

March 13, 2026

Ms. Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NW
Washington, DC 20549-1090

Re: Amendments to the “Small Business” and “Small Organization” Definitions for Investment Companies and Investment Advisers for Purposes of the Regulatory Flexibility Act (File No. S7-2026-01)

Dear Ms. Countryman,

The Independent Directors Council¹ appreciates the opportunity to comment on the Securities and Exchange Commission’s (Commission) proposal to amend the definitions of “Small Business” and “Small Organization” under the Investment Company Act of 1940 (Investment Company Act) and the Investment Advisers Act of 1940 (Investment Advisers Act), respectively, for purposes of its analyses under the Regulatory Flexibility Act (RFA).² The proposal would increase the asset-based thresholds used to define small entities for purposes of the RFA, and provide a mechanism for periodic future inflation adjustments.³

IDC strongly supports the objective of the Commission’s proposal—to “more appropriately promote the effectiveness and efficiency of its regulations, with the goal of minimizing the significant economic impact” on small investment companies and investment advisers.⁴ These entities play a critical role in the marketplace by offering innovative products, bolstering competition, and advancing capital formation. Yet they

¹ The Independent Directors Council (IDC) serves the US-registered fund independent director community by advancing the education, communication, and public policy priorities of fund independent directors, and promoting public understanding of their role. IDC’s activities are led by a Governing Council of independent directors of Investment Company Institute (ICI) member funds. ICI’s members manage total assets of \$44.7 trillion in the United States, serving more than 125 million US shareholders, and an additional \$10.4 trillion in assets in other jurisdictions. There are approximately 1,600 independent directors of ICI-member funds. The views expressed in this letter do not purport to reflect the views of all independent directors.

² Amendments to the “Small Business” and “Small Organization” Definitions for Investment Companies and Investment Advisers for Purposes of the Regulatory Flexibility Act, SEC Release Nos. IA-6935; IC-35864 (Jan. 7, 2026) (“proposal,” or “proposing release”), *available at* <https://www.sec.gov/files/rules/proposed/2026/ia-6935.pdf>.

³ *Id.*

⁴ Proposing release at 19.

frequently face greater challenges than larger funds in meeting regulatory requirements due to resource constraints.

I. Overview

Generally, the Commission’s proposal would a) amend the definitions of “small entity” under the RFA for funds and investment advisers by raising the asset-based thresholds for both definitions, and b) require the Commission to update the thresholds by order every ten years in accordance with an inflation adjustment mechanism.⁵

In this letter, we address those aspects of the proposal that bear on the interests of small funds and their shareholders, specifically:⁶

- IDC supports the Commission’s objective to better address the interests of the small funds and investment advisers most impacted by regulatory and compliance burdens and costs;
- IDC strongly supports the increase in the asset-based thresholds for defining small funds and investment advisers to account for the significant growth in the asset management industry, among other things; and
- IDC endorses automatic periodic adjustments to the asset-based thresholds for defining small funds and investment advisers.

IDC supports sensible regulation that serves the interests of funds and their shareholders. At the same time, we observe that associated regulatory and compliance burdens and costs can fall disproportionately on small entities. Accordingly, it is essential that the Commission fully consider the impact of its rulemaking activities on small funds and their shareholders. We urge the Commission to continue to advance its efforts, through rulemaking and otherwise, to account for the unique challenges faced by small funds and their shareholders.

II. Regulatory Framework

A. Regulatory Flexibility Act

The RFA seeks to “promote the effectiveness and efficiency of regulations, including through consideration of alternative regulatory approaches. . .”⁷ It requires the Commission to determine if a rulemaking is likely to have a “significant economic impact on a substantial number of small entities.”⁸ Unless the Commission certifies that the

⁵ Proposing release at 18.

⁶ We do not comment on specific asset-based thresholds or adjustments proposed by the Commission or the proposed amendments to Form ADV.

⁷ Proposing release at 5-6.

