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Keynote Address, 2018 ICI Tax and Accounting Conference

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As prepared for delivery.

Hello and good morning!

If I didn't get an opportunity to speak with you at last night's reception, welcome to San Diego—and thank you so much for joining us. We're so glad you're here.

As Jon mentioned, a lot of people put in a lot of work to get us to today. So let me add my very, very big thanks:

- to our planning committee, our speakers and panelists, and our Conferences team, for so kindly lending us their time, effort, and expertise;
- and, of course, to our many sponsors, for their tremendous support and generosity.

This Tax and Accounting Conference is my first as ICI's general counsel. As someone with no special training in tax or accounting, I can't claim the depth of knowledge that you all have—so I'm very much looking forward to learning from the experts.

But one thing I do know is that today we're working in a critical moment for our industry—and in an extraordinary moment in the tax world.

Critical because: Even amid the impressive run of policy progress that the fund industry has made over the past year, we still have so much important work to do.

Extraordinary because: As business continues to grow more global and digital, policymakers across the world are moving to upend a century of thinking around what corporate tax rules should look like.

It's these two points—the state of our policy work and our long-term tax outlook—that I'd like to talk to you about this morning.

Now, I just called our industry's recent policy progress "impressive," and that's a bold claim. So let's consider just how productive the past year has been.

On Capitol Hill, as Congress sought new sources of revenue to pay for the marginal rate cuts in its tax reform bill, we worked with member firms and other key allies to persuade tax writers to reject a range of harmful provisions.

Thanks in large part to this collective advocacy:

- The law did not strip workers of the option to defer tax on their retirement savings contributions.
- It did not restrict how investors selling securities can calculate capital gains.
- And it did not eliminate the tax exemption for interest on municipal bonds.

We also helped fend off efforts to use a government spending bill to block the SEC from adopting Rule 30e-3—which allows US registered funds to mail shareholders a paper notice telling them where they can get their shareholder reports online, instead of mailing a full report.

Now that the Commission has voted to adopt the rule, funds can finally look forward to delivering shareholder reports online as the default option, while fund shareholders can expect to save money and enjoy easier access to more user-friendly disclosure.

The SEC also issued a package of proposals on standards of conduct for investment professionals. Much in line with what we've advocated, the Commission proposed a new best-interest standard of conduct for broker-dealers providing recommendations to all retail investors—whether they're investing for retirement or other goals.

We have no illusion that the SEC's work here is perfect—it's not. But if adopted with the useful refinements that we and others have recommended, the proposals will be sure to protect retail investors, while preserving their access to the investment products and services they depend on to reach their savings goals.

Those of you who work with exchange-traded funds know the tremendous growth they've enjoyed in recent years—and the cumbersome process that firms still must go through to get them approved.

So I imagine you're delighted, as we are, with the SEC's proposed rule to codify and streamline the ETF approval process. It's high time that the SEC make the ETF regulatory framework more consistent, more transparent, and more efficient.

For many here, implementing the SEC's liquidity risk management rule has proven quite the challenge. Your on-the-ground insights helped secure a more practical public disclosure regime, as well as an extra six months to comply with the rule's asset classification—or "bucketing"—provisions.

The same can be said for the data modernization rule. Here, your observations haven't just helped the industry implement the rule. They also helped persuade the SEC to allow more time for funds to begin filing enhanced portfolio information.

Our hope is that the new April 2019 deadline for filing the portfolio information will help the Commission further strengthen its cybersecurity practices, so that it can better protect this highly sensitive data.

On both of these rules, your participation in our working groups and contributions to our resource web pages have been invaluable—and we couldn't be more grateful for your support.

Of course, regulatory initiatives outside the United States continue to occupy our attention. Through our international program, ICI Global:

- We informed conversations around European efforts to restrict where fund managers can delegate work.
- We helped Hong Kong's securities regulator better understand how funds use derivatives for the benefit of their shareholders.
- And we led a successful international coalition of industry associations against an onerous capital-gains tax proposal in South Korea.

