

March 8, 2018

SEC Extends Compliance Date for Some Requirements of the Liquidity Risk Management Rule and Related Disclosure Requirements – Additional Guidance and FAQs

On February 22, 2018, the SEC adopted an [interim final rule](#) (the “IFR”) that extends, for six months, the compliance date for some of the requirements of Rule 22e-4 under the 1940 Act (the “Liquidity Rule”) and related disclosure requirements (collectively, the “Liquidity Rule Requirements”). Most notably, the IFR provides a six-month extension for compliance with these Liquidity Rule Requirements:

- Classification of a fund’s portfolio investments into one of four liquidity categories (“bucketing”)
- Determination of a fund’s highly liquid investment minimum (“HLIM”)
- Board approval of a liquidity risk management (“LRM”) program

The IFR does not extend the compliance date for *establishing* an LRM program. The IFR also does not extend the compliance date for the Liquidity Rule’s 15% illiquid investments limit.

The Liquidity Rule Requirements for which the IFR provides an *extended compliance date*, as well as the Liquidity Rule Requirements for which the *compliance date remains unchanged*, are summarized below in section B.¹

In addition, because the IFR does not extend the compliance date for the Liquidity Rule’s 15% illiquid investments limit, the IFR provides guidance to (i) In-Kind ETFs, which are not required to classify their portfolio investments under the Liquidity Rule, and (ii) funds not engaging in portfolio classification during the six-month period, regarding compliance with the 15% limit. This guidance is summarized below in section C.

Finally, concurrent with the adoption of the IFR, the staff of the SEC’s Division of Investment Management expanded its [posted FAQs](#) that respond to questions about the Liquidity Rule Requirements. The new FAQs are also summarized below in section D.

A. Rationale for the Extended Compliance Date and Request for Comments

In the IFR, the SEC stated that its decision to defer the compliance date for some Liquidity Rule Requirements was based upon its findings that (i) the absence of available market data for certain classes of assets will require funds to rely heavily on service providers for tools and systems for liquidity classification and reporting, but these tools and systems were unlikely to be fully developed and tested by the original December 1, 2018 compliance date, (ii) implementation of service provider and fund systems requires additional time for funds to refine and test systems, classification models and liquidity data and (iii) funds face compliance challenges due to remaining interpretive questions about the Liquidity Rule Requirements, which may require additional guidance. The IFR suggests that the SEC underestimated the extent to which fund groups would rely on service providers to satisfy the Liquidity Rule

¹ This Alert follows the IFR’s terminology. The term “funds” includes open-end management companies, including ETFs that do not qualify as In-Kind ETFs, and excludes money market funds.

Requirements.² The IFR stated that these “are matters that were not anticipated in the Adopting Release” and that, collectively, these matters “justify a six-month delay limited to the classification and related requirements.”

Separately, the IFR seeks public comment on the extended compliance date it provides. Comments must be received by the SEC no later than April 27, 2018.

B. Extended and Non-Extended Liquidity Rule Requirements

The following chart identifies the Liquidity Rule Requirements for which the IFR extends the compliance date by six months. For funds that, together with other funds in the same “group of related investment companies,” hold net assets of at least \$1 billion (“larger fund complexes”), the extended compliance date is June 1, 2019. For smaller fund complexes, the extended compliance date is December 1, 2019.

Extended Liquidity Rule Requirements
1. Classification of the fund’s portfolio investments into one of four liquidity categories
2. Determination a fund’s HLIM
3. Board approval of the LRM program of a fund or In-Kind ETF
4. Annual report to the board regarding the LRM program
5. Recordkeeping requirements related to items 1 – 4, above
6. Form N-LIQUID Part D (non-public notification to the SEC if a fund’s highly liquid investments decline below its HLIM for more than seven consecutive calendar days)
7. Form N-PORT Items B.7, B.8, and C.7 (information about a fund’s HLIM and the classification of its portfolio investments) ³

The following chart identifies the Liquidity Rule Requirements for which the compliance date is not extended by the IFR. The compliance date for these requirements remains December 1, 2018 for larger fund complexes and June 1, 2019 for smaller fund complexes.

