Industry Trends – February 2018

Industry Statistics – Mutual Funds

Fund Category	Net Assets (in billions)		Percentage Change in Net Assets	Dollar Change in Net Assets (in billions)		
					Change Due to	
	Dec-17	Sept-17		Total Change	Net Cash Flows	Market
Stock	$10,305.8	$9,864.9	4.5%	$440.9	($70.3)	$511.2
Hybrid	$1,525.8	$1,489.9	2.4%	$35.9	($10.3)	$46.2
Taxable Bond	$3,401.9	$3,332.0	2.1%	$69.9	$56.0	$13.9
Municipal Bond	$665.3	$660.6	0.7%	$4.7	$2.2	$2.5
Money Market	$2,847.3	$2,747.6	3.6%	$99.7	$95.3	$4.4
Total	$18,746.1	$18,095.0	3.6%	$651.1	$72.9	$578.2

- **Stock** funds assets had an increase during the quarter of $440.9 billion. For the quarter ended December 31, 2017, market appreciation was $511.2 billion compared to an appreciation of $455.5 billion for the quarter ending September 30, 2017. The net assets for stock funds increased from $9,864.9 billion as of September 30, 2017, to $10,305.8 billion at the end of 2017.

- **Hybrid** fund assets increased from $1,489.9 billion as of September 30, 2017, to $1,525.8 billion as of December 31, 2017. This compares to an increase of $35.5 billion in the third quarter of 2017. The increase was the result of market appreciation of $46.2 billion and net outflows of $10.3 billion.

- **Bond** funds had net inflows of $58.2 billion for the quarter ended December 31, 2017, compared to the previous quarter inflows of $67.0 billion. Assets for all bond funds increased $74.6 billion for the quarter ended December 31, 2017, which included market appreciation of $16.4 billion.

- **Money Market** funds had net inflows of $95.3 billion for the three months ended December 31, 2017, compared to the previous quarter inflows of $111.7 billion. Money market fund net assets over the three-month period increased from $2,747.6 billion as of September 30, 2017, to $2,847.3 billion as of December 31, 2017.

Source: Investment Company Institute website

REGULATORY UPDATE

SEC Prosecutes De-Registered Investment Adviser for Prior Compliance Failures

The SEC found that the sole member, President and Chief Compliance Officer (the "CCO") of a previously registered investment adviser (the "Adviser") willfully violated Section 207 of the Investment Advisers Act of 1940 and willfully aided and abetted and caused the Adviser's violations of Sections 204(a) and 206(4) of the Advisers Act and Rules 204-3 and 206(4)-7 thereunder.

The Adviser previously filed false Forms ADV between 2010 and 2015. Inaccurate information was provided regarding the CCO's management and ownership interest in private funds, which some of the adviser's clients invested in, and interests that the CCO had in client transactions. The CCO not only had ownership interests in certain private funds, but received a portion of the management fee charged to each investor and a share of the funds' profits. The Adviser misrepresented that they did not recommend securities in which it or a related person held an ownership or proprietary interest. The Adviser's clients who invested in these private funds however, knew of the CCO's involvement. The Adviser's Form ADV misrepresentations continued after the SEC confronted them in 2016 regarding affiliated private funds.

The Adviser's Forms ADV also included inflated assets under management ("AUM"). In 2016, the Adviser admitted to overstating its AUM by $30 million, which was a material adjustment that required the amended materials to be delivered to clients within 120 days of the fiscal year-end. The Adviser failed to meet this obligation.

The Adviser failed to provide complete records to the SEC's examination staff regarding the CCO's interest in private funds that the Adviser's clients invested in. Additionally, the Adviser failed to adopt written policies and procedures regarding the charging and reimbursement of advisory fees. This failure resulted in the firm overcharging at least one former client and failing to reimburse certain other clients. After the SEC examination staff sent the Adviser a deficiency letter and served the Adviser and the CCO a subpoena, the Adviser commenced an account reconciliation and refunded the affected clients.

The Adviser failed to follow its written policy and procedure that requires its policies and procedures to be reviewed annually. They also failed to follow their written policy and procedure that in order to "provide full disclosure, our firm's Form ADV is kept current and accurate."

