

October 31, 2016

SEC Adopts More Frequent and Detailed Fund Holdings Reporting Requirements

In an October 13, 2016 [release](#) (the “Release”) the SEC finalized new and amended rules and forms that significantly broaden the type and scope of information reported by registered investment companies.¹ The changes effected by the Release, which are substantially the same as those proposed in the Proposing Release, fall into five categories:

- New Form N-PORT, which requires registered investment companies to report detailed information about their monthly portfolio holdings and risk metrics to the SEC using a prescribed XML data format.
- New Form N-CEN, which requires registered investment companies to report census-type information to the SEC annually, using a prescribed XML data format.
- Elimination of Forms N-Q and N-SAR, as well as amendments of certain other rules and forms.
- Amendments to Regulation S-X that require standardized, enhanced disclosure about derivatives in investment company financial statements consistent with Form N-PORT.
- Amendments to Forms N-1A and N-3 (and, for a closed-end fund, Form N-CSR) that require disclosures about securities lending activities.

According to the SEC, the changes effected by the Release are intended “to modernize reporting and disclosure of information by registered investment companies” and will assist the Commission “to better fulfill its mission of protecting investors, maintaining fair, orderly and efficient markets, and facilitating capital formation.” The Release advances components of the SEC’s regulatory agenda announced by Chair White in late 2014: improving data reporting requirements to address risks at the fund level and within the asset management industry.

Form N-PORT

Currently, registered investment companies report their portfolio holdings to the SEC each quarter in reports on Form N-Q (1st and 3rd fiscal quarters) and in reports on Form N-CSR (2nd and 4th fiscal quarters). The Release rescinds Form N-Q and adopts a new portfolio holdings reporting form, Form N-PORT, to be filed monthly by all registered investment companies (except money market funds) and unit investment trusts that operate as ETFs (each, a “fund”). A fund’s Form N-PORT must be filed with the SEC no later than 30 days after the end of each month. With some exceptions, the information in a fund’s quarter-end Form N-PORT will be made publicly available by the SEC 60 days after the end of the fund’s most recent fiscal quarter. The following information will not be made public: the liquidity classification assigned to each portfolio investment, the asset type label that the fund has assigned to each portfolio investment, the fund’s highly liquid investment minimum, any information reported with regards to country of risk and economic exposure, delta, miscellaneous securities and explanatory notes related to any of those topics.

¹ On May 20, 2015, the SEC issued a proposing release (the “Proposing Release”) regarding the matters covered in the Release. The Proposing Release contained a proposed rule, Rule 30e-3, that would have permitted registered investment companies to transmit periodic reports to their shareholders by making the reports and quarterly portfolio information accessible online. However, Rule 30e-3 was not adopted by the SEC.

- Form N-PORT includes a fund's entire portfolio holdings, with limited exception,² reported on the same basis used to calculate NAV, and must be filed electronically in a structured, XML format. Detailed information is required with respect to each fund investment (e.g., type of investment, value, payoff profile, asset and issuer type, country of investment/issuer, fair value level, and whether the investment is a restricted security).
- With the SEC's adoption of the liquidity risk management rule,³ Rule 22e-4 under the 1940 Act, Form N-PORT includes: a fund's "highly liquid investment minimum" (if applicable), any changes to that minimum and information regarding days on which the fund failed to meet that minimum, information about the fund's liquidity classifications of its investments, and the percentage of fund assets within each of Rule 22e-4's four liquidity categories. With respect to derivatives transactions, Form N-PORT requires disclosure of the percentage of a fund's assets that are classified in the top liquidity category ("highly liquid investment") that serve as cover or margin for derivatives classified in the three lower liquidity categories.
- Form N-PORT expands significantly information about a fund's investment in derivatives. Form N-PORT requires the characteristics, terms and conditions of each derivative contract that are important to understand the payoff profile of a fund's investment in such contracts, as well as the exposures created or hedged in the fund. Form N-PORT requires identification of the category of derivative that most closely represents the investment (e.g., forward, future, option, etc.) and the identity of the counterparty (including a central clearinghouse).
- Form N-PORT includes additional information concerning fund portfolio holdings and characteristics not currently required by Forms N-Q and N-CSR. Thus, Form N-PORT includes certain quantitative measurements of risk that measure a fund's sensitivity to changing market conditions, such as changes in asset prices, interest rates, or credit spreads, as well as information about fund flows. Form N-PORT requires a fund to provide monthly total returns, using existing standardized formulas, for each of the preceding three months and for each class of shares, as well as monthly net realized gains (or losses) and net changes in unrealized appreciation (or depreciation) attributable to derivatives within specified asset categories (e.g., commodity contracts, credit contracts, equity contracts). The Release adds the additional requirement that, within each such derivative category, the appreciation (depreciation) must be reported according to type of derivative instrument (e.g., forward, future, option, swap).
- Form N-PORT expands significantly disclosure about certain investment activities, including repurchase agreements, reverse repurchase agreements and securities lending. For repurchase and reverse repurchase agreements, Form N-PORT requires a fund to report the identity of the counterparty (or central counterparty), the terms of each transaction, and the category of investments that most closely represents the collateral. For securities lending, Form N-PORT requires a fund to report the identity of each securities borrower, the aggregate value of all securities on loan to each borrower, and the aggregate principal amount and aggregate value of each type of non-cash collateral received for loaned securities. Form N-PORT also requires a fund to disclose information about the reinvestment of cash collateral that secures the loans.

