CLIENT ALERT

SEC Proposes Amendments to Liquidity Risk Management Programs and Adoption of Swing Pricing and Hard Close Requirements for Open-End Funds

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The U.S. Securities and Exchange Commission (the "SEC") recently proposed amendments to the rules governing liquidity risk management programs for open-end management investment companies registered under the Investment Company Act of 1940 (the "1940 Act") and the manner in which orders for the purchase and redemption of shares of certain funds are received and priced (the "Proposed Amendments").[1] The Proposed Amendments include sweeping changes that would, among other things, mandate the use of swing pricing and a hard close for mutual funds.

Overview of the Proposed Amendments

The Proposed Amendments would amend Rules 22e-4 and 22c-1 under the 1940 Act and certain reporting and disclosure forms under the 1940 Act. Notably, the Proposed Amendments would, among other things:

[1] *See* Open-End Fund Liquidity Risk Management Programs and Swing Pricing; Form N-PORT Reporting, Investment Company Act Release No. 34746 (Nov. 2, 2022), *available* here (the "Proposing Release").

- Amend the liquidity classification framework for open-end funds, other than money market funds and in-kind ETFs,[2] by:
  - eliminating the "less liquid" category under Rule 22e-4, which would likely result in more investments being categorized as illiquid investments and thus subject to Rule 22e-4's 15% limit on illiquid investments; and
  - replacing the reasonably anticipated trading size ("RATS") standard for determining liquidity classifications with a set stressed trading size of 10%;
- Require open-end funds, other than money market funds and in-kind ETFs, to maintain a "highly liquid investment minimum" ("HLIM") of at least 10% of their net assets;
- Mandate the use of "swing pricing" for all registered open-end funds other than money market funds and ETFs ("mutual funds"), when they experience net redemptions of any size or net purchases in excess of 2% of net assets;
- Require mutual fund purchase and redemption orders to be received by the fund, its designated transfer agent or a registered clearing agency before the time the fund calculates its net asset value ("NAV") in order to receive that day's NAV; and
- Provide for more frequent and detailed reporting of information regarding liquidity classifications and the use of swing pricing.

The Proposing Release states that the Proposed Amendments would "enhance open-end fund resilience in periods of market stress by promoting funds' ability to meet redemptions in a timely manner while limiting dilution of remaining shareholders' interests in the fund."[3] The Proposing Release points repeatedly to the events of March 2020, when open-end funds experienced significant outflows combined with widening bid-ask spreads for portfolio transactions during that time. According to the Proposing Release, these factors likely contributed to dilution of the interests of remaining investors.[4] The Proposing Release states that some open-end funds were not prepared for sudden market stress because, among other things, their "liquidity risk management program features … adjusted slowly, making them less effective during the stress period," and "tools, such as swing pricing, that may have helped open-end funds limit dilution as

[2] An in-kind ETF is an ETF that meets redemptions through in-kind transfers of securities, positions, and assets other than a *de minimis* amount of cash and that publishes its portfolio holdings daily. Rule 22e-4(a)(9).

[3] Proposing Release at 13.

[4] *Id.* at 23. The Proposing Release does not cite specific data about the dilution of open-end fund shareholders in March 2020, but points to the use of swing pricing by European funds to mitigate dilution during this period. *See id.* at n.40.

both transaction costs and redemptions rose were unavailable because of operational challenges."[5] The Proposing Release acknowledges that the Proposed Amendments would result in significant changes for funds and intermediaries—particularly with respect to order processing practices—but states that shareholders would nevertheless benefit from the reduction in shareholder dilution that would result from the adoption of the Proposed Amendments.

In opposing the Proposed Amendments, SEC Commissioner Mark Uyeda stated that the Proposed Amendments, if adopted, "would dramatically alter how investors buy and sell fund shares" and "potentially reduce investor choice."[6] He further stated that the Proposed Amendments would "come with significant compliance and operational costs, which will ultimately be paid for by fund investors."[7] This sentiment was shared by SEC Commissioner Hester Peirce, who noted that the Proposed Amendments "may cost fund investors more than the dilution does."[8] She further noted that the Proposed Amendments, if adopted, may have unintended consequences, such as "some intermediaries [potentially setting] their own internal cut-off times—including adopting a blanket policy of processing orders at the next day's price."[9] Investment Company Institute President and CEO Eric Pan also voiced concerns with the Proposed Amendments, noting that the "swing pricing proposal could have an enormous negative impact on more than 100 million Americans who invest in funds, especially retirement savers" and "is likely to make it impossible for 401(k) plans to place trade orders for their participants."[10] He further noted that the "swing pricing proposal faces insurmountable operational hurdles, risks confusing investors, and upending mutual funds' longstanding and equitable share pricing methodology."[11]

