May 5, 2020

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

Re: Request for Comments on Fund Names
File No. S7-04-20

Dear Ms. Countryman:

The Asset Management Group (the "**AMG**") of the Securities Industry and Financial Markets Association ("**SIFMA**")[1] appreciates the opportunity to provide comments to the United States Securities and Exchange Commission (the "**Commission**" or "**SEC**") on the Commission's request for public comment on the framework for addressing names of registered investment companies and business development companies, governed by section 35(d) of the Investment Company Act of 1940, as amended (the "**Investment Company Act**" or the "**1940 Act**"), rule 35d-1 thereunder (the "**Names Rule**"), and the antifraud provisions of the Federal securities laws.[2] AMG is very supportive of this solicitation of public comments on the Names Rule and the associated challenges the industry has faced over the nearly twenty years since its adoption. Feedback from market participants will provide the Commission with important perspective to help shape a more efficient and robust regulatory evaluation of fund names. SIFMA AMG gathered input from many member firms and we are pleased to provide feedback on a number of the topics and questions included in the Request in furtherance of the Commission's efforts.

I. INTRODUCTION

Section 35(d) of the 1940 Act provides protections to investors of all funds, regardless of whether a fund is subject further to rule 35d-1. This section makes it unlawful for a fund to use in its name "any word or words that the Commission finds are materially deceptive or misleading." This general guideline applies to any fund and any words used in a fund name. Section 35(d) also authorizes the Commission to

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[1] SIFMA AMG brings the asset management community together to provide views on U.S. and global policy and to create industry best practices. SIFMA AMG's members represent U.S. and global asset management firms whose combined assets under management exceed $45 trillion. The clients of SIFMA AMG member firms include, among others, tens of millions of individual investors, registered investment companies, endowments, public and private pension funds, UCITS and private funds such as hedge funds and private equity funds. For more information, visit http://www.sifma.org/amg.

[2] Request for Comments on Fund Names, Investment Company Act Release No. 33809 (March 2, 2020), available at https://www.sec.gov/rules/other/2020/ic-33809.pdf (the "**Request**").

designate specific fund names by rule that would be materially deceptive or misleading. The Commission did so in adopting the Names Rule in 2001.

We support the Commission's efforts to review the effectiveness of the current framework surrounding fund names. Aside from guidance issued in 2001[3] and 2013,[4] there has been no formal Commission action (*e.g.*, rule amendment or guidance) related to the Names Rule since its adoption. Many aspects of the asset management industry, and of capital markets generally, have evolved over the past 19 years. Despite several volatile markets cycles since the adoption of the Names Rule, there has been significant innovation in product development. The Names Rule has been generally effective over time, but applying the Names Rule has presented opportunities to assess whether this effectiveness could be improved upon in certain instances. In the Request, the Commission correctly identifies many of the challenges and pain points the industry experiences when initially naming a fund or changing a fund's name.

In this letter, we offer thoughts on several aspects of the Names Rule's application as well as thoughts on certain components of the rule. We also offer perspective on some of the questions included in the Request that are of particular interest to our members.

The following main themes are elaborated on throughout our comments:

1. *Consistency is important*. The Names Rule, and any SEC staff feedback on fund names (including from the SEC disclosure staff in the context of reviewing fund registration statement filings), should be applied equally and consistently across all types of funds, and across fund sponsors of similar/similarly-named funds.

2. *The Names Rule should not be expanded to apply to investment strategies*. A fund's investment strategies are extremely important to an investor's investment decision and a fund should include clear and sufficient disclosure about its investment strategies. A fund name indicating an investment strategy signals to an investor a need to inform herself more about how the fund implements that strategy. Applying the Names Rule to strategies could create arbitrary standardization and restrict funds' flexibility to efficiently adapt to market changes and react to market events. Investment strategies do not generally lend themselves to quantitative measurement associated with an 80% investment policy.

