

Client Alert

Current Issues Relevant to Our Clients

May 26, 2015

SEC Proposes Disclosure and Reporting Changes for Registered Investment Companies

On May 20, 2015, the Securities and Exchange Commission (the “SEC”) proposed changes to certain aspects of the disclosure and reporting obligations of registered investment companies. As we indicated in our initial Client Alert on the proposal available [here](#), the SEC is seeking to modernize and enhance the reporting and disclosure of information by registered investment advisers and investment companies in an effort to enhance the quality of information available to investors and allow the SEC to more effectively collect and use data in its oversight of the asset management industry. This Client Alert summarizes the proposed changes regarding investment companies and a copy of the proposal is available [here](#). A Client Alert on the disclosure, reporting and recordkeeping proposals for registered investment advisers is available [here](#).

Overview

The SEC is proposing new and amended rules and forms that are intended to modernize the reporting and disclosure of information by registered investment companies. The proposals include new Forms N-PORT and N-CEN and the elimination of Forms N-Q and N-SAR with information in these new forms to be reported using a structured data format that is easier for the SEC to use for analysis. The SEC is also proposing amendments to Regulation S-X to standardize and enhance disclosure about derivatives in investment company financial statements among other changes to the financial statement presentation requirements. Finally, the SEC is proposing new Rule 30e-3 under the Investment Company Act of 1940 (“1940 Act”) to permit registered investment companies to transmit periodic reports to shareholders by making the reports accessible on their website if they satisfy certain other conditions.

The SEC indicated that these proposals are the direct result of the increased volume and complexity of registered investment companies and their investments, including new product structures like exchange-traded funds, new fund types like target date funds and increased use of derivatives and alternative strategies. Additionally, the SEC views the use of structured and interactive data collection formats (which will be enhanced significantly under the proposed changes) as providing an opportunity for the SEC to better collect and analyze reported information and improve the SEC’s ability to carry out its regulatory function. These proposed changes are intended to increase the transparency of registered investment company portfolios and practices to the SEC and investors, take advantage of technological advances in the

transmission of information and reduce duplicative or otherwise unnecessary reporting burdens on the industry.

Form N-PORT and the Elimination of Form N-Q

The SEC is proposing to eliminate Form N-Q and to adopt a new portfolio holdings report Form N-PORT, which would be filed by all registered management investment companies and unit investment trusts (“UITs”) that operate as exchange-traded funds (“ETFs”) other than money market funds and small business investment companies (“SBICs”). Form N-PORT would require the reporting of a fund’s complete portfolio holdings in a structured data format on a monthly basis with the SEC, with every third month’s report available to the public 60 days after the end of the fund’s fiscal quarter. The information in the reports is intended to help the SEC to analyze and understand various risks in particular funds, types of funds and across the fund industry as a whole. The increased frequency and timeliness of reported information is intended to further help the SEC in that role.

Required Filers

Under the proposals, registered management investment companies and ETFs organized as UITs (other than money market funds and SBICs) would be required to file Form N-PORT.

Frequency and Format of Reporting

Required filers would be required to file Form N-PORT no later than 30 days after the close of each month. The filing would be required to be made electronically using the SEC’s Electronic Data Gathering, Analysis, and Retrieval

("EDGAR") system in a structured XML format. Reports would be required to be signed on behalf of each fund by an authorized officer of the fund. Funds would be able to file an amendment to any previously filed report at any time including an amendment to correct any mistake or error to a previously filed report.

Information Required

Form N-PORT would require funds to report information about the fund and fund's portfolio investments as of the close of the preceding month, including:

- General information about the fund and filing;
- Assets and liabilities;
- Selected portfolio-level metrics including certain risk metrics;
- Information regarding securities lending counterparties;
- Information regarding monthly returns;
- Flow information;
- Certain information regarding each investment by a fund;
- Certain information regarding each investment by a fund classified as a "miscellaneous security" (if any);
- Explanatory notes (if any); and
- Exhibits.

Specific information that would be required under each category is described in greater detail below.

Required general information about a fund and filing would include:

- General identifying information about the fund including name and relevant file numbers, fiscal year end and Legal Entity Identifier ("LEI") (which some funds may need to obtain if they do not already have such number);
- Date of reporting; and
- Indication of whether a fund was making its final filing.

Required information regarding assets and liabilities of a fund would include:

- Reporting of total assets, total liabilities and net assets;

- Reporting of assets attributable to "miscellaneous securities" (as defined under Regulation S-X and described further below);
- Reporting of any amounts attributable to a fund's controlled foreign corporations ("CFCs") with all investments held by such CFCs required to be reported in the other portions of N-PORT for the fund; and
- Reporting of the amounts of liabilities of a fund such as (i) notes/bonds/debt payable, and (ii) payables for investments purchased on a delayed delivery, when-delivered or firm commitment basis and liquidation preferences for preferred stock.

