

MEMO# 32445

May 6, 2020

ICI Comment Letter on SEC's Fund Names Rule

[32445]

May 6, 2020 TO: ICI Members SUBJECTS: Derivatives

Disclosure

Fund Accounting & Financial Reporting

International/Global

Portfolio Oversight RE: ICI Comment Letter on SEC's Fund Names Rule

As we previously informed you, the SEC published a release seeking public comment on the framework for addressing potentially misleading names of registered investment companies and business development companies under section 35(d) of the Investment Company Act of 1940, rule 35d-1 thereunder (the “Names Rule”), and the antifraud provisions of the Federal securities laws.[\[1\]](#) We filed a comment letter on May 5 responding to the request. The letter is summarized below.[\[2\]](#)

We urged the Commission to keep two principles in mind as it considers the framework for fund names:

- no one should place too much reliance on a fund’s name; and
- a fund names framework should be implemented in a manner consistent with Commission statements and rulemaking standards, not through staff comments conveyed to individual registrants through the disclosure review process.

The letter then presents the recommendations described below.

- The Commission should permit funds to test each derivative type for Names Rule purposes consistent with a reasonable exposure metric and method that best measures the exposure the derivative obtains synthetically, which may or may not represent the cost or present value of the instrument.
- The Commission should not adopt a Names Rule test requiring that the type of investment suggested by a fund’s name contribute at least a minimum amount to a fund’s returns, as doing so could lead to less clarity and less certainty for fund investors.
- The Commission should continue to apply the Names Rule’s current 80% threshold at the time of investment.

- The Commission should clarify that references such as “ESG,” “Sustainable,” “Responsible” or other names of funds with investment mandates requiring qualitative assessment of environmental, social or governance-related factors not be required to comply with the Names Rule, as these names suggest an investment strategy akin to names like “growth” or “value.”
- The Commission should reaffirm that the Names Rule does not apply to the terms “global” and “international” and that funds may “use any reasonable definition” of terms like “large-cap,” “mid-cap” or small-cap.”
- The Commission should state that the Names Rule does not apply to fund ticker symbols.
- The Commission should permit “tax-exempt” funds to have an 80% policy that may be changed without a shareholder vote so long as there is at least 60 days’ notice to shareholders.
- The Commission should explore ways to leverage technology to modernize disclosure and improve the effectiveness of disclosure for investors, including through hyperlinks, as well as in the delivery of disclosure, such as electronic delivery and notice and access.

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endnotes

[1] See ICI Memorandum No. 32261 (March 4, 2020) *available at* https://www.ici.org/my_ici/memorandum/memo32261. See also SEC Release No. IC-33809 (March 2, 2020) (“Release”), *available at* <https://www.sec.gov/rules/other/2020/ic-33809.pdf>. The Release is a request for comment, not a rulemaking proposal. If, and to the extent that, the Commission determines to issue specific proposed amendments to the Names Rules, it would need to do so through a separate rulemaking proposal subject to public comment.

[2] A copy of the letter is *available at* https://www.ici.org/pdf/20_ltr_fundnames.pdf.