Non-Extended Liquidity Rule Requirements
1. Establishing an LRM program for assessing, managing and periodically reviewing a fund’s liquidity risk
2. Limiting a fund’s or In-Kind ETF’s investments in illiquid “investments that are assets” to no more than 15% its net assets ⁴
3. Adopting policies and procedures for in-kind redemptions, if the fund engages in, or reserves the right to engage in, redemptions in kind

² See IFR Section II (“the extent of fund reliance on external service providers to provide liquidity classification solutions” among “matters that were not anticipated in the Adopting Release”).

³ Because the compliance date for the liquidity disclosures on Form N-PORT is deferred until June 1, 2019 (for larger fund complexes), the filing date of the first Form N-PORT to be filed via EDGAR for a fund within a larger fund complex containing the liquidity disclosure is deferred until July 30, 2019.

⁴ The Liquidity Rule refers to “investments” to capture liabilities (e.g., certain out-of-the-money derivatives transactions), as well as assets. This leads to the term “investments that are assets.”

4. Board designation of the person(s) to administer the LRM program (the “program administrator”)
5. Recordkeeping requirements related to items 1 – 4, above
6. Form N-LIQUID Parts A, B and C (general information about the fund, non-public SEC notice that a fund exceeded the 15% limit, and non-public SEC notice from a fund that exceeded the 15% limit and filed a Form N-LIQUID that the fund no longer exceeds the 15% limit)
7. Form N-CEN, including Item C.20 (use of lines of credit, interfund lending/borrowing), Item E. ⁵ (an ETF’s status as an In-Kind ETF may be noted as “N/A” until funds are required to comply with the extended Liquidity Rule Requirements)

Note: The staggered compliance dates for the Liquidity Rule Requirements may raise some additional implementations questions or challenges. For example, some fund boards may want to be comfortable with the LRM programs implemented in December, notwithstanding the fact that board approval is not required until six months later. Funds that take advantage of the staggered dates will undergo two operational transitions and need to implement an interim program.

C. 15% Illiquid Investments Limit

The IFR does not affect the compliance date of the Liquidity Rule’s 15% illiquid investments limit. The IFR notes that funds have experience following the SEC’s longstanding guidance to limit an open-end fund’s aggregate holdings of illiquid assets to no more than 15% of the fund’s net assets. The IFR describes the following “reasonable method” to assist In-Kind ETFs, which are not required to classify their portfolio investments under the Liquidity Rule, and funds not engaging in full portfolio classification during the six-month compliance extension, to identify illiquid investments for purposes of complying with the Liquidity Rule’s 15% illiquid investments limit without engaging in full portfolio classification during the interim period. According to the SEC:

- Based on prior experience, a fund could preliminarily identify certain asset classes or investments that the fund reasonably believes are likely to be illiquid (“preliminary evaluation”). Investments in asset classes that the fund does not reasonably believe are likely to be illiquid would not have to be classified when performing the preliminary evaluation. A fund could determine that certain investments identified in these asset classes that it acquires are illiquid based solely on the preliminary evaluation, and not engage in any subsequent analysis.
- Alternatively, if a preliminary evaluation indicates that there is a reasonable basis for believing that an investment is likely to be illiquid, and the fund wishes to further revisit this conclusion, as a second step, the fund may determine whether that investment is illiquid through the full classification process set forth in the Liquidity Rule.
- In a preliminary evaluation, it *would not be* reasonable to assume that a fund is only selling a single trading lot when looking at the market depth of the investment or asset class. However, a fund would not be required to evaluate the actual size of its holdings, or engage in the full process of evaluating its reasonably anticipated

⁵ The IFR recognizes that the Liquidity Rule’s definition of “illiquid investment” departs somewhat from the SEC’s longstanding guidance. Specifically, the Liquidity Rule’s definition of “illiquid investment” is based on the number of days in which a fund reasonably expects the investment would be sold or disposed of “in current market conditions without significantly changing the market value of the investment.” This definition departs somewhat from the SEC’s longstanding guidance that a fund asset should be considered illiquid if it cannot be sold or disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund.

trading size. Instead, in the preliminary evaluation, a fund could use any reasonable method to evaluate the market depth of the investment or asset class as likely being illiquid.

- While an investment's illiquid status is generally evaluated upon acquisition (and, thereafter, at least monthly), subsequent events may justify a re-evaluation of an investment's liquidity. A reasonable approach for event-driven re-evaluations could be to identify in the fund's policies and procedures certain objective events that the fund reasonably expects would materially affect the investment's classification.
- Finally, while the foregoing guidance is a reasonable approach for a fund or an In-Kind ETF to help monitor compliance with the 15% illiquid investments limit, other reasonable approaches may be employed.

