

MEMO# 31697

April 3, 2019

Division of Investment Management Staff Bulletin on 485 (a) Filings

[31697]

April 3, 2019 TO: ICI Members
Chief Compliance Officer Committee
Disclosure Working Group
SEC Rules Committee SUBJECTS: Compliance
Disclosure
Exchange-Traded Funds (ETFs)
Money Market Funds
Variable Insurance Products RE: Division of Investment Management Staff Bulletin on 485
(a) Filings

In June 2018, the Division of Investment Management's Disclosure Review and Accounting Office (DRAO) posted a "Disclosure" tab on the Division's website. This tab includes three webpages. The staff describes the webpages as follows:

[t]he first, "Fund Disclosure at a Glance," briefly explains DRAO's responsibilities and core disclosure principles and provides contact information. The second, "Accounting and Disclosure Information," is intended to be an aid to practitioners and others who are interested in the law and interpretations concerning disclosure. Its intent is to gather in a single place various fund disclosure resources. The third, "Disclosure Reference Material," contains Disclosure Resources, which include the Plain English Handbook and Common Fund Disclosure Forms. Of particular note, under "Disclosure News," which appears on the right side of all three pages, ADIs 2018-02 through 2018-06 discuss various filing and review issues.[\[1\]](#)

The Division of Investment Management recently published its seventh Accounting and Disclosure Information ("ADI").[\[2\]](#) The ADI is briefly summarized below.

The ADI explains that on occasion, funds seeking automatic effectiveness can complicate DRAO's efforts to effectively address investor protection interests. This is particularly the case where filings raise complex issues not easily resolved because of a lack of precedent. By way of example, issues requiring additional review and interaction between disclosure reviewers and registrants typically involve novel investment strategies, fee structures, and/or operational policies (e.g., significant changes to policies related to purchases and

redemptions by investors).

The staff notes that while most filings that seek automatic effectiveness under rule 485(a) do not raise these types of unique or particularly novel issues. However, the staff also urges registrants planning filings under rule 485(a) that may raise material questions of first impression - *or that address issues in a manner inconsistent with previous precedent* - to contact the staff to discuss these issues before making a rule 485(a) filing (emphasis added).

In addition, the staff requests that registrants respond to staff comments on a rule 485(a) filing as a general matter no later than five business days before the filing is scheduled to become effective automatically. The ADI goes on to state that “in cases where registrants are unable to submit responses to staff comments by that time, the staff requests that registrants file an amendment under rule 485(b)(1)(iii) delaying the effectiveness date as needed until staff comments are resolved.”

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endnotes

[1] The website can be accessed at
<https://www.sec.gov/investment/fund-disclosure-at-a-glance>.

[2] See ADI 2019-07-Review of Certain Filings Under Automatic Effectiveness Rules,
available at
<https://www.sec.gov/investment/accounting-and-disclosure-information/adi-2019-07-review-certain-filings-under-automatic>