The Adviser withdrew its registration with the SEC as an investment adviser in July 2017.

SEC Approves a Delay in "Filing" New Form N-PORT

The SEC has approved a delay in filing new Form N-PORT for nine months for large fund groups. During this time, funds will not be required to file Form N-PORT with the commission but will be required to maintain in their records with the information required and available upon request by the SEC. Small fund groups will have until April 2020 before the filing will be required.

The delay will also impact the reporting of liquidity buckets on Form N-PORT as required by the Liquidity Risk Management Rule. Large groups will be required to maintain in their records the information required beginning December, 2018, but will not have to file until April 2019.

The delay will allow the SEC to review its data security practices and protocols for sensitive, non-public information.

As stated, while funds will not be required to file the Form N-PORT, the records will need to be maintained. UMB Fund Services is anticipating being able to fully satisfy this requirement by completing the form without the final step of filing it with the SEC.

SEC Staff Extends Loan Provision Relief for Purposes of Auditor Independence

In December, the SEC's Division of Investment Management issued a letter extending the period of relief offered to entities in an "investment company complex" relying on audit services performed by public accounting firms whose independence might be compromised. The letter extends relief, which was set to expire in December, from a June 2016 no-action letter addressing auditor independence issues related to a provision in Regulation S-X ("Loan Provision"). The extension makes no changes to the scenarios or representations in the original no-action letter and provides relief until the effectiveness of any amendments to the Loan Provision designed to address the concerns expressed in that letter.

The SEC's current 2017 Regulatory Flexibility Agenda includes a reference to a rulemaking in this area, and ICI will continue to engage with the SEC and its staff on any such potential rulemaking.

CFTC Enforcement Policy Changes Encourage Self-Reporting

On September 25, 2017, James McDonald, the director of the Commodity Futures Trading Commission's ("CFTC") Division of Enforcement (the "Division"), announced new details regarding the Division's treatment of self-reporting disclosures and cooperation by individuals and companies. At the same time, the Division issued an updated advisory on "self-reporting and full cooperation" stating that the companies and individuals can expect to receive "substantial Credit" if they voluntarily disclose misconduct and cooperate with the Division's investigation. Through this change in approach, the Division seeks to "promote voluntary compliance with the law while at the same time ensuring accountability for companies and individuals that violate the law." The Division expects that its new stance will encourage the detection, reporting and remediation of wrongdoing and increase voluntary compliance with the law. Further, the Division expects that the change will create "additional avenues to learn about misconduct" increasing its ability to prosecute wrongdoers.

Requirements to obtain full self-reporting and cooperation credit stated in the advisory include:

- Voluntary disclosure to the Division:
    - Must be made prior to imminent threat of exposure of the misconduct.
    - Must be made to the Division within a reasonably prompt time after learning of the misconduct.
    - Must include all relevant fact known to the reporting company or individual, including all relevant facts about the individuals involved in the misconduct.
- Full Cooperation
- Timely and appropriate remediation of flaws in compliance and control programs.

The advisory stated that the following credit is available if the above requirements are met:

- The Division will recommend the most substantial reduction in the civil monetary penalty that otherwise would be available.
- In extraordinary circumstances, the Division may recommend a declination of prosecution.
- In all cases, disgorgement of profits and payment of restitution, if applicable, will be required.

FinCEN Exchange Launches to Facilitate Information Sharing

In December 2017 the U.S. Treasury's Financial Crimes Enforcement Network ("FinCEN") announced that it has created the FinCEN Exchange. The Exchange is a voluntary platform designed to facilitate information sharing between the government and private parties on topics related to anti-money laundering and other financial crime issues. In its announcement, FinCEN reported that briefings will be convened every six to eight weeks among FinCEN, law enforcement, and financial institutions to discuss various financial crime related topics. FinCEN hopes that the Exchange will mirror the success of the United Kingdom's Joint Money Laundering Intelligence Taskforce which has received many accolades. Participation in the Exchange is voluntary and will not impose new regulatory requirements. It has not been announced which financial institutions will participate in the Exchange or how they will be selected.

