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SEC Adopts Final Rules Governing the Structure and Operation of Money Market Funds

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On July 23, 2014, the Securities and Exchange Commission (SEC) adopted final rules governing the structure and operation of money market funds, in a release adopting amendments to Rule 2a-7 under the Investment Company Act of 1940, as amended (the 1940 Act), and other related changes (the Adopting Release).[1] The SEC stated, in an assertion that will be controversial to many in the industry, that the "amendments are designed to address money market funds' susceptibility to heavy redemptions in times of stress, improve their ability to manage and mitigate potential contagion from such redemptions, and increase the transparency of their risks, while preserving, as much as possible, their benefits."[2] The amendments will become effective 60 days after their publication in the Federal Register (the Effective Date), although the compliance dates for the amendments are substantially farther in the future (*see* Appendix A).

The new rules will require institutional prime money market funds to price their shares using market-based values instead of the amortized cost method (that is, to use a floating net asset value per share or floating NAV). Government and retail funds may continue to use the amortized cost method to value their portfolio securities. The US Treasury and Internal Revenue Service have issued guidance and rule proposals to resolve certain tax issues arising in connection with the floating NAV rules.

In addition, all money market funds will be able to impose liquidity fees and temporarily suspend redemptions (impose gates) during periods of market stress, subject to certain board findings. In certain cases, money funds will be required to impose liquidity fees, unless the board makes certain findings. The "fees and gates" rules are optional for government funds.

Under the revised rules, all money market funds will have to satisfy new disclosure requirements, and advisers to private liquidity funds will have to provide additional information in their reports on Form N-PF.

Finally, the SEC also revised certain diversification provisions of Rule 2a-7, as well as provisions relating to stress testing.

The SEC also re-proposed rule amendments that would remove references to credit ratings from the money market fund rules, in accordance with the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[3]

This article discusses many of the main elements of the amendments to the money market fund rules.

Floating NAV

Under the amended rules, institutional money market funds (including institutional tax-exempt

money market funds) will have to price their shares using the market values of portfolio securities rather than the currently permitted amortized cost and/or penny rounding methods, and calculate their NAVs to four decimal places, if they target a share price of $1 (for example, $1.0000 for a fund with a current stable NAV of $1.00). "Institutional money funds" for these purposes are all money funds except government and retail funds, which as discussed below are exempt from this requirement and will continue to be able to offer shares at a stable NAV.

According to the Adopting Release, the SEC adopted the floating NAV for institutional money market funds to achieve two objectives. First, it is intended to mitigate the "first mover advantage" that the SEC believes permits redeeming institutional investors to receive the full stable value of a money fund's shares even if the value of the fund's portfolio is less, which may incentivize heavy redemptions by such investors during periods of market stress. Second, the SEC seeks to reduce unfair dilution that it believes could result during periods of market stress when "first mover" investors redeem shares at a stable NAV and remaining shareholders receive less, if the money fund were to break the buck.

It should be noted that institutional money market funds will continue to be subject to the provisions of Rule 2a-7 regarding credit quality, diversification, and disclosure. In addition, these funds will be subject to the fees and gates rule amendments discussed below.

Although floating NAV money market funds will be required to calculate their NAVs using market-based valuations, the Adopting Release clarifies that these funds, as is the case with all other registered investment companies and business development companies, may continue to use the amortized cost method to value securities with remaining maturities of 60 days or less, if the board, in good faith, determines that doing so represents fair value for those securities, unless particular circumstances warrant otherwise. The SEC makes clear, however, that fair valuation must be conducted each time that the security is priced. To this end, the SEC suggests that a fund's policies and procedures could be designed to ensure that the adviser is actively monitoring issuer- and market-specific developments to determine whether using amortized cost is appropriate.

Although all tax-exempt money funds did not experience the same level of redemptions that institutional funds did during the periods of market stress in 2008 and 2011, the SEC declined to exempt tax-exempt funds from the floating NAV rule amendments, as some commenters had suggested.

Government and Retail Money Funds

As noted above, two groups of money funds are exempt from the floating NAV rule amendments — government and retail funds. These funds may continue to use amortized cost to value their portfolio securities.

Government Money Funds. A "government" money market fund will have to invest at least 99.5 percent of its total assets in cash, government securities, and/or repurchase agreements that are "collateralized fully" (that is, collateralized by government securities or cash). This represents a higher threshold than would have been required under the SEC release proposing these rule changes (the Proposing Release), which was 80 percent.[4] The SEC expressed the concern that a government fund that could hold up to 20 percent of its total assets in non-government securities was susceptible to credit events in such securities that could trigger a decline in the fund's shadow price and create an incentive for investors to redeem. The SEC expects that government money market funds may need to amend their policies and procedures to reflect the new 0.05 percent *de minimis* basket for non-government securities.

