In total return calculations would not present an accurate view of the fund's performance because the swing price impacts only those who purchased or sold on an adjusted NAV, and is not indicative of the performance for the other shareholders in the fund. Performance calculated based on adjusted NAV lacks comparability to the results of performance of other like managed strategies and introduces

[52] "Market impact cost cannot be calculated directly. It can be roughly estimated by comparing the actual price at which a trade was executed to prices that were present in the market at or near the time of the trade." Proposal at 188, n.415.

[53] Proposal at 221.

volatility in the performance that is misleading to shareholders that did not transact at the adjusted NAV. For example, if a fund had an unadjusted NAV of $10.00 and adjusted NAV as a result of net redemptions at the beginning of the period of $9.90 and adjusted NAV at the end of the period of $10.10 and the unadjusted NAV remained constant the fund would show a greater than 20% return when the actual return for all investors that did not trade on the adjusted NAVs was 0%. Additionally, using the unadjusted NAV for performance calculations promotes unfair competition for those funds and/or inappropriate swing thresholds. Furthermore, shareholders will be able to estimate the swing factor on an index fund by the tracking error. For example, if a fund had a lower price (swung price) at the start of the period and then a larger price at the end of the period (swung price), it is a wide spread for that particular shareholder's return that is not an indication of the return for any other shareholder in the fund. Therefore, the unadjusted NAV should be required for standardized performance reporting. We believe that any required disclosure of performance based on adjusted NAV should be disclosed in a format similar to disclosures of after tax returns.

We believe that the financial statements, including the statement of assets and liabilities, statement of operations, statements of changes and financial highlights should reflect the actual result of operations and should not include the hypothetical results of an adjusted NAV. For similar reasons cited above for standardized performance, we believe that it is inappropriate for the financial statements to include the adjusted NAV in the balance sheet and financial highlights. Funds should be required to disclose only the unadjusted NAV in the financial statements, including the balance sheet and statement of assets and liabilities and the financial highlights. Financial statements should reflect the results of operations for the historical time period presented and should match the actual performance and total return of the fund. The financial highlights are intended to show the results of a per share investment held at the end of the period. We believe that the use of the adjusted NAV at the beginning and end of period is inconsistent with the purpose of the table. Financial statements should include the actual amounts of transactions executed at adjusted NAV. Therefore, we agree that the dollar amount of purchases and redemptions disclosed in a fund's financial statements should be presented as the actual value received by the fund or paid to shareholders (including the impact of swing pricing) that the aggregate dollar amount of purchases and redemptions will also be reflected in the statement of changes in net assets.

We do, however, support disclosing the impact of adjusted NAV shareholder activity in financial highlights. It is appropriate for funds using swing pricing to report actual performance versus hypothetical performance, and funds should be permitted to optionally disclose the adjusted NAV in addition to the unadjusted NAV where appropriate. Since the amounts received/retained by the fund as a result of implementing swing pricing are intended to defray dilution from deploying or raising cash from shareholder activity we believe the per share impact should be included in the results of operations section of the financial highlights table.

E. ETFs Should Be Permitted to Use Swing Pricing or the 2% Variable Fee Cap Should Be Lifted.

The Commission has proposed that partial swing pricing be permitted only for open-end mutual funds and not for exchange-traded funds (ETFs). We agree that authorized participants (APs) most often redeem in-kind, which avoids most shareholder dilution concerns. We also agree that the variable transaction fee imposed to offset transaction

costs should address dilution concerns when APs redeem in cash; however, the variable transaction fee is capped at 2% under the terms of the ETF's exemptive order. Where the actual costs of execution and slippage exceed 2%, the redeeming ETF shareholders should be asked to bear those costs for the same reasons open-end mutual funds should use swing pricing. Furthermore, just as the Commission has appropriately not prescribed an upper limit for the swing factor ("on account of the difficulty of establishing an appropriate across-the-board limit," having "no wish to limit the extent to which swing pricing could mitigate the dilution of existing shareholders," and an upper limit "would not result in appropriately high NAV adjustments" due to the safeguards in place),[54] ETFs should not have a cap on the variable transaction fee. Therefore, it is essential that ETFs be permitted (as opposed to mandated) to use swing pricing or the 2% cap must be lifted. Invesco supports lifting the 2% cap and requiring swing pricing for open-end mutual funds, but not ETFs.

F. Each Fund's Board of Directors Should Oversee the Swing Pricing Program, but Not Be Required to Approve the Swing Factor or Threshold.