Proposed Amendments to Rule 22e-4

Currently, Rule 22e-4 requires each open-end fund, other than a money market fund, to adopt and implement a written liquidity risk management program that is reasonably designed to assess and manage the fund's liquidity risk. Rule 22e-4 was adopted by the SEC in 2016 to address concerns that open-end funds investing in less liquid securities may have difficulty satisfying redemptions without significant dilution of the interests of remaining investors.[12]

The Proposed Amendments would revise Rule 22e-4 in certain significant respects, including by changing the liquidity classification categories, the methodologies used in determinations of liquidity classifications, and the highly liquid

5 *Id.* at 33-34.
6 Statement on Proposed Rule: Open-End Fund Liquidity Programs and Swing Pricing; Form N-PORT Reporting (Nov. 2, 2022), ***available*** here.
7 *Id.*
8 Closing Act: Statement on Proposed Open-End Fund Liquidity Risk Management Programs and Swing Pricing; Form N-PORT Reporting (Nov. 2, 2022), ***available*** here.
9 *Id.*
10 ICI: Swing Pricing Proposal From SEC Could Severely Harm Savers (Nov. 2, 2022).
11 *Id.*
12 *See* Investment Company Liquidity Risk Management Programs, Investment Company Act Release No. 32315 (Oct. 12, 2016), 81 Fed. Reg. 82,142 (Nov. 18, 2016); *see also* Willkie Farr & Gallagher LLP, Client Memorandum: New SEC Rule Requires Open-End Funds to Have Formal Liquidity Risk Management Programs; "Swing Pricing" Permitted But Not Required (Nov. 8, 2016), ***available*** here.

investment minimum requirement. The Proposed Amendments, if adopted as proposed, would reflect a more prescriptive approach to liquidity risk management than under current Rule 22e-4.

Liquidity Classification Categories

As part of its liquidity risk management program under Rule 22e-4 as currently in effect, each fund, other than an in-kind ETF, must review periodically the liquidity risk of its portfolio investments and classify portfolio investments into one of four liquidity classifications: "highly liquid investment," "moderately liquid investment," "less liquid investment" or "illiquid investment." Under the Proposed Amendments, the "less liquid" investment classification would be subsumed into the "illiquid investment" classification, and the "moderately liquid investment" classification would be modified to serve as a catchall category for any investment that is not a "highly liquid investment" or an "illiquid investment." Additionally, the "illiquid investment" classification would be expanded to include "any investment the fund reasonably expects not to be convertible to U.S. dollars in current market conditions in seven calendar days or less without significantly changing the market value of the investment and any investment whose fair value is measured using an unobservable input that is significant to the overall measurement."[13]

A table comparing the current and proposed classifications is set out below:

Liquidity Classifications	**Definition in Current Rule 22e-4**	**Definition in Proposed Rule 22e-4**
Highly Liquid Investment	Any cash held by a fund and any investment that the fund reasonably expects to be convertible into cash in current market conditions in three business days or less without the conversion to cash significantly changing the market value of the investment.	Any U.S. dollars held by a fund and any investment that the fund reasonably expects to be convertible to U.S. dollars in current market conditions in three business days or less without significantly changing the market value of the investment.

13 *See* Proposing Release at 39-44. In addition, the term "convertible to cash" in current Rule 22e-4 would be changed to "convertible to U.S. dollars," which would consequently not include cash equivalents or foreign currency. The Proposing Release states that this change is intended to codify prior SEC statements about the meaning of "cash" in Rule 22e-4. *Id* at 66.

Liquidity Classifications	Definition in Current Rule 22e-4	Definition in Proposed Rule 22e-4
Moderately Liquid Investment	Any investment that the fund reasonably expects to be convertible into cash in current market conditions in more than three calendar days but in seven calendar days or less, without the conversion to cash significantly changing the market value of the investment.	Any investment that is neither a highly liquid investment nor an illiquid investment.
Less Liquid Investment	Any investment that the fund reasonably expects to be able to sell or dispose of in current market conditions in seven calendar days or less without the sale or disposition significantly changing the market value of the investment, but where the sale or disposition is reasonably expected to settle in more than seven calendar days.	Removed.
Illiquid Investment	Any investment that the fund reasonably expects cannot be sold or disposed of in current market conditions in seven calendar days or less without the sale or disposition significantly changing the market value of the investment.	Any investment that the fund reasonably expects not to be convertible to U.S. dollars in current market conditions in seven calendar days or less without significantly changing the market value of the investment and any investment whose fair value is measured using an unobservable input that is significant to the overall measurement.