⁸ 5 U.S.C. 602.

rulemaking will not have such an impact, it is required to conduct a regulatory flexibility analysis during both the proposal and final stages of adopting a rule.⁹

Generally, the RFA will include a description of the reasons why the Commission is considering a proposed rule; an estimate of the number of small entities to which it would apply; and a description of any significant alternatives to the proposed rule.¹⁰ The RFA also will include a statement of the significant issues raised by public comments and a statement of any changes made to the proposed rule as a result of such comments, among other things.¹¹

B. Small Entity Definitions

In 1982, the Commission adopted rule 0-7 for investment advisers to define “small business” and rule 0-10 for investment companies to define “small organization,” for purposes of rulemakings under the Investment Advisers Act and Investment Company Act, respectively.¹² The rules were amended in 1998, such that:¹³

- An investment company is deemed a small entity under Rule 0-10 if it, together with other investment companies in the same group of related investment companies, has net assets of \$50 million or less as of the end of its most recent fiscal year.¹⁴
- An investment adviser would be considered a small entity under rule 0-7 if it: (i) has regulatory assets under management (RAUM) of less than \$25 million; (ii) did not have total assets of \$5 million or more on the last day of the most recent fiscal year; and (iii) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of \$25 million or more, or any person (other than a natural person) that had total assets of \$5 million or more on the last day of the most recent fiscal year.¹⁵

⁹ 5 U.S.C. 605(b).

¹⁰ Proposing release at 9.

¹¹ Proposing release at 10.

¹² Proposing release at 7.

¹³ Proposing release at 7-9.

¹⁴ A group of related investment companies is defined, with respect to management companies, as two or more management companies (including series thereof) that (1) hold themselves out to investors as related companies for purposes of investment and investor services; and (2) either (i) have a common investment adviser or have investment advisers that are affiliated persons of each other; or (ii) have a common administrator.

¹⁵ An investment adviser in a control relationship with a different large financial services firm typically benefits from the financial and technical resources that the larger firm may bring to bear, and the larger firm may handle the administrative and compliance needs of the affiliated investment adviser.

In the proposing release, the Commission observed that it has received requests to update the small entity definitions since they were last amended.¹⁶

III. Comments on the Proposal

A. Proposed Amendments to Small Fund Definition

The Commission's proposal would amend rule 0-10 to increase the net asset threshold for small funds from \$50 million to \$10 billion. In addition, the proposal would refer to a "family of investment companies," as reported on a fund's Form N-CEN, when aggregating the net assets of related funds to identify small entities.¹⁷

1. IDC Supports Increasing the Net Asset Threshold Used to Define Small Funds

IDC strongly agrees that it is appropriate to update the net asset threshold for defining small funds. The number of funds that are deemed to be "small entities" has diminished significantly since the threshold was established. Indeed, the proposing release reflects that, by 2024, the number of investment companies deemed "small entities" had fallen to 0.6%.¹⁸

The proposed \$10 billion threshold would significantly increase the number of fund families (and individual funds) deemed "small," enabling the Commission to more accurately capture funds that lack the resources and negotiating power enjoyed by larger complexes.¹⁹ These funds may offer valuable insights into the practical implications and regulatory and compliance costs of the Commission's rule proposals, as they affect small funds and their shareholders.²⁰

2. IDC Endorses Defining Small Funds in Relation to Their Fund Families

IDC supports continuing to aggregate the net assets of related funds when identifying small entities, as fund complexes typically use the same administrative, management, and compliance systems to oversee all the funds.²¹ We also endorse leveraging Form

¹⁶ Proposing release at 7.

¹⁷ Form N-CEN is the annual reporting form that most registered investment companies use. Item B.5 of Form N-CEN defines "family of investment companies" as "any two or more registered investment companies that (i) share the same investment adviser or principal underwriter; and (ii) hold themselves out to investors as related companies for purposes of investment and investor services."

¹⁸ Proposing release at 20-21. More specifically, in 1982, 62.4% of investment companies were deemed "small entities," and by 2024, the share of investment companies deemed "small entities" had fallen to 0.6%.

¹⁹ Proposing release at 21.