Required information regarding portfolio level metrics including risk metrics would include the following for any fund that provides exposure to debt instruments or interest rates with a notional value of at least 20% of the fund's net asset value as of the reporting date:

- For each currency to which the fund is exposed and for each of a range of specified maturities (from 1 month to 30 years), an indication of the change in value of the fund's portfolio resulting from a one basis point change in interest rates (DV01); and
- For each of a range of specified maturities (from 1 month to 30 years), an indication of the change in value the fund's portfolio resulting from a one basis point change in credit spread (SDV01/CR01/CS01) aggregated by investment grade and non-investment grade exposures.

Required information regarding securities lending counterparties would include the following for each counterparty to the fund in any securities lending transaction:

- Name of the counterparty;
- LEI of the counterparty (if any); and
- Aggregate value of all securities on loan from the fund to the counterparty.

Required return information for the fund would include:

- Monthly returns of the fund for each of the preceding three months (by class if the fund has multiple classes) using the same methodology provided for in Form N-1A, N-2 or N-3 (as applicable);
- Where multiple classes are reported, class identification number(s) for such class(es);
- Monthly net realized gain (or loss) and net change in unrealized appreciation (or depreciation) attributable

to specified categories of derivatives for the preceding three months; and

- Monthly net realized gain (or loss) and net change in unrealized appreciation (or depreciation) attributable to investments other than derivatives for the preceding three months.

Required flow information about the sales, redemptions and repurchases of shares would generally be the same as currently reported on Form N-SAR (with similar informational and calculation requirements) including:

- Total net asset value (“NAV”) of shares sold (excluding reinvestments of dividends and distributions);
- Total NAV of shares sold in connection with reinvestments of dividends and distributions; and
- Total NAV of shares redeemed or repurchased (including exchanges).

Required information regarding each investment by a fund represents the most significant portion of Form N-PORT. Funds would be required to report the following information for each investment held by the fund and its consolidated subsidiaries (e.g. CFCs) as of the close of the preceding month:

- Name of issuer, LEI (if any), title or description of the investment, CUSIP (if any) and at least one other unique identifier of the investment (e.g. ISIN or ticker);
- Amount of the investment (by shares, principal amount, units, number of contracts and/or other appropriate number), currency in which the investment is denominated, value in U.S. dollars (including the applicable exchange rate for non-U.S. dollar denominated investments) and percentage of the net assets of the fund represented by the investment;
- Whether an investment is long or short (or with a response of “N/A” for derivatives which have separate items in Form N-PORT to assess this type of information);
- Description of asset by listed category (e.g. equity-common, derivative-credit, ABS-asset backed commercial paper, etc.), issuer type by listed category (e.g. municipal, private fund, etc.) and country of investment or issuer;
- Indication of whether an investment is a restricted security (as defined in Rule 144(a)(3) under the Securities Act of 1933 (“1933 Act”));
- Indication of whether an investment is an “illiquid” asset, defined as an asset that cannot be sold or

disposed of by the fund in the ordinary course of business within seven calendar days at approximately the same value ascribed to it by the fund (although in a December 2014 speech by SEC Chair Mary Jo White she indicated that the SEC is working on updating the guidance on illiquid securities);

- Indication of whether an investment is a Level 1, Level 2 or Level 3 security pursuant to U.S. Generally Accepted Accounting Principles (“GAAP”), Fair Value Measurement Guidance (“ASC 820”);
- For debt securities, information including maturity, coupon, whether the security has defaulted, default/deferment of payments, whether interest may be paid in-kind, whether the security is convertible and for such convertible securities additional information about the security’s conversion features;
- For repurchase and reverse repurchase agreements, information including whether the transaction is a repurchase agreement or reverse repurchase agreement, counterparty and LEI (if any), whether it is a tri-party agreement, maturity and repurchase date, and information about the collateral to the repurchase agreement (e.g. value, principal amount and type of investment);
- For all derivatives, information including the category of investment most accurately describing the derivative (i.e. forward, future, option, swaption, swap, warrant or other), counterparty and LEI (if any);
- For all options, warrants and swaptions, information including the type (i.e. put or call), payoff profile (written or purchased), specified information about the reference instrument/asset, referenced shares or principal amount of underlying reference instrument, exercise price or rate, expiration date, delta and unrealized appreciation or depreciation;
- For futures and forwards (other than foreign exchange forwards), information including the payoff profile (long or short), specified information about the reference instrument/asset, expiration date, aggregate notional amount or contract value on trade date and unrealized appreciation or depreciation;
- For foreign exchange forwards and swaps, information including amount and description of currency sold, amount and description of currency purchased, settlement date and unrealized appreciation or depreciation;
- For swaps (other than foreign exchange swaps), information including a description of the terms of payment necessary for a user of the information to understand the terms of the payments to be paid and received (e.g. applicable rates, payment frequencies,

reference instruments/assets, payment terms, etc.), termination or maturity date, upfront payments or receipts, notional amount and unrealized appreciation or depreciation;

- For all other derivatives, information including a description of the terms necessary for a user of the information to understand the nature and terms of the investment (e.g. applicable rates, put/call features, exercise terms, other applicable reporting required with respect to other derivatives in Form N-PORT, etc.), termination or maturity (if any), notional amounts (if any), delta (if applicable) and unrealized appreciation or depreciation; and
- For securities lending, additional information including whether any amount of such an investment represents reinvestment of cash collateral received for loaned securities (along with the value of the investment representing cash collateral), whether any portion of an investment represents non-cash collateral received for loan securities (along with the value of securities representing non-cash collateral) and whether any portion of an investment is on loan by the registrant including the value of securities on loan.