The Proposed Amendments would require funds' monthly reports on Form N-PORT to include the percentage of a fund's assets that fall into each of the three liquidity categories. This disclosure requirement is similar to the requirement the SEC adopted in 2016,[14] but ultimately replaced with a narrative liquidity disclosure requirement in 2018.[15] The change in

[14] *See* Investment Company Liquidity Risk Management Programs, Investment Company Act Release No. 32315, *supra* note 12.

[15] *See* Investment Company Liquidity Disclosure, Investment Company Act Release No. 33142 (Jun. 28, 2018), 83 Fed. Reg. 31,859 (Jul. 10, 2018).

2018 was made in response to expressed concerns that the quantitative presentation of aggregate liquidity information could imply precision and uniformity in a way that obscures the subjectivity involved in liquidity classification determinations.[16]

Significantly, because the Proposed Amendments would result in the re-categorization of less liquid investments as illiquid investments, if they are adopted as proposed, funds that currently maintain a significant percentage of their assets in less liquid investments (e.g., bank loan funds) might need to change their strategies, liquidate or convert to closed-end funds, absent a shortening of the settlement cycle for such investments.[17]

Currently, Rule 22e-4 prohibits a fund from acquiring any illiquid investment if, immediately after the acquisition, the fund would have invested more than 15% of its net assets in illiquid investments. In addition, if a fund's illiquid investments exceed 15% of its net assets at any time, the fund must bring its illiquid investments below the 15% limit. The Proposed Amendments would amend the 15% limit to provide that the value of margin or collateral that a fund could receive only upon exiting an illiquid derivatives transaction would itself be treated as illiquid for purposes of calculating the 15% limit.[18]

Determinations of Liquidity Classifications

Under current Rule 22e-4, funds other than in-kind ETFs are required to review the classifications of their portfolio investments at least monthly and more frequently if material changes to one or more investment classifications are expected due to relevant market, trading, and investment-specific considerations. Funds have discretion to classify investments individually or by asset class. In classifying and reviewing portfolio investments or asset classes, a fund must analyze the number of days that it reasonably expects it would take to sell, or convert to cash, portions of a position in a particular investment or asset class in a reasonably anticipated trading size or RATS. Currently, a fund has the discretion to set its own RATS and may weigh factors such as flow history, flow trends of similar funds, and shareholder makeup and concentration when making this determination.[19] When making liquidity determinations, funds currently use a value impact analysis to evaluate whether the sale or disposition of an investment would significantly change the market value of that investment. Funds have the flexibility to determine value impact in a variety of ways, depending on the type of asset, or vender, model or system used.[20]

Under the Proposed Amendments, funds other than in-kind ETFs would be required to classify each individual portfolio investment on each business day, rather than being permitted to classify portfolio investments by asset class on a monthly basis. The Proposed Amendments would replace the RATS standard for determining liquidity classifications with a set "stressed trading size." The "stressed trading size" would measure the number of days in which an investment is

16 Proposing Release at 207-208.
17 *Id.* at 63.
18 This would also apply to margin or collateral related to a moderately liquid investment in the context of the HLIM, as discussed below.
19 Proposing Release at 45.
20 *Id.* at 50.

reasonably expected to be convertible to U.S. dollars without significantly changing the market value of the investment while assuming the sale of 10% of the fund's net assets by reducing each investment by 10%. The proposed change may result in more investments being classified as "illiquid investments," which the Proposing Release acknowledges could cause some funds to have to rebalance their portfolios and result in a negative effect on performance.[21] This could have a disproportionate effect on larger funds, which may have to rebalance a substantial dollar amount of portfolio holdings.

The Proposed Amendments also would specify that "funds must count the day of classification when determining the period in which an investment is reasonably expected to be convertible to U.S. dollars."[22] Thus, for a fund to classify an investment as highly liquid on Monday, it must reasonably expect that the investment could be sold and settled by Wednesday.