United States Department of Treasury Issues Report for Asset Management and Insurance Industries

In response to the Trump Administration's Presidential Executive Order on Core Principals for Regulating the United States financial system, the United States Department of Treasury (the "Treasury") recently released its third report on financial regulation (the "Report"). The Report pinpoints several opportunities for financial industry reform concerning asset management. The recommendations are consistent with the seven Core Principals initially listed in the Executive Order:

- Empower Americans to make independent financial decisions and informed choices in the marketplace, save for retirement, and build individual wealth;
- Prevent taxpayer-funded bailouts;
- Foster economic growth and vibrant financial markets through more rigorous regulatory impact analysis that addresses systemic risk and market failures, such as moral hazard and information asymmetry;
- Enable American companies to be competitive with foreign firms in domestic and foreign markets;
- Advance American interests in international financial regulatory negotiations and meetings;
- Make regulation efficient, effective, and appropriately tailored; and

- Restore public accountability within Federal financial regulatory agencies and rationalize the Federal financial regulatory framework.

Recommendations related to the asset management industry are discussed below:

Systemic Risk Management and Stress Testing. The Treasury recommends that regulators focus on systemic risks arising from specific products or activities rather than conducting systemic risk evaluations on asset managers. The Report also recommends that the Financial Stability Counsel Oversight ("FSOC") maintain oversight of systemic risk in the U.S financial system and the SEC should remain the primary federal regulator of the asset management industry. Additionally, the Treasury supports amendments to the Dodd-Frank Act that would eliminate the stress testing requirement for investment advisers and investment companies.

Liquidity Risk Management. The Treasury supports the 15% limitation on illiquid assets under Rule 22e-4. Additionally, the Report recommends that the SEC postpone the bucketing requirement and instead replace it with principals-based approach.

Use of Derivatives. The Treasury generally supports modernizing the regulation of the use of derivatives for funds but has concerns about funds' limited use of leverage and the requirement to segregate qualifying assets based on derivatives exposure. The Report recommends that the SEC should consider if portfolio limits should be part of the rule and for purposes of the asset segregation requirement, the scope of assets that would be considered qualifying coverage assets.

Exchange-Traded Funds ("ETFs"). The Treasury recommends that the SEC adopt a "plain vanilla" rule which would create a streamlined registration process and allow for certain ETFs to access the market without enduring the cost and delay of obtaining exemptive relief orders.

Business Continuity and Transition Planning. The Treasury believes that the SEC's proposal on business continuity and transition planning is unnecessarily burdensome and costly when considering the current requirements under Rule 206(4)-7 and Rule 38a-1. The Report suggests that the SEC withdraw their proposal.

Dual CFTC and SEC Registration. The Treasury recommends that the Commodity Futures Trading Commission ("CFTC") should amend its rules so an investment company and its adviser, registered with the SEC, are exempt from dual registration and regulation of the SEC and CFTC. The Report recommends that the SEC and CFTC work together to designate a single regulator of de facto commodity pools.

DOL Fiduciary Rule. The Treasury believes that delaying the full implementation of the Fiduciary Rule until relevant issues have been evaluated and addressed is appropriate. The Report suggests that the SEC, the DOL, and the states should work together to implement regulatory framework that effectively and efficiently preserves investor choice and protects retirement investors

International Engagement. The Treasury supports the effort to position the U.S. in a leading role in the international financial regulatory standard-setting bodies ("SSB") such as the Financial Stability Board ("FSB") and International Organization of Securities Commissions ("IOSC") to promote financial stability, level the playing field, and to prevent unnecessarily burdensome regulations. The Report recommends that improvements should be made to FSB and SSB to promote transparency, accountability, and appropriate policymaking representation. U.S. representatives at SSB should review processes used by other international SSB to ensure they utilize a collaborative approach. U.S. representatives should also work to revise the Global Systemically Important Financial Institution framework ("G-SIFI") to account for different ways in which sectors are structured and how they manage risk. Additionally, the Report recommends that FSB should not use the term "shadow banking" when describing registered investment companies and their investment advisers.

