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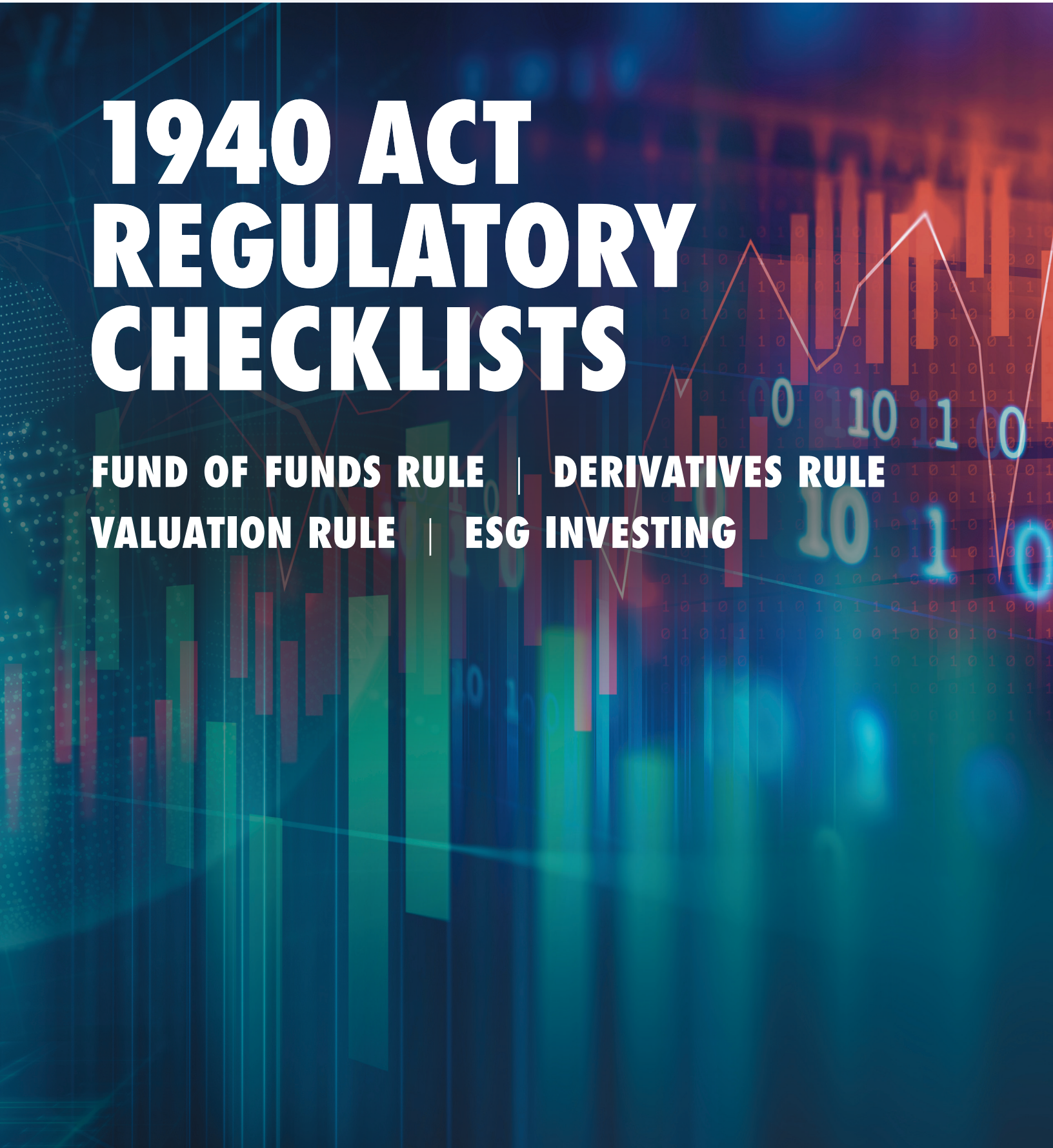
MAY 2021