3. *Enhanced information is available to investors more now than ever*. Since the adoption of the Names Rule, investors have increased access to extensive information made available on funds' websites, the summary prospectus was adopted, and third-party resources of fund information have expanded. In essence, the risk of investor confusion based on a potentially misleading or deceptive fund name is lower because of this increased transparency, increased availability of information, and improved fund disclosures since the time of the Names Rule adoption. Investors expect it to be necessary to learn more about a fund through reading its disclosure.

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[3] *See* Frequently Asked Questions about Rule 35d-1 (last modified December 4, 2001), available at https://www.sec.gov/divisions/investment/guidance/rule35d-1faq.htm ("**FAQs**").

[4] *See* IM Guidance Update No. 2013-12 (November, 2013), available at https://www.sec.gov/divisions/investment/guidance/im-guidance-2013-12.pdf.

II. ESG

Funds that include environmental, social and/or governance principles ("**ESG**") in their investment mandates have been growing in number and have been becoming more popular as investment options in recent years.[5] Funds include ESG in their investment strategies in a variety of ways. Some use internal rating systems for the ESG attributes of securities. Others rely on third-party screening tools to define an investible universe based on preset ESG parameters. Still others utilize a "negative screen" which kicks securities out of a fund's investible universe based on defined criteria. Certain components of funds' various ESG processes include subjective elements. Two funds employing similar ESG strategies could reasonably determine to exclude/include the same security due to differing subjective inputs.

By and large, ESG is an investment strategy and should not be subject to the Names Rule. Most ESG funds employ an ESG process that would not lend itself to an 80% investment policy. As is the case with other investment strategies, in most cases it would not be practicable to apply an 80% test to an ESG fund's portfolio (as applied to the term "ESG" in the fund's name). Similar terms, such as "sustainable," in a fund's name should similarly not be subject to a Names Rule 80% investment policy. Applying the Names Rule requirements to these funds could have negative unintended consequences, including vague or unclear fund names (as funds change their names to avoid certain terms), and the elimination of entrepreneurial efforts that could benefit investors (as funds are forced to standardize certain investment approaches.)

As noted above, focusing on ESG is an industry trend that has been developing for a number of years. As this focus continues to develop, asset managers have incorporated ESG elements in many different ways in various funds, and more and more investors have sought out ESG funds as part of a diversified portfolio. We support the Commission examining the various types of ESG funds and differing strategies employed by those funds, as well as how investors view and invest in ESG-focused funds. We urge the SEC to ultimately take a principles-based approach to ESG oversight. This would promote investor choice by allowing funds the flexibility to pursue varying ESG strategies, instead of a prescribed formula, that investors, with varying ESG investment criteria and thresholds of their own, can choose from in order to suit their investment needs. A principles-based approach would promote disclosure-based protections to allow investors to make an informed decision on which ESG strategies would be best for their individual circumstances and investment portfolios, while avoiding unwanted standardization across these funds. All ESG funds, regardless of their differences, would be subject to the general provision against materially deceptive or misleading names in section 35(d) of the Investment Company Act.

ESG is a priority investment area for many SIFMA AMG members and we would welcome the opportunity to provide further information or feedback that would be helpful to the Commission. Given the varying views on what constitutes an ESG investment and the fact that multiple regulatory bodies are considering ESG regulations,[6] should the Commission determine that oversight and/or regulation of ESG funds is necessary, we would be more than happy to further engage on next steps We also support the SEC's participation in ESG discussions at the global level, and indeed ask the SEC to engage further

[5] *See* Request at 9, n. 23 and accompanying text.

[6] *See* IOSCO Final Report – Sustainable Finance and the Role of Securities Regulators and IOSCO (April 2020), available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD652.pdf at 7.

in these discussions, as global asset management firms will be directly affected by the various taxonomies and/or regulations under consideration in this area.[7]

Under a principles-based approach to ESG oversight, any fund that uses ESG in its name should still be required to include clear disclosure in its prospectus with respect to its ESG strategy. This disclosure would better inform investors and enable them to make their investment decisions in alignment with their investment objectives, including investing in a socially responsible way. To the extent certain types of ESG funds are ultimately identified and classified by the SEC, we would not object if the SEC required a fund's disclosure to include such a classification. A fund should explain as part of its investment strategies how ESG is used in a clear enough way to identify with a particular classification. Any such disclosure requirements, however, should follow after a robust regulatory examination of the ESG landscape is complete.