Modernizing the Delivery of Fund Disclosures. The Treasury recommends that the SEC finalize its proposed rule to modernize the requirements of shareholder report delivery and allow for the use of implied consent for electronic disclosures. Additionally, the Report recommends that the SEC explore areas for which electronic delivery, using implied consent, could be appropriate. However, investors should retain the choice to continue to receive paper disclosures.

FINRA Qualification and Registration Rule Changes

The SEC approved rule changes to the FINRA qualification and registration requirements. The new rules revise certain continuing education requirements, restructure the current qualification examinations, and create a general knowledge examination called Securities Industry Essentials ("SIE") and specialized knowledge examinations. The changes are effective October 1, 2018.

For the most part, the consolidated registration rules are similar to the legacy NASD and NYSE rules that they replaced. The most significant differences include the following:

Registered representative applicants will be permitted to take the SIE, an industry core exam, without being sponsored by a member firm. The exam will cover content generally considered stable and subject to little change over time. FINRA notes that this might include but is not limited to: Structure and functioning of the securities industry, regulatory agencies and their functions, basic economics, product knowledge (stocks, bonds, mutual funds), regulated and prohibited practices, and professional conduct. The restructured program eliminates duplicative testing of general securities knowledge on the representative-level qualification examinations by moving such content into the SIE.

The SIE exam is valid for four years during which time the individual could be sponsored by a member firm to take the Top-off Exams. A person must become associated with a firm and pass the appropriate additional qualifying examination(s) or "Top-off Exams" in order to be a registered representative or principal. Registered Representative Top-off Exams include Series 6, 7, 22, 57, 79, 82, 86/87 and 99.

FINRA will consider examination waiver requests submitted by firms for individuals who meet certain conditions, which is referred to as the "financial services affiliate waiver program." This process allows such individuals to terminate their registration with a member firm (at which time the member firm must designate the individual as working for a financial services industry affiliate of the member) and then, upon subsequently re-registering with any member firm, be granted a waiver of FINRA's requalification requirements upon the member firm's request, provided that certain conditions are met.

Beginning on October 1, 2018, firms may permissively register or maintain the registration of any associated person. The current NASD rules provide limited exceptions for individuals who perform legal, compliance, internal audit, back-office operations, or similar responsibilities for the member or a person engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member. The new rule will expand the scope of permissive registration to allow "any associated person of the member," regardless of job function, and "any individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member" to obtain and maintain any registration as permitted by the member.

For additional information, go to http://www.finra.org/sites/default/files/Regulatory-Notice-17-30.pdf

ACCOUNTING UPDATE

SEC Approves PCAOB's New Auditor Reporting Model

The SEC approves PCAOB's new auditor's reporting standard. The new audit standard requires the auditor to communicate in the auditor's report any "critical audit matters" ("CAMs") arising from the current period's audit of the financial statements, or state that the auditor determined there are no CAMs. Communication of CAMs is intended to better inform investors and others that rely on the auditor's report. A CAM is defined as a matter that was communicated to the audit committee or required to be communicated to the audit committee and that: 1) relates to accounts or disclosures that are material to the financial statements, and 2) involved especially challenging, subjective, or complex auditor judgment. The communication of each CAM must include: 1) identifying the CAM; 2) describing the principal considerations that led the auditor to determine that the matter is a CAM; 3) describing how the CAM was addressed in the audit; and 4) referring to the relevant financial statement accounts or disclosures.

The new audit standard requires auditors to document their determination whether or not matters communicated to the audit committee were CAMs. Investment companies, other than business development companies are exempt from the requirement to describe CAMs. The new audit standard indicates that investment company auditors may consider voluntarily including communication of CAMs in their auditor reports. The adopting release notes commenters' belief that fund investors rely on disclosure of investment objectives, risks, fees, and performance, and that disclosure of CAMs would not be relevant.

The new audit standard requires the auditor to disclose in the auditor's report the year in which the audit firm began serving consecutively as the company's auditor. Some believe that auditor tenure may influence auditor independence. The adopting release indicates that disclosure of tenure is in the public interest and that disclosure in the auditor's report will make the information readily accessible to investors and others that rely on the auditor's report.