D. Liquidity Rule Additional FAQs

As noted above, concurrent with the adoption of the IFR, the SEC staff expanded its [posted FAQs](#) that respond to questions about the Liquidity Rule Requirements (a prior Ropes & Gray [Alert](#) describes the staff's first set of FAQs concerning the Liquidity Rule posted in January). *The SEC staff's views* expressed in the new FAQs are summarized below.

1. Liquidity Classifications Based on Asset Class

The Liquidity Rule permits a fund to classify and review portfolio investments, including derivatives, according to their asset classes, *provided* that, if the fund or its adviser has information that is reasonably expected to significantly affect the liquidity characteristics of an investment compared to the fund's other portfolio holdings within the same class, the fund must separately classify and review the "flagged" investment.

A fund that classifies its investments by asset class may identify liquidity characteristics it reasonably expects would signify an investment's significant departure from the range of liquidity characteristics present within its asset class. Thus, different investments within an asset class may be expected to exhibit a range of varying liquidity profiles. Not every deviation in an investment's liquidity characteristics from those of the range of other liquidity characteristics within its asset class should trigger separate review and classification. Instead, only deviations that are reasonably expected to significantly affect the liquidity characteristics of an investment should be flagged for a reclassification review.

A fund relying on an asset class method of classification should include in its policies and procedures a reasonable framework to flag exceptions. The framework may include processes that are automated. A fund employing a reasonable framework may generally rely on the results of automated processes, thereby avoiding the need to subsequently justify every classification on a CUSIP-by-CUSIP basis. In all cases, a fund relying on a reasonable framework should conduct periodic testing of the framework and processes as part of the required review of the adequacy and effectiveness of the LRM program's implementation.

There is no presumption that a fund that identifies a potential exception must necessarily reclassify a flagged investment. Upon further review, a fund could conclude that classification of the flagged investment with other investments in the same asset class remains appropriate – even if the liquidity characteristics of the flagged investment have changed – based on the fact that the flagged investment's liquidity is consistent with the liquidity classification used for the asset class as a whole.

2. Reasonably Anticipated Trading Size Issues

A fund that classifies the liquidity of its investments based on asset classes is required by the Liquidity Rule to determine whether trading varying portions of a position in a particular asset class, in sizes that the fund would reasonably anticipate trading, is reasonably expected to significantly affect its liquidity, and if so, the fund must take this determination into account when classifying the liquidity of that asset class. If a fund determines that a particular

asset class is appropriate, a fund could arrive at reasonably anticipated trading sizes for all of its investments within that asset class, and use those reasonably anticipated trading sizes in classifying all of its investments in that asset class.

If, within an asset class, there are investments of widely different position sizes (as a portion of the fund's portfolio), the fund should consider whether using fixed-dollar amounts to measure anticipated trading sizes is a reasonable approach (instead of using percentages represented by full positions) because using fixed-dollar amounts of investments of widely different position sizes may not represent reasonably anticipated trading sizes.

Separately, determining the trading sizes that the fund reasonably anticipates trading does not require a fund to predict which specific investments are to be sold in advance or to consider actual trades executed for reasons other than meeting redemptions. This reflects the fact that a fund may sell portfolio positions for reasons that are unrelated to meeting investor redemptions or liquidity risk management. A fund may make reasonable assumptions about the sizes that it will reasonably anticipate trading and use that assumed size in its classification process. Thus, a fund could continue to use an assumed reasonably anticipated trading size even if a fund plans, in the near future, to fully liquidate a position *for investment reasons*.

In determining a reasonably anticipated trading size (for each portfolio investment or asset class, as the case may be) a fund *should not* attempt to predict its future portfolio management decisions related to meeting redemptions. Instead, a fund should estimate a portion of an investment that it reasonably believes it could choose to sell to meet redemptions. It may be appropriate for a fund to make simplifying assumptions in making these estimates to arrive at reasonably anticipated trading size assumptions. For example, a fund could conclude that selling a *pro rata* portion of all of its portfolio investments in response to a redemption is a reasonable base assumption to determine reasonably anticipated trading sizes. A fund also could incorporate other assumptions into the analysis. While the Liquidity Rule requires a fund to make assumptions about the sizes that the fund would anticipate trading in a reasonable manner, the Liquidity Rule does not mandate any particular method for making these assumptions. Nonetheless, a zero or near-zero reasonably anticipated trade size *would not be* a reasonable assumption because it sidesteps the requirement that a fund determine whether trading a position in sizes that the fund would reasonably anticipate trading is reasonably expected to significantly affect the position's liquidity (and if so, the fund must take this determination into account when classifying the liquidity of that investment or asset class).

