

MEMO# 35642

March 13, 2024

SEC Adopts Amendments to Form PF

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TO: Investment Advisers Committee
SEC Rules Committee RE: SEC Adopts Amendments to Form PF

On February 8, 2024, the Securities and Exchange Commission (SEC or the "Commission") adopted amendments to Form PF, the confidential reporting form for certain registered investment advisers to private funds including those that also are registered with the Commodity Futures Trading Commission (CFTC) as commodity pool operators or commodity trading advisers. Form PF provides information to the SEC and the Financial Stability Oversight Council (FSOC) about private funds and is designed to facilitate the regulatory oversight and monitoring of those funds and their advisers. Alongside the SEC, the CFTC also adopted the Form PF amendments which are designed to enhance the ability of FSOC to monitor and assess systemic risk and to bolster the SEC's oversight of private fund advisers and investor protection efforts. Additionally, SEC and CFTC agreed to a memorandum of understanding related to the sharing of Form PF data. The amendments were adopted by a three-to-two vote, with Commissioners Peirce and Uyeda dissenting as well as a joint dissent from SEC Commissioner Uyeda and CFTC Commissioner Caroline Pham.

The Form PF amendments follow substantive amendments adopted in May of 2023^{[\[1\]](#)} and will increase disclosure obligations for private fund advisers that report on Form PF. This recent round of amendments can be broken down into three categories of reporting for: 1) all filers of Form PF regardless of their size; 2) advisers to hedge funds; and 3) large hedge fund advisers to qualifying hedge funds.

All Form PF Filers

Reporting on Basic Information About Advisers and the Private Funds. The Form PF amendments will require all advisers to private funds, regardless of their size to report certain identifying information about themselves and their private funds. This includes reporting on assets under management, withdrawal and redemption rights provided in the ordinary course of business (which previously was only required for large hedge fund advisers), gross asset value and net asset value, inflows and outflows, base currency, borrowings and types of creditors, fair value hierarchy, beneficial ownership, and fund performance. Notably, the Commissions did not adopt a definition for "digital assets" stating in the release that the Commission continues to consider this term. However, the

amendments do include digital assets as a reportable investment strategy.

Reporting on Complex Structures. The Form PF amendments will also modify that way that all advisers report master-feeder structures, funds of funds, and parallel funds. The current approach allows for reporting either on an aggregate or separate basis, however the amendments will generally require separate reporting for each component fund of these fund structures and will further require advisers to identify trading vehicles used by reporting funds and to report them on an aggregated basis to provide a line of sight into trading vehicles for the Commissions and FSOC.

Advisers to Hedge Funds

The amendments will require hedge fund advisers to provide more detailed information on Form PF about investment strategies, counterparty exposures, and trading and clearing mechanisms of hedge funds. The amendments also remove duplicative questions and are intended to provide visibility into hedge funds' operations and strategies, assist the Commissions in identifying trends, and improve data quality and comparability.

Large Hedge Fund Advisers on Qualifying Hedge Funds

For large hedge fund advisers who report on qualifying hedge fund assets,^[2] the amendments will increase disclosure requirements with respect to investment exposures, borrowing and counterparty exposure, market factor effects, currency exposure, turnover, country and industry exposure, central clearing counterparty reporting, risk metrics, investment performance by strategy, portfolio liquidity, and financing and investor liquidity.

Additionally, the amendments eliminate aggregate reporting for large hedge fund advisers. Currently, Form PF requires large hedge fund advisers to report certain aggregated information about the hedge funds they advise. The Commissions note that such information can obscure the data about hedge funds, including by masking the directional exposures of individual funds.

The final rule is available at <https://www.sec.gov/files/rules/final/2024/ia-6546.pdf>; the SEC Fact Sheet at <https://www.sec.gov/files/ia-6546-fact-sheet.pdf>; and the SEC press release at <https://www.sec.gov/news/press-release/2024-17>. Once published in the Federal Register, the final amendments will become effective one year after publication. The compliance date for the amendments is the same as the effective date.

SEC Chair Gary Gensler and Commissioners Peirce and Uyeda delivered statements on the Form PF amendments and Commissioner Uyeda issued a joint statement with CFTC Commissioner Caroline D. Pham regarding the Memorandum of Understanding Between the SEC and the CFTC Regarding the Use of Form PF Data.

- Chair Gensler stated in support of the joint amendments that "[s]ince Form PF first was adopted, the Commissions and FSOC have identified gaps in the information we receive. Today's adoption enhances the Commissions' and FSOC's understanding of the private fund industry as well the potential systemic risk posed by the industry and its individual participants. In addition, the adoption also furthers investor protection efforts." The Chair's full statement is available at [SEC.gov | Statement on Final Joint Amendments to Form PF](#).
- Commissioner Peirce objected to the amendments, stating that "In our never-satisfied hunger for more particularized information, we too casually ignore concerns about cost, utility, and data protection. Form PF contains highly proprietary information. Unless we need it, we should not collect it. The leakage of such confidential business

information could have serious competitive repercussions." Commissioner Peirce's full statement is available at [SEC.gov | Curiouser and Curiouser: Statement on Amendments to Form PF to Amend Reporting Requirements for All Filers and Large Hedge Fund Advisers](#).

- Commissioner Uyeda objected to the amendments, stating that the "The increasing granularity of the Form PF obligations raises important questions about what measures are being taken to protect the investors in the private funds reporting information on Form PF. These investors seem to have been all but forgotten in the Commission's quest for ever more detailed and faster reporting of private fund information." Commissioner Uyeda's full statement is available at [SEC.gov | Statement on Form PF; Reporting Requirements for All Filers and Large Hedge Fund Advisers](#).
- Commissioner Uyeda issued a joint statement with CFTC Commissioner Caroline D. Pham objecting to the Memorandum of Understanding Between the SEC and the CFTC Regarding the Use of Form PF Data (MOU). The Commissioners stated they object to the MOU for the following reasons: "(1) it is not necessary for the CFTC to be provided Form PF data for non-CFTC registrants; (2) broader distribution of all Form PF data increases its vulnerability to cybersecurity threats; and (3) the MOU's provisions for handling of confidential Form PF data are inadequate given the sensitivity of that information." Further, they concluded "Form PF contains sensitive information that the SEC committed to protecting when the form was first adopted, as required by law. Today, the SEC and CFTC embark on an information-sharing arrangement that lacks limitations on scope. Compounding the problem is a lack of appropriate security protocols. For that reason, we are unable to support this MOU." The full Joint Statement is available at [SEC.gov | Joint Statement of SEC Commissioner Mark T. Uyeda and CFTC Commissioner Caroline D. Pham: Memorandum of Understanding Between the SEC and the CFTC Regarding the Use of Form PF Data](#).

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Notes

[1] On May 3, 2023, the SEC adopted amendments to Form PF. ICI's summary memo of the previous Form PF amendments can be found at <https://www.ici.org/memo35312>.

[2] Under Form PF, a large hedge fund adviser is any private fund adviser that is required to file Section 2 of Form PF for a qualifying hedge fund. A qualifying hedge fund are those with a net asset value of at least \$500 million. Form PF defines a large hedge fund adviser as those with at least \$1.5 billion in hedge fund assets under management as of the last day of any month in the fiscal quarter immediately preceding the most recently completed fiscal quarter.

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