Invesco supports the funds' boards of directors understanding and approving swing pricing policies and procedures. The determination of the swing factor and threshold, on the other hand, are clearly management decisions. It is inappropriate to substitute the expertise and experience of a fund's servicers for that of the fund directors. In Europe, the relevant boards of directors approve the swing pricing policy, but not the swing threshold or factor, for similar reasons.

V. Compliance Dates

Invesco requests an extended compliance date for the LRM program. The compliance date should be 30 months for all funds, not just smaller complexes. Larger complexes will likely have more challenges because of the tailoring and specificity of the program to each fund, the larger range and diversity of funds, and larger number of individual securities held. An adviser will not be able to use economies of scale. If position classifications are required, then 30 months may not be sufficient time. Also if the Commission institutes a number of other regulations, such as on derivatives and disclosures, around the same timeframe, 36 months will be insufficient.

If (a) the Commission mandates swing pricing, (b) it can be operationally implemented, and (c) safe harbors are provided, we request an industry-wide compliance date. Considering the requirement of system upgrades, effects on third party relationships, and policies and procedures changes, we believe that 24 months is a reasonable compliance date.

VI. Conclusion

We appreciate and agree with the Commission's goals to reduce redemption risk and promote effective liquidity risk management practices. We believe that Invesco's liquidity risk management practices minimize redemption risk and appropriately manage liquidity and dilution risks. We agree that all funds should have a liquidity risk management program. An LRM program, along with the requirements to maintain below 15% standard

[54] Proposal at 226.

assets and a minimum amount of three-day and/or seven-day liquid assets is sufficient to effectively obtain those goals.

Position classification, however, does not benefit shareholders as a stand-alone requirement or as part of an LRM program. Moreover, position classification carries extraordinary costs and burdens to the funds. The classification system in the Proposed Rule is overly burdensome and ineffective because (a) liquidity cannot be predicted with sufficient precision; (b) the criteria used to classify assets is difficult to obtain, costly, or simply not available; (c) consistency of classification amongst funds is highly unlikely and subjectivity renders classification unhelpful to the Commission or shareholders; (d) the position classification potentially exposes funds to unacceptable amounts of liability; (e) the frequency of classifying portfolio asset liquidity is unreasonable; and (f) the significant labor and cost required is not justified. We strongly urge the Commission to not require position classification.

The three-day liquid asset minimum may diminish diversification in open-end funds, unnecessarily weaken performance, further concentrate portfolios into certain assets (tightening liquidity), cause funds to not meet their principal investment strategies or closely track their index, and cause investors to seek alternatives to open-end funds. To alleviate these concerns, Invesco recommends a requirement to maintain a "target" of three-day and/or seven-day liquid portfolio assets within a reasonably narrow range.

Invesco is in favor of partial swing pricing, but requests that the Commission facilitate resolution of the operational obstacles to its implementation, require that it be mandatory, and provide certain safe harbors.

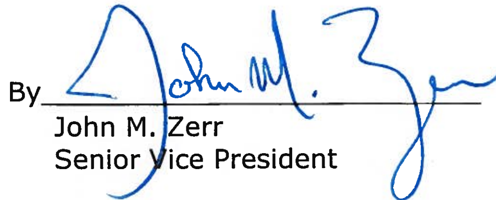
Invesco is a member of various associations that are submitting comment letters addressing in more detail public policy considerations similar to those expressed herein. These associations include the ICI, SIFMA, and Loan Syndications & Trading Association ("LSTA").[55] Based on drafts reviewed prior to submission and except in those very limited circumstances this Comment Letter advocates a different view, Invesco endorses the comments expressed in each of the ICI, SIFMA, and LSTA letters. Our overall experience as an asset manager is consistent with the observations made in those letters.

[55] ICI, Comments on Proposed Rule (Jan. 13, 2015) ("ICI Comment Letter"); SIFMA, Comments on Proposed Rule (Jan. 13, 2015); LSTA, Comments on Proposed Rule (Jan. 13, 2015). Invesco has had the opportunity to review each comment letter in draft form prior to its submission to the Commission; therefore, our endorsing comments are based upon our review of such pre-submission drafts.

Thank you for the opportunity to submit this letter and for your consideration of these comments. Questions regarding these comments may be directed to the undersigned.

Sincerely,

Invesco Advisers, Inc.

By

John M. Zerr
Senior Vice President

cc: The Honorable Mary Jo White, Chair
The Honorable Kara M. Stein, Commissioner
The Honorable Michael S. Piwowar, Commissioner
David Grim, Director, Division of Investment Management