The current value impact analysis would also change if the Proposed Amendments are adopted as proposed. Funds' discretion to measure value impact would be replaced by a minimum value impact standard that defines more specifically what constitutes a significant change in market value. The Proposed Amendments would define significantly changing the market value of an investment to mean: (1) for shares listed on a national securities exchange or a foreign exchange, any sale or disposition of more than 20% of average daily trading volume of those shares, as measured over the preceding 20 business days; and (2) for any other investment, any sale or disposition that the fund reasonably expects would result in a decrease in sale price of more than 1%.

Highly Liquid Investment Minimum

As currently in effect, Rule 22e-4 provides that if a fund, other than an in-kind ETF, does not primarily hold assets that are highly liquid investments, the fund must determine a highly liquid investment minimum or HLIM, review such minimum at least annually, and adopt policies and procedures to respond to shortfalls of highly liquid investments below the established minimum. The Proposed Amendments would remove the exclusion from the requirements applicable to HLIMs for funds that primarily hold highly liquid assets and instead require all funds, other than in-kind ETFs, to determine and maintain an HLIM of at least 10% of net assets. Additionally, when assessing compliance with such minimum, a fund would be required to subtract from its highly liquid assets: (1) the value of any highly liquid assets that are posted as margin or collateral in connection with any derivatives transaction that is classified as moderately liquid or illiquid; and (2) any fund liabilities.[23]

Proposed Amendments to Rule 22c-1

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[21] *Id.* at 46.
[22] *Id.* at 68.
[23] *Id.* at 83.

Swing pricing is a process of adjusting a mutual fund's current NAV per share at which transactions in fund shares are priced when certain conditions are met, such that the transaction price effectively passes on costs stemming from shareholder inflows or outflows to purchasing and redeeming shareholders, as applicable. In 2016, the SEC amended Rule 22c-1 to provide funds with the *option* to use swing pricing.[24] The Proposed Amendments would amend Rule 22c-1 to *require* all open-end funds other than money market funds and ETFs (previously defined as "mutual funds") to engage in swing pricing under certain circumstances.

According to the Proposing Release, to date no mutual funds have implemented swing pricing due to operational challenges, the most significant of which relates to the fact that mutual funds are currently unable to obtain sufficient fund flow information before finalizing their NAVs to determine whether swing pricing should be used on a given day.[25]

Swing Pricing Framework

The Proposed Amendments would require a mutual fund to apply swing pricing on each day that it has net redemptions. When a mutual fund has net purchases, the Proposed Amendments would require swing pricing only if the amount of net purchases exceeds 2% of the fund's net assets, though a fund's "swing pricing administrator" may determine that a lower threshold is appropriate to mitigate dilution.[26]

Under the Proposed Amendments, a mutual fund's swing pricing administrator would be required to review investor flow information (i.e., purchase and redemption activity) on a daily basis to determine first if the fund has net purchases or net redemptions and, if so, the amount of such net purchases or redemptions.[27] Swing pricing determinations may be made based on investor flow information that is sufficient to allow the fund to estimate reasonably whether it has crossed a swing threshold with high confidence, though the Proposing Release notes that the need for estimates is expected to be reduced by the hard close requirement discussed below.[28] A mutual fund would be required to adopt swing pricing

24 *See* Investment Company Swing Pricing, Investment Company Act Release No. 32316 (Oct. 13, 2016); *see also* Willkie Farr & Gallagher LLP, Client Memorandum: New SEC Rule Requires Open-End Funds to Have Formal Liquidity Risk Management Programs; "Swing Pricing" Permitted But Not Required (Nov. 8, 2016), *available* here.

25 Proposing Release at 19. The Proposing Release notes that swing pricing is commonly used by funds in Europe and was widely used by European funds in March 2020. *Id.* at 19, 30-32.

26 *Id.* at 106. The "swing pricing administrator" under proposed amended Rule 22c-1 has the same meaning as the term "person(s) responsible for administering swing pricing" under current Rule 22c-1. The swing pricing administrator is the fund's investment adviser, officer, or officers responsible for administering the fund's swing pricing policies and procedures. Proposed amended Rule 22c-1 would specify that the swing pricing administrator may consist of a group of persons. As with current Rule 22c-1, the fund's board of directors must designate this person or group of persons. *Id.* at n.186.