Required information regarding “miscellaneous securities” would be the same as described above under “Required information regarding each investment by a fund”. Funds would be permitted to report up to five percent of their aggregate total assets as “miscellaneous securities” although categorization as miscellaneous would be limited to securities that are not restricted, have not been held for more than one year prior to the end of the reporting period covered by a filing and have not been previously reported by name to the shareholders of the fund or any exchange or otherwise made public in any way. The same information described above under “Required information regarding each investment by a fund” would still need to be reported to the SEC on Form N-PORT but would be permitted to be reported in Part D which would be nonpublic. This would allow the SEC to have a complete record of the portfolio for monitoring and analysis while still guarding funds against the premature release of a portion of their securities positions and deter front-running and other predatory trading practices.

Explanatory notes (if any) would be permitted (but not required) in the form. This would be a space for a fund to provide additional information it believes to be helpful in understanding information reported on the form along with assumptions made as part of a fund’s responses.

Exhibits would be required at the end of the first and third quarters of a fund’s fiscal year showing the fund’s complete portfolio holdings as of the close of the period covered by the report in line with the required schedules set forth in Sections 210.12-12 to 12-14 of Regulation S-X.

These would be intended to provide the type and form of information currently reported on Form N-Q using the form and content specified by Regulation S-X. The portfolio schedules would neither be audited nor certified.

Public Disclosure of Information Reported

Information on Form N-PORT for the third month of each fund’s fiscal quarter would be made publicly available 60 days after the end of the fund’s fiscal quarter. While the SEC does not intend to make public the information reported for the first and second months of a fund’s fiscal quarter or any information on Part D of Form N-PORT regarding “miscellaneous securities”, the SEC would be able to use all information reported in Form N-PORT as part of its regulatory programs including examinations, investigations and enforcement actions.

Elimination of Form N-Q

Along with the proposal to adopt a new Form N-PORT, the SEC is proposing to rescind Form N-Q because the data reported on proposed Form N-PORT would include the portfolio holdings information currently included in reports on Form N-Q, making it unnecessarily duplicative.

Compliance Date

If Form N-PORT is adopted, it is proposed that a set of tiered compliance dates would be put in place for Form N-PORT implementation with the largest entities (e.g. groups of related investment companies with net assets of \$1 billion or more) expected to first file the form within 18 months of the effective date and with smaller entities expected to first file the form within 30 months of the effective date.

Form N-CEN and the Elimination of Form N-SAR

The SEC is proposing to rescind Form N-SAR and to adopt a new census-style report, that would be filed by all registered investment companies except face amount certificate companies. Form N-CEN would require the reporting of certain of the same information as Form N-SAR along with certain new and modified informational requirements in a structured data format on an annual basis (instead of semi-annually as most funds are currently required to file on Form N-SAR).

Required Filers

Proposed Form N-CEN would be required to be filed by all registered investment companies except face amount certificate companies. Like Form N-SAR, registrants would file one report on Form N-CEN covering all series. Wholly-owned subsidiaries of registered investment companies would not be required to file on Form N-CEN if all financial information with respect to that subsidiary was

reported in the parent company's Form N-CEN. However, as with Form N-SAR, the sections a fund would be required to complete would depend on the type of registrant filing. Required filers of each Part (which Parts are briefly described below under "Information Required") would include:

- Part A (General Information): all required filers of Form N-CEN;
- Part B (Information About the Registrant): all required filers of Form N-CEN;
- Part C (Additional Questions for Management Investment Companies): all management investment companies (other than SBICs);
- Part D (Additional Questions for Closed-End Management Investment Companies and SBICs): closed-end funds and SBICs;
- Part E (Additional Questions for Exchange-Traded Funds and Exchange-Traded Managed Funds): ETFs (including ETFs that are UITs);
- Part F (Additional Questions for Unit Investment Trusts): UITs; and
- Part G (Attachments): all required filers of Form N-CEN.

Information Required on Form N-CEN

Much of the information that would be required in Form N-CEN is the same as is currently required in Form N-SAR, but there are also many modifications, additions and removals. The proposed requirements are described below by section.

