

# Reflections on the Future of the Fund Industry, 2020 Fund Directors Conference

## Reflections on the Future of the Fund Industry

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*As prepared for delivery.*

Good afternoon. Thank you, Tom [Kim] and Kathie [Barr], for inviting me to speak at your very first virtual conference. It's a pleasure to do so—although I would prefer to be with you all in Chicago once again.

I suppose when we ring in 2021, we will all be glad to see the end of this year and the start of a new one. But the memories aren't all bad. As you know, we are celebrating the 80th anniversary of both the Investment Company Act and the organization that became the Investment Company Institute.

Anniversaries and new beginnings lend themselves naturally to reflections on the past, on the future, on what changes and what remains the same.

As for the future, you've no doubt heard, ICI is embarking on an exciting next chapter with a new president and CEO, Eric Pan. ICI's Board unanimously selected Eric, who will assume his new role in early November.

Some of you may know Eric. He is a veteran markets regulator with deep experience in international financial regulation, as well as a recognized scholar and expert on financial regulation. From 2011 to 2019, Eric directed international regulatory policy at first the US Securities and Exchange Commission and then at the US Commodity Futures Trading Commission.

Eric will be the 10th chief executive in the 80-year history of ICI and its predecessor organizations. In Eric, the Board has identified a strong leader to maintain and advance the Institute's proud traditions of advocacy based in solid data and sound analysis. He brings the intellect, the deep knowledge, and the global perspective that will serve our organization and our members well. I am pleased to welcome him aboard.

Now, let us look at what Eric will be taking on when he joins ICI. The fund industry that ICI serves has changed dramatically and continues to evolve. In just the 16 years that I have been president and CEO of ICI, assets under management in regulated funds have more than tripled.

But I would submit that AUM is not the only or even the best measure of our success. The best measure is what those assets represent—that is, the trust of millions of shareholders. May we continue to work hard every day to continue to earn that trust.

I took up my role at ICI in June 2004. That was shortly after the founding of the Independent Directors Council. In the years since, IDC has grown into a very accomplished organization that I have been proud to support throughout my tenure.

In 2004, of course, we were in the midst of the late trading and market timing scandal, the most serious reputational challenge we have ever faced. I gave my very first speech as head of ICI to a national audience at the Press Club in Washington. In that speech, I called on the industry to rededicate itself to its fiduciary role.

Later, I revived a tradition in publishing an annual report to our members. At the beginning of each of these reports since 2005, you will find a page that addresses the question: Who does ICI represent? The 2020 report, forthcoming soon, answers the question as follows: ICI represents 31,000 funds, with \$34.5 trillion in assets, serving more than 106 million shareholders.

You will note that fund shareholders are front and center here, something I have sought to assure is the case in all our work. That is why I accord such importance to supporting the efforts of IDC to promote excellence in fund governance. Helping independent fund directors to fulfill their responsibilities—that is of enormous benefit to fund investors.

IDC is but one example, however, and I would like to reflect on others of which this audience may be less aware. Some are recent, while others are part of our long history as an organization.

## **Securities Regulation**

A perennial goal of ICI is to encourage a sound system of regulation that protects shareholders and promotes and sustains their confidence in fund investing. The US system of administrative law ensures organizations like ours an opportunity to comment on rules as they are developed.

We have always sought to be a constructive interlocutor with the SEC, which deserves great credit for its decades of work on fund regulation. I daresay that there has been no significant regulatory or legislative proposal in this space on which ICI has failed to comment, but there are some of great importance to the industry that we initiated.

One example is the chief compliance officer rule adopted by the SEC in 2003. That rule was based on a petition for rulemaking ICI submitted to the SEC in 1994 to strengthen compliance programs across the industry.

Another example, in the legislative context, is the elimination of the duplicative framework of federal and state regulation of funds that prevailed prior to passage of the National Securities Market Improvement Act in 1996, a measure spearheaded by ICI.

Shareholders clearly benefit from a sound body of regulation—and when the regulated industry engages constructively with policymakers.

## **Disclosure**

Disclosure is another example of engagement of this kind. Enabling shareholders to make well-informed investment decisions through simpler, more accessible disclosures has long been a top priority at ICI.

For example, we have been urging for a decade or more that funds be permitted to use twenty-first century means for delivering disclosure, with all the efficiencies and versatility that entails. Most recently, we submitted a report to the SEC on shareholder preferences, urging the Commission to allow funds to deliver information electronically to investors, unless they opt for paper.