So, I think you'd agree that's quite a list. Yet our agenda for the coming months promises to be just as thorough.

One of our top priorities at the moment is to reform the framework governing the fees that intermediaries charge for delivering fund disclosure documents. This work ties in with our efforts to get the SEC to adopt Rule 30e-3—and will help create meaningful cost savings for fund shareholders.

We're pleased with the SEC's recent request for comment on these fees, and we'll be responding with our recommendations for reforms later this month.

A second priority of ours is to make disclosure more useful for fund shareholders.

To its considerable credit, the Commission has recognized this need as well. It is looking to modernize fund disclosure—with the goal of improving the experience of retail investors, and helping them make more informed investment decisions.

To that end, we've been working with members on developing a prototype for a summary shareholder report. Based on our research and analysis, we believe that a summary shareholder report should mirror the SEC's design of the summary prospectus. It should be short enough for shareholders to be likely to read it, but detailed enough to accurately inform them about their funds and help them compare funds.

This approach would ground the design in a proven success, provide shareholders with key information, and preserve investor choice—by making it easy for those who want more detailed information to find it.

A third priority of ours is to clarify some imprecise provisions in the tax reform bill—none more pressing than the provision enabling individual owners of pass-through entities to deduct 20 percent of the income they receive from these entities.

The provision has proven to be something of a boon—not just for the small businesses it targets, but also for investors in some of those businesses. And investors in real estate investment trusts—who now can deduct 20 percent from the dividend income they receive through these vehicles—happen to be among the lucky group.

The problem for us is, the provision doesn't specify that US registered funds holding REITs can pass the deduction to their shareholders. So we're calling on the IRS and Treasury to rectify that. Without clarifying guidance or correcting legislation, people investing in REITs through our funds will remain at a clear and unfair disadvantage to those who invest in REITs directly.

Okay, so that's our industry's critical moment: A lot has been accomplished over the past year—more than in recent years—but there's still a lot of important work to do.

The extraordinary moment is this: Policymakers are pushing for major reforms to some of the most fundamental tax rules on the books today, which could have a dramatic impact on how we organize our businesses—and how we serve funds and their shareholders.

Now, challenges are nothing new for us. Over the years, funds and their shareholders have often found themselves caught up in laws or regulations that were intended for others or that began elsewhere.

Maybe you heard over the summer about the landmark ruling in South Dakota versus Wayfair—where the US Supreme Court held that any state may now impose sales tax on purchases by its residents from sellers with no physical presence there.

The ruling overturns a long-standing decision prohibiting states from taxing those purchases, and stems from legislation passed in more than 20 states designed to get the Court to take up the matter. It's a pretty big deal, but it's just one part of a far broader movement—a global one.

There's a fair bit of history here, so let me take you back to the beginning.

In the goods economies of bygone eras, companies employed workers who lived nearby, and sold to customers who did the same. Of course, hiring and selling only in your own country wasn't a choice—for nearly everyone, it was all you could really do. And if nothing else, it left no room for debate over where you made your money.

Even as companies began to do business across borders—even as their employees began to move across borders—countries didn't dispute taxing rights as often as you might think.

That's because the countries that made the global corporate tax rules back in the early 20th century—meaning, the countries with the companies doing nearly all the world's international business—generally agreed that a company must pay tax only where it has a physical presence.

Okay, fair enough—but the world has changed a little since then, hasn't it?

In today's services economy, we shop far more on Amazon than we do at the mall, and spend more time with Netflix than we do at the theatre. Some people cross continents to treat their medical conditions. Others work for years with associates half a world away, yet never meet them in real life—or "IRL," as the kids like to say.

There's certainly no getting around it—this new digital economy is utterly transforming our lives. And in doing this, it is spurring a worldwide rethink of the corporate tax rules that companies play by today—and causing some governments to wonder whether they're getting a raw deal.

A major initiative we're watching right now is a pair of legislative proposals from the European Commission—both issued in March.