Form N-CEN

The Release rescinds Form N-SAR and replaces it with Form N-CEN, which requires funds to report detailed census-type information on an annual basis, instead of semi-annually. Form N-CEN streamlines and updates information currently reported to the SEC on Form N-SAR to reflect current SEC staff information needs and

² As is currently permitted by Regulation S-X, Form N-PORT permits funds to report an aggregate amount not exceeding 5% of the total value of their portfolio investments in one amount as "miscellaneous securities." However, certain securities may not be included within the aggregate miscellaneous securities (e.g., restricted securities).

³ In a separate October 13, 2016 [release](#), the SEC adopted Rule 22e-4, covering fund liquidity risk management, and published new, related disclosure and data reporting requirements. Rule 22e-4 and related disclosure and reporting changes are the subject of separate Ropes & Gray Alert (available [here](#)).

developments in the industry, including detailed information about exchange-traded funds, closed-end funds and securities lending activities. Form N-CEN must be filed with the SEC using a structured, XML data format. The Release extends the filing deadline to 75 days, from the Proposing Release's 60 days, after the close of each fiscal year.

Rescission of Form N-Q and Amendments to Form N-CSR Certifications

Because Form N-PORT renders Form N-Q unnecessary, the Release rescinds Form N-Q. Rescission of Form N-Q eliminates certifications, arising from the SEC's implementation of the Sarbanes-Oxley Act of 2002, as to the accuracy of the portfolio schedules reported for the first and third fiscal quarters. To fill this gap, the Release amends the form of certification in Form N-CSR to require each certification to cover the most recent fiscal half-year, rather than the fund's most recent fiscal quarter.

Amendments to Regulation S-X

Regulation S-X prescribes the form and content of financial statements required in registration statements and shareholder reports. Currently, Regulation S-X does not prescribe specific information in fund financial statements for most types of derivatives, including swaps, futures, and forwards. The Release amends Regulation S-X to require standardized and enhanced disclosure regarding derivatives in a manner that is comparable to the information that would be required for reports on Form N-PORT. Thus, the amendments result in new schedules for open futures contracts, open forward foreign currency contracts, open swap contracts, and investments other than those specifically covered in the other schedules, and additional disclosure requirements for purchased and written option contracts. In addition, the amendments to Regulation S-X require that derivative disclosures be given "prominent placement" in financial statements rather than being placed in notes to financial statements. Special provisions apply where a derivative's reference instrument is a basket or index of investments, especially when the derivative's notional amount represents more than 1% of the fund's NAV.

Securities Lending Activities—Amendments to Forms N-1A, N-3 and N-CSR

The Proposing Release proposed amendments to Regulation S-X to require a fund to provide certain disclosures about its securities lending activities, including income and expenses, in its financial statements. Instead, the Release requires an open-end fund to provide such disclosure in its statement of additional information (and, for a closed-end fund, in its report on Form N-CSR). The required disclosure includes a description of the services provided to the fund by securities lending agent(s) during the fund's most recent fiscal year. A fund also must disclose gross and net income to the fund from its securities lending activities, fees paid to a securities lending agent from a revenue split and as additional fees paid for certain services outside of a revenue split (including fees paid for cash collateral management services, administrative services and indemnification) and rebates paid to securities borrowers.

Compliance Dates

Form N-PORT, Rescission of Form N-Q and Amendments to the Certification Requirements of Form N-CSR

Funds that, together with other funds in the same "group of related investment companies" hold net assets of at least \$1 billion have a compliance date of June 1, 2018 for Form N-PORT and the amendments to the certification requirements of Form N-CSR. Smaller groups of related investment companies have a compliance date of June 1, 2019 for Form N-PORT and the amendments to the certification requirements of Form N-CSR.

The final filing on Form N-Q for any fund, regardless of group size, is for the reporting period preceding its first filing on Form N-PORT.

Form N-Q and related rules referencing Form N-Q will be rescinded two months after the June 1, 2019 compliance date for smaller fund groups, on August 1, 2019.

Form N-CEN and Rescission of Form N-SAR

The compliance date for Form N-CEN is June 1, 2018, which is also the rescission date of Form N-SAR and related rules referencing Form N-SAR.

Regulation S-X, Statement of Additional Information and Form N-CSR

The compliance date for amendments to Regulation S-X, as well as the related amendments to the Forms N-1A and N-3 Statement of Additional Information (and Form N-CSR for closed-end funds), is August 1, 2017.

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If you would like to learn more about the issues in this Alert, please contact your usual Ropes & Gray attorney.