Because investment companies typically have common accounting, internal control, and oversight functions at the complex level, the new audit standard measures audit firm tenure based on the year the auditor began serving consecutively as the auditor of any investment company in the group of investment companies. The auditor's report would include a statement such as: "We have served as the auditor of one or more [Group Name] investment companies since [year]."

The new audit standard includes several additional changes intended to clarify the auditor's role and responsibility, including: 1) a statement that the auditor is required to be independent; 2) the auditor's report will be addressed to the company's shareholders and board of directors; and 3) adding the phrase "whether due to error or fraud" when describing the auditor's responsibility to obtain reasonable assurance that the financial statements are free of material misstatement.

Subject to approval by the SEC, the new audit standard will take effect as follows: 1) all provisions other than those related to CAMs will take effect for audits of fiscal years ending on or after December 15, 2017; and 2) provisions relating to CAMs will take effect for audits of fiscal years ending on or after June 30, 2019 for large accelerated filers, and for fiscal years ending on or after December 15, 2020, for all other companies to which the requirements apply.

TAX UPDATE

Regulatory

SEC Publishes Guidance on New Tax Law's Impact on Financial Statement Disclosures and NAV Calculations

In December 2017, after passage of the Tax Cuts and Jobs Act ("Act"), the SEC issued an Information Update (IM-INFO-2017-07) and a Staff Accounting Bulletin ("SAB") No. 118. The Information Update addresses the applicability of SAB 118 to Investment Companies impacted by the Act. SAB 118 addresses income tax accounting implications of the Act.

In the Information Update, the SEC indicates that the Commission Staff recently issued the SAB No.118, which provides guidance for publicly traded companies, auditors and others, to help ensure timely public disclosures of the accounting impacts of the Act. The SEC indicates that they recognize that registrants could potentially encounter circumstances for which the accounting for certain income tax effects of the Act will be incomplete by the time financial statements are issued for the reporting period that includes December 22, 2017, the date of the Act's enactment.

In the Information Update, the SEC Division of Investment Management ("Division") indicates that registrants may rely on the guidance in SAB No. 118 for purposed of calculating net asset value ("NAV") and reporting measurement period adjustments. Further, the Division reminds each registrant that they must disclose relevant information to investors to provide information about the material impacts of the Act to its calculation of NAV and material provisions for which the accounting is incomplete, if applicable. The disclosure about those impacts may be made in a press release, website disclosure, or some other reasonable manner.

The SEC staff is issuing SAB No. 118 to address situations where the accounting under ASC Topic 740, providing guidance on accounting for income taxes under generally accepted accounting principles ("GAAP"), is incomplete upon issuance of the financial statements that include the reporting period in which the business combination occurred.

The SEC staff summarized, financial statements that include the reporting period in which the Act was enacted, a company must first reflect the income tax effects of the Act in which the accounting under ASC Topic 740 is complete. These completed amounts would not be provisional amounts. A company would then also report provisional amounts for those specific income tax effects of the Act for which the accounting under ASC Topic 740 will be incomplete but a reasonable estimate can be determined. For any specific income tax effects of the Act for which a reasonable estimate cannot be determined, a company would not report provisional amounts and would continue to apply ASC Topic 740 based on the provisions of the tax laws that were in effect immediately prior to the Act being enacted. For those income tax effects for which a company was not able to determine a reasonable estimate (such that no related provisional amount was reported for the reporting period in which the Act was enacted), a company would report provisional amounts in the first reporting period in which a reasonable estimate can be determined.

If an entity accounts for certain income tax effects of the Act under a measurement period approach, the SEC staff believes an entity should include financial statement disclosures to provide information about the material financial reporting impacts of the Act for which the accounting under ASC Topic 740 is incomplete, including:

(a) qualitative disclosures of the income tax effects of the Act for which the accounting is incomplete;

(b) disclosures of items reported as provisional amounts;

(c) disclosures of existing current or deferred tax amounts for which the income tax effects of the Act have not been completed;

(d) the reason why the initial accounting is incomplete;

(e) the additional information that is needed to be obtained, prepared, or analyzed in order to complete the accounting requirements under ASC Topic 740;

(f) the nature and amount of any measurement period adjustments recognized during the reporting period;

(g) the effect of measurement period adjustments on the effective tax rate; and

(h) when the accounting for the income tax effects of the Act have been completed.