III. GLOBAL AND INTERNATIONAL FUNDS

There are several terms used in fund names that are specifically not covered by the Names Rule. These include the terms "global" and "international."[8] Despite this exclusion, the staff has often taken the position that a global or international fund should hold at least 40% of its assets in non-U.S. securities and/or hold securities in at least three different countries. Most of the time this feedback is provided to funds during disclosure review at initial registration or during an annual update to a fund's registration statement. As a result, the current regulatory oversight of these funds' investment policies is not uniform or consistent.

We believe the Names Rule should continue to not apply to global and international funds. Additionally, we believe other prescriptive requirements, such as a minimum percentage of non-U.S. investments test, should not be required for these funds. We do not think the current staff approach to global and international funds is efficient or effective in implementing the spirit of the Names Rule to these funds. A global/international fund should, however, be required to include clear and specific disclosure about how its investment strategies are implemented, and investors should be able to understand clearly the global/international aspect of the fund.

A. The Names Rule Should Not Apply to Global or International Funds

Applying the Names Rule to global or international funds would be challenging, if not unworkable. An 80% investment policy in "global securities" or "international securities" would not necessarily be informative to an investor. The fund would still need to include disclosure on how the investment policy is applied and how the fund classifies its holdings. Additionally, for global funds, in some respects an 80% investment policy doesn't make sense at all, for it begs the question – what securities would fall into the other 20% of a fund's portfolio?

Global and international funds provide opportunities for investors to diversify their portfolios by region and country. These funds require flexibility to manage through market movements and evolving market

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[7] *See id.*

[8] *See* FAQs question 10, *supra* note 3.

dynamics, and adjust their portfolios accordingly, including to take a temporary defensive position, as needed.[9] A prescriptive investment policy could restrict this flexibility to the detriment of investors.

B. Prescriptive Rules are not Necessary for Global and International Funds

Investors understand that global and international funds follow a variety of investment strategies in seeking to obtain U.S. and non-U.S. exposures. Investors expect to read the disclosure documents to better understand a global or international fund's investment strategies in order to determine whether the fund's strategies suit their individual investment objectives. These strategies might include where a fund expects to concentrate its investments and/or how the fund might react to adverse market, political, economic and other conditions. To implement a standard approach that global and international funds would be *required* to follow, would change how certain funds invest and potentially disrupt portfolio composition flexibility to the detriment of investors. Such a change would be costly, inefficient and unnecessary.

Some global and international funds are index-based funds that track a global index. To implement a required non-U.S. investments percentage could cause a fund that tracks a global index to incur tracking error, potentially on a regular basis. Even some global indexes that may be used by funds for benchmarking purposes do not consistently include over 40% of index constituents outside of the U.S. The composition of these indexes can vary significantly over time depending on the asset class or specific sectors of the global markets they utilize. A strict percentage requirement would restrict flexibility to enable a fund to adjust to evolving market conditions and/or changes in index weightings over time.

Additionally, many companies are multi-national, so to mandate prescriptive rules on non-U.S. investments, including a percentage limitation, could potentially be misleading in and of itself. A multinational corporation could be U.S., Israeli, or German, depending on an evaluation of ownership, employees, offices, revenue streams, production plant locations, etc. A company could be domiciled in one country but have a majority of revenue derived from another country. And, these situations have only increased since the Names Rule was adopted.

For certain funds, a minimum non-U.S. investment test (with the flexibility to depart from that threshold depending on market conditions) may be determined by the fund and/or adviser as the best means of expressing the fund's strategy. Other criteria, however, could be reasonable and appropriate, and we therefore do not recommend requiring this test across the board. We do agree that regardless of the criteria used, a fund should be required to disclose to investors how securities are classified to be considered non-U.S. and how the fund implements its global or international strategy.

IV. DERIVATIVES

Derivatives are frequently used by a fund as part of the fund's investment strategy in a number of ways. When applying an 80% investment test under the Names Rule, derivatives exposures should continue to be permitted to count towards the calculation.