Retail Money Funds. A "retail" money market fund will have to establish policies and procedures reasonably designed to limit all beneficial owners of the fund to natural persons. This standard represents

a change from the Proposing Release, which defined a retail money fund as a fund that limited daily redemptions to $1 million per investor. Many fund sponsors objected to the proposed definition of retail money funds, and a "natural person" standard was suggested in a joint comment letter submitted by a number of money fund sponsors. (*See* Appendix B for a description of investors that will qualify as "retail investors" under the amended rule.)

Retail Money Fund Compliance Procedures. The SEC believes that most retail money market funds will use Social Security numbers as part of their compliance process to limit beneficial ownership to natural persons (institutional investors are not issued Social Security numbers). The SEC expects that a retail money fund will disclose in its prospectus that only accounts beneficially owned by natural persons may invest in the fund.

The SEC recognized that a fund may still qualify as a retail money market fund even if an institution such as a retirement plan sponsor or an investment adviser managing discretionary accounts serves as a decision-maker for retail investors. Thus, the SEC suggests that policies and procedures could be designed to enable the fund to "look through" these types of accounts by requiring that: (a) the investor directly provide a Social Security number to the fund adviser when opening an account with the adviser's transfer agent or broker-dealer affiliate; or (b) a Social Security number is provided to the fund adviser in connection with recordkeeping for a retirement plan, or information relating to the individual beneficiaries of a trust is provided when the account is opened.

The Adopting Release states that retail money funds have the flexibility to develop policies and procedures tailored to their investor base and do not necessarily have to rely on investors providing Social Security numbers. For example, beneficial ownership by a non-US natural person could be determined by obtaining other government-issued identification, such as a passport.

Omnibus accounts holding money fund shares present particular issues. Thus, the Adopting Release explains that, because the omnibus account is the shareholder of record (and not the beneficial owner), retail funds will need to determine that the underlying beneficial owners of the omnibus account are natural persons. The Adopting Release does not prescribe the ways in which a money fund may seek to qualify as a retail fund, but rather it notes that funds may attempt to so qualify by effectively managing their relationships with omnibus intermediaries in the manner that best suits their circumstances (including contractual arrangements or periodic certifications).

Reorganizing Existing Retail Money Market Funds. The Adopting Release recognizes that many money market funds have both retail and institutional investors, typically through separate share classes. The Adopting Release notes that such funds will need to reorganize into separate funds to enable the retail investors to qualify for the retail money fund exemption from the floating NAV rule amendments. Such reorganizations, however, may implicate Section 18 of the 1940 Act (which generally prohibits differing shareholder rights) and Section 17 of the 1940 Act (which generally prohibits principal transactions between affiliates). The Adopting Release contains exemptive relief that will permit a fund to reorganize a class of a fund into a new fund, provided that the fund's board of directors, including a majority of the directors who are not interested persons of the fund, determines that the reorganization results in a fair and approximately pro rata allocation of the fund's assets between the class being reorganized and the class remaining in the fund.[5]

The SEC further notes that, as part of a reorganization to qualify as a retail money fund, the fund may involuntarily redeem certain investors that will no longer be eligible to invest in the fund. Stating that this may implicate Section 22(e) of the 1940 Act (which generally prohibits a fund from suspending the right of redemption for more than seven days), the Adopting Release provided interpretive guidance, stating that:

> [I]n the context of a one-time reorganization to distinguish between retail and institutional

> money market funds (either in separating classes into new funds or in ensuring that an existing fund only has retail or institutional investors), the Commission's position is that a fund may involuntarily redeem investors who no longer meet the eligibility requirements in a fund's retail and/or institutional money market funds without separate exemptive relief, provided that the fund notifies in writing such investors who become ineligible to invest in a particular fund at least 60 days before the redemption occurs.[6]

Adviser and Board Considerations Regarding the Floating NAV Rules

Money market fund investment advisers and boards will need to consider what changes the fund will have to make in order to operate either as a floating NAV fund or, alternatively, a stable value retail or government fund.

A money market fund's investment adviser and board will need to evaluate the fund's shareholder base. If the fund's shareholders are primarily retail investors, that is, natural persons, the adviser may recommend to the board that the fund take steps to involuntarily redeem any shareholders that are not natural persons, and thereby permit the fund to operate as a retail fund. If the fund offers separate retail and institutional classes, the adviser may recommend that the board approve a reorganization spinning off the institutional share class into a separate floating NAV fund (while also ensuring that all retail class shareholders are natural persons). In order to ensure that the surviving retail fund continues to qualify for the retail fund exemption, the fund's board will have to adopt policies and procedures reasonably designed to ensure that all the fund's shareholders are natural persons.