1940 ACT REGULATORY CHECKLISTS

FUND OF FUNDS RULE | DERIVATIVES RULE
VALUATION RULE | ESG INVESTING

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Funds of Funds Rule: Rule 12d1-4 Under the Investment Company Act of 1940

Rule 12d1-4 under the Investment Company Act of 1940 permits funds to enter into "funds of funds" arrangements notwithstanding the prohibitions of Section 12(d)(1) of the Act of 1940, provided that certain conditions are met. The conditions require an acquiring fund and an acquired fund to enter into a funds of funds investment agreement and each fund's adviser to evaluate the arrangements and make certain findings with respect to their funds. Most exemptive orders granting relief from the prohibitions of Section 12(d)(1) will also be rescinded as of the compliance date of Rule 12d1-4.	***Fast Facts and Resources:*** **Adopted:** October 7, 2020 **Effective date:** January 19, 2021 **Compliance date:** January 19, 2022 Proposing Release & Adopting Release **Citation:** 17 CFR § 270.12d1-4 Small Entity Compliance Guide to the Rule SEC Adopts Comprehensive Framework for Fund of Funds Arrangements

Investing Beyond Section 12(d)(1)	
☐	Is the acquiring fund investing beyond the limits of Section 12(d)(1)(A): • acquiring more than 3% of another fund's outstanding voting securities; • investing more than 5% of its total assets in any single fund; or • investing more than 10% of its total assets in funds, generally.
☐	The acquiring fund is not investing within the restrictions of Section 12(d)(1)(G), 12(d)(1)(F) or Rule 12d1-1.
Investment Limitations When Relying on Rule 12d1-4	
☐	The acquiring fund and other funds within its "advisory group" will own less than 25% of acquired fund.
☐	The acquiring fund and its advisory group will not purchase more voting securities of acquired fund if the acquiring fund and advisory group own more than 25% of acquired fund due to redemptions by the acquired fund shareholders.
☐	The acquiring fund and advisory group will use mirror voting if acquiring fund and advisory group own more than 25% of the outstanding voting securities of an open-end acquired fund or 10% of the voting securities of a closed-end acquired fund or business development company (BDC). • The acquiring fund may use pass-through voting if mirror voting is not possible. • This requirement does not apply if the acquired fund is in the same group of investment companies as the acquiring fund. • This requirement does not apply if the acquiring fund's adviser controls or is under common control of the acquired fund's adviser or the depositor.
☐	The acquiring fund's acquisition of the acquired fund's voting securities will not result in a three-tier fund of funds arrangement. • This requirement does not apply to funds relying on Section 12(d)(1)(E) (master-feeder arrangements) or money market funds in reliance on Rule 12d1-1.

	• This requirement does not apply to the acquisition of securities of the acquired fund's wholly owned subsidiary. • This section does not apply to securities acquired as a result of a reorganization or interfund borrowing program. • The acquired fund may invest up to 10% of its assets in securities of other investment companies.
☐	The acquiring fund will not permit other funds to invest in the acquiring fund in reliance of Rule 12d1-4, resulting in a three-tier fund of funds arrangement.
Determinations of the Acquiring Fund's Adviser	
☐	The acquiring fund's adviser has assessed the complexity of the fund of funds structure and has considered: • the complexity of investing in an acquired fund in lieu of directly investing in assets similar to the acquired fund's assets; • whether the fund of funds structure will make it difficult for shareholders to appreciate the acquiring fund's exposures and risks; • whether the fund of funds structure circumvents acquiring fund's investment restrictions and limitations; • whether the acquired fund also invests in other funds and the added complexity that brings to the acquiring fund's structure; • the fees and expenses of both the acquiring fund and the acquiring fund and determined that they are not duplicative; and • other fees and expenses, including, but not limited to, sales charges, recordkeeping fees, sub-transfer agency services and fees for other administrative services.
Determinations of the Acquired Fund's Adviser	
☐	The acquired fund's adviser has found that any concerns of undue influence associated with the acquiring fund's investment have been reasonably addressed and has considered: • the scale of the contemplated investments by the acquiring fund and any maximum investment limits; • the anticipated timing of redemption requests by the acquiring fund; • whether, and under what circumstances, the acquiring fund will provide advance notification of investments and redemptions; • the circumstances under which the acquired fund may elect to satisfy redemption requests in kind rather than in cash and the terms of any redemptions in kind; and • any other relevant regulatory requirements applicable to the acquired fund (e.g., how the acquired fund's adviser will manage the fund's liquidity risk management program in light of the investment by the acquiring fund).
Board Reporting	
☐	Each adviser's evaluation, findings, and the basis for its evaluation or findings has been reported to its applicable fund's board at the first regularly scheduled board meeting following the adviser's evaluation (or earlier).