Part A (General Information) and Part B (Information About the Registrant) would require general information including:

- Information about the reporting period covered, the fiscal year-end date and an indication of whether the report covers a period of less than 12 months and whether the filing was an initial, amendment or final filing;
- Background information about the fund (and for funds offering multiple series where information differs between series, responses for each series labeled with the appropriate series name and identifier) including name, 1940 Act number, CIK, LEI (if any), contact information and classification (e.g. open-end fund, closed-end fund, etc.);
- Location and description of books and records;

- Information about whether a fund is part of a "family of investment companies";
- Identification of whether a fund issues securities registered under the 1933 Act;
- Information about the fund's chief compliance officer;
- Identification of whether there was a submission of any matter to a vote of the registrant's security holders during the relevant period;
- Information relating to material legal proceedings;
- Information regarding the provision of financial support by an affiliated entity (e.g. the fund's sponsor);
- Identification of whether the fund relied on orders from the SEC granting the fund an exemption from one or more provisions of the 1940 Act, 1933 Act or Securities Exchange Act of 1934 ("1934 Act") during the reporting period along with applicable release number(s);
- Identifying information for the fund's principal underwriters and independent public accountants;
- Disclosure of any material changes in the method of valuation of the fund's assets;
- Identification of whether the auditor gave an unqualified opinion with respect to its audit of the fund's financial statements during the period;
- Disclosure of changes in accounting principles and practices;
- For management investment companies, information about the fund's directors, whether any claims were filed under the fund's fidelity bond (and if so, the aggregate dollar amounts of any such claims) and identification of whether the fund's officers or directors are covered by any directors and officers errors and omissions insurance policy (and if so whether any claims were filed), disclosure of whether the fund's independent public accountant's report on internal control found any material weakness (along with certain additional information), information regarding payments of dividends or distributions requiring a written statement pursuant to Section 19(a) of the 1940 Act and Rule 19a-1 thereunder; and
- For open-end funds, whether the fund made any payments to shareholders or reprocessed shareholder accounts as the result of an NAV error.

Part C (Additional Questions for Management Investment Companies) would require information including the following (with information for management companies

offering multiples series being completed separately as to each series):

- General fund identifying information including name, series identification number, LEI, whether it is the fund's first time filing the form, information on classes added/authorized/terminated during the period and identifying information for each share class;
- Identification of whether the fund is an ETF, exchange-traded managed fund ("ETMF"), index fund, fund seeking to achieve performance results that are multiples/inverse/inverse multiples of a benchmark, interval fund, fund of funds, master-feeder fund, money market fund, target date fund and underlying fund to a variable annuity or variable life insurance contract;
- For index funds, certain standard industry calculations of performance (e.g. tracking difference and tracking error);
- For master funds, identifying information of each feeder fund including unregistered and offshore feeder funds;
- Identification of whether it seeks to operate as a non-diversified company as defined in Section 5(b)(2) of the 1940 Act;
- Disclosure of whether a fund invests in CFCs for the purposes of investing in certain types of instruments, including the name and LEI of such CFC(s);
- Certain information about securities lending by the fund including whether the fund is authorized to engage in such transactions, whether it loaned securities during the reporting period, information about fees and information about the fund's relationship with certain securities-lending related service providers, whether any borrower of securities has defaulted on its obligation to the fund to return loaned securities (on time or at all), whether a securities lending agent or any other entity indemnifies the fund against borrower defaults on loans administered by the agent along with identifying information about such entity, identifying information about each securities lending agent and cash collateral manager and whether these service providers are first or second tier affiliated persons of the fund and whether the fund made certain types of payments (revenue sharing split, non-revenue sharing split, administrative fee, cash collateral reinvestment fee or indemnification fee) to one or more securities lending agents or cash collateral managers;
- Disclosure of whether the fund relied on certain specified rules under the 1940 Act during the period (e.g. 1940 Act Rules 12d1-1, 17a-7, 17e-1, etc.);
- Information about whether the fund had an expense limitation arrangement in place and whether any expenses were waived, reduced or subject to recoupment during the period;
- Information on service providers including advisers, sub-advisers, transfer agents, custodians, shareholder servicing agents, third-party administrators and affiliated broker-dealers (including whether any such service provider was hired or terminated during the reporting period);
- Identifying information on persons that provided pricing services during the reporting period as well as persons that formerly provided pricing services to the fund during the current and/or immediately prior reporting period; and
- Disclosure of payments for brokerage and research, identification of the ten entities that during the reporting period received the largest dollar amount of brokerage commissions (and total aggregate commissions) and identification of the ten entities that during the reporting period did the largest dollar amount of principal transactions with the fund (along with aggregate principal purchase and sales transactions).

Part D (Additional Questions for Closed-End Management Investment Companies and SBICs) would require information including:

- Type of security issued (common stock, preferred stock, warrants, convertible bonds or any security considered "other"), title of each class, exchange where listed and ticker symbol;
- Information related to rights offerings and secondary offerings by the closed-end fund or SBIC;
- Information on repurchases of its securities during the reporting period;
- Information relating to defaults on long-term debt;
- Information relating to dividends in arrears;
- Information regarding modifications to the constituent's instruments defining the rights of shareholders;
- For any closed-end fund, reporting of the fund's advisory fee as of the end of the reporting period as a percentage of net assets;
- Reporting of the fund's net annual operating expenses as of the end of the reporting period as a percentage of net assets;

- Reporting of the fund's NAV and market price per share at the end of the reporting period; and
- Information regarding an SBIC's investment advisers, transfer agents and custodians.