As an alternative to reorganizing an existing retail money market fund, the adviser and board of a money market fund with both retail and institutional shareholders may decide to operate the fund as a government money fund in order to continue to offer stable value shares and retain both types of shareholders. To satisfy Rule 35d-1 under the 1940 Act, an existing "government" money fund must invest at least 80 percent of its net assets (plus borrowing for investment purposes) in cash, government securities, and/or fully collateralized repurchase agreements. In order to be considered a government fund exempt from the floating NAV rules, however, a fund will have to invest at least 99.5 percent of its total assets in such investments. Accordingly, the board of an existing government fund, to rely on the exemption, will have to revise the fund's principal investment policies to increase the percentage invested in such investments to 99.5 percent, and the adviser will have to change its investment procedures to meet this higher threshold. For money market funds that currently do not operate as government funds (even under the current more flexible 80 percent investment requirement), the fund's adviser and board will need to consider whether a shareholder vote is necessary to amend fundamental investment policies or otherwise revise the fund's investment policies.

If a money market fund's adviser and board determine that the fund's shareholder base is primarily institutional, they will need to consider whether to operate under the floating NAV rules or to convert the fund to a government fund and continue to offer stable value shares. The issues presented in converting to a government fund are discussed above. If the adviser and board decide to operate the fund as a floating NAV fund, the fund's policies and procedures will need to be amended to price the fund's shares daily using market-based values. In addition, the fund's adviser will need to amend its procedures to distinguish between the securities for which amortized cost valuation continues to be appropriate, and those securities that will be valued using market-based valuations.

Other Issues

Local Government Investment Pools. The Adopting Release recognizes that the floating NAV rule amendments may affect certain local

government investment pools (LGIPs), which invest in short-term securities and must by law maintain a stable NAV. The SEC notes that state statutes in certain cases may have to be amended to permit investment pools that adhere to Rule 2a-7 (unless the Government Accounting Standards Board (GASB) decoupled LGIP standards from Rule 2a-7).

Unregistered Money Funds Operating Under Rule 12d1–1. Certain registered funds invest in unregistered money funds in reliance on Rule 12d1–1 under the 1940 Act, which provides an exemption from the limitations of Section 12(d)(1) of the 1940 Act, as well as exemptions from Section 17(a) and Rule 17d-1, which restrict a fund's ability to enter into principal transactions and joint arrangements with affiliates. An unregistered money fund, to be eligible for this relief, must comply with Rule 2a-7 and thus with the amendments to Rule 2a-7 adopted by the SEC, including the floating NAV and the fees and gates requirements. In many cases, the adviser to an unregistered money market fund performs the function of a fund's board, which the SEC recognizes under the new rules will include determinations with respect to fees and gates.

Rule 10b-10 Confirmations. Rule 10b-10 under the Securities Exchange Act of 1934 requires broker-dealers to deliver confirmations after each trade in mutual fund shares, except that broker-dealers are permitted to provide transaction information in stable value money market funds on a monthly, rather than a per-transaction, basis. Because institutional money funds will no longer have stable NAVs, broker-dealers will not be able to continue to rely on this exception for transactions in such funds. To address this lost relief, however, the SEC proposed to grant exemptive relief from Rule 10b-10 to broker-dealers from the immediate confirmation delivery requirement for transactions in floating NAV money funds.

Liquidity Fees and Redemption Gates

The amendments to Rule 2a-7 will allow a money market fund to impose a liquidity fee of up to two percent, or temporarily suspend redemptions (that is, "gate") for up to 10 business days in a 90-day period, if the fund's weekly liquid assets fall below 30 percent of its total assets and the fund's board of directors (including a majority of its independent directors) determines that imposing a fee or gate is in the fund's best interests. Additionally, a money market fund will be required to impose a liquidity fee of one percent on all redemptions if its weekly liquid assets fall below 10 percent of its total assets, unless the board of directors of the fund (including a majority of its independent directors) determines that imposing such a fee would not be in the best interests of the fund. Any fee or gate must be lifted automatically after the money market fund's level of weekly liquid assets rises to or above 30 percent, and it can be lifted at any time by the board of directors (including a majority of independent directors) if the board determines to impose a different redemption restriction (or, with respect to a liquidity fee, a different fee) or if it determines that imposing a redemption restriction is no longer in the best interests of the fund.

These amendments differ in some respects from the fees and gates that the SEC proposed, which would have required funds (absent a board determination) to impose a two percent liquidity fee on all redemptions, and would have permitted the imposition of redemption gates for up to 30 days in a 90-day period, after a fund's weekly liquid assets fell below 15 percent of its total assets. Under the proposal, a fund's board (including a majority of independent directors) could have determined not to impose the liquidity fee or to impose a lower fee and a fund would have had to wait to impose a fee or gate until the next business day after the fund's weekly liquid assets fell below the proposed 15 percent threshold. However, as adopted, the rule amendments allow a fund's board to impose a fee or gate at any point throughout the day after a fund's weekly liquid assets have dropped below 30 percent.