IRS and Treasury Release 2017-2018 Priority Guidance Plan

The U.S. Department of the Treasury ("Treasury") and IRS released the 2017-2018 Priority Guidance Plan ("Plan") that sets forth guidance priorities for the Treasury and IRS based on public input, and taking into account the burden-reducing policies and reforms described in Executive Order 13789 (April 21, 2017; 82 FR 19317) and Executive Order 13777 (February 24, 2017; 82 FR 9339). The 2017-2018 Priority Guidance Plan contains guidance projects that the Treasury and IRS hope to complete during the twelve-month period from July 1, 2017, through June 30, 2018 (the plan year).

The Investment Company Institute had submitted a letter, dated June 1, 2017, to the Treasury and the IRS recommending issues affecting regulated investment companies ("RICs") and their shareholder for inclusion on the 2017-2018 Guidance Priority List.

Projects of interest to mutual funds and mutual fund shareholders that have been requested by the ICI, which are included in the Plan are:

Final regulations under section 305(c) regarding the amount and timing of deemed distributions from conversion ratio adjustments on convertible debt and stock. Proposed regulations were published on April 13, 2016.

Guidance under sections 1295, 1297, and 1298 on passive foreign investment companies.

Guidance under Chapter 3 (sections 1441-1446) and Chapter 4 (sections 1471-1474). Final and temporary regulations were published January 6, 2017. Guidance may include the following: addressing withholding on gross proceeds and foreign pass thru payments under Chapter 4; coordinating certain documentation requirements for participating foreign financial institutions with the requirements under IGAs; guidance concerning certain due diligence requirements of withholding agents under Chapter 3, including the requirement to collect and report foreign taxpayer identification numbers of certain accountholders; and guidance on refunds and credits under Chapter 3, Chapter 4, and related provisions. Notice 2015-10 (regarding refunds and credits) was published on May 18, 2015.

Regulations and other guidance under section 7701.

Guidance on section 529(c)(3)(D) on the recontribution within 60 days of refunded qualified higher education expenses as added by section 302 of the Protecting Americans from Tax Hikes Act of 2015.

Legislative / Judicial

Tax Legislation Passed by Congress

The Tax Cuts and Jobs Act (the "Act") was signed into law on December 22, 2017. Several provisions of the Act impacting regulated investment companies ("RICs") and their shareholders need to be clarified or modified through regulatory guidance or legislative action.

The Act permits taxpayers a 20% deduction for "qualified business income" from certain pass-through entities, such as partnerships, S corporations and limited liability companies. Certain dividends from real estate investment trusts ("REITs") and publicly traded partnerships, including oil and gas limited partnerships ("MLPs") are included in the definition of qualified business income. However, the Act does not provide a means for RICs that invest in REITs or MLPs to pass-through the character of the dividends that it receives from those REITs or MLPs as qualified business income to a shareholder in a RIC. Under the Act, an investor who invests directly in a REIT or MLP would be eligible for the 20% deduction for qualified business income, however a shareholder in RIC would not.

The Act amends the Internal Revenue Code ("Code") to require taxpayers to include certain amounts in income no later than such amounts are included in revenue on financial statements. The scope of this amendment is unclear and whether this applies to the market discount rules is unclear as well. Market discount is accrued currently on a constant yield to maturity basis under the generally accepted accounting principles ("GAAP"), however, under the Code, taxpayers recognize market discount at time of sale unless an election is made to accrue income currently. Most mutual funds currently make the election to accrue, however tax-exempt municipal bond funds may not because market discount is considered taxable income and a tax-exempt municipal bond fund may incur a less taxable market discount if it is recognized at time of sale instead of accrued currently. It is unclear if the amendment to the Act will require tax-exempt municipal bond funds to accrue market discount currently.