The SEC should allow funds to determine how derivatives are counted for purposes of complying with an 80% test, as what is most appropriate may depend on various factors, including the nature of a

[9] *See* section VI(C)(i) of this letter.

derivative instrument and/or how the fund utilizes the holding as part of its investment strategies. Some derivatives in certain circumstances may use mark to market value to count towards an 80% test. For others, notional is more appropriate when it is a more appropriate reflection of market exposure. For a negative exposure, the absolute value of the derivative should count.[10] Additionally, when the notional value of a derivative is used, the denominator of the calculation potentially would need to be adjusted as well, such that the asset based test for the 80% policy could still be applied accurately. It would be challenging to classify the wide range of derivative instruments and their differing tactical uses for Names Rule purposes. The methodology used to determine how derivatives are counted toward an 80% investment policy should be subject to a fund's adviser's discretion. The methodology used should be described in a fund's prospectus instead of being prescribed.

It would be helpful for the staff to recognize that this flexibility is appropriate so that there is more consistency going forward in staff feedback and comments. We also recommend that the Commission clarify that the market value of collateral, including cash and U.S. Treasury Bills, should be included in the calculation of derivative exposure for a derivative that is a Names Rule-eligible asset. All treatment of derivatives and calculations, as long as reasonable and adequately disclosed, should be sufficient for an 80% investment policy test.[11] A fund's prospectus disclosures should explain to investors the fund's methodologies for compliance with its 80% investment policy. Such disclosures should be tailored to the types of derivatives the fund expects to use.

V. OTHER FUND TYPES

There are several other types of funds that are impacted by the Names Rule that have presented challenges to our members at times.

A. Index Funds

i. Treatment of Index Funds Under the Names Rule

The Request correctly identifies index funds as one of the factors that creates challenges for funds (both mutual funds and ETFs) in complying with the Names Rule.[12] Because indexes are not subject to the Names Rule, compliance with the 80% investment test may limit a fund's ability to track its underlying index. Requiring a fund to comply with an 80% investment test that would create tracking error to the detriment of achieving its investment objective, and to the detriment of meeting the fund's investors' expectations, is a paradoxical result. We believe index funds should be treated differently under the

[10] To illustrate, consider an equity fund that has 75% of its net assets invested in long equity securities. In addition, the fund has an out-of-the money derivatives position with a market value representing 10% of net assets. The absolute value of the 10% derivatives position should count towards satisfaction of the 80% test.

[11] An example of one reasonable approach could be as follows: a derivative investment that achieves synthetic exposure and that is backed or supported by portfolio cash may use notional value for purposes of an 80% investment test. If an equity fund is 100% invested in equity securities, the 80% test would be satisfied. If the same fund receives a subscription in cash representing 30% of net assets and equitizes the cash by purchasing an S&P 500 index future, we believe that the notional value of the future should count in the numerator for purposes of the 80% test (with no adjustment to the denominator required.) If market value were to be used to value the S&P 500 future and, assuming $0 market value, the fund would only have 77% invested in equity securities and would not satisfy the 80% test. This calculation does not reflect the fund's true investment exposure to equities.

[12] Request at 8.

Names Rule. To the extent a fund's investment objective indicates that the fund is an index fund, that fund, regardless of the investment type (or other Names Rule criteria) in its name, should be deemed to satisfy the Names Rule if it invests at least 80% of its assets in the index it tracks, or in other investments that have economic characteristics substantially identical to the assets in the index it tracks, according to clear disclosure in its investment strategies. Additionally, an index fund that utilizes optimization strategies should be permitted to reference an underlying index's name in its fund name. These funds provide a representative sampling of the underlying index and align the fund's risk characteristics with those of the underlying index. As such, we do not believe that an index fund that does not fully replicate the underlying index would mislead or deceive investors by referencing the underlying index name in its fund name.