The fees and gates provisions under the amended rule will apply to all funds other than government

money market funds. For money market funds held through insurance company separate accounts, the Adopting Release clarifies that the fees and gates provisions of the final rules apply to such funds, notwithstanding Section 27(i) of the 1940 Act, which prohibits any registered separate account funding variable insurance contracts or the sponsoring insurance company of such account to sell a variable contract that is not a "redeemable security."

The SEC discussed its rationale for the fees and gates reforms in the Adopting Release, noting that, in its view, both are aimed at helping funds to better and more systematically manage high levels of redemptions, albeit in different ways. The Adopting Release states that liquidity fees are designed to reduce shareholders' incentives to redeem shares when it is abnormally costly for funds to provide liquidity by requiring redeeming shareholders to bear at least some of the liquidity costs associated with their redemption. In contrast, redemption gates will provide fund boards with an immediate tool for stopping heavy redemptions in times of stress. The Adopting Release notes that, unlike liquidity fees, gates are designed to directly stop a run by delaying redemptions long enough to allow: (1) fund managers time to assess the condition of the fund and determine the appropriate strategy to meet redemptions; (2) liquidity buffers to grow organically as securities in the portfolio (many of which are very short term) mature and produce cash; and (3) shareholders to assess the liquidity and value of portfolio holdings in the fund and for any shareholder or market panic to subside.

The Adopting Release acknowledges that redemption gates, if imposed, would inhibit the redeemability of money market fund shares, a principle embodied in Section 22(e) of the 1940 Act. The Adopting Release notes that money market funds currently are permitted to delay payments on redemptions for up to seven days and, in addition, may suspend redemptions after obtaining an exemptive order from the SEC or in accordance with Rule 22e-3, which requires a fund's board of directors to determine that the fund is about to "break the buck." The Adopting Release notes that, unlike under the amendments, a fund that currently imposes redemption gates pursuant to Rule 22e-3 must do so permanently and in anticipation of liquidation. As proposed, the amendments would have allowed for permanent suspension of redemptions and liquidation after a money market fund's level of weekly liquid assets fell below 15 percent. Under the rule amendments, rule 22e-3 will permit (but not require) the permanent suspension of redemptions and liquidation of a money market fund if the fund's level of weekly liquid assets falls below 10 percent of its total assets.

In the Proposing Release, the SEC discussed the factors that a fund's board of directors may want to consider in determining whether to impose a liquidity fee or redemption gate. The amendments, as adopted, require that a board find that the imposition of fees or gates is in the fund's "best interests." According to the Adopting Release, this standard recognizes that each fund is different and that, once a fund's weekly liquid assets have dropped below the minimum required by Rule 2a-7, a fund's board is best suited, in consultation with the fund's adviser, to determine when and if a fee or gate is in the best interests of the fund. The Adopting Release describes a number of "guideposts" that a board may wish to consider in determining whether the imposition of fees or gates is in a fund's best interests. These guideposts include: (i) relevant indicators of liquidity stress in the markets; (ii) the liquidity profile of the fund and expectations as to how the profile might change in the immediate future; (iii) for retail and government money market funds, whether the fall in weekly liquid assets has been accompanied by a decline in the fund's shadow price; (iv) the make-up of the fund's shareholder base and previous shareholder redemption patterns; and/or (v) the fund's experience, if any, with the imposition of fees and/or gates in the past.

The amendments regarding liquidity fees and/or redemption gates appear to be intended to impose on a money fund board a duty to consider taking such

steps during periods when the fund's weekly liquid assets approach 30 percent. Thus, although the rule, as adopted, gives boards more discretion than the rule as proposed, it also requires heightened vigilance. In practice, advisers will need to identify circumstances that may trigger the need for fees or gates, and boards will need to act on very short notice, since the rule, as adopted, permits a board to impose a fee or gate at any time throughout the day after a fund's weekly liquid assets dip below 30 percent.

The Adopting Release warns that boards should not consider the one percent default liquidity fee as creating a presumption that such a fee should be one percent, and it notes that if a board believes, based on prevailing market liquidity costs or otherwise, that imposing a higher or lower (up to two percent) liquidity fee is more appropriate, it should consider doing so. The SEC further notes that, once a liquidity fee is imposed, the board must monitor the imposition of such fee to determine whether it continues to be in the fund's best interests. Both the imposition of the fee and ongoing monitoring will require advisers to provide boards with information to assess the appropriateness of the fee (both as to amount and duration).

Although certain commenters urged the SEC to affirm that a board's deliberations concerning the imposition of fees and gates would be protected by the business judgment rule, the SEC stated in the Adopting Release that it does not believe it would be appropriate for it to address the application of the business judgment rule because the business judgment rule is a construct of state law and not the federal securities laws.

