

March 31, 2025

*Via Electronic Filing*

The Honorable French Hill  
Chair  
U.S. House Committee on Financial Services  
Washington, D.C. 20515

The Honorable Maxine Waters  
Ranking Member  
U.S. House Committee on Financial Services  
Washington, D.C. 20515

The Honorable Ann Wagner  
Chair  
Capital Markets Subcommittee  
Washington, D.C. 20515

The Honorable Brad Sherman  
Ranking Member  
Capital Markets Subcommittee  
Washington, D.C. 20515

**Re: Request for Information: Legislative Proposals to Increase Investor Access  
and Facilitate Capital Formation**

Dear Chair Hill, Ranking Member Waters, Subcommittee Chair Wagner, Subcommittee Ranking Member Sherman, and Members of the Committee:

The Investment Adviser Association (IAA)<sup>1</sup> appreciates your efforts to modernize securities laws and regulations to facilitate small business access to capital, protect individual investors, and promote meaningful investor engagement. We commend the Committee's bipartisan work to reduce regulatory barriers and expand capital access.

Thank you for scheduling the February 26, 2025, hearing on *The Future of American Capital: Strengthening Public and Private Markets by Increasing Investor Access and Facilitating Capital Formation*. We are writing to express our strong support for the *Small Entity Update Act*, *Improving Disclosures for Investors Act of 2025*, *Accredited Investors Include Individuals Receiving Advice from Certain Professionals Act*, *Retirement Fairness for Charities and Educational Institutions Act of 2025*, and *Senior Security Act of 2025*. We urge the Committee to advance these important bills.

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<sup>1</sup> The IAA is the leading organization dedicated to advancing the interests of fiduciary investment advisers. For more than 85 years, the IAA has been advocating for advisers before Congress and federal, state, and global regulators, promoting best practices and providing education and resources to empower advisers to effectively serve their clients, the capital markets, and the U.S. economy. The IAA's member firms manage more than \$35 trillion in assets for a wide variety of individual and institutional clients, including pension plans, trusts, mutual funds, private funds, endowments, foundations, and corporations. For more information, please visit [www.investmentadviser.org](http://www.investmentadviser.org).

## A. Small Entity Update Act

This legislation would ensure that the Securities and Exchange Commission (SEC) gives appropriate consideration in its rulemakings to the regulatory burdens faced by small investment advisers as contemplated under the Regulatory Flexibility Act.<sup>2</sup> Unfortunately, the Regulatory Flexibility Act is effectively rendered inapplicable to advisers due to the SEC's overly narrow definition of "small entities" for purposes of this Act. The IAA has been working with members of Congress over the past several years to introduce and support similar bipartisan bills to achieve this result.<sup>3</sup>

The SEC currently considers small advisers to include only investment adviser firms with less than \$25 million in assets under management (AUM).<sup>4</sup> However, given that the basic threshold for SEC registration is \$100 million AUM, only a very small number of investment advisers are deemed to be "small" for purposes of the Regulatory Flexibility Act—even though *more than 14,000 investment adviser firms (as of April 2024) employ 100 or fewer non-clerical employees.*<sup>5</sup>

We believe that the SEC should conduct its economic analysis of the impact of regulations on a more realistic universe of small investment advisers and better tailor both regulations and guidance to these firms. Small investment advisers have been significantly burdened by the cumulative impact of regulations that effectively require substantial investments

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<sup>2</sup> The Regulatory Flexibility Act requires all federal agencies to analyze the economic impact of regulations when there is likely to be a significant economic impact on a substantial number of small entities, and to consider regulatory alternatives that will achieve the agency's goal while minimizing the burden on small entities.

<sup>3</sup> The IAA is grateful to the Committee for championing the *Small Entity Update Act* last Congress, which passed the House on May 30, 2023, with strong bipartisan support in a 367-8 vote. The IAA has also petitioned the SEC directly to more accurately consider the impact of regulations on small advisers. *See IAA Rulemaking petition to amend Rule 0-7 under the Investment Advisers Act of 1940*, which defines a small entity for purposes of the Regulatory Flexibility Act (Sept. 14, 2023), available at <https://www.sec.gov/files/rules/petitions/2023/petn4-811.pdf>.

<sup>4</sup> Specifically, under SEC rules, for purposes of the Investment Advisers Act of 1940 and the Regulatory Flexibility Act, an investment adviser generally is a small entity if it: (1) has assets under management having a total value of less than \$25 million; (2) did not have total assets of \$5 million or more on the last day of the most recent fiscal year; and (3) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of \$25 million or more, or any person (other than a natural person) that had total assets of \$5 million or more on the last day of its most recent fiscal year. Rule 0-7(a) under the Investment Advisers Act.