The above could be accomplished via a tailored exemption for index funds from the Names Rule, or alternatively, through Commission guidance. When investors are seeking to invest in an index fund, they expect the fund's assets to be invested primarily in accordance with the underlying index that the fund discloses in its prospectus. Additionally, in the case of an index-based ETF, investors have ready access to the fund's current holdings on the fund's website, providing even more transparency. We believe addressing index funds under the Names Rule in this way would align with the investor protection objectives of the Names Rule. Additionally, all index funds would continue to be subject to the general provision against materially deceptive or misleading names in section 35(d) of the Investment Company Act.

ii. Underlying Index Composition

Another issue our members have encountered relating to index funds is SEC challenges to the classification of index constituents in indexes developed to measure emerging or growing areas of the economy. At times, the staff has asked funds to apply stringent tests, such as a revenue or sales test, to index constituents. Members have also received questions on the characterization of companies and industry groups or sectors by third-party index providers. For example, the staff has commented that funds cannot use an index name as part of a fund name unless a certain percentage of the index constituents meet certain tests, such as generating a minimum percentage of revenue from the industry indicated by the index name.

We disagree that applying any single factor, such as a revenue or sales percentage test, is the only appropriate way to determine index make-up. There are a number of sound methodologies to determine whether a company should be included in an index. To use a very simple example, a car manufacturer might generate only 25% of its revenue from electric and hybrid cars, but that revenue might represent a substantial portion of the electric vehicle market share. Another relevant factor could be profitability of the electric vehicle product line relative to others. In such instances, it could be very appropriate to include this company in a "Green Vehicle Index." Excluding this company might actually result in an index that is non-representative of the market and could be contrary to investor expectations. Nascent market sectors and emerging technologies frequently develop as segments of well-established companies. In such cases, methodologies including a market share test and/or other criteria, including qualitative information,[13] could be reasonable. By tightly prescribing index methodologies to be followed if a fund wants to use an index name as part of the fund name, the SEC runs the risk of

[13] For example, a company may indicate in regulatory filings or other public documents, that it expects to become the market leader in a certain enterprise, or that one of its business lines may overtake another at some point in the future as a contributor to revenue or profit.

micromanaging index development and arbitrarily slowing index and fund innovation that some investors are seeking. We believe it would not be misleading to apply a variety of different factors in determining index constituents, as long as the methodology used is clearly disclosed.

B. Names Based on Security Characteristics

i. Bond Funds – Maturity Length

A fund named "ABC Short-Term Bond Fund" would be expected to invest at least 80% of its net assets in bonds with short-term maturities. The same expectation would follow for a fund using "intermediate- or long-term" in its name. Bonds with a definable maturity length can be measured and counted towards such a fund's 80% investment policy. How a fund defines maturity lengths should be included in its investment strategies disclosure. A fund should be able to reference a published index in determining the maturity length of bonds. As long as a fund sufficiently describes the method used for determining or classifying bonds' maturity lengths, and that method is reasonable and testable, this should be sufficient. Prescribing a single measure of bond maturity length should not be part of the Names Rule, nor should it be a standardized measure. This could have a number of unintended consequences.

ii. Equity Funds – Capitalization Ranges

Similar to funds that focus on bonds with a particular maturity length, some equity funds focus on equity interests of companies of a particular size. A fund named "XYZ Small Cap Equity Fund" would be expected to invest at least 80% of its net assets in equity interests of small cap companies. How a fund measures capitalization sizes should be clearly disclosed in the fund's investment strategies. Funds should be able to rely on a published index for capitalization ranges. However, this approach, nor any other, should not be prescribed. Capitalization ranges are periodically updated by index-providers to adjust to market growth and changes. Although there is a degree of industry consistency in capitalization ranges across funds, we do not think these ranges are understood by investors to be standard terms. In other words, the risk of a fund name being materially misleading or deceptive is minimized by the quality of the fund's strategy disclosure and how it explains how capitalization ranges are measured.