The Act amends the Code to provide new limitations on the business interest expense deduction, in general, to 30% of the taxpayer's adjusted taxable income. However, the business interest expense deduction is not limited to the extent of any business interest income, which is interest income attributable to a trade or business but not investment income. It is unclear whether or not RICs can consider investment income as business interest income attributable to the RIC's trade or business. Clarification is needed for RICs that have an interest expense deduction, such as leveraged closed-end funds on whether an interest expense deduction would be limited to 30% of a RIC's adjusted taxable income and whether or not interest income can be considered business interest income.

The Act provides rules intended to help taxpayers transition from the current worldwide system of taxation to a participation exemption system. These rules generally require a US shareholder, including a RIC, that owns 10% or more of a foreign corporation to include as current income its pro rata share of the foreign corporation's post-1986 undistributed accumulated earnings and profits in its last taxable year beginning before January 1, 2018. The Act provides special rules for REITs whereby such income is not taken into account for purposes of the REIT's gross income test, and the REITs may elect to distribute such income to their shareholders over an 8-year period. Similar rules should be provided for RICs.

The Act requires a transferee of a partnership interest to withhold 10% of the sales proceeds unless the transferor certifies that the transferor is not a foreign person. The Act provides the

Treasury with regulatory authority to write rules that provide that a broker, instead of the transferee, may serve as the withholding agent upon the sale of the partnership interest. To ensure that RICs are not required to withhold upon sale of a partnership interest of an MLP or other partnership, rules indicating such would provide clarification.

State

2017 State Tax Survey

The Investment Company Institute ("ICI") has updated their annually released State Tax Survey and it is available on the ICI's website.

The surveys include:

Survey 1: State Income Taxation of Dividends Paid by a RIC Derived in Whole (or in Part) from Interest on Federal Obligations;

Survey 2: State Taxation of State and Local Obligations;

Survey 3: State Taxation of Long-Term Capital Gain Distributions Made by RICs to Individual Shareholders;

Survey 4: State Taxation of Contributions to and Distributions from Certain Retirement Plans; and

Survey 5: State Taxation of Qualified Tuition Programs (Section 529 Plans).

Regulatory Update

Cryptocurrency Update

The potential role of cryptocurrency within registered investment products continues to evolve. In mid-December, the Chicago Mercantile Exchange and the CBOE Futures Exchange each launched bitcoin futures products, a first for the market. Each exchange's product has unique characteristics, but both exchanges seem to anticipate a high amount of volatility within the bitcoin futures products. The launch of the bitcoin futures products was met with excitement by many in the industry, as it may allow broader access to cryptocurrency investments. However, there is still uncertainty as to the role cryptocurrency will play within registered investment products. There are currently no publicly offered funds that provide exposure to bitcoin or other cryptocurrency and the SEC continues to show hesitation towards registered funds' exposure to cryptocurrency. The SEC has rejected proposals from potential registered funds who would trade in cryptocurrency. Furthermore, the SEC has warned of potential risks of cryptocurrencies through its various communications with the public over the last two months.

ICI Releases 2017 Profile of Mutual Fund Shareholders

The Investment Company Institute ("ICI") conducts an annual survey to track US households' ownership of mutual funds and to gather information on their demographic and financial characteristics. The report found that the "typical" mutual fund shareholder as follows:

- was middle-aged, employed, educated, married or living with a partner, and shared investment decision making with his or her spouse or partner;
- had $100,000 in household income and $200,000 in household financial assets;
- owned investments other than mutual funds, including individual stocks, and had more than half of the household's financial assets (excluding the primary residence) invested in mutual funds;
- had $120,000 invested in three mutual funds, including at least one equity fund; owned mutual funds inside an employer-sponsored retirement plan, such as a 401(k) plan, 403(b) plan, 457 plan, SEP IRA, SAR-SEP IRA, or SIMPLE IRA;
- owned mutual funds outside employer-sponsored retirement plans, primarily purchased through investment professionals (e.g., registered investment advisers, full-service brokers, independent financial planners, bank or savings institution representatives, insurance agents, or accountants); and
- was confident that mutual funds could help him or her reach financial goals.

The full research paper can be found at https://www.ici.org/pdf/rpt_17_profiles17.pdf