Part E (Additional Questions for Exchange-Traded Funds and Exchange-Traded Managed Funds) would require information (with ETFs and ETMFs also being required to complete the applicable Form N-CEN section for open-end funds or UITs) including:

- Identifying information about its authorized participants and the value of the ETF shares the authorized participant purchased and redeemed from the ETF during the reporting period;
- Summary information about the characteristics of the ETF's creation units and primary market transactions including the total value of creation units 1) purchased by authorized participants primarily in exchange for portfolio securities on an in-kind basis, 2) that were redeemed primarily on an in-kind basis, 3) purchased by authorized participants primarily in exchange for cash and 4) that were redeemed primarily on a cash basis;
- Reporting of transaction fees applicable to the last creation unit purchased and the last creation unit redeemed during the reporting period of which some or all of the creation unit was transacted on a cash basis (and the same figures for creation units transacted on an in-kind basis);
- Reporting of the number of ETF shares required to form a creation unit as of the last business day of the reporting period;
- Identification of the exchange on which the ETF is listed; and
- Information regarding tracking difference and tracking error for the ETF.

Part F (Additional Questions for Unit Investment Trusts) would require information that is generally consistent with Form N-SAR for UITs that are not separate accounts of an insurance company but requires a significant number of new pieces of information for UITs that are separate accounts of an insurance company. Information required to be reported by UITs would include:

- Basic information about the registrant's service providers and entities involved in the formation and governance of its UITs including its depositor, sponsor, trustee and third party administrator, if any;
- Identification of whether a registrant is a separate account of an insurance company;

- For UITs that are not a separate account of an insurance company, series existing at the end of the reporting period, the number of new series for which registration statements became effective during the period, total value of the portfolio securities on the deposit date, number of series with a current prospectus, number of existing series and total value of additional units registered, value of units placed in portfolios of subsequent series and total assets of all series combined as of the end of the reporting period (all of which is currently required in some form on Form N-SAR);
- For UITs that are separate accounts of an insurance company, series identification number, for each security with a contract identification number assigned pursuant to Rule 313 of Regulation S-T the number of individual contracts in force at the end of the reporting period, and new identifying and census information for each security issued through the separate account (e.g. name of the security, contract identification number, total assets attributable to the security, number of contracts sold, gross premiums received, amount of contract value redeemed, information relating to Section 1035 exchanges and whether the UITs relied on Rules 6c-7 and 11a-2 under the 1940 Act; and
- Information relating to divestments under Section 13(c) of the 1940 Act (as currently required on Form N-SAR).

Part G (Attachments) would require attachments to Form N-CEN generally lining up with the Form N-SAR requirements (with the addition of a new attachment requirement related to the provision of financial support) and include certain specified documents related to (if applicable): legal proceedings, provision of financial support, changes in the fund's independent public accountant, the independent public accountant's report on internal control and changes in accounting principles and practices. Additionally, funds would be required, where applicable, to provide attachments relating to information required to be filed pursuant to exemptive orders or pursuant to SEC rules and regulations. Closed-end funds and SBICs would be required, where applicable, to provide attachments relating to material amendments to organizational documents, instruments defining the rights of the holders of any new or amended class of securities, new or amended advisory contract, information required by Item 405 of Regulation S-K and senior officer codes of ethics (for SBICs only).

Frequency and Format of Reporting

All reports on Form N-CEN are proposed to be required to be filed annually, regardless of type of filer. Filings would be required 60 days after the end of the fiscal year (which is the same as required for Form N-SAR). Form N-CEN is

not permitted to cover periods for greater than 12 months, so for funds changing their fiscal year, a report covering a shorter period would be required. Amendments to previously filed reports on Form N-CEN would be allowed at any time to correct a mistake or error in a previously filed report. The SEC is proposing that reports on Form N-CEN would be filed on EDGAR in XML format. The report would be required to be signed by the registrant by an authorized officer.

Elimination of Form N-SAR

Because Form N-CEN is intended to replace form N-SAR, Form N-SAR is proposed to be rescinded and appropriate technical conforming changes to other rules and forms would be made by the SEC relating to this change.

Compliance Date

If proposed Form N-CEN is adopted, funds would be expected to file on Form N-CEN instead of Form N-SAR within 18 months of the effective date.

Amendments to Regulation S-X

The proposed amendments to Regulation S-X would apply to all registered investment companies and business development companies (“BDCs”) to update presentation requirements of financial statements with a focus on investments in derivatives. The SEC is proposing to:

- Require new, standardized disclosures regarding fund holdings in derivatives;
- Update disclosure requirements for other investments and reorganize the order in which certain investments are presented;
- Require new disclosures in the notes to financial statements relating to funds’ securities lending activities; and
- Amend the rules regarding the general form and content of fund financial statements.

