January 9, 2022

Vanessa A. Countryman
Secretary, Securities and Exchange Commission
100 F Street NE
Washington, DC
20549–1090

Submitted via email to rule-comments@sec.gov

RE: Request for comment period extension
Open-End Fund Liquidity Risk Management Programs and Swing Pricing; Form N-PORT Reporting, File Number S7–26–22

Dear Ms. Countryman:

The undersigned organizations, which represent sponsors of retirement and other benefit plans, and the service providers to those plans, request an extension of the comment period for the proposed rulemaking referenced above, which was published on December 16, 2022, with only a 60-day comment period. For the reasons outlined below, we request an extension of 90 days from the current comment deadline of February 14, 2023. Additional time will allow us to provide accurate and meaningful input on this very significant proposal, which will impact millions of Americans saving for retirement in 401(k), 403(b) and other benefit plans.

As the Securities and Exchange Commission ("Commission") itself acknowledges in the proposing release, retirement plans – where the vast majority of ordinary Americans invest in mutual funds – will "face particular challenges" complying with the proposed hard close requirement.[1] The proposing release admits that the proposal could lead to Americans who save in mutual funds being subjected to significantly earlier cut-off times for requesting trades within the plan, potentially creating second-class investors by providing trading advantages to institutional investors. The proposing release surmises that recordkeepers may be able to update or alter their processes to accommodate the hard close, even though when a hard close was last proposed by the Commission in 2003, the Commission received volumes of input that this is not possible without significant harm and cost to retirement savers. The Commission also explicitly acknowledges in the proposing release that any updates or alterations of retirement plan recordkeepers' systems would need to be *substantial* in order to accommodate a hard close requirement.

Because the Commission provided no warning it would revive a proposal from nearly two decades ago, our organizations need to collect information from our members to provide meaningful and useful input to the Commission on the impact this will have on retirement plan savers and whether what the Commission has proposed is workable (and if so, at what cost).

[1] 87 Fed. Reg. 77,172, 77,212 (Dec. 16, 2022).

Providing meaningful comments by the early part of 2023 presents a particular challenge to the retirement plan industry because comprehensive retirement legislation passed at the end of the year, which our members will need to absorb and begin to implement.

We know that the Commissioners do not want to adopt a rule that will simply harm ordinary retirement savers. We want to provide you with fulsome input to avoid that result. For all these reasons, we strongly urge the Commission to extend the comment period for the swing pricing/hard close proposal by 90 days.

Sincerely,

American Benefits Council
American Retirement Association
The ERISA Industry Committee
Insured Retirement Institute
Securities Industry and Financial Markets Association
The SPARK Institute

cc: The Honorable Gary Gensler, Chair
The Honorable Hester M. Peirce, Commissioner
The Honorable Caroline A. Crenshaw, Commissioner
The Honorable Mark T. Uyeda, Commissioner
The Honorable Jaime Lizarraga, Commissioner

The Honorable Bernard Sanders, Chairman
The Honorable Bill Cassidy, Ranking Member
Senate Committee on Health, Education, Labor, and Pensions

The Honorable Ron Wyden, Chairman
The Honorable Mike Crapo, Ranking Member
Senate Committee on Finance

Chair and Ranking Members of House Committees on Education and the Workforce and Ways and Means (TBD)

The Honorable Lisa Gomez, Assistant Secretary, Employee Benefits Security Administration