

## **U.S. Congressional Hearing on Oversight of SEC's Division of Investment Management**

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On 19 September, U.S. Congress' Sub-Committee on Capital Markets held a hearing on oversight of the SEC's Division of Investment Management during which Director William Birdthistle testified on various SEC proposed rules affecting investment funds and advisers.

Reiterating industry concerns, committee members took a bi-partisan stance against proposed rules on swing pricing and other liquidity requirements. In particular, members compared proposed redemption fees to a sinking ship requiring doomed passengers to pay a fee before boarding a lifeboat. Others likened them to "junk fees" the Biden administration is actively seeking to eliminate. Members noted that only certain types of investors— "Main Street" investors— would pay redemption fees while others — wealthier investors— could invest in vehicles outside the proposed rules' reach (i.e., collective investment trusts) or construct their own portfolios. Some questioned the impact the proposed "hard close" requirement would have on investors west of EST, as they would need to trade earlier than their EST time-zone counterparts to get same-day prices.

Members questioned proposed rules relating to the use of AI and AI-related technologies by advisers and broker-dealers. Citing the broad definition of “covered technology” one member asked whether it could be construed to encompass a calculator. Another suggested that firms would need to significantly increase personnel to monitor firm communications for compliance, putting a greater burden on small and medium-sized firms. Others questioned impact on innovation, speculating firms may avoid certain technologies— even technologies that might make information more easily available to investors— out fear of non-compliance.

Members also aired concerns about the SEC’s rapid-pace rulemaking in general, lack of transparency and response to congressional inquiries, interconnectivity of proposed rules, and potential overreach beyond the SEC’s authority. If this hearing is an indicator, it suggests the SEC’s current rulemaking approach continues to unsettle many, including members of Congress.

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