This year, the Department of Labor also responded to these evolving preferences. It adopted a rule reflecting ICI's recommendations for e-delivery of communications to retirement plan participants.

As we finally take disclosures into the digital era, it is useful to recall how long and how deeply ICI has been involved in efforts with the SEC to improve fund disclosure.

In 1988, for example, ICI led the industry's development of standardized computations for fund yield and total return to help investors compare fund performance—an approach that the SEC adopted in a rulemaking that year.

I worked on the first prototype of a summary prospectus as ICI general counsel more than 25 years ago.

Today, the SEC requires at the front of every prospectus a clear, standardized summary based on one developed by ICI with its members.

Much more recently we turned to recommending improvements to the shareholder report. We recognize that investors simply are not going to read a 100-page document that arrives in the mailbox. First, we focused on improving the means of delivery. We advocated strongly for the SEC to adopt rule 30e-3 a “notice and access” rule for shareholder reports.

Then, we designed a new shorter form of shareholder report, road-tested it with investors and recommended it to the SEC. The version developed by ICI features prominently in the SEC’s recent disclosure reform proposal.

Shareholders clearly benefit when they receive straightforward, accessible and accurate information about their fund investments.

## **Retirement**

Last December, we applauded passage of the SECURE Act, the first major legislation to significantly enhance Individual Retirement Accounts and 401(k) retirement plans in more than a decade.

In a big step forward, the SECURE Act allowed unrelated companies to form multiple employer 401(k) plans together, so that more companies can offer retirement plans and more workers can participate in them. To accommodate longer life spans, the SECURE Act eliminated the age limit for making traditional IRA contributions. And it allowed workers to defer taking required minimum distributions until age 72.

For decades, ICI has been a major proponent in Washington of measures like these that have contributed to the strength and success of defined contribution retirement plans. Way back in 1962, ICI supported the creation of Keogh retirement accounts for the self-employed and small businesses. In 1974, ICI was instrumental in supporting legislation creating the first IRAs, and in 1997, the first Roth IRAs.

We survey investors annually, and one constant is this: they look to funds first and foremost as retirement saving vehicles. No wonder that today, IRAs and DC plans account for 60 percent of all US retirement assets and about half of those assets are invested in mutual funds.

Shareholders clearly desire and benefit from a system that gives them effective tools for retirement savings.

## **Tax**

International and domestic tax policy, with all its complexity, has long been a core concern of ICI. The very bedrock of mutual funds is of course their pass-through tax treatment. And ICI has been a prominent advocate of retaining the current tax deferral treatment for 401(k) contributions.

I am happy to report that there has been very good news on the tax front for our shareholders quite recently.

After years of advocacy and litigation alongside many of our members, ICI helped US funds recover billions of dollars in taxes, plus interest, that were imposed on them unlawfully by certain EU member states. The recoveries eventually may total \$10 billion or more—and they will go directly to affected funds and their shareholders.

We also have been staunch opponents of financial transaction tax proposals in the US and Europe. These proposals invariably level a double-whammy on mutual fund shareholders and would have a very adverse cumulative impact on retirement savers.

We have long been on the forefront protecting shareholders against such unwarranted taxation. In 1983, after a decades-long effort, ICI and others successfully prevented states from taxing mutual fund shareholders on dividends from US government bonds.

In 2003, the Institute worked for tax legislation providing fund shareholders with the full benefit of lower dividend and capital gains tax rates.

Shareholders clearly benefit from tax policies that are fair and that reward saving and investment.

## **Industry Operations**

The COVID-19 experience certainly has tested the resilience of our industry. And it should remind us all that funds and their shareholders rely on the smooth and efficient functioning of a vast infrastructure that makes fund investing possible.

Many communities come together for this purpose—industry operations professionals and service providers; information technology and information security teams; risk managers, compliance officers, and business leaders. Their ranks have focused intently on business continuity over many years.

For decades, ICI has worked closely with all these communities in the industry. And true communities they are, dedicated to reducing risk for the neighborhood at large and working together through ICI to that end.

The truly good news is how much all these efforts have paid off during the pandemic. The public health crisis imposed drastic changes on well-established patterns of work that no one could have contemplated. We may never quite return to the traditional workplace model, but we have continued to deliver on our promises to our shareholders.

Shareholders clearly benefit from efforts like these to make funds and fund investing resilient in the face even of shocks we could never anticipate.

When in a few short weeks I pass the baton and depart from ICI, I will take with me a deep confidence that our work together has been of real value and consequence to the many millions of investors who place their trust in us. I know that work will continue in the years ahead.

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