Disclosure

The new disclosure rules are designed to increase transparency with regard to fund holdings, operations, and risks.

Advertising and Prospectus Disclosure. The SEC's stated objective in amending the rules regarding advertising and prospectus disclosure is to change the expectations of money market fund investors, including a mistaken expectation that an investment in a money fund is without risk (to the extent any investors have this expectation).

Advertising and Summary Section of the Prospectus. The following statement must be included in advertisements and other sales materials, and in the summary portion of the statutory prospectus of a stable NAV money fund:

> You could lose money by investing in the Fund. Although the Fund seeks to preserve the value of your investment at $1.00 per share, it cannot guarantee it will do so. The Fund may impose a fee upon the sale of your shares or may temporarily suspend your ability to sell shares if the Fund's liquidity falls below required minimums because of market conditions or other factors. An investment in the Fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The Fund's sponsor has no legal obligation to provide financial support to the Fund, and you should not expect that the sponsor will provide financial support to the Fund at any time.[7]

Government money market funds that have chosen not to rely on the fees and gates rules must include a similar statement, but without the reference to fees and gates.[8]

Floating NAV money market funds also will have to include a similar statement, modified to account for the different pricing structure of floating NAV funds.[9]

For both stable value and floating NAV money funds, if an affiliated person, promoter, or principal underwriter of the fund has contractually committed to provide financial support to the fund for at least one year following the effective date of the prospectus, the fund may omit the last sentence of the mandatory statement. Where the reference to the absence of sponsor support is not included, however, the Adopting Release suggests that funds provide elsewhere in the

prospectus additional information regarding who the sponsor is and what constitutes financial support.

Prospectus and SAI Disclosure Regarding Tax Issues and Fund Operations for Floating NAV Funds. The SEC expects that institutional prime money market funds that transition to a floating NAV will revise the disclosure in the funds' prospectuses and statements of additional information (SAIs) relating to tax issues and to the purchase, redemption, and pricing of fund shares. The SEC does not believe, however, that these new disclosures require rule and form amendments. The SEC further expects such a fund to update its registration statement either through a post-effective amendment or a supplement.

Prospectus Disclosure Regarding Fees and Gates. The SEC expects money market funds to include prospectus disclosure regarding the various circumstances in which the fund may impose liquidity fees and/or redemption gates. In this regard, the SEC notes that Item 11(c)(1) of Form N-1A requires prospectus disclosure regarding any restrictions on redemptions, and Item 23 of the Form requires more detailed disclosure regarding the redemption of shares. The Adopting Release contains suggested language for prospectus disclosure in response to Item 11(c)(1).[10]

The Adopting Release further states that money market funds should ensure that investors are fully aware of the ability of the fund to permanently suspend redemptions and liquidate. The Adopting Release also states that government money funds that later opt to rely on the fees and gates rules may wish to consider giving shareholders 60 days' notice of the change in policy.[11]

Historical Disclosure of Liquidity Fees and Gates in the SAI. Under amendments to Item 16 of Form N-1A, a money market fund must provide disclosure in its SAI regarding any occasion during the last 10 years (but not for cases that occurred prior to the 18-month compliance date for disclosures other than in Form N-CR, which is described below) on which: (i) weekly liquid assets fell below 10 percent and whether the board determined to impose a liquidity fee and/or suspend the redemptions; or (ii) weekly liquid assets fell below 30 percent (but not less than 10 percent) and the board determined to impose a liquidity fee and/or suspend redemptions. For each case, a fund must disclose: (i) the length of time weekly liquid assets remained below 10 percent (or 30 percent, as applicable); (ii) the dates and length of time the board determined to impose a liquidity fee and/or suspend redemptions; and (iii) the size of any liquidity fee imposed. The SEC decided not to adopt a proposed requirement to include in the SAI a short discussion of the board's analysis regarding its determination to impose or not impose fees or gates. Instead, the amended disclosure rules require such disclosure to be included only in the Form N-CR report discussed below, and not require parallel disclosure in the SAI.

Prospectus Fee Table. The SEC has amended Item 3 of Form N-1A to clarify that a "redemption fee" for purposes of the fee table does not include a liquidity fee imposed under Rule 2a-7.

