



*BY ELECTRONIC DELIVERY*

July 10, 2018

The Honorable Jeb Hensarling  
Chairman  
U.S. House Committee on Financial  
Services  
Washington, D.C. 20515

The Honorable Maxine Waters  
Ranking Member  
U.S. House Committee on Financial  
Services  
Washington, D.C. 20515

**Re: Investment Adviser Regulatory Flexibility Improvement Act**

Dear Chairman Hensarling, Ranking Member Waters, and Members of the Committee:

The Investment Adviser Association (IAA)<sup>1</sup> is writing to express its strong support for the Investment Adviser Regulatory Flexibility Improvement Act, a bill scheduled for Committee mark-up on July 11.

As discussed below, this legislation would ensure that the SEC gives appropriate consideration in its rulemakings to the regulatory burdens faced by small investment advisers as contemplated under the Regulatory Flexibility Act.<sup>2</sup> Unfortunately, the Regulatory Flexibility Act is effectively rendered inapplicable to advisers due to the SEC's overly narrow definition of "small entities" for purposes of the Act.

The SEC currently considers small advisers to include only investment advisory firms with less than \$25 million in assets under management (AUM).<sup>3</sup> However, given that the basic threshold for SEC registration is \$100 million AUM, relatively few SEC-registered advisers are deemed to

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<sup>1</sup> The IAA represents 650 SEC-registered investment advisory firms that in aggregate manage nearly \$20 trillion in assets for investors. 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](http://www.investmentadviser.org).

<sup>2</sup> The Regulatory Flexibility 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.

<sup>3</sup> 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 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 Investment Advisers Act.

be “small” for purposes of the Regulatory Flexibility Act – even though *more than 7,000 registered advisory firms (as of April 2018) employ 10 or fewer non-clerical employees.*<sup>4</sup>

We believe that the SEC should conduct its economic analysis of the impact of regulations on a more realistic universe of smaller advisers and better tailor both regulations and guidance to these firms. Small advisers have been significantly burdened by the cumulative impact of regulations that effectively require substantial investments in infrastructure, technology, personnel, and systems relating to documentation, monitoring, operations, custody, reporting, cybersecurity, and many other areas.

The Investment Adviser Regulatory Flexibility Improvement Act would require the SEC to develop an alternative method under which investment advisers are classified as small entities for purposes of the Regulatory Flexibility Act. It specifically requires that the alternative include consideration of the number of non-clerical employees of firms, 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.

The Act would not limit the SEC’s rulemaking authority or mandate any specific rules. However, the SEC would have to better assess the impact of its regulations on firms that are truly small businesses and give greater consideration to appropriate alternatives that would minimize unnecessary burdens on these firms.

The IAA looks forward to continuing to work with the Financial Services Committee and appreciates your consideration of our views.

Respectfully,



Karen L. Barr  
President and Chief Executive Officer

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<sup>4</sup> 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 2017 report covered 12,172 SEC-registered advisers that collectively manage nearly \$70.7 trillion in regulatory assets under management (RAUM) for 35.6 million clients. The vast majority of investment advisers are small, independent businesses unaffiliated with other financial service providers. In fact, 56.8% of all investment advisers reported having 10 or fewer non-clerical employees.