March 9, 2023

The Honorable Ann Wagner
Chairman
Subcommittee on Capital Markets
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

The Honorable Brad Sherman
Ranking Member
Subcommittee on Capital Markets
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Re: The Improving Disclosure for Investors Act of 2023

Dear Chairman Wagner and Ranking Member Sherman,

The Securities Industry and Financial Markets Association ("SIFMA")[1] would like to express our appreciation for your work to facilitate access to capital for small businesses, protect individual investors, and promote meaningful investor engagement by modernizing our securities laws and regulations with the introduction of the discussion draft, The Improving Disclosure for Investors Act of 2023. The U.S. capital markets are the deepest, most liquid, and most efficient in the world, providing the funding for over 70% of all economic activity in the U.S. Retail investor participation has grown significantly in recent years, and studies show that those in the new generation of investors are "younger, more racially diverse, and had lower incomes than the established stock market investors."[2] The Improving Disclosure for Investors Act of 2023 is a critical step to ensure that our regulations governing investor protection and disclosure keep pace with technological advancement and changing investor preferences.

The Securities and Exchange Commission ("SEC") requires investment companies and brokerages to provide retail customers a range of disclosures and other information about their investments. In the 20th Century, the SEC mandated these documents to be delivered in paper form through the postal system. But as internet access expanded, the SEC began changing its rules for some documents, allowing electronic delivery ("e-delivery") to be the default delivery method, while preserving investors' power to choose paper delivery.

E-delivery refers to providing access through digital or electronic methods to a customer's account information and required disclosure documents – for example, an investor receives an email or text

[1] SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's one million employees, we advocate on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. For more information, visit http://www.sifma.org.

[2] Staff of H. Comm. on Fin. Servs., 117th Cong., Game Stopped: How the Meme Stock Market Event Exposed Troubling Business Practices, Inadequate Risk Management, and the Need for Legislative and Regulatory Reform 5 n. 9 (Comm. Print 2021).

message alert from her brokerage firm that notifies her that her documents are available on the firm's secure website or mobile app and provides a link or instructions to log in to her password-protected account to view the documents.

While e-delivery is permitted for certain categories of disclosure documents, the SEC still requires default paper delivery for a number of investor documents, including prospectuses, account statements, trade confirmations, and investment adviser brochures.

These rules are out of step with the preferences, technological capabilities, and lived experience of a large majority of retail investors of all ages, including seniors. The results of a recent survey of individual investors show that most investors are very comfortable with e-delivery regardless of age, education level, income level, and the amount of assets held. Specifically, 79 percent – including 75 percent of those 55 years and above – said they have already chosen e-delivery for at least one type of investor document, and 85 percent said they are comfortable with default e-delivery for investor documents going forward provided they can opt-in to paper delivery.[3] In addition, 27 percent of investors said that they have signed up for e-delivery but still receive documents in paper form via the mail, and 42 percent report receiving paper documents of some kind despite wanting all communications to be delivered electronically. This is evidence that the SEC's outdated regulations harm investors by requiring regulated entities to subject their customers to convoluted and cumbersome processes that make it difficult to receive their required documents in the format they prefer.

One of the primary claims made in opposition to reforming the SEC's paper-first rules is that most, and especially senior, retail investors prefer to receive regulatory documents from their brokerage or investment company in paper form through the postal system. However, these survey results show the opposite to be true. The Improving Disclosure for Investors Act of 2023 would reform SEC rules to conform to this reality by allowing e-delivery to be the default method of communication with customers of registered investment companies, business development companies, advisers, broker-dealers, transfer agents, and others.

This bill represents the natural next step in the decades-long process of updating the SEC's disclosure regulations in light of changing investor preferences and technology. Importantly, the bill includes many provisions to ensure investors are protected, fully informed, and able to receive paper communications at any time. For example, the bill directs the SEC's rules to require regulated entities to (a) 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, (b) provide a mechanism for investors, at any time, to opt out of e-delivery and receive paper versions of documents, (c) adopt measures to identify and remediate failed electronic deliveries of documents, and (d) protect the confidentiality of investors' personal information.

Continuing the incremental process of modernizing the SEC's disclosure rules is even more important following the SEC's recent adoption of a new rule to shorten the process of completing securities transactions from 2-day to 1-day (T+1) settlement for investor trades. In a T+1 environment, firms will not likely be able to meet their required document delivery responsibilities without sending documents by e-mail or other electronic means. As such, the move to T+1 also necessitates the SEC to expand the use of e-delivery so that customers receive the necessary disclosures within the new required timeframes.

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[3] SIFMA commissioned FGS Global to prepare and execute the survey that was conducted online by YouGov from May 16 to May 19, 2022. The Survey sample consisted of 1,300 retail investors that hold at least $5,000 across retirement accounts, college-savings investments, stocks, bonds, mutual funds, or a brokerage account, excluding property and cryptocurrency investments. Full results are available at: https://www.sifma.org/wp-content/uploads/2022/07/SIFMA-Survey-Results-for-SEC-July-2022.pdf

Finally, The Improving Disclosure for Investors Act of 2023 is consistent with SEC Chair Gensler's stated commitment to modernizing the SEC's disclosure rules. In his 2021 United States Senate confirmation hearing, the Chair committed to make e-delivery a priority, appropriately noting his prior leadership in promoting technology as a means of delivery with respect to federal payments to individuals and the adoption and implementation of the e-Signature Act. We very much welcomed this commitment as continuing the SEC's past leadership in reforming its disclosure rules to enable the use of new communications technologies.

Again, SIFMA commends you and your Committee colleagues for putting forth this robust discussion draft that takes the long-overdue step of continuing the SEC's incremental process of adapting its disclosure rules to changing technology and investor preferences. We welcome the opportunity to comment on this draft legislation and look forward to continuing to work with you on this and other important legislative reforms to strengthen our capital markets and protect investors.

Sincerely,

Kenneth E. Bentsen, Jr.
President and CEO, SIFMA