VI. OTHER NAMES RULE ISSUES

A. Tickers

In the Request, one of the questions asks if the Names Rule should be extended to apply to fund ticker symbols. We do not believe the Names Rule should apply to fund ticker symbols. Fund tickers are not like fund names. Forced to operate with a limited number of characters, fund complexes do not have as much flexibility in creating a ticker. This dynamic is exacerbated by the fact that funds can only use a ticker that is available for use (*i.e.*, not already taken by another fund). Some fund families follow a particular naming convention (*e.g.*, "LLAMA Investments" might use tickers that all start with "L"), which could result in an unintentional clever acronym. Importantly, however, the Names Rule should not apply to tickers because the vast majority of tickers do not cause investor confusion and are not misleading or deceptive. In most circumstances, tickers do not get as much prominence as fund names in disclosure documents and marketing materials, which also lowers the risk of misleading investors.

B. Investment Strategies

The SEC staff notes in the Request that funds sometimes assert names connoting a "strategy" not subject to the Names Rule when the term may appear to others as indicative of a type of investment. The SEC staff asked whether a strategy should be differentiated from a type of investment and, if so, how. Examples provided of strategy terms include "growth, "value" and "tax-sensitive."[14]

The Commission should clarify that the Names Rule does not require the use of the term "strategy" in the fund's name to clarify that a fund's name is not indicative of a type of investment. For example, if a fund has an investment strategy involving a significant exposure to currencies using forward contracts, that fund should be able to name itself "ABC Currency Fund," and should not be required to name itself "ABC Currency Strategies Fund." Once again, any vagueness implied in the favored name in this example could be, and *should* be, explained with clear investment strategies disclosure. Requiring funds to use the word "strategy" in fund names is not necessary and, additionally, would entail enormous costs in changing existing fund names.

C. Funds' 80% Investment Policies

i. Under Normal Circumstances

The Names Rule requires a fund subject to the rule to adopt an investment policy "to invest, under normal circumstances, at least 80% of the value of its Assets" in investments suggested by the fund's name.[15] We believe the "under normal circumstances" clause in the rule is important and should be retained. The adopting release for the Names Rule contemplated that during periods of adverse market, economic, political and other conditions funds would need the flexibility to take temporary defensive positions to avoid losses.[16] The "under normal circumstances" clause also permits funds to depart from the 80% investment requirement in other appropriate circumstances. Funds do leverage the flexibility provided by this clause to depart from the 80% investment requirement, as permitted, in limited, appropriate circumstances, particularly in the case of unusually large cash inflows or redemptions. For example, market disruptions associated with the ongoing COVID-19 pandemic have presented challenges for certain funds. We believe the current market conditions and associated challenges are quintessential "non-normal" circumstances, during which it would be reasonable to conclude that it is prudent for a fund to consider departing from an 80% investment policy.

ii. Time of Purchase Test

We believe that a strict application of the time of purchase requirement for a fund's 80% investment test would not necessarily always be in the best interests of a fund and its shareholders. Consider a health care sector fund that currently has 78% of its net assets invested in securities in the health care industry. The fund receives a subscription and does not believe that the market for health care issuers is favorable and deploys the cash in a repo or a central cash fund. Assuming that the "under normal circumstances"

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[14] Request at 14.

[15] *E.g.*, Rule 35d-1(a)(2)(i).

[16] *See* Investment Company Names, adopting release, Investment Company Act Release No. 24828 (January 17, 2001), available at https://www.sec.gov/rules/final/ic-24828.htm.

exception is not available, we do not believe that the investment in repo or a central cash fund should be considered a violation of the time of purchase test. Similarly, if the fund was to adjust its currency hedging exposure by entering into a currency forward, we do not believe that should be viewed as a violation. A requirement that a fund must purchase a security suggested by the fund name if it is below 80% would inappropriately curtail the fund's portfolio manager's investment decision making. We would object to any stricter interpretation of a time of purchase test that mandated that any new investments must be in securities that satisfy the 80% test. Assessment of the 80% test should be based on a facts and circumstances basis, rather than on an absolute basis.

iii. Lower the 80% Threshold

The 80% threshold in the Names Rule was originally intended to strike a balance between funds aligning their investment strategies with investor expectations created by their names, while also allowing funds flexibility to manage risks through portfolio diversification. We support 80% as being a reasonable level, but would also support the threshold being lowered to 75%, to provide funds additional flexibility in mitigating market risks. This level has been proposed in other contexts. For example, in response to the recently proposed exclusion from the definition of "covered fund" for qualifying credit funds under the Volker Rule,[17] several commenters, including SIFMA, proposed a 25% carve out for qualifying credit funds in an effort to provide greater flexibility.[18] To the extent the Commission considers the merits of this proposed change, we may also suggest a consistent change to the threshold in the Names Rule.