The proposed amendments would require prominent placement of disclosures regarding investments in derivatives in a fund’s financial statements rather than allowing such information to be placed in the notes to financial statements. An effort was made to line the proposed amendments up with disclosures required on Form N-PORT.

Enhanced Standardized Derivatives Disclosure

The proposals include enhanced standardized disclosure that would be required for all derivative instruments. While certain pieces of information are already required under Regulation S-X (e.g. certain specified information required

for options), most derivative information is currently disclosed based on Rule 12-13 of Regulation S-X related to “Investments other than securities” which requires relatively limited information on such investments. The proposed amendments to Regulation S-X also include a number of more detailed instructions related to certain required disclosures. A brief summary of the proposed requirements for 1) open written option contracts, 2) open futures contracts, 3) open forward foreign currency contracts and 4) open swap contracts are included below.

- *All categories of derivatives described below (open written option contracts, open futures contracts, open forward foreign currency contracts and open swap contracts) along with “other investments” would require information including: identification of restrictions or conditions to sale applicable to the investment, identification of whether unobservable inputs were used to determine an investment’s fair value (i.e. whether the investment was Level 3 under ASC 820), tax basis of the investment, and identification of whether the investment is illiquid;*
- *Open written option contracts (other than exchange-traded options) would require information including: a description of the contracts, the counterparty, number of contracts, notional amount, exercise price, expiration date, value, description of any underlying investment in accordance with the applicable Regulation S-X requirements (e.g. for swaptions, disclosure of both information on the base option consistent with Rule 12-13 and information on the underlying swap consistent with proposed Rule 12-13C) where applicable and for underlying investments not covered by Regulation S-X a description sufficient to identify the underlying investment (e.g. for a publicly available index, the name and the website may be sufficient but for a non-public index a detailed description of the index components may be necessary);*
- *Open futures contracts would require information including: a description of the contracts, number of contracts, notional amount, expiration date, value and unrealized appreciation/depreciation (with instructions that funds should reconcile the total of such amount to the total variation margin receivable or payable on the related balance sheet);*
- *Open forward foreign currency contracts would require information including: amount and description of currency to be purchased, amount and description of currency to be sold, counterparty, settlement date and unrealized appreciation/depreciation; and*
- *Open swap contracts would require information including: description and terms of payment to be received from another party, description and terms of payments to be paid to another party, counterparty,*

maturity date, notional amount, value, upfront payments/receipts and unrealized appreciation/depreciation along with more detailed requirements specific to swaps of different types and exposures.

Other Amendments to Regulation S-X (Rules 12-12 through 12-12C)

In addition to making certain technical and renumbering changes to Rules 12-12, 12-12A and 12-12C under Regulation S-X, additional proposed amendments to those rules including requiring:

- Categorization of the schedule of investments by type of investment, the related industry and the related country or geographic region (as opposed to current requirements where funds are only required to categorize their schedule by industry, country or geographic region);
- Disclosure of the interest rate or preferential dividend rate and maturity rate for certain specified fixed-income investments of a fund (e.g. preferred stocks, convertible securities, fixed income securities, etc.);
- Disclosure of referenced rate and spread when disclosing the interest rate for variable rate securities investments of a fund;
- Disclosure of the rate paid in-kind, where applicable;
- Identification of each issue of securities held in connection with open put or call option contracts and loans for short sales by adding the requirement to also indicate where any portion of the issue is on loan;
- Disclosure of investments with fair values determined using significant unobservable inputs (*i.e.* each investment categorized as Level 3 pursuant to ASC 820) along with methods used in determining such values;
- Identification of any issues of illiquid securities;
- Identification and information related to restricted securities; and
- Revision of the presentation of any securities sold short to include certain of the information described above related to derivatives disclosures along with certain other Regulation S-X changes.

Investments in and Advances to Affiliates

The SEC is proposing amendments to Rule 12-14 under Regulation S-X relating to disclosures about a fund's investments in and advances to any "affiliates" or

companies in which the company owns 5% or more of the outstanding voting securities. The proposed amendments would require net realized gain or loss for the period along with net increase or decrease in unrealized appreciation or depreciation for the period for each affiliated investment. The proposed amendments would also require disclosure of total realized gain or loss and total net increase or decrease in unrealized appreciation or depreciation for affiliated investments. Finally, the proposed amendments include additional disclosures in line with the other proposed amendments to Regulation S-X.