3. Price Impact Standard

To classify the liquidity of its portfolio investments, a fund must consider the period it would take to convert to cash, or sell or dispose of the investment without causing a "significant change in market value." A fund has flexibility to define what constitutes a significant change in market value in its policies and procedures. These price impact assumptions are understood to be subjective. What constitutes a significant change in market value may vary by fund, asset class or investment. A fund is not required to rely on a fixed-dollar amount or percentage to derive its price impact assumption.

4. Classifying Investments in Pooled Investment Vehicles

For purposes of classifying the liquidity of a fund's investments in other pooled investment vehicles ("pools"), a fund may focus on the liquidity of the pool's shares or interests. For investments in pool shares that trade on exchanges, it may be appropriate for a fund to evaluate liquidity (i) in a manner similar to how the fund would evaluate the liquidity of other exchange-traded investments and (ii) to "look through" to the pool's portfolio investments only when the fund has reason to believe that the look-through could materially affect its view of the liquidity of the pool's shares or interests.

For pools that offer redeemable securities or withdrawal rights, a fund generally would focus on the pool's ordinary redemption rights or practices, and look through to the pool's portfolio investments only when the fund has reason to believe that the pool may be unable to meet redemptions or honor withdrawal rights following its customary practice.

5. Provisional Investment Classification Activity and Related Compliance Monitoring

A fund is required to monitor compliance with its HLIM and the 15% illiquid investments limit. Several factors may affect a fund's compliance with these requirements, including a change in the value or size of an existing investment, the acquisition of a new investment and the reclassification of an existing investment. A fund should calculate the value of existing investments in conjunction with its daily computation of its NAV. A fund should classify newly acquired investments and reclassify existing investments under the circumstances described below under "Timing and Frequency of Classification of Investments." Monitoring for compliance does not require a fund to reclassify its existing investments each day because the fund may use the classifications that it last verified and determined as part of this monitoring process (generally the last-reported classification on Form N-PORT).

A "provisional classification" is any liquidity classification other than a final classification determination reported to the SEC on Form N-PORT or verified reclassification made pursuant to intra-month compliance monitoring. Use of provisional classifications is not mandatory. A provisional classification could include any form of liquidity classification that a fund chooses to use as part of its LRM program. A fund may conclude that a voluntary provisional classification may assist it in assessing and managing its liquidity risk. It also may be helpful in a fund's efforts to enhance its LRM program. A fund may employ other means of assessing and managing liquidity risk that are not required by the Liquidity Rule (especially in connection with assessing the liquidity of portfolio investments), and the Liquidity Rule is not intended to dissuade a fund from employing LRM program practices, which a fund finds helpful, that go beyond the Liquidity Rule's express requirements.

A fund should review provisional classifications (if used) and compliance monitoring results that indicate the fund may have fallen below its HLIM (if applicable) or exceeded the 15% illiquid investments limit in a manner consistent with the fund's reasonably designed policies and procedures. If the fund concludes that the fund has in fact fallen below its HLIM or exceeded the 15% limit, based on compliance monitoring or finalizing a provisional classification according to its policies and procedures, the fund would be subject to the applicable reporting requirements.

6. Timing and Frequency of Classification of Investments

The Liquidity Rule does not specify when a fund must initially classify a newly acquired portfolio investment, but does require a review, at least monthly, of the classification status of the fund's portfolio investments. The staff would not object if a fund classifies a newly acquired portfolio investment, or considers for reclassification an investment in which the fund has increased or decreased its position, during its next regularly scheduled monthly classification, except as noted below with respect to intra-month re-evaluations and illiquid investments.