Fund of Funds Investment Agreements	
☐	The acquiring fund and the acquired fund have entered into a fund of funds investment agreement prior to the acquiring fund's acquisition of securities of the acquired fund in excess of the limits of Section 12(d)(1).
☐	Fund of funds investment agreement includes the following provisions: • any material terms necessary for the advisers to make the findings discussed above; • a termination provision whereby either party can terminate the agreement with advance written notice within a period no longer than 60 days; and • a provision requiring an acquired fund to provide the acquiring fund with fee and expense information to the extent reasonably requested.
Reporting and Recordkeeping	
☐	The acquiring fund reports on Form N-Cen that it relied on Rule 12d1-4.
☐	The acquiring fund and the acquired fund have maintained and preserved written records for a period of not less than five years (the first two years to exist in an easily accessible place). ☐ Copies of each fund of funds investment agreement that is in effect, or was in effect in the last five years, and any amendments thereto; and ☐ A written record of the relevant findings made under Rule 12d1-4 and the basis therefor within the last five years.

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The Derivatives Rule: Rule 18f-4 Under the Investment Company Act of 1940

Snapshot: Rule 18f-4 under the Investment Company Act of 1940 permits a fund to enter into "derivatives transactions," notwithstanding the limitations on the issuance of senior securities under Section 18 of the 1940 Act, provided that the fund complies with the rule's conditions. Along with certain other requirements, funds that are not "limited derivatives users" must meet three key elements of the rule: (1) a derivatives risk management program; (2) a limit on fund leverage; and (3) board oversight and reporting.	***Fast Facts and Resources:*** **Adopted:** October 28, 2020 **Effective date:** February 19, 2021 **Compliance date:** August 19, 2022 Proposing Release & Adopting Release **Citation:** 17 CFR § 270.18f-4 New SEC Rule Will Regulate Registered Fund Investments in Derivatives

Limited Derivatives Users	
☐	A fund that uses derivatives on a limited basis is excepted from the requirements noted in the Derivatives Risk Management Program, Limit on Fund Leverage Risk, and Board Oversight and Reporting sections herein.
☐	To rely on the exception, the fund must: • limit derivatives exposure to 10% of its net assets; and • adopt and implement policies and procedures reasonably designed to manage its derivatives risks.
☐	If the 10% limit is exceeded for five business days after an initial breach, the fund's adviser must deliver a written report to the fund's board stating that the adviser's intention to either cause the fund to comply with the 10% limit within 30 days, or to cause the fund to comply with the full requirements of the rule.
Derivatives Risk Management Program	
☐	Must be in writing and adopted by the fund. *(Note: no board adoption requirement)*

☐	Must include policies and procedures that are reasonably designed to:
	• manage derivatives risk, including:
	  ○ Leverage risk
	  ○ Market risk
	  ○ Counterparty risk
	  ○ Liquidity risk
	  ○ Operational risk
	  ○ Legal risk
	  ○ Any other risks the derivatives risk manager deems material
	• Risk program functions must be sufficiently segregated from portfolio management.

☐	Must be overseen by a derivatives risk manager who: • is an officer or group of officers of the fund's adviser; • if a single officer, is not a portfolio manager;

	• if a team of officers, is not comprised of a majority of portfolio managers; and • has relevant experience.