27 In-kind transactions would be excluded from the calculations of net purchases and net redemptions.

28 Proposing Release at 110-111.

policies and procedures reasonably designed to adjust the fund's current NAV per share by a swing factor either if the fund has net redemptions or if it has net purchases that exceed an identified threshold.[29]

Swing Factor Calculation

Under the Proposed Amendments, on a day that swing pricing is required, a mutual fund would be required to apply a "swing factor," which is an amount, expressed as a percentage of the fund's NAV, by which the fund would adjust its NAV per share. In calculating a fund's swing factor, the fund's swing pricing administrator would be required to make a good faith estimate of the costs to the fund (not including borrowing costs) if it purchased or sold a pro rata amount of each investment in its portfolio, rather than consider the specific investments it would purchase to invest the proceeds from subscriptions or sell to meet redemptions.

The swing factor calculation would differ depending on whether a fund experiences net redemptions or net purchases and is intended to approximate the aggregate costs of dilution in each scenario.[30] In the case of net redemptions, the good faith estimate of costs for selling a pro rata amount of the fund's portfolio to satisfy the net redemptions must include: (i) spread costs, (ii) brokerage commissions, custody fees and any other charges, fees, and taxes associated with portfolio investment sales, and (iii) only if net redemptions exceed 1% of the fund's net assets, the market impact. In the case of net purchases, where swing pricing will only be required to be applied if the amount of net purchases exceeds 2% of the fund's net assets, the good faith estimate of costs for purchasing a pro rata amount of the fund's portfolio to invest the proceeds of the net purchases must include: (i) spread costs, (ii) brokerage commissions, custody fees and any other charges, fees and taxes associated with portfolio investment purchases, and (iii) in all cases, the market impact.[31] Market impact costs are the costs incurred when the price of a security changes as a result of the effort to purchase or sell the security and reflect price concessions (i.e., amounts added to the purchase price or subtracted from the selling price) that are required to find the opposite side of the trade and complete the transaction. The Proposed Amendments would permit swing pricing administrators to estimate market impacts for each type of investment with the same or substantially similar characteristics and apply those estimates to all investments of that type rather than analyze each investment separately. A swing factor could generally be determined on a periodic basis but must be reevaluated more quickly if there are

[29] Under the Proposed Amendments, a feeder fund in a master-feeder structure would not be permitted to use swing pricing, but the master fund would be subject to the swing pricing requirement and would adjust its NAV per share based on net purchase or redemption activity by feeder fund(s) and other investors in the master fund.

[30] Proposing Release at 115-116.

[31] The Proposing Release states that the method for determining a fund's spread costs would differ depending on how the fund values its portfolio holdings. Funds may value portfolio holdings at the bid price or the mid-market price when striking their NAVs. If a fund values its portfolio holdings at the bid price, it would not need to include spread costs in its swing factor when the fund has net redemptions. In contrast, if the fund has net purchases exceeding 2%, the fund would need to include spread costs, which would reflect the full bid-ask spread. For a fund that uses mid-market pricing, it would need to include spread costs in its swing factor any time it applies swing pricing. When a fund using mid-market pricing has net redemptions, or net purchases exceeding 2%, the spread cost component of its swing factor would reflect half of the bid-ask spread. Proposing Release at 116-117.

developments that affect a swing pricing administrator's good faith estimates of spreads, market impacts and other transaction costs, including market developments.

Hard Close Requirement

Currently, Rule 22c-1 prohibits an open-end fund from selling or redeeming its shares other than at a price based on the current NAV of the fund next calculated after the fund receives the investor's purchase or redemption order. Mutual funds typically calculate their NAVs at 4 p.m. ET. When an investor submits an order to purchase or redeem fund shares through a financial intermediary, current SEC staff guidance permits the order to be executed based on the current day's NAV as long as the intermediary received the order before the fund calculated its NAV, even if the fund receives the order after it calculates the current day's NAV.[32] Funds often receive orders from intermediaries hours after their NAVs are calculated, sometimes as late as the next morning. As a result, funds typically do not have complete investor flow information for a given day prior to calculating NAV for the day.

To facilitate the mandatory swing pricing framework contemplated by the Proposed Amendments, which requires a mutual fund's swing pricing administrator to evaluate investor flow information in determining whether swing pricing is required on a particular day, the Proposed Amendments include a "hard close" requirement for all mutual funds that would be subject to the swing pricing requirement.[33] The hard close requirement would provide that all "eligible orders" received by a fund, its designated transfer agent, or clearing agency[34] before the fund's "pricing time" (i.e., the time at which the fund calculates its NAV) will receive the current day's price; any orders received after the fund's pricing time would receive the next day's price.

