INVESTMENT ADVISER ASSOCIATION

April 14, 2017

The Honorable Michael Crapo
Chairman
U.S. Senate Committee on Banking,
Housing, and Urban Affairs
Washington, D.C. 20510

The Honorable Sherrod Brown
Ranking Member
U.S. Senate Committee on Banking,
Housing, and Urban Affairs
Washington, D.C. 20510

Re: Proposals to Foster Economic Growth

Dear Chairman Crapo, Ranking Member Brown, and Members of the Committee:

The Investment Adviser Association (IAA)[1] appreciates the opportunity to respond to the Banking Committee's solicitation for legislative proposals to increase economic growth. The IAA represents more than 600 SEC-registered investment advisory firms – small and large - that in aggregate manage nearly $20 trillion in assets for investors.[2]

As discussed below, we believe that the Banking Committee could spur economic growth by ensuring that the SEC gives appropriate consideration in its rulemakings to the regulatory burdens faced by small investment advisers. Such consideration of investment advisers as small businesses is currently contemplated under the Regulatory Flexibility Act (Act). However, due to the SEC's overly narrow definition regarding which businesses are deemed "small entities" for purposes of the Act, we are concerned that the economic impact of SEC regulations on smaller advisory firms is not being adequately assessed.

The Act requires all federal agencies to analyze the economic impact of regulations when there is likely to be a significant economic impact on a substantial number of small entities, and to consider regulatory alternatives that will achieve the agency's goal while minimizing the burden on small entities. For this purpose, the SEC currently considers small advisers to include only investment advisory firms with less than $25 million in assets under management (AUM).[3] Given that the basic threshold for SEC registration is $100 million, virtually no SEC-

[1] Our members reflect the broader advisory industry and range from many of the world's largest asset managers to the small and medium-sized firms that reflect the core of the asset management industry. Collectively, our members manage assets for a wide variety of individual and institutional clients, including pension plans, trusts, mutual funds, private funds, endowments, foundations, and corporations. For more information about the IAA, please visit www.investmentadviser.org

[2] We understand that you are receiving legislative proposals applicable to larger asset management firms and will weigh in on those proposals in due course. This letter focuses on an issue that may not be garnering similar attention.

[3] Under SEC rules, for the purposes of the Investment Advisers Act of 1940 and the Regulatory Flexibility Act, an investment adviser generally is a small entity if it: (1) has assets under management having a total value of less than $25 million; (2) did not have total assets of $5 million or more on the last day of the most recent fiscal year; and (3) does not control, is not controlled by, and is not under common control with another investment adviser that has

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registered advisers are deemed to be "small" for cost-benefit purposes - even though *more than 6,000 registered advisory firms employ 10 or fewer non-clerical employees*.[4]

We believe that the Commission can and should conduct a more realistic assessment of the impact of regulations on smaller advisers and better tailor both regulations and guidance. Small advisers have been significantly adversely impacted by one-size-fits-all regulations that effectively require fixed investments in infrastructure, technology, and systems relating to documentation, monitoring, operations, custody, business continuity planning, cybersecurity, and many other areas.

Despite the small size of the typical advisory firm, the investment advisory industry in aggregate is a powerful job creator, employing 781,335 non-clerical workers. Indeed, last year, the industry added 30,540 high-quality jobs to the economy.[5] However, our industry could create even more jobs if overly burdensome regulations were more efficient and better tailored for the types of firms the SEC oversees.

We recommend that Congress act to ensure that the SEC's definition of small advisers for purposes of its rulemakings utilize a more meaningful metric beyond merely AUM. For example, the number of employees would be a useful measure given that the data is readily available in Form ADV and often used in other contexts to define the relative size of companies.

This change would cause many currently SEC-registered advisers to be more accurately reclassified as small advisers. As a result, the SEC would have to reassess the impact of its regulations on these newly redefined small advisers which could in turn ease the regulatory burden they face and lead to greater economic growth and job creation.

The IAA looks forward to continuing to work with the Banking Committee in its regulatory reform efforts and appreciates your consideration of our views.

Respectfully,

Karen L. Barr

Karen L. Barr
President and Chief Executive Officer

cc: The Honorable Michael S. Piwowar, SEC Acting Chairman
The Honorable Kara M. Stein, SEC Commissioner

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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 its most recent fiscal year. Rule 0-7(a) under the Advisers Act.

[4] Each year, the IAA compiles statistics on the advisory profession based on Form ADV filings and publishes a report called *Evolution Revolution* (https://www.investmentadviser.org/eweb/Dynamicpage.aspx?webcode=evrev). Our 2016 report covered 11,847 SEC-registered advisers that collectively manage nearly $67 trillion in regulatory assets under management (RAUM) for 36.4 million clients. The 121 largest firms, those with RAUM over $100 billion, manage almost 54 percent of total industry RAUM. But the vast majority of investment advisers are small, independent businesses unaffiliated with other financial service providers. In fact, 57.3% of all investment advisers reported having 10 or fewer non-clerical employees and more than 10,000 firms (87.8%) reported having 50 or fewer non-clerical employees.

[5] *Id.*