Form and Content of Financial Statements

The SEC is proposing amendments to Article 6 of Regulation S-X prescribing the form and content of financial statements filed for registered investment companies and BDCs. Many of the changes are technical in nature but many result in meaningful differences in the presentation of information in a fund's financial statements. Selected changes include:

- Requiring a fund and its consolidated subsidiaries to present their consolidated investments for each applicable schedule without indicating which are owned directly by the fund or which are owned by the consolidated subsidiaries;
- Making a rule change to clarify that all schedules required by Rule 6-10 should be presented together within a fund's financial statements and not in the notes to financial statements;
- Removing the mandate that "Total investments" be shown on the balance sheet under "Assets" in recognition that certain derivative investments could potentially be presented under both assets and liabilities on the balance sheet;
- Clarifying that the proposed amendments to derivative disclosure are not intended to require gross presentation where netting is allowed under GAAP;
- Requiring fund financial statements to reflect all unaffiliated investments other than securities presented on separate schedules under Article 12;
- Requiring funds to make certain disclosures in connection with their securities lending activities and cash collateral management including disclosure of 1) gross income from securities lending, 2) dollar amount of all fees and/or compensation paid by the registrant for securities lending activities and related services, 3) net income from securities lending activities, 4) terms governing the compensation of the securities lending agent, 5) details of any other fees paid directly or indirectly and 6) the monthly average of the value of the portfolio securities on loan;

- Requiring funds to make a separate disclosure for income from non-cash dividends and payment in-kind interest on the statement of operations;
 - Elimination of the exception which currently does not require reporting under Rule 12-13 if investments amount to one percent or less of the value of total investments given that a fund may have a significant notional amount exposure in its portfolio that could be valued at one percent or less of total investments; and
 - Other conforming changes related to the other Regulation S-X proposals.
- The fund makes available on its website the fund's portfolio holdings as of the next fiscal quarters (for management investment companies that are not money-market funds or SBICs), which are not required to be audited, within 60 days after the close of such periods;
 - All materials required to be posted on the website are presented in a format that is convenient both for reading online and printing on paper;
 - Persons accessing the information would be able to permanently retain, free of charge, an electronic version of the materials in the same manner; and
 - For funds that do not meet these posting requirements for some temporary period of time (e.g. because of some technical issue, natural disaster, etc.) reliance on the conditions will be deemed to have been met if the funds meet the safe harbor requirements requiring funds to have reasonable procedures in place to ensure that required materials are posted on its website in the manner required by the rule and take prompt action to correct any noncompliance with these posting requirements.

Compliance Date

Because the SEC believes the proposed amendments to Regulation S-X are largely consistent with existing required fund disclosure practices, the SEC is proposing a compliance date for these proposed amendments of eight months after the effective date.

Website Transmission of Shareholder Reports

The SEC is proposing new Rule 30e-3 under the 1940 Act which would permit, but not require, registered investment companies to transmit certain reports to shareholders by making them available on the investment company's website subject to certain conditions rather than through physical or electronic e-mail delivery. The proposed rule includes consent requirements to safeguard investors who wish to continue to receive shareholder reports in paper form.

Website Accessibility Requirements

The proposed rule provides that a fund's annual or semiannual report to shareholders would be considered transmitted if the following requirements are met:

- The fund's report to shareholders under Rule 30e-1 or 30e-2 is publicly accessible, free of charge, at a specified website address beginning no later than the date of the required transmission of the report and ending no earlier than the date on which the next report required by Rule 30e-1 or 30e-2 is required to be transmitted;
- Such website address is not the EDGAR address;
- The fund makes available on its website any previous shareholder report transmitted within the last 244 days and the fund's complete portfolio holdings as of its most recent first and third fiscal quarters (for management investment companies that are not money market funds or SBICs), if any, for the same amount of time that the current shareholder report is required to be publicly accessible;
- State that the future shareholder reports will be accessible, free of charge, at a website;
- Explain that the fund will no longer mail printed copies of shareholder reports to the shareholder unless the

Shareholder Consent Requirements

To maintain the ability of shareholders to receive paper copies of their shareholder reports, the proposed rules would also require that a fund obtain shareholder consent prior to relying on the rule to satisfy transmission obligations with respect to a particular shareholder. Under the proposal, this form of electronic transmission to a particular shareholder would be permitted only if that shareholder had previously consented to this method of transmission with respect to a particular fund or had been determined to have provided implied consent under the rule for the fund. To rely on implied consent, a fund would be required to transmit to a particular shareholder a written statement at least 60 days before it began relying on the rule notifying the shareholder of the fund's intent to make future shareholder reports available on the fund's website unless the shareholder revoked the consent. The statement could not be incorporated into or combined with any other document or sent along with any other shareholder communications (other than the fund's current summary prospectus, statutory prospectus, statement of additional information or notice of internet availability of proxy materials). The statement would need to be written using plain English principles (e.g. short sentences, definite/concrete/everyday words, active voice, etc.) and:

- State that the future shareholder reports will be accessible, free of charge, at a website;
- Explain that the fund will no longer mail printed copies of shareholder reports to the shareholder unless the

shareholder notifies the fund that he or she wishes to receive printed reports in the future;

- Include a toll-free telephone number and be accompanied by a reply form that is pre-addressed with postage paid that includes the information that the fund would need to identify the shareholder and explain that the shareholder can use either of these two methods at any time to notify the fund that he or she wishes to receive printed reports in the future;
- State that the fund will mail printed copies of future shareholder reports within 30 days after the fund receives notice of the shareholder's preference; and
- Contain a prominent legend in bold-face type that states "How to Continue Receiving Printed Copies of Shareholder Reports".