²⁰ We urge the Commission to explore alternative approaches to rulemaking that disproportionately impacts small entities (e.g., exemptive relief from certain rules, simplified reporting requirements, or other modifications) that may better address the unique challenges they face.

²¹ Proposing release at 14.

N-CEN data to identify “families of investment companies” when aggregating related funds’ net assets, rather than the current (manual) process used to identify “groups of investment companies.”²² This streamlined approach would not impose additional reporting obligations on small funds.

B. Proposed Amendments to Small Adviser Definition

The Commission’s proposal would amend rule 0-7 to increase the asset-based threshold below which an investment adviser is considered to be a “small entity” from \$25 million to \$1 billion.

1. IDC Supports Increasing the Asset-Based Threshold Used to Define Small Investment Advisers

IDC strongly agrees that increasing the asset-based threshold for investment advisers is appropriate. According to the Commission, the adjustment seeks to account for the growth of the asset management industry and the greater concentration of assets in the largest fund complexes, which has significantly reduced the number of investment advisers deemed “small.”²³ Form ADV reporting reflects that, by 2025, only approximately 3% of registered investment advisers were deemed “small entities” for purposes of the RFA.²⁴

Small investment advisers that operate with limited personnel, infrastructure, and technology may lack the market power to negotiate effectively with service providers that provide regulatory and compliance support, including legal representation. Disproportionate costs imposed on small investment advisers may create barriers to entry or cause them to exit the market, limiting product development, capital formation, and investor choice.

2. The Commission Should Carefully Consider the Regulatory Impact of Diverging Thresholds for Small Investment Advisers and Funds

IDC encourages the Commission to be mindful of the regulatory implications of establishing thresholds for small investment advisers and funds that differ considerably. This could lead to anomalous results. To avoid inconsistent outcomes, the Commission should clarify in its rulemakings that small entity status would extend to both the fund complex and the investment adviser where either of them meets the applicable threshold.

²² Proposing release at 28.

²³ Proposing release at 37-38.

²⁴ Proposing release at 37. More specifically, Form ADV reporting reflects that, by 2025, only approximately 3% of registered investment advisers were considered to be “small entities” for purposes of the RFA, down from approximately 75% immediately before and 20% immediately after the 1998 amendments.

C. Periodic Adjustments of Asset-Based Thresholds

The Commission seeks to amend rules 0-7 and 0-10 to provide a mechanism for periodic future adjustments of the asset-based thresholds in the small entity definitions. As proposed, the Commission would issue an order every ten years to adjust the asset-based threshold for funds and investment advisers to account for inflation.²⁵ The existing thresholds are substantially outdated, as they have been amended only once since their initial adoption more than 40 years ago.

IDC strongly endorses the adoption of a mechanism providing for periodic adjustments to the asset-based thresholds in the small entity definitions. Automatic periodic adjustments are an effective means of maintaining appropriately calibrated asset-based thresholds for small entities, thereby ensuring that their interests are thoughtfully considered in the rulemaking process. As the asset management industry continues to evolve, periodic adjustments should account for “changes in the makeup or distribution of size of the fund or adviser markets,”²⁶ in addition to inflation and market growth.

* * * * *

IDC appreciates the opportunity to comment on the Commission’s proposal, which would better align with the economic realities of the asset management industry. Small funds and investment advisers contribute meaningfully to the marketplace by driving product innovation, broadening investor choice, fostering competition, and advancing capital formation. We encourage the Commission to continue to advance its rulemaking and other efforts relative to small entities to better address the interests of their shareholders.

²⁵ *Id.*

²⁶ Proposing release at 61.

If you have any questions regarding our letter or would like additional information, please contact Nicole Baker, IDC Senior Director, at 202-326-5822 or me at 202-326-5463.

Sincerely,

/s/ Thomas T. Kim

Thomas T. Kim
Managing Director
Independent Directors Council

cc: The Honorable Paul S. Atkins, Chairman
The Honorable Hester M. Peirce, Commissioner
The Honorable Mark T. Uyeda, Commissioner
Brian Daly, Director, Division of Investment Management