<sup>5</sup> Each year, the IAA compiles statistics on the investment adviser profession based on Form ADV filings and publishes a report called the *Investment Adviser Industry Snapshot*. <https://www.investmentadviser.org/industry-snapshots/>. Our 2024 report covered 15,396 SEC-registered advisers that collectively manage \$128.4 trillion in AUM for 56.7 million clients. 92% of investment advisers have 100 or fewer non-clerical employees, and the vast majority of these are small, independent businesses unaffiliated with other financial service providers. Advisers serving individual clients tend to be even smaller, with an average of just 9 employees and 2 offices.

in infrastructure, technology, personnel, and systems relating to documentation, monitoring, operations, custody, reporting, cybersecurity, and many other areas.

The *Small Entity Update Act* would require the SEC to develop an alternative method under which investment advisers are classified as small entities for purposes of the Regulatory Flexibility Act. It specifically requires that the alternative include consideration of the number of non-clerical employees of firms, a useful measure given that the data is readily available in Form ADV and often used in other contexts to define the relative size of companies.

The *Small Entity Update Act* would not limit the SEC's rulemaking authority or mandate any specific rules. However, the SEC would have to better assess the impact of its regulations on firms that are truly small businesses and give greater consideration to appropriate alternatives that would minimize unnecessary burdens on these firms.

## **B. Improving Disclosures for Investors Act of 2025**

The *Improving Disclosures for Investors Act of 2025* is a critical step in modernizing investor protection and disclosure regulations to keep pace with technological advancements and evolving investor preferences.

The SEC requires investment advisers to provide retail investors with various disclosures and account information. Traditionally, these documents were mailed in paper form. However, as internet access expanded, the SEC updated its rules to allow certain documents to be delivered electronically (e-delivery) under specific circumstances, while still giving investors the option to receive paper copies. Despite these changes, the rules remain outdated and fail to reflect the preferences and technological capabilities of today's investors, including seniors. This creates unnecessary burdens for both investors and investment advisers, forcing investors to navigate cumbersome processes to receive documents in their preferred format.

The pandemic further underscored the urgency of addressing an issue that the investment adviser industry and the SEC have been grappling with for some time now—how to modernize delivery to clients of regulatory disclosures while ensuring reliable delivery that continues to respect investor preferences. E-delivery is easier, more efficient, and more cost-effective for firms, and its greater flexibility allows for enhanced communications with investors. In practice, however, many advisers have been unable to use e-delivery for required disclosures due to the lack of clarity associated with consent requirements under applicable SEC guidance.

The *Improving Disclosures for Investors Act of 2025* is a natural progression in the SEC's ongoing initiative to modernize disclosure regulations. Importantly, the bill includes key investor protections, ensuring that regulated entities (1) send an initial paper communication about e-delivery to existing investors that currently do not receive documents electronically and provide a 180-day transition period for e-delivery to these investors, (2) provide a mechanism for investors, at any time, to opt out of e-delivery and receive paper versions of documents, (3) adopt

measures to identify and remediate failed electronic deliveries of documents, and (4) protect the confidentiality of investors' personal information.

The need to modernize e-delivery is even more urgent following the SEC's recent adoption of a T+1 settlement rule, which shortens the securities transaction settlement period from two days to one. In a T+1 environment, firms will struggle to meet disclosure requirements without secure and timely electronic delivery. Expanding e-delivery will help ensure that investors receive essential information within the required timeframe.

We urge the Committee to support the *Improving Disclosures for Investors Act of 2025* to bring SEC regulations in line with modern investor needs and technological capabilities while preserving strong investor protections.

### **C. Accredited Investors Include Individuals Receiving Advice from Certain Professionals Act**

The IAA urges the Committee to consider and approve legislation to simplify and expand the accredited investor definition. Expanding the pool of accredited investors would benefit individual investors, retirement savers, and businesses of all sizes – both early-stage and established – across the economy.<sup>6</sup>

A meaningful expansion of the accredited investor pool, while maintaining appropriate investor protections, would democratize access to investment opportunities, foster capital formation, and ensure that a broader range of investors can participate in the financial growth and innovation driving our economy.

The IAA urges the Committee to update the definition of an accredited investor to reflect the evolving economy and the growing significance of private markets. We believe that income and net worth thresholds alone do not determine financial sophistication, and that additional pathways should be established for individuals to qualify as accredited investors.

Furthermore, we believe that the investment adviser fiduciary duty offers strong investor protection by ensuring that recommendations align with investors' best interests.<sup>7</sup>

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<sup>6</sup> On February 26, 2025, the IAA submitted a letter as part of the Accredited Investor Alliance in support of this legislation, available at <https://www.investmentadviser.org/resources/iaa-urges-congress-to-consider-and-approve-legislation-that-would-expand-the-accredited-investor-definition/>.

<sup>7</sup> The IAA has advocated that the SEC expand the definition of accredited investor. See IAA Letter to The Honorable Mark T. Uyeda (Jan. 29, 2025), available at <https://www.investmentadviser.org/resources/iaas-regulatory-priorities-for-the-new-administration/>.