Historical Disclosure of Sponsor Support in the SAI. Also under amendments to Item 16 of Form N-1A, a money market fund must provide disclosure in its SAI regarding any occasion during the last 10 years (but not for cases that occurred prior to the 18-month compliance date for disclosures other than in Form N-CR) on which the fund received financial support from a sponsor or fund affiliate, specifically any affiliated person, promoter, or principal underwriter of the fund, or an affiliated person of such person. The term "financial support" includes any:

> (i) capital contribution, (ii) purchase of a security from the Fund in reliance on § 270.17a-9, (iii) purchase of any defaulted or devalued security at par, (iv) execution of letter of credit or letter of indemnity, (v) capital support agreement (whether or not the Fund ultimately received support), (vi) performance guarantee, or (vii) any other similar action reasonably intended to increase or stabilize the value or liquidity of the Fund's portfolio; excluding, however, any (i) routine waiver of fees or reimbursement of Fund

> expenses, (ii) routine inter-fund lending, (iii) routine inter-fund purchases of Fund shares, or (iv) any action that would qualify as financial support as defined above, that the board of directors has otherwise determined not to be reasonably intended to increase or stabilize the value or liquidity of the Fund's portfolio.[12]

In addition, if the money market fund has participated in a merger or other reorganization with another fund during the last 10 years, the fund must provide historical financial support for that other fund, unless the person that provided that support is not currently an affiliated person (including the investment adviser), promoter, or principal underwriter of the disclosing fund.

As is the case with historical disclosure regarding fees and gates, as part of the historical disclosure of financial support, money funds will have to conclude with the statement shown above regarding the related Form N-CR filing.

Website Disclosure. Money market funds will be required to disclose daily on their websites levels of daily and weekly liquid assets, net shareholder inflows and outflows, market-based NAVs, sponsor support, and any imposition of fees and gates.

A money market fund will be required to post a schedule, chart, graph, or other depiction on its website with information about the levels of its daily and weekly net assets for the past six months, updated daily. The SEC believes that posting this disclosure on a fund's website will impose market discipline on the fund's portfolio managers to maintain the minimum required liquidity levels, and will discourage month-end "window dressing."

A money market fund also will be required to post the fund's daily net inflows or outflows, and the fund's current NAV based on market valuations, rounded to the fourth decimal place in the case of a $1.0000 NAV fund (or equivalent level of accuracy for funds with a different stable value price), in each case for the past six months and updated daily.

The SEC also amended the categories of portfolio investments reported on Form N-MFP, as well as requiring the disclosure of each security's maturity date used to calculate dollar-weighted average life, and made conforming amendments to the schedule of investments and maturity date disclosure posted on money market fund websites. The SEC also is requiring website disclosure of market-based value of portfolio securities at the same time it is made public on the Form N-MFP report (which will no longer have a 60-day delay for public availability).

The information regarding the imposition of any fees and gates, or the provision of sponsor support, that is reported on a money market fund's initial Form N-CR report (discussed below) also will be required to be posted to and maintained on the fund's website for at least one year.

Form N-CR. Pursuant to new Rule 30b1–8 under the 1940 Act, funds will be required to promptly disclose material events on a new Form N-CR within one business day of the triggering event. These events include: (a) the imposition or removal of fees or gates, as well as a description of the primary considerations the board took into account in taking the action; (b) sponsor support (including the amount of and reason therefor); (c) security defaults; and (d) for retail and government funds, a decline in the fund's NAV below $0.9975. Reports on Form N-CR will not have to include past occurrences of sponsor support, although, as discussed above, changes to Form N-1A require SAI disclosure of such cases that occurred over a 10-year period.

In most cases, a money fund will be required to submit a summary filing on Form N-CR within one business day of the triggering event, and a follow-up within four business days with more detailed information.

In a related action, the SEC amended Rule 17a-9 under the 1940 Act, which currently requires a fund to promptly notify via email the Director of the SEC's Division of Investment Management of a money market fund sponsor's purchase of securities. The amendment eliminates the requirement to send such email

disclosure, as it would duplicate the Form N-CR disclosure requirements under Part C of the Form.

Amendments to Form N-MFP. Form N-MFP (on which money funds report portfolio holdings each month) will require reporting of additional information relevant to the assessment of fund risk. In addition, Form N-MFP will be publicly available immediately upon filing (rather than the current 60-day delay of public availability). The new information that will have to be reported on Form N-MFP includes:

- Reporting NAV (and shadow price), daily and weekly liquid assets, and shareholder flows on a weekly basis within the monthly filing of the Form;
- Reporting NAV (and shadow price) reported to the fourth decimal place (or equivalent level of accuracy for funds with a different share price); and
- Including exempt government and retail funds as a category option.

In addition, the SEC has amended other parts of Form N-MFP. Money market funds will have to include the "Legal Entity Identifier" (LEI) corresponding to each portfolio security (if available), and at least one other security identifier, if available (for example, a CIK number). A fund must disclose if a portfolio security is characterized as level 3 under U.S. GAAP. A fund also must disclose whether its adviser or a third party waived fees or expenses during a given reporting period. The SEC also amended the final investment categories to better correspond to typical industry characterizations and describe investments more precisely.

Other amendments to Form N-MFP will require money market funds to report the maturity date for each portfolio security as the date used to calculate dollar-weighted average life, and to disclose the number of shares outstanding, both at the series and at the class level.