Under the first proposal, any EU member state would be able to tax the revenue that companies generate from the digital activity of users living there, even if the companies maintain no physical presence there.

Under the second proposal, any EU member state would be able to tax the profits that companies make doing business there—again, even if the companies maintain no physical presence there. The second proposal is the Commission's "preferred long-term solution"—and, once implemented, it would replace the first one.

Maybe you're wondering—who exactly are these reforms targeting?

Well, by focusing on digital activity—and by prescribing high revenue and user thresholds to sweep companies into the new tax base—the European Commission has quite plainly set its crosshairs on the US technology giants. You know—the Googles, Apples, Facebooks, and Amazons of the world, whose customers number in the billions.

In honor of those four companies, people are calling this the G, A, F, A—or GAFA—tax!

Similarly, the revenue and transaction thresholds passed by South Dakota and other states leave no doubt about who they're after. That would be the large online retailers, like Amazon, Overstock, and—you guessed it—Wayfair.

But the biggest tech firms and online retailers aren't the only businesses that work online or across borders. These days, nearly all businesses do.

It begins to make you wonder.

In this era of strapped public budgets, how long until countries try to tax the thousands and thousands of companies that are based elsewhere in the world, and that happen to be doing online business with their residents?

Think about it from our perspective. Our industry's digital and international presence has grown massively in recent years—just massively—and the same is true for our shareholders.

Every day, people living in one EU member state buy UCITS funds managed by firms based in another, and even people living outside the EU buy these funds. Here in the United States, people in all 50 states buy funds managed by firms operating in just one state or a few.

Would you really be all that shocked, then, to one day see asset management firms facing tax bills in every country where they have fund shareholders?

At its core, this is a debate about value—what counts for it, where it's created, and—based on the answers to those two questions—who has the right to tax it.

Some contend that value lies where a company's employees work—because, without people to produce, there can be nothing to buy or use. Others contend that value lies where a company's customers are living when they use the company's products or services—because neither is worth anything if no one's there to pay for it.

How this debate gets resolved—whether it gets resolved—could have an enormous impact on international business, to say the least.

So, where do we stand?

Well, to put it simply, we believe that our industry's value lies with you—and, of course, all of your colleagues who weren't lucky enough to join us at this conference.

In this context, we believe that our industry's value lies in things like skillful portfolio management, sound and modern operations, and informed customer service. We believe that—because you and your colleagues carry out these activities—our industry's value lies where you work.

Now, this isn't to argue that today's global corporate tax rules line up perfectly with the world they're supposed to govern. Clearly, we're living in a new economic reality—and, in some form or another, a policy response will be necessary to catch up.

To succeed, any such response must emerge from a global consensus on where value lies, and must be backed by a global agreement on how to allocate the right to tax earnings on that value. No one country or bloc—no matter how large or influential—should implement new rules on its own.

This is a crucial point. If some countries were to adopt new rules with no such agreement, who knows whether they'd be able to reconcile them with those of the countries who stick with the status quo? Who knows whether countries could even agree on who would arbitrate a dispute?

That's a recipe for disaster—one likely to lead to companies, including those in our industry, facing tax bills from two countries on the same income.

To be sure, we're still early days in this debate, but policy discussions have been known to ramp up suddenly. If the debate does

reach our industry, you can rest assured that ICI will be deeply engaged with the leading authorities, doing everything we can to ensure that any resolution protects funds and their shareholders.

As many in this room know, we at ICI have a long history of participating in challenging, complex policy debates like this one—and bringing nothing less than the full range of our resources to bear.

Alongside the enduring support we receive from so many of you, that includes our deep economic research, our law and operations expertise, and our constructive relationships with policymakers the world over, just to name a few.

It's these resources that have enabled us to be so productive over the past year. And no matter what the policy environment throws at us, it's these resources we'll bring to our work in the months and years ahead.

Ladies and gentlemen, thank you so much for your time and attention this morning—we've got a great three days coming up.

Enjoy the conference!
