

MEMO# 33486

April 19, 2021

SEC Staff Announces Termination of March 2020 Liquidity-Related Relief for Funds

[33486]

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TO: ICI Members

Investment Company Directors SUBJECTS: Compliance

Disclosure

Fund Accounting & Financial Reporting

Fund Governance

Investment Advisers

Operations

Portfolio Oversight

Risk Oversight

Transfer Agency RE: SEC Staff Announces Termination of March 2020 Liquidity-Related Relief for Funds

Last spring, the SEC and staff issued a raft of COVID-related regulatory relief.[\[1\]](#) Some of this relief relates to the liquidity of open-end funds and includes the following:

1. **Short-Term Funding Flexibility for Open-End Funds and Separate Accounts.**

In March 2020, the SEC issued a conditional exemptive order[\[2\]](#) providing additional flexibility for (1) registered open-end management investment companies other than money market funds ("open-end funds") and (2) insurance company separate accounts registered as unit investment trusts ("separate accounts") to obtain short-term funding. Subject to certain conditions, the order provides the following temporary exemptive relief from the Investment Company Act:

- Relief permitting open-end funds and separate accounts to borrow money from certain affiliates;
- Relief permitting additional flexibility under existing interfund lending arrangements and extending the ability to use interfund lending arrangements to funds that do not currently have exemptive relief; and
- Relief permitting open-end funds to enter into lending arrangements or borrowings that deviate from fundamental policies, subject to prior board approval.

2. **Affiliated Purchases of Debt Securities No-Action Letters.** The Division of Investment Management issued two letters to ICI stating that Division staff would not recommend an enforcement action if, under certain facts and circumstances, certain funds sell debt securities to an affiliated person.^[3]

This relief was meant to be temporary, and it authorized the SEC staff to terminate it with notice.

Late last week, the SEC staff "provid[ed] notice that the relief provided in the order will terminate, and that the two letters will be withdrawn, effective April 30, 2021."^[4]

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endnotes

^[1] A summary of that relief, and its current status as of January 2021, can be found at: www.sec.gov/news/public-statement/update-commissions-targeted-regulatory-relief-assist-market-participants.

^[2] *Order Under Sections 6(c), 12(d)(1)(J), 17(b), 17(d) and 38(a) of the Investment Company Act of 1940 and Rule 17d-1 Thereunder Granting Exemptions from Specified Provisions of the Investment Company Act and Certain Rules Thereunder*, SEC Release No. IC-33821 (Mar. 23, 2020), available at www.sec.gov/rules/other/2020/ic-33821.pdf.

^[3] See Investment Company Institute, SEC Staff No-Action Letter (pub. avail. Mar. 26, 2020), available at www.sec.gov/investment/investment-company-institute-032620-17a (stating that the staff would not recommend enforcement action against any registered long-term mutual fund, or any affiliated person of the fund (or any affiliated person of such person) that is not a fund that purchases a debt security from a fund, if a purchaser purchases debt securities from a fund, under the specified circumstances and conditions); see also Investment Company Institute, SEC Staff No-Action Letter (pub. avail. Mar. 19, 2020), available at www.sec.gov/investment/investment-company-institute-031920-17a (stating that the staff would not recommend enforcement action against any registered open-end money market fund, or any affiliated person of the fund (or any affiliated person of such person) that is subject to Sections 23A and 23B of the Federal Reserve Act and that purchases a security from a fund, if the purchaser purchases securities from a fund subject to the specified circumstances and conditions).

^[4] *Division of Investment Management Staff Statement Regarding Termination Notice for Exemptive Relief and Withdrawal of Staff Letters Related to COVID-19 Response* (April 15, 2021), available at www.sec.gov/investment/staff-statement-im-covid-19-relief-termination.