An "eligible order" would mean a direction to purchase or redeem a specific number or dollar value of shares. It would also include an exchange order (i.e., an order to redeem shares of one fund and use the proceeds to buy the shares of another fund). Exchange orders would otherwise not be eligible orders under the Proposed Amendments because the number and dollar value of shares for the purchase order for the purchased fund would not be known until the redeemed fund calculates its NAV. The redeemed fund may calculate its NAV at the same time or after the purchased fund calculates its NAV.

As a consequence of the proposed hard close requirement, financial intermediaries would be required to submit customer orders to the fund in advance of the fund's pricing time in order for the customer to receive that day's NAV. To achieve

32 *See, e.g.*, Charles Schwab & Co., Inc., SEC Staff No-Action Letter (July 7, 1997).

33 The Proposing Release also states that the hard close requirement has the added benefit of helping to prevent "late trading," which refers to the practice of submitting orders to a fund after the fund's NAV has been calculated in violation of Rule 22c-1. The Proposing Release cites to several instances of late trading in the early 2000s. *See* Proposing Release at 130.

34 Currently, the only registered clearing agency for fund shares is the National Securities Clearing Corporation, which operates its Fund/SERV service for processing fund transactions.

this, financial intermediaries may be required to establish early cutoff times for customer orders or send orders to funds more frequently throughout the day, among other potential options,[35] which would require changes to the current automated systems for submitting orders.

The proposed hard close requirement also would have implications for retirement plan recordkeepers, as well as funds and accounts that seek to maintain a target allocation or model portfolio, which calculate orders for underlying fund shares based on underlying fund NAVs. In these cases, the hard close requirement would result in a one-day lag in completing retirement plan loan or withdrawal transactions and underlying fund rebalancing transactions. In addition, if a fund-of-funds, which itself would be subject to the hard close requirement, has the same pricing time as its underlying funds, then it likely would not be able to submit purchase or redemption orders reflecting all of the fund-of-funds' investor flows on a given day to the underlying fund before the underlying fund calculates its NAV for the day.

The Proposing Release requests comments as to whether certain scenarios, fund types (e.g., funds-of-funds) or intermediaries should be excluded from the hard close requirement. The Proposing Release also asks whether funds should be permitted to establish early order cutoff times (i.e., before they calculate NAV).

Alternatives to Swing Pricing and the Hard Close

While the Proposed Amendments would mandate the use of swing pricing by mutual funds, the Proposing Release discusses and requests comments on alternatives to swing pricing, such as charging liquidity fees and utilizing dual pricing.[36] The Proposing Release also discusses alternatives to the hard close requirement, including (i) a fund receiving an estimation of anticipated flows from intermediaries either before the fund's pricing time or by a set time thereafter (e.g., by 4:30 p.m. ET), (ii) a fund estimating its flows, and (iii) using later cutoff times for intermediaries.

Related Form Changes

Registered management investment companies and ETFs organized as unit investment trusts are currently required to file quarterly reports about their portfolios and each portfolio holding on Form N-PORT within 60 days of quarter-end, with the reports for only the third month of each quarter made publicly available. The Proposed Amendments would require funds to file Form N-PORT monthly within 30 days of month-end, with much of the information on Form N-PORT becoming publicly available 60 days after month-end. The Proposed Amendments to Form N-PORT would include additional public reporting requirements relating to the proposed changes to Rule 22e-4, including aggregate reporting of a fund's

35 Proposing Release at 136-137, 141-142.

36 A fund that uses dual pricing would quote two prices—one for purchasing shareholders (reflecting the cost of buying portfolio securities in the market), and one for redeeming shareholders (reflecting the proceeds the fund would receive from selling portfolio securities in the market). *Id*. at 167.

investments classified in each liquidity classification category, as noted above, and to Rule 22c-1, including information about the number of times a fund applied a swing factor during the month and the amount of each swing factor applied.

The Proposed Amendments would also include other conforming and technical changes to Form N-PORT, Form N-CEN and Form N-1A.

Comment Period, Compliance Dates and Withdrawal of SEC Staff Statements

Comments are due on the Proposed Amendments on February 14, 2023. The Proposed Amendments to Rule 22e-4 would provide a one-year compliance period, and the Proposed Amendments to Rule 22c-1 would be subject to a two-year compliance period. The SEC staff is reviewing no-action letters and other statements to determine which letters and statements should be withdrawn in connection with any adoption of the Proposed Amendments.

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