Private Liquidity Fund Reporting

Under amended Form PF (on which private fund advisers report information about certain private funds they advise) a large liquidity fund adviser (which manages at least $1 billion in combined money market fund and private liquidity fund assets) must report substantially the same portfolio information on Form PF as registered money market funds are required to report on Form N-MFP, as amended.

Diversification

The SEC adopted the amendments to the Rule 2a-7 diversification provisions as proposed, with certain modifications as discussed below. Under the current rule, money market funds generally must limit their investments in: (i) the securities of any one issuer of a first tier security (other than with respect to government securities and securities subject to a guarantee issued by a non-controlled person) to no more than five percent of fund assets; and (ii) securities subject to a demand feature or a guarantee to no more than 10 percent of fund assets from any one provider.

Treatment of Certain Affiliates for Purposes of Rule 2a-7's Five Percent Issuer Diversification Requirement

As adopted, money market funds will be required to treat certain entities that are affiliated with each other as single issuers when applying Rule 2a-7's five percent issuer diversification limit. According to the Adopting Release, the SEC seeks to mitigate a money market fund's credit risk by limiting funds from assuming a concentrated amount of risk in a single economic enterprise. The SEC adopted, as proposed, the definition of "control" for purposes of determining whether entities are affiliated with one another as ownership of more than 50 percent of an entity's voting securities.[13] The current diversification provision of Rule 2a-7 that requires money market funds to treat affiliates as a single entity for purposes of the 10 percent diversification limit on investments in securities subject to a demand feature or guarantee is unaffected by this amendment.

Majority Equity Owners of Asset-Backed Commercial Paper Conduits

Instead of creating a disparity in treatment between ABS and non-ABS by adopting the proposed definition of a guarantee issued by a non-controlled person, the current definition of a guarantee issued by a non-controlled person is being retained, and the SEC has proposed in its release regarding removing references to credit ratings in Rule 2a-7 that the five percent issuer diversification limit be imposed on all securities with a guarantee by a non-controlled person.[14]

ABS – Sponsors Treated as Guarantors

Rule 2a-7 is being amended, as proposed, to require that money market funds treat the sponsors of ABS as guarantors subject to Rule 2a-7's 10 percent diversification limit applicable to guarantees and demand features, unless the money market fund's board of directors (or its delegate) determines that the fund is not relying on the sponsor's financial strength or its ability or willingness to provide liquidity, credit or other support to determine the ABS's quality or liquidity. The Adopting Release states that in making this determination, a board may want to consider, among other considerations, whether the fund considers the ABS sponsor's financial strength or its ability or willingness to provide liquidity, credit, or other support as a factor when determining the ABS's quality or liquidity. The Adopting Release notes that a board can, and likely will, delegate this responsibility but that, in doing so, will need to provide oversight and establish procedures.[15]

The Twenty-Five Percent Basket

The SEC proposed to amend Rule 2a-7 to eliminate the "twenty-five percent basket," under which as much as 25 percent of the value of securities held in a money market fund's portfolio may be subject to guarantees or demand features from a single institution.[16] The final amendments: (i) remove the twenty-five percent basket for money market funds other than tax-exempt money market funds; and (ii) reduce to 15 percent, rather than eliminate, the twenty-five percent basket for tax-exempt money market funds, including single state money market funds.

Stress Testing

The current stress testing requirements, adopted in 2010, require that the fund adopt procedures providing for periodic testing of the fund's ability to maintain a stable price per share based on (but not limited to) certain hypothetical events. The SEC adopted changes to the current stress testing provisions that will require funds periodically to test their ability to maintain weekly liquid assets of at least 10 percent (rather than 15 percent as proposed)[17] and to minimize principal volatility in response to specified hypothetical events that include: (i) increases in the level of short-term interest rates; (ii) the downgrade or default of particular portfolio security positions, each representing various exposures in a fund's portfolio; and (iii) the widening of spreads in various sectors to which the fund's portfolio is exposed, each in combination with various increases in shareholder redemptions. The amendments require a fund's adviser to report the results of this stress testing to the board, including such information as may be reasonably necessary for the board to evaluate the results of the stress testing.

In addition to requiring money market funds to test their liquidity against specified hypothetical events, funds will be required to test their ability to minimize principal volatility (and, for stable NAV money market funds, the fund's ability to maintain a stable price per share).[18] The rule, as adopted, differs from the rule as proposed and requires all money market funds to test both their ability to maintain liquidity and minimize principal volatility based on certain hypothetical events.