☐	The Derivatives Risk Management Program must include the following elements:
	• Risk identification and assessment
	  ○ Identify and assess the fund's derivatives risks.
	• Risk guidelines
	  ○ Establish derivatives risk guidelines that provide quantitative or other measurable risk criteria and specify levels that the fund does not normally expect to exceed and measures to be taken if those levels are exceeded.
	• Stress testing
	  ○ Evaluate potential portfolio losses based on "extreme but plausible" market changes or changes that would have a significant adverse effect on the portfolio.
	  ○ Consider correlations of risk factors and counterparty payments.
	  ○ Conduct tests at least weekly, or more frequently as appropriate.
	• Backtesting
	  ○ Value at Risk (VaR) calculation model (relative or absolute) must be backtested at least weekly and must:
	  ○ compare the fund's gains/losses on each business day with the VaR calculation for that day; and
	  ○ identify exceptions where fund losses exceed VaR and report exceptions to board.
	• Internal reporting and escalation
	  ○ Report to portfolio managers regarding stress test results and instances where risk guidelines are exceeded.
	  ○ As appropriate, report material derivatives-related risks to the fund's board, including risks indicated by stress testing and instances where risk guidelines are exceeded.
	• Periodic review
	  ○ Derivatives risk manager must review the program at least annually, including VaR calculation model and the appropriateness of any designated reference portfolio.

Limit on Fund Leverage Risk	

☐	Fund must comply with one of two VaR tests:
	• Relative VaR
	  ○ The VaR of the fund's portfolio must not exceed 200% of the VaR of a "designated reference portfolio" (250% of closed-end funds).
	• Absolute VaR
	  ○ The VaR of the fund's portfolio must not exceed 20% of the value of the fund's net assets (25% for closed-end funds).
	  ○ The fund may use the absolute VaR test only if the fund's derivatives risk manager reasonably determines that a designated reference portfolio would not provide an appropriate reference portfolio for purposes of the relative VaR test, taking into account the fund's investments, investment objectives and strategy.

☐	VaR test compliance must be determined at least once per business day, and if out of compliance, the fund must come back into compliance "promptly" If still out of compliance after five business days, the derivatives risk manager must: • report to the board, in writing, with an explanation of how and when the fund will be back in compliance; • update the derivatives risk management program elements as appropriate, based on the circumstances that caused the noncompliance; and

	• report to the board, in writing, within 30 calendar days with an explanation of how the fund came back into compliance and changes to the program elements.
☐	If still out of compliance after 30 calendar days, the derivatives risk manager must report back to the board with updates at intervals determined by the board.
Board Oversight and Reporting	
☐	The board (including a majority of independents) must approve the designation of the derivatives risk manager.
☐	The derivatives risk manager must provide a written report to the board on or before the implementation of the program, and annually thereafter.
☐	The derivatives risk manager must also report to the board, at a frequency determined by the board, regarding: • analysis of any risk guideline exceedances; • stress-testing results; • backtesting results; and • any information reasonably necessary for the board's evaluation of the fund's response to exceedances and the results of stress testing.

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The Valuation Rule: Rule 2a-5 under the Investment Company Act of 1940

Snapshot: Rule 2a-5 establishes an updated, principles-based, regulatory framework for fund valuation practices and rescinds much of the existing fair valuation guidance. The rule establishes minimum standards for registered investment companies and business development companies for good-faith determination of fair value, as informed by current industry practices, and permits their boards of directors to designate certain parties to perform a fund's fair value determinations, subject to the board's oversight and certain other conditions. The rule also defines when market quotations are "readily available" for purposes of the 1940 Act and when they are not, in which case investments must be fair valued. Most fund complexes should be able to continue their day-to-day valuation business as usual.	***Fast Facts and Resources:*** **Adopted:** December 3, 2020 **Effective date:** March 8, 2021 **Compliance date:** September 8, 2022 Proposing Release & Adopting Release **Citation:** 17 CFR § 270.2a-5 Staff Statement on Investment Company Cross Trading SEC Modernizes Framework for Fund Valuation Practices