Bipartisan legislation to expand the accredited investor definition has consistently advanced in the House of Representatives over multiple Congresses. The IAA is grateful to the Committee for championing the *Fair Investment Opportunities for Professional Experts Act* last Congress, which passed the House on June 5, 2023.<sup>8</sup>

We appreciate your consideration of straightforward, common-sense legislation that would expand investment opportunities for individuals and retirement savers, allowing them to grow and diversify their portfolios while strengthening capital markets.

#### **D. Retirement Fairness for Charities and Educational Institutions Act of 2025**

The *Retirement Fairness for Charities and Educational Institutions Act of 2025* ensures that Americans working in education, charitable organizations, public service, and certain health care sectors have access to the same investment options in their employer-sponsored retirement accounts as private-sector employees.

Many public service and nonprofit employees save for retirement through a 403(b) retirement plan, which functions similarly to a 401(k) retirement plan but is subject to more restrictive investment rules. Unlike 401(k) participants, 403(b) savers are currently prohibited from investing in collective investment trusts (CITs), cost-efficient pooled investment products that offer similar investment strategies to mutual funds but may have lower costs. CITs are already used in the Thrift Savings Plan available to Congress and federal government employees and are regulated by the Office of the Comptroller of the Currency, the IRS, and the Department of Labor.

The SECURE 2.0 Act, which the IAA strongly supported, amended the tax code to establish CIT parity between 401(k) and 403(b) retirement plans. However, further changes to federal securities laws are still necessary to fully level the playing field for millions of public service and nonprofit employees. Without these additional reforms, 403(b) plans remain at a disadvantage, limiting investment options and potentially increasing costs for workers who serve their communities.

The *Retirement Fairness for Charities and Educational Institutions Act of 2025* is a crucial step toward creating such a level playing field. In addition to strong agency regulatory oversight, this legislation will help ensure that there is a fiduciary responsible for the selection and oversight of any CIT made available in a 403(b) plan.

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<sup>8</sup> On March 8, 2024, the House also passed the *Expanding Access to Capital Act*, a package of capital formation legislation previously examined by the Financial Services Committee. The package incorporated several bills dealing with the accredited investor definition, including legislation to include as accredited investors individuals who receive individualized investment advice or individualized investment recommendations with respect to a private offering from a qualified professional. The IAA strongly supported language that would deem an individual receiving investment advice from an SEC-registered investment adviser to be an accredited investor. See H.R. 2799, available at <https://www.govinfo.gov/content/pkg/BILLS-118hr2799rh/pdf/BILLS-118hr2799rh.pdf>.

The bill mandates that 403(b) retirement plans comply with longstanding benefits law, specifically Title I of the Employee Retirement Income Security Act of 1974 (ERISA). As a result, the employer sponsoring a 403(b) plan would be considered a fiduciary under ERISA. An employer offering such a plan must either serve as a fiduciary for selecting the plan's investments, or ensure the plan qualifies as a governmental plan.

Congress has an opportunity to modernize retirement savings rules and provide long-overdue parity for 403(b) retirement plan participants. The IAA urges the Committee to support and advance this bipartisan legislation to ensure fairness and expanded investment opportunities for nonprofit and public service employees.

#### **E. Senior Security Act of 2025**

The *Senior Security Act of 2025* will create a Senior Investor Taskforce at the SEC that will examine how seniors are being targeted by fraudsters who seek to take financial advantage of them. Every two years, the Taskforce will be required to submit a report to Congress outlining trends and innovations – like robocalls and voice spoofing – that are adversely impacting senior investors, helping policymakers stay ahead of financial scams as they evolve.

It is estimated that older adults in our country lose \$2.9 billion annually from financial exploitation, and these losses can result in a diminished quality of life for those who fall victim to such exploitation. The IAA shares your commitment to protecting seniors from financial exploitation. State and federal officials entrusted with the responsibility of protecting consumers must remain vigilant in their oversight.

Recognizing that financial exploitation is a pervasive and increasing problem that specifically threatens our members' clients' financial security, the IAA supports strong legal protections against financial exploitation. The IAA hopes this legislation is just the beginning, and we stand ready to work with you to forge solutions and bring safeguards to our members' clients and the public.

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We appreciate the opportunity to support these draft legislative proposals and look forward to collaborating with you on these and other key reforms to strengthen our capital markets and protect investors. Please do not hesitate to contact the undersigned at (202) 507-7214 if we can be of further assistance.

Respectfully Submitted,

/s/ William A. Nelson

William A. Nelson  
Director of Public Policy and Associate General  
Counsel

cc: The Honorable Tim Scott, Chair, U.S. Senate Committee on Banking, Housing, and Urban Affairs  
The Honorable Elizabeth Warren, Ranking Member, U.S. Senate Committee on Banking, Housing, and Urban Affairs  
The Honorable Mark T. Uyeda, Acting SEC Chair  
The Honorable Hester M. Peirce, SEC Commissioner  
The Honorable Caroline A. Crenshaw, SEC Commissioner