

MEMO# 27733

November 29, 2013

SEC Staff Permits Electronic Delivery of 19a-1 Notices

[27733]

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TO: ACCOUNTING/TREASURERS MEMBERS No. 28-13
TAX MEMBERS No. 34-13
TRANSFER AGENT ADVISORY COMMITTEE No. 82-13
BROKER/DEALER ADVISORY COMMITTEE No. 53-13
COMPLIANCE MEMBERS No. 44-13
SEC RULES MEMBERS No. 108-13
SMALL FUNDS MEMBERS No. 62-13
CLOSED-END INVESTMENT COMPANY MEMBERS No. 95-13 RE: SEC STAFF PERMITS
ELECTRONIC DELIVERY OF 19a-1 NOTICES

In a recent IM Guidance Update, [\[1\]](#) the staff of the Securities and Exchange Commission's Division of Investment Management stated its view that funds may electronically deliver to their shareholders the written statement required by Section 19(a)(1) of the Investment Company Act and rule 19a-1 thereunder describing the sources of their distributions.

Section 19(a) generally prohibits a fund from making a distribution from any source other than the fund's net income, unless that payment is accompanied by "a written statement" that adequately discloses the source or sources of the payment. Rule 19a-1 specifies the information required to be disclosed in the written statement (a "Rule 19a-1 Notice"). Rule 19a-1(a) also states that every written statement "shall be made on a separate paper."

Notwithstanding the rule's provision referencing "a separate paper," the staff explained that it believes that electronic delivery of a Rule 19a-1 Notice, consistent with the Commission's guidance, would satisfy the purposes and policies underlying Rule 19a-1. The staff states that its view is predicated on compliance with all applicable Commission guidance on electronic delivery, including, without limitation:

- i. Electronic delivery of a Rule 19a-1 Notice in the form of an e-mail message to the fund shareholder containing the Rule 19a-1 Notice or a document link to the Rule 19a-1 Notice;
 - ii. The fund (or its intermediary) having obtained prior consent of the shareholder to receive fund shareholder communications through electronic means (a "Consent");
- and

- iii. Electronic delivery of Rule 19a-1 Notices only to fund shareholders that provided the Consent, and cessation of electronic delivery of Rule 19a-1 Notices to any fund shareholder who withdraws or revokes the Consent.

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Securities Regulation - Investment Companies

endnotes

[1] US Securities and Exchange Commission, Division of Investment Management, Shareholder Notices of the Sources of Fund Distributions – Electronic Delivery, IM Guidance Update No. 2013-11 (November 2013), available at <http://www.sec.gov/divisions/investment/guidance/im-guidance-2013-11.pdf>.

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