As discussed in section III.C.5 of the Liquidity Rule's [adopting release](#), a fund generally is not required to reassess its portfolio investments' liquidity classifications on an intra-month basis. The Liquidity Rule instead requires an intra-month re-evaluation of a liquidity classification if a fund becomes aware of "changes in relevant market, trading and investment-specific considerations" that "are *reasonably expected to materially affect* one or more of its investments classifications." This intra-month review requirement does not create a *de facto* ongoing review requirement for classification. The staff would not object if (i) a fund complies with the intra-month review obligation by specifying in its policies and procedures events that it reasonably expects would materially affect an investment's classification and (ii) policies and procedures limit such events to those that are objectively observable. In addition, following the occurrence of such an event, a fund must review and determine whether to reclassify only those investments that the fund reasonably expects to be materially affected by the event.

7. Pre-Trade Activity and the 15% Limitation on Illiquid Investments

A fund is not required to classify an investment that it is purchasing (or considering purchasing) on a pre-trade basis. The Liquidity Rule requires a fund to “classify each of the fund’s portfolio investments” and review those classifications at least monthly.

A fund should implement reasonably designed policies and procedures to limit illiquid investments so that the fund will not acquire any illiquid investment that would cause it to exceed the 15% limit. However, as noted above, a fund is not required to engage in pre-trade classification. A reasonable method for a fund to comply with the 15% illiquid investments limit with respect to intra-month acquisitions is to preliminarily identify certain asset classes or investments that the fund reasonably believes are likely to be illiquid (“preliminary evaluation”). The fund could base this reasonable belief on its prior trading experience, understanding of the general characteristics of the asset classes it is preliminarily evaluating, or through other means. A fund could choose to determine that certain investments identified in such asset classes that it purchases are illiquid based solely on this preliminary evaluation, and not engage in any further analysis at the time of purchase.

Alternatively, if the preliminary evaluation establishes a reasonable basis for believing that an investment is likely to be illiquid, but the fund wishes to evaluate its status, the fund may then, as a secondary step, determine whether it is an illiquid investment using the classification process within the Liquidity Rule. Investments in asset classes the fund acquires that it does not reasonably believe are likely to be illiquid would not need to be classified when performing this preliminary analysis. As part of its monthly classification review, a fund would review the liquidity of all of its holdings, including all new acquisitions.

As discussed in the IFR, In-Kind ETFs should also review the illiquid status of their investments at least monthly, or more frequently in certain circumstances.

A fund could automate the preliminary evaluations of asset classes or investments, and the fund could base the evaluation on the general characteristics of the investments the fund purchases. In establishing the list of asset classes or investments that the fund believes have a reasonable likelihood of being illiquid, the fund could take into account the trading characteristics of the investment and use such characteristics to form the reasonable belief of illiquidity.

In evaluating the likelihood of an asset class or investment being illiquid, it would *not be* reasonable to assume that a fund is only selling a single trading lot when looking at the market depth of the asset or class. However, a fund would not be required to evaluate the actual size of its portfolio holdings in the asset class or engage in the full process of evaluating its reasonably anticipated trading size for the asset class. Instead, in the preliminary evaluation, a fund could use any reasonable method to evaluate the market depth of the asset classes or investments it identifies as likely to be illiquid.

As noted above (in #1), a fund making use of a preliminary evaluation, or using automated processes, should conduct periodic testing of its evaluation framework and processes as part of the required review of the adequacy and effectiveness of the LRM programs’ implementation.

Funds may use other reasonable approaches, as well. For example, a fund often will not be at risk of violating the 15% limit when it acquires illiquid investments if a fund’s current percentage of illiquid investments is well below 15% and, therefore, an acquisition of an illiquid investment generally may not cause the fund to exceed the 15% limit (unless the investment’s size in relation to the fund’s net assets were quite large). Accordingly, a reasonable approach may be for the fund’s policies and procedures to require additional monitoring in reviewing acquisitions as the fund’s percentage of illiquid investments increases. For example, if an acquisition could cause a fund to exceed the 15% limit, the fund’s procedures could prohibit the acquisition of (i) investments within certain asset classes that the fund deems to be presumptively illiquid, regardless of position size (*e.g.*, investments that have restrictions on

transferability), (ii) additions to investments that the fund has classified as illiquid investments as of the most recent finalized classification for each investment and/or (iii) investments the fund has provisionally classified as illiquid investments.

