



SEC OPEN MEETING

OVERVIEW

For questions on the note below, please contact [Daniel Austin](#) or [Graham Harper](#) at [\(202\) 547-3035](#).

Today, the SEC held an [open meeting](#) to consider whether to: 1) adopt new rules and forms and amendments to certain rules and forms to modernize the reporting of information by registered investment companies; 2) adopt a new rule and amendments to certain rules and forms that would provide for liquidity risk management programs and related disclosures for open-end management investment companies; and 3) adopt rule and form amendments that would permit open-end management investment companies to use "swing pricing" under certain circumstances.

Key Takeaways

- The Commission voted to approve all three final rules, but Commissioner Piwowar voted against the reporting modernization and swing pricing rules.
- The staff did not recommend new Rule 30(e)-3, which would permit funds to provide shareholder reports and portfolio information on fund websites. The Rule's omission was Commissioner Piwowar's main stated reason for opposing the reporting modernization rule.
- In her [statement](#), Chair Mary Jo White said that staff is working on developing recommendations for final rules that address limiting the amount of leverage that funds are permitted to obtain through the use of derivatives and require investment adviser business continuity and transition planning. She expects the Commission to consider the final rules on derivatives "in the near term." [Note: Commissioner Piwowar stated at a conference yesterday that he did not believe the Commission would complete this rulemaking before the end of the year.]

SUMMARY

Item 1: Investment Company Reporting Modernization

Commission staff said reforms would modernize reporting in a more structured format. The data collected will give the SEC a better ability to effectively monitor and understand changes in the asset management industry. New disclosures will help inform investors, the Commission, and other stakeholders. The reforms also aim to mitigate predatory trading practices that may result from increased transparency.

Discussion and Vote

There were no questions, and the proposal to modernize investment company reporting was approved by a vote of 2-1, with Commissioner Piwowar dissenting.

Chair White: Many current reporting requirements have not been changed to reflect industry changes, thus it is important to modernize our reporting requirements. The reforms before us today are sweeping and will give the Commission and investors powerful new tools to understand funds' investment activities. The staff will not be presenting a recommendation today for a Rule 30(e)-3.

Commissioner Kara Stein: The reporting enhancements will fill important data gaps, such as providing the Commission with new details about the size and activities of separately managed accounts. The new data will allow the Commission to better monitor funds' growth, trends, and activities and put useful information into the hands of investors. Today's rule will require funds to provide critical new information about derivatives, ETFs, and risk measures. The current default to paper reports is the better option because it ensures all investors will receive the information.

Commissioner Michael Piwowar: I cannot vote to adopt the reporting modernization rule. A key component of the proposal was new Rule 30(e)-3, which would have reflected the evolving trends and preferences in Internet usage and permitted, but not required, website transmission of fund shareholder reports. Unfortunately, Rule 30(e)-3 is not included in today's rulemaking. This and other rules can be completed if we efficiently manage the Commission's resources.

Item 2: Investment Company Liquidity Risk Management Programs

Commission staff said the liquidity rule is designed to address the risk that funds will not be able meet redemption obligations. Funds must classify, and report quarterly, an asset's liquidity level into one of four categories: highly liquid investments, moderately liquid investments, less liquid investments, and illiquid investments. A fund's board will be required to approve the liquidity risk management program and the designation of the program administrator, and would be required to review an annual report on the program's adequacy and effectiveness.

Discussion and Vote

There were no questions, and the liquidity risk management program rule was unanimously approved.

Chair White: Funds will be required to classify each portfolio investment's level of liquidity into one of four categories. A fund also will be required to designate a minimum amount that the fund must invest in highly liquid assets convertible to cash within three business days without significantly changing the investment's market value. Funds will be required to limit the number of illiquid assets held in the fund to 15% or less of the fund's net assets.

[*Commissioner Stein*](#): The liquidity risk management program will help mutual funds and ETFs stand by their obligations to redeem shares on a timely basis. Liquidity risk management programs will ensure assets can be sold to meet redemption requests. Funds must classify their assets into four categories, which are based on how quickly the asset can be sold for cash.

Commissioner Piwowar: The liquidity risk management recommendation reflects thoughtful consideration of comments received, and it makes many improvements to the original proposal. The rule focuses on a fund's ability to redeem shares within three days, but I still would have preferred that the rule use the seven-day statutory period as the default for the highly liquid investment minimum.

Item 3: Investment Company Swing Pricing

Swing pricing is designed to provide funds with an additional, optional tool to mitigate potential dilution and to better manage fund liquidity. The staff's recommendation included amendments to existing rules to permit open-end funds, except money market funds and ETFs, to use "swing pricing." Under the recommendation, a fund that chooses to use swing pricing will adjust its net asset value (NAV) per share by an amount known as the "swing factor" in response to the costs associated with the shareholder purchase and redemption activity.

Discussion and Vote

There were no questions, and the swing pricing rule was approved by a vote of 2-1, with Commissioner Piwowar dissenting.

Chair White: Swing pricing will help better manage fund liquidity and mitigate shareholder dilution. Swing pricing will be new for American funds, so we must ensure the appropriate controls are in place. I have directed the staff to both continuously monitor market practices associated with funds' use of swing pricing to mitigate dilution and to present a review of this work to the Commission two years after the rule becomes effective.

[*Commissioner Stein*](#): Swing pricing allows a fund to allocate certain costs associated with the purchase and redemption of shares to shareholders who are actually doing the buying and selling of fund shares. Remaining shareholders are currently forced to bear costs of this activity. This rule will not require funds to use swing pricing. While swing pricing may enable funds to pass on costs, we must be careful to ensure the rule does not create misuse or abuse.

Commissioner Piwowar: I have several investor protection concerns with this recommendation: (1) a swing pricing threshold can lead to harmful gaming behavior; (2) funds could artificially enhance returns by swinging in an amount greater than the costs of redemptions or subscriptions; and (3) swing pricing will be used to conceal from investors the true costs they will incur of the purchase and sale of their fund shares. Therefore, I cannot vote in favor of this rule.