

ICI Applauds New Bill to Provide Main Street Investors with Greater Investment Opportunities and Stronger Protections Through Closed-End Funds

Bill would give retail investors access to private investments and close a loophole that activist investors exploit at the expense of long-term shareholders

Washington, DC; November 19, 2020—Investment Company Institute (ICI) President and CEO Eric J. Pan issued the following statement in support of the Increasing Investor Opportunities Act, introduced today by US Representative Anthony Gonzalez (R-OH):

“ICI deeply appreciates Representative Gonzalez’s leadership to provide greater opportunity to Main Street investors. The Increasing Investor Opportunities Act will allow closed-end funds to offer retail investors greater exposure to private investments with the protections that publicly offered, regulated funds provide under the Investment Company Act. It also will strengthen the closed-end fund structure by eliminating a loophole that activist investors have used to extract short-term profits to the detriment of Main Street investors.”

Provisions in the legislation would:

- **Enhance investment opportunity for retail investors.** In recent years, the US Securities and Exchange Commission (SEC) has sought to provide retail investors with greater access to private investments. Closed-end funds (CEFs) have key features that are attractive to investors and are highly suitable vehicles for achieving the SEC’s goal.

CEFs have greater latitude than mutual funds to invest more of their assets in less-liquid securities, including private investments. As a result, these funds can offer retail investors exposure to these investments with the protections that publicly traded, regulated funds provide under the Investment Company Act of 1940. However, the SEC staff has restricted any CEF from investing more than 15 percent of its net assets in privately offered funds, unless the CEF sells its shares to accredited investors who make minimum initial investments of at least \$25,000.

The Increasing Investor Opportunities Act would eliminate those restrictions and enable CEFs and their investors, including Main Street investors, to gain greater exposure to private investments to act as long-term sources of capital, subject to appropriate investor protections.

- **Eliminate a loophole that allows activist investors to control CEFs and cause financial harm to long-term shareholders.** In recent years, professional activist investors, often hedge funds, have been targeting CEFs. They acquire large positions in a fund at a discount to the fund’s net asset value and subsequently force the fund to take actions to provide liquidity, such as conducting a tender offer, converting the fund to an open-end fund, or liquidating the fund. With this investment strategy, the activists can realize the difference between the discounted market purchase price and the higher tender or redemption price.

To provide liquidity, a CEF often must sell portfolio securities or take other measures to satisfy the tenders. These actions hurt shareholders who remain or want to remain in the fund, including long-term shareholders that purchased fund shares for exposure to the fund’s investment strategy.

The new legislation would restrict the percentage of outstanding CEF shares activist investors and their affiliates could acquire to no more than 10 percent. This change would level the playing field between the activists and other registered funds investing in CEFs and close the loophole that activists have been using to exploit other CEF shareholders.