Notice Requirement

For fund shareholders who have consented to this type of electronic transmission, funds would be required to send a notice within 60 days of the close of the fiscal period to which it relates with the same basic requirements in place for the SEC's rules mandating the posting of proxy materials online under Rule 14a-16 under the 1934 Act. Notices could not be incorporated into or combined with any other document or sent along with any other shareholder communications (other than the fund's current summary prospectus, statutory prospectus, statement of additional information or notice of internet availability of proxy materials). A copy of such notice would be required to be filed with the SEC no later than 10 days after being sent to shareholders on EDGAR. Such notice would need to be written using plain English principles and:

- Contain a prominent legend in bold-face type stating that "[A]n Important Report[s] to Shareholders of [insert Fund name or fund complex name] [is/are] Now Available Online and In Print by Request";
- State that each shareholder report contains important information about the fund, including its portfolio holdings, and is available on the internet or, upon request, by mail and encouraging shareholders to access and review the report;
- Include a website address leading directly to each report the fund is transmitting to the recipient shareholder;
- Include the website address where the shareholder report and other required portfolio information is posted;
- Provide instructions on how a shareholder may request, at no charge, a paper copy of the shareholder report or other materials required to be

made accessible online and an indication that the shareholder will not receive a paper copy of the report unless requested; and

- Include a toll-free telephone number and be accompanied by a reply form that is pre-addressed with postage paid that includes the information that the fund would need to identify the shareholder and explain that the shareholder can use either of these two methods at any time to notify the fund that he or she wishes to receive printed reports in the future.

One notice would be permitted to be sent to shareholders who share an address so long as the fund addressed the notice to the shareholders individually or as a group.

Delivery Upon Request

In order to rely on Rule 30e-3, funds would be required to send within three days of receiving a request from a shareholder, at no cost to the requestor, using U.S. first class mail (or comparable prompt means), a paper copy of the fund's most recent annual and semiannual reports or portfolio holdings as of its most recent first and third fiscal quarters.

Rule 30e-3 Not Available to Funds Relying on Rule 30e-1(d) or Summary Schedule of Investments

The Rule 30e-3 proposals do not permit transmission by website availability of statutory prospectuses or statements of additional information being utilized by a fund in place of shareholder reports pursuant to 1940 Act Rule 30e-1(d). The Rule 30e-3 proposals also do not permit transmission by website availability for funds relying on summary schedules of investments pursuant to Rule 12-12C of Regulation S-X.

Related Disclosure Amendments

For funds that wish to send the fund's initial statement or notice regarding a fund's reliance on Rule 30e-3 (described above under "Shareholder Consent Requirements" and "Notice Requirement") with its summary prospectus or notice of internet availability of proxy materials, such funds would be required to include as part of the legend on the cover page of such documents the website address required to be included in the notice. Additionally, Rule 498 under the 1933 Act and Rule 14a-16 under the 1934 Act are proposed to be amended to allow the initial statement or notice to accompany and have equal or greater prominence than the summary prospectus or notice of internet availability of proxy materials.

Compliance Date

Because proposed Rule 30e-3 would permit (but not require) a fund to transmit reports to shareholders via

website access if it met certain conditions, the expectation is that funds would be able to rely on the rule immediately after the effective date.

Technical and Conforming Amendments

Because of the rescission of Forms N-Q and N-SAR, creation of Form N-PORT and Form N-CEN and amendments to Regulation S-X, certain conforming changes to forms and rules to addresses those differences are necessary and have been proposed by the SEC. For example, recession of Form N-Q would eliminate certifications as to the accuracy of the portfolio schedules reported by a fund for its first and third fiscal quarters so Form N-CSR is being amended to require each certifying officer to state that he or she has disclosed in that report any change in the registrant's internal control over financial reporting that occurred during the most recent fiscal half-year rather than the registrant's most recent fiscal quarter as currently required by that form.

What's Next?

The SEC will publish these proposals in the Federal Register. Firms will have 60 days to comment from that date of publication in the Federal Register. The SEC included a variety of specific requests in the proposal release and is also generally looking for comments on anything included or not included (that commenters believe should have been included) in the proposals. Comments can be submitted 1) through the SEC's internet comment form at <http://www.sec.gov/rules/proposed.shtml>, 2) through the Federal eRulemaking portal at <http://regulations.gov> or 3) via email to rule-comments@sec.gov (including File No. S7-08-15 on the subject line). Firms should review the proposals and consider how the proposals may impact their reporting, disclosure and other requirements. While it is reasonable to expect that the final rules will differ from these initial proposals as a result of the comments received by the SEC, firms should begin to prepare for the likely increase in compliance and disclosure obligations.

For More Information

To discuss any topic covered in this Client Alert, please contact a member of the Investment Management Group or visit us online at chapman.com.

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