D. Industry Classification

To the extent a fund name refers to a particular industry, that fund is required to have an 80% investment policy for the industry indicated in its name. Funds rely on a number of sources to determine how to classify securities by industry. These sources and methodologies are, and should be, clearly disclosed in the fund's investment strategies. We believe funds/advisers should have the flexibility to define industries based on third-party classification schemes or classification methodologies of the adviser's own design. This flexibility would be similar to what the SEC Division of Investment Management staff has already offered with respect to fundamental concentration policies.[19]

If permitted, an adviser classification scheme and its related methodology should be clearly disclosed and available to fund shareholders, such as through a website or as an appendix to Part B of a fund's registration statement, consistently applied (including any asset, revenue, or profit test for assigning companies to an industry or industries), and subject to meaningful oversight, such as through an adviser's compliance policies and procedures program.

[17] Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds (January 30, 2020), available at https://www.sec.gov/rules/proposed/2020/bhca-8.pdf.

[18] *See e.g.*, Comment Letter of SIFMA – Asset Management Group, File No. S7-02-20 (March 11, 2020), available at https://www.sec.gov/comments/s7-02-20/s70220-6941626-211915.pdf.

[19] *See e.g.*, The First Australia Fund, Inc., SEC Staff No-Action Letter (July 29, 1999).

E. Hybrid Financial Instruments

The Request identifies hybrid financial instruments, including convertible securities, as presenting challenges under the Names Rule.[20] For a fund with "convertible securities" in its name, convertible securities would obviously count towards a fund's 80% policy. For other funds that hold convertible securities, those securities should be permitted to count towards a fund's 80% investment policy, provided that there is appropriate disclosure in the fund's prospectus explaining how convertible securities or other hybrid financial instruments are used to satisfy an 80% test. Prescriptive requirements of such methodologies should not be mandated, however. For example, we do not agree with a rigid approach where convertible securities could only count towards meeting the 80% policy for an equity fund if the securities are "in-the-money" at the time of purchase. Hybrid securities can be even more elusive to classify than the country classifications for multinational corporations (mentioned above in section III.B.). Funds should have sufficient flexibility to classify hybrid securities, with associated sufficient disclosure of its classification methodologies.

VII. CONCLUSION

SIFMA AMG appreciates the efforts of the Commission and the staff to seek public comment on issues and challenges related to fund names, and sincerely appreciates both the opportunity to provide these comments and your consideration of these views. SIFMA AMG supports the Commission's efforts, and believes that with the input and suggestions in this letter and others, the Commission can be accurately informed on how best to proceed with regulatory actions related to fund names. We would be pleased to further engage on the comments contained in this letter, or any other topics included in the Request. Please do not hesitate to contact Timothy Cameron at [redacted], Lindsey Keljo at [redacted] or our outside counsel, Morgan, Lewis & Bockius LLP, at [redacted] with any questions.

Sincerely,

Timothy W. Cameron, Esq.
Asset Management Group – Head

Securities Industry and Financial Markets Association

Lindsey Weber Keljo, Esq.
Asset Management Group – Managing Director and
Associate General Counsel

Securities Industry and Financial Markets Association

[20] Request at 8.

cc: Honorable Jay Clayton, Chair, U.S. Securities and Exchange Commission
Honorable Hester M. Peirce, Commissioner, U.S. Securities and Exchange Commission
Honorable Elad L. Roisman, Commissioner, U.S. Securities and Exchange Commission
Honorable Allison Herren Lee, Commissioner, U.S. Securities and Exchange Commission
Ms. Dalia Blass, Director, Division of Investment Management, U.S. Securities and Exchange Commission