

MEMO# 32568

July 1, 2020

SEC Spring Regulatory Agenda

[32568]

July 1, 2020 TO: ICI Members SUBJECTS: Abandoned Property and Escheatment
Compliance
Disclosure
Fund Accounting & Financial Reporting
Fund Governance
Operations
Transfer Agency RE: SEC Spring Regulatory Agenda

The Office of Management and Budget released the regulatory agendas for Spring of 2020. Consistent with SEC Chairman Clayton's past agendas, the Spring 2020 agenda is quite ambitious with seven rule proposals and thirteen final rules expected by October 2020. The SEC expects to issue another four proposals by April 2021.[\[1\]](#) The SEC's agenda is summarized below.

I. Rule Proposals Expected by October 2020

Portfolio Margining Harmonization

The Division of Trading and Markets is considering recommending that the Commission, jointly with the Commodity Futures Trading Commission (CFTC), seek public comment on ways to harmonize the Commission's rules with CFTC rules with respect to portfolio margining of uncleared swaps with security-based swaps, to consider further efficiencies in cleared swaps and security-based swaps portfolio margining, and to explore expanding portfolio margining to futures and cash equity positions.

Investment Company Summary Shareholder Report and Modernization of Certain Investment Company Disclosure

The Division of Investment Management is considering recommending that the Commission propose a new streamlined shareholder report under the Investment Company Act of 1940. The Division is also considering recommending that the Commission propose rule and form amendments to improve and modernize certain aspects of the current disclosure framework under the Investment Company Act.

Amendments to Form 13F Filer Threshold

The Division of Investment Management is considering recommending that the Commission propose rule and related form amendments regarding the thresholds for Form 13F

filers. Form 13F is the reporting form filed by institutional investment managers pursuant to section 13(f) of the Securities Exchange Act of 1934. Institutional investment managers that exercise investment discretion over \$100 million or more in section 13(f) securities must file Form 13F.

Proxy Process Amendments

The Division of Corporation Finance is considering recommending that the Commission propose amendments to the proxy rules to facilitate improvements in the shareholder voting and communication process.

Transfer Agents

The Division of Trading and Markets is considering recommending that the Commission propose updates and refinements to the transfer agent regulatory regime to update the existing framework.

Regulation of Alternative Trading Systems (Government Securities)

The Division of Trading and Markets is considering recommending that the Commission propose amendments to Regulation ATS designed to increase operational transparency and foster oversight of ATSs that transact in government securities, as well as require the electronic filing of Forms ATS and ATS-R.

Amendments to NMS Plan for the Consolidated Audit Trail-Data Security

The Division of Trading and Markets is considering recommending that the Commission propose amendments to the National Market System (NMS) Plan Governing the Consolidated Audit Trail regarding data security.

II. Final Rules and Rule Amendments Expected by October 2020

Universal Proxy

The Division of Corporation Finance is considering recommending that the Commission adopt amendments to the proxy rules to allow a shareholder voting by proxy to choose among duly-nominated candidates in a contested election of directors.

Amending the "Accredited Investor" Definition

The Division of Corporation Finance is considering recommending that the Commission adopt amendments to expand the definition of accredited investor under Regulation D of the Securities Act of 1933.

Procedural Requirements and Resubmission Thresholds Under Exchange Act Rule 14a-8

The Division of Corporation Finance is considering recommending that the Commission adopt rule amendments regarding the thresholds for shareholder proposals under Rule 14a-8.

Amendments to Exemptions From the Proxy Rules for Proxy Voting Advice

The Division of Corporation Finance is considering recommending that the Commission

adopt rule amendments to address certain advisors' reliance on the proxy solicitation exemptions in Rule 14a-2(b).

Use of Derivatives by Registered Investment Companies and Business Development Companies

The Division of Investment Management is considering recommending that the Commission adopt a new rule designed to enhance the regulation of the use of derivatives by registered investment companies, including mutual funds, exchange-traded funds, closed-end funds, and business development companies.

Fund of Funds Arrangements

The Division of Investment Management is considering recommending that the Commission adopt new rules and rule amendments to allow funds to acquire shares of other funds (i.e., "fund of funds" arrangements), including arrangements involving exchange-traded funds, without first obtaining exemptive orders from the Commission.

Amendments to Procedures for Applications under the Investment Company Act

The Division of Investment Management is considering recommending that the Commission adopt amendments to rule 0-5 under the Investment Company Act of 1940 to establish an expedited review procedure for certain applications.

Investment Adviser Advertisements; Compensation for Solicitations

The Division of Investment Management is considering recommending that the Commission adopt amendments to rules 206(4)-1 and 206(4)-3 under the Investment Advisers Act of 1940 regarding marketing communications and practices by investment advisers.

Recession of Effective-Upon-Filing Procedure for NMS Plan Fee Amendments

The Division of Trading and Markets is considering recommending that the Commission adopt amendments to Rule 608 regarding immediately effective NMS plan fee filings.

Customer Margin Requirements for Security Futures

The Commission, jointly with the Commodity Futures Trading Commission, proposed amendments in 2019 to the customer margin requirements for security futures. The proposed amendments would align the margin requirements for unhedged security futures positions to margin requirements for similar financial products.

Market Data Infrastructure

The Division of Trading and Markets is considering recommending that the Commission adopt rules to modernize the infrastructure for the collection, consolidation, and dissemination of market data for exchange-listed NMS stocks by updating and expanding the content of NMS market data, introducing a decentralized consolidation model under which competing consolidators would collect, consolidate and disseminate certain NMS information and requiring each self-regulatory organization (SRO) to make its NMS data available to certain entities.

Amendments to Certain Provisions of the Auditor Independence Rules

The Office of the Chief Accountant is considering recommending that the Commission adopt amendments to update certain auditor independence rules to facilitate capital formation, in a manner consistent with investor protection.

Investment Company Fair Value (no projected date for adoption of May proposal)

The Commission proposed a rule regarding the valuation practices and the role of the board of directors with respect to the fair value of the investments of a registered investment company or business development company.

III. Proposals Expected by April 2021

Earnings Releases/Quarterly Reports

The Division of Corporation Finance is considering recommending that the Commission propose amendments to ease companies' compliance burdens while maintaining appropriate levels of disclosure and investor protection.

Amendments to the Custody Rules for Investment Advisers

The Division of Investment Management is considering recommending that the Commission propose amendments to existing rules and/or propose new rules under the Investment Advisers Act of 1940 to improve and modernize the regulations around the custody of funds or investments of clients by Investment Advisers.

Amendments to Rule 17a-7 Under the Investment Company Act

The Division of Investment Management is considering recommending that the Commission propose amendments to rule 17a-7 under the Investment Company Act of 1940 concerning the exemption of certain purchase or sale transactions between an investment company and certain affiliated persons.

Prohibition Against Fraud, Manipulation, and Deception in Connection With Security-Based Swaps (Second Proposal)

The Commission proposed a rule in 2010 to prevent fraud, manipulation, and deception in connection with security-based swaps in accordance with section 9(j) of the Exchange Act.

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endnotes

[1] See Agency Rule List – Spring 2020, *available at* https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST¤tPub=true&agencyCode=&showStage=active&agencyCd=3235&csrf_token=7332A59DD0C4EEF6E3BFE00547E9ED78FA7FF7FCD16048C397A5754CEF18177D4A5F65C2DE89DB78C5636BB7AE5DB01A1069

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