

October 2019

*Practice Group:*

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## ETF Rule Published in Federal Register: Effective and Compliance Dates Set

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On October 24, 2019, Rule 6c-11 (the “ETF Rule”) under the Investment Company Act of 1940 (the “1940 Act”) will be published in the Federal Register. The ETF Rule was adopted by the Securities and Exchange Commission (the “Commission”) on September 25, 2019, and allows the vast majority of exchange-traded funds (“ETFs”) to operate without obtaining an exemptive order from the Commission. Historically ETFs have required individual exemptive relief to comply with the 1940 Act. The ETF Rule is intended to “create a consistent, transparent, and efficient regulatory framework for the regulation of ETFs and help level the playing field for [ETF] market participants.”<sup>1</sup> Details of the ETF Rule are further discussed in our alert entitled “[SEC Adopts Long Awaited ETF Rule to Modernize ETF Regulation](#).”

The ETF Rule will become effective on **December 23, 2019** (the “Effective Date”). Existing ETFs that may rely on the ETF Rule may opt into compliance with the ETF Rule at any time after the Effective Date. From December 23, 2019, and onward, all new ETFs without prior exemptive relief are able to operate under the 1940 Act in reliance on the ETF Rule.

**December 23, 2020** is the compliance date (the “Compliance Date”) for all ETFs that can rely on the ETF Rule to adapt to the ETF Rule’s conditions and conform to disclosure amendments, which accompanied the ETF Rule’s adoption, to Form N-1A (and Form N-8B-2, if applicable). ETFs that are unable to rely on the ETF Rule will continue to adhere to the conditions of their prior 1940 Act relief but may be required to observe the disclosure amendments as of the Compliance Date. On the Compliance Date, the Commission will automatically rescind 1940 Act ETF operational relief previously granted to ETFs that can now rely on the ETF Rule.

For more information about regulation of the ETF industry and the ETF Rule, please go to the [K&L Gates Hub](#).

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<sup>1</sup> See “Exchange-Traded Funds,” SEC Release Nos. 33-10695 & IC-33646 (September 25, 2019) (<https://www.sec.gov/rules/final/2019/33-10695.pdf>) (“Adopting Release”), at 15.

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