Board Reporting Requirements

Money market funds currently are required to provide the board with a report of the results of stress testing, including the dates of testing, the magnitude of each hypothetical event that would cause a fund to "break the buck," and an assessment of the fund's ability to withstand events that are reasonably likely to occur within the following year. As adopted, a

board must be provided at its next annual meeting, or sooner if appropriate, a report that includes the dates on which the testing was performed and an assessment of the fund's ability to maintain at least 10 percent in weekly liquid assets and to limit principal volatility.[19]

Removal of Credit Ratings References

The SEC re-proposed amendments to Rule 2a-7 to implement Section 939A of the Dodd-Frank Act requiring the SEC to remove references to or requirement of reliance on credit ratings and establish appropriate creditworthiness standards. Under the proposed amendments to Rule 2a-7, a money fund will be able to invest in a security only if the board (or its delegate) determines that it presents minimal credit risks, that is, that the issuer has an exceptionally strong capacity to meet its short-term obligations.

Appendix A

Compliance Dates	
Rule and Form Amendment	**Compliance Date**
Floating NAV	Two years after the Effective Date
Liquidity Fees and Redemption Gates	Two years after the Effective Date. (As proposed, the compliance date would have been one year after the Effective Date.)
Diversification	18 months after the Effective Date
Stress Testing	18 months after the Effective Date
Disclosure	
New Rule 30b1-8 under the 1940 Act	Nine months after the Effective Date
Form N-CR (other than Parts E-G)	Nine months after the Effective Date
Website Disclosure Related to Form N-CR (other than Parts E-G)	Nine months after the Effective Date
Advertising	18 months after the Effective Date
Form N-1A	18 months after the Effective Date
Form N-MFP and amended Rule 30b1-7 under the 1940 Act	18 months after the Effective Date
Website Disclosure Not Related to Form N-CR	18 months after the Effective Date
Form N-CR Parts E-G	Two years after the Effective Date
Website Disclosure Related to Form N-CR Parts E-G	Two years after the Effective Date

Appendix B

Investors Qualifying as Eligible Investors for Retail Money Market Funds	
Types of Investors for which Beneficial Ownership is Deemed to be Held by Natural Persons	**Method of Verification**
US individuals who invest directly in the fund	Provide a Social Security number.
Non-US individuals who invest directly in the fund	Provide other government-issued identification, e.g., a passport.

(*Continued*)

Individuals holding through omnibus accounts	• Obtain periodic certifications from omnibus intermediary that underlying accounts are held by natural persons. • Require intermediaries to agree contractually that underlying accounts will be limited to natural persons.
Natural persons investing through tax-advantaged accounts and trusts: • participant-directed defined contribution plans — ERISA §3(34); • individual retirement accounts — IRC §408 or 408A; • simplified employee pension arrangements — IRC §408(k); • simple retirement accounts — IRC §408(p); • custodial accounts — IRC §403(b)(7); • deferred compensation plans for government or tax-exempt organization employees — IRC §457; • Keogh plans — IRC §401(a); • Archer medical savings accounts — IRC §220(d); • college savings plans — IRC §529; • health savings account plans — IRC §223; and • ordinary trusts — IRC §7701.	• Directly, when the investor provides a Social Security number to the fund adviser when opening a taxable or tax-deferred account through the adviser's transfer agent or brokerage division; or • Indirectly, when a Social Security number is provided to the fund adviser in connection with recordkeeping for a retirement plan, or a trust account is opened with information regarding the individual beneficiaries.

Types of Investors for which Beneficial Ownership is Not Deemed to be Held by Natural Persons

- Accounts not associated with Social Security numbers:
  - Businesses, including small businesses
  - Defined benefit plans
  - Endowments
  - State, local, and foreign governments and agencies
  - Any other for- or non-profit organization

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NOTES

1 *Money Market Fund Reform; Amendments to Form P-F*, Inv. Co. Act Rel. No.31166 (July 23, 2014).

2 *See id.*, at p.1.

3 *Removal of Certain References to Credit Ratings and Amendment to the Issuer Diversification Requirement in Money Market Fund Rule*, Inv. Co. Act Rel. No. 31184 (July 23, 2014) (Credit Rating Release).

4 *Money Market Fund Reform; Amendments to Form P-F*, Inv. Co. Act Rel. No.30551 (June 5, 2013).

5 *See Adopting Release*, at p.224.

6 *See id.*, at pp.225 and 226.

7 *See id.*, at p.284.

8 *See, e.g.*, amended Rule 482(b)(4)(iii).

9 *See Adopting Release*, at p.285.

10 *See id.*, at p.298.

11 *See id.*, n.630, at p.198.

12 *See* Instruction 1 to Item 16(g)(2) of Form N-1A.

13 Rule 2a-7(d)(3)(ii)(F)(1).

14 *See* Credit Rating Release.

15 *See* Rule 2a-7(j)(1) and (2).

16 Current Rule 2a-7 applies a 10 percent diversification limit on guarantees and demand features only to 75 percent of a money market fund's total assets. *See* current Rule 2a-7(c)(4)(iii)(A).

17 *See* Rule 2-a7(g)(8)(i).

18 *Id.*

19 *See* Rule 2a-7(g)(8)(ii).