8. Related Reporting Requirements

As a general matter, the Liquidity Rule provides that a reportable event (to the board and/or using Form N-LIQUID) occurs when a fund exceeds the 15% limit on illiquid investments or has fallen below its HLIM (if applicable). A fund may potentially exceed a limit if, for example, the fund's policies and procedures require a fund to determine whether to reclassify an investment when a third-party service provider's system or a sub-adviser reclassifies one or more of a fund's investments. Similarly, a provisional classification may indicate a liquidity issue, but the fund has not yet verified and made a final determination. In these circumstances, a fund may need a reasonable amount of time to determine and verify for itself the impact and validity of the reclassification on the fund's compliance with its limits. In general, this verification and final determination process should be completed within three business days or less, including the day that the triggering event was observed. In those limited circumstances, a fund's reporting obligation would arise *not by the triggering event itself* but, instead, when the fund has determined and verified (within three business days of the event) that the fund, in fact, has exceeded the 15% illiquid investments limit or fallen below its HLIM (if applicable).

Once a fund determines and verifies that a reportable event has occurred, the grace period for reporting (*e.g.*, one business day) to the SEC or board begins to run. However, after the triggering event takes place, the periods of time reported on Form N-LIQUID or to the board as a result of a triggering event should also include any additional days during which the fund engaged in determining and verifying that it was not in compliance. For example, a fund might purchase an asset that made it exceed the 15% illiquid asset limit on a Monday (the triggering event), verify and determine that the asset was illiquid and that the fund was out of compliance on a Wednesday, and report the event to the SEC on a Thursday. The report should indicate that the fund was out of compliance beginning on Monday, the date of the triggering event that led to the fund being out of compliance, and not as of the Wednesday when non-compliance was determined and verified. Form N-LIQUID is a text form that requires a fund to report the date(s) that the fund was out of compliance with the 15% illiquid investments limit or its HLIM. To avoid any ambiguity, a fund may indicate on the form both the date of the triggering event and the date non-compliance was determined and verified.

9. ETFs and Investment Classification

The Liquidity Rule's classification requirement is predicated on how long it would take a fund to convert an investment to cash, or sell or dispose of the investment (depending on the liquidity category). An ETF does not convert to cash (or sell or dispose of) investments that it distributes in-kind to meet redemptions. An ETF that is not an In-Kind ETF that redeems shares in-kind to a material extent may have a different liquidity profile, and face different liquidity risks, than a similar ETF that does not. Therefore, it may be appropriate for an ETF that redeems shares in-kind to a material extent to reflect these differences in its classification procedures and in designating its HLIM. An ETF that redeems shares in-kind to a material extent may increasingly rely on less liquid assets that are more difficult or costly for an ETF to transfer in-kind. As noted above ("Reasonably Anticipated Trading Size Issues"), a zero or near-zero reasonably anticipated trade size would not be a reasonable assumption because it sidesteps the requirement that a fund determine whether trading a position in sizes that the fund would reasonably anticipate trading is reasonably expected to significantly affect the position's liquidity. Moreover, the reasonably anticipated trading size requirement presupposes a size greater than a single trading lot.

Balancing these considerations, an ETF could take reasonably anticipated in-kind redemption activity into account when determining appropriate reasonably anticipated trading size or market depth assumptions in classifying its

investments. When using in-kind redemptions, an ETF should set an appropriate minimum trade size that takes into account the liquidity considerations discussed above.

This guidance would apply to any mutual fund that redeems in-kind to a material extent. This is consistent with the policy repeated often in the Liquidity Rule's adopting release, that each fund (including an ETF) should design its LRM program, including its investment classification methodology and its HLIM, based on the fund's particular liquidity considerations and risks.

10. In-Kind ETF Addendum

As described in this prior Ropes & Gray [Alert](#), in January, the staff posted its first set of FAQs concerning the Liquidity Rule. Item 13 of the January FAQs focused on the requirement that an ETF is an In-Kind ETF only if, among other things, the ETF meets redemptions using assets other than a *de minimis* amount of cash. The staff offered its views on how an ETF should measure whether it satisfies the *de minimis* requirement, focusing on testing its redemption transactions in their totality over some reasonable period of time to ensure that, on average, its aggregate redemption transactions have no more than a *de minimis* cash amount.

The recently posted FAQs amended Item 13 by noting that an ETF may choose to use ***either its daily net or total redemptions*** for each day of the period of time it selects when determining whether its cash use is *de minimis*. (Emphasis added).

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For further information about how the issues described in this Alert may impact your interests, please contact your regular Ropes & Gray contact.