Appoint a "Valuation Designee"	
☐	• The board may designate performance of fair value determinations to the fund's adviser. • A designee cannot be a sub-adviser or other service provider, but they can assist in valuation process. • A designee may enlist independent input of outside sources (i.e., fund's administrator).
Assess Valuation Risk	
☐	• The board or valuation designee must periodically assess and manage any material risks associated with fair valuation determinations; this includes material conflicts of interest.
Establish Valuation Methodologies	
☐	• The board or valuation designee must select and consistently apply an appropriate methodology/methodologies for determining and calculating the fair value of fund investments. • Selected methodologies for fund investments may be changed by the board or the valuation designee if different methodologies are equally or more representative of the fair value of the investments.
Periodically Test Methodologies	
☐	• The board or valuation designee will have to test the appropriateness and accuracy of fair value methodologies (e.g., through calibration, backtesting, among other methods). • Testing methods used, and the frequency of testing, must be established as part of the board's or the valuation designee's process.

Oversee and Evaluate Pricing Services	
☐	• Pricing service providers, if used, will have to be overseen, which must include a process for approving, monitoring, and evaluating pricing service providers, and a process for initiating price challenges. • The board or valuation designee should consider the qualifications, experience, and history of the pricing service; the methods, techniques, inputs, and assumptions for different classes of holdings during different market conditions; and the quality of the pricing information provided. • The board or valuation designee should conduct an inventory of pricing services in the context of particular asset classes in which a fund invests and consider whether to create a multidisciplinary team—fund accounting, portfolio management, operations, and compliance—to assess whether to continue, revise, or terminate relationships with pricing vendors.
Prepare Designee Reports for Board Review	
☐	Ensure that quarterly reports contain: ○ material changes to designee's assessment of valuation risk and conflicts of interests; ○ material changes to or deviations from valuation methodologies; and ○ changes to designee's process for selecting and overseeing pricing services. • The designee must also provide an annual assessment of the adequacy and effectiveness of the fair valuation process. • The designee must timely report matters that could materially affect the fair value of the fund's portfolio to the board.
Ensure Fund Investments Are Fair Valued When Market Quotations Are Not "Readily Available"	
☐	• "Readily available" means a quoted price (unadjusted) in active markets for identical investments that the fund can access at the measurement date. • Readily determinable fair value per share that is determined and published is generally consistent with Rule 2a-5. • Fund managers—particularly in the fixed income space—may want to carefully consider the potential impact of Rule 2a-5 and the new definition of "readily available" on their cross trade practices and monitor for any further regulatory developments, such as the withdrawal of relevant Rule 17a-7 cross trade no-action letters.
Maintain Additional Records Relevant to the Valuation Designee in Accordance with Rule 31a-4	
☐	Such records include: • reports provided to the board; • list of the investments (or investment types) whose fair valuation has been designated; and • documentation that would allow a third party not involved in the preparation of the fair value determination to verify, rather than recreate, the fair value determination. Many records produced in connection with current practices for supporting fair value determinations would be sufficient.

Update Written Policies and Procedures to Reflect Fair Valuation Process	
☐	• Implement policies and procedures reasonably designed to ensure compliance with all aspects of Rule 2a-5.
***Additional* Considerations**	
☐	• Fund boards may wish to implement formal or informal reporting timelines for updates on the implementation of the new Rule 2a-5. • Fund boards may also want to review the information that they currently receive with respect to valuation and consider whether this information should be streamlined or enhanced in light of Rule 2a-5.

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Environmental, Social, and Governance ("ESG") Investing

Snapshot: The US Securities and Exchange Commission (the SEC) (across all divisions as well as at the commissioner level) is very focused on ESG, sustainable, and other similar types of investment practices (ESG investing) and the associated risks these investment practices present to investors. Despite this enhanced focus, however, the SEC has not released, as of April 26, 2021, any formal ESG investing rules. In an April 9, 2021, Risk Alert, the SEC Division of Examinations noted certain practices observed in recent examinations of investment advisers and funds (both registered and private) engaged in ESG investing. The guidance in the Risk Alert is consistent with indications expressed in other recent SEC Staff statements: ESG investing should be considered within the context of the well-established principles under the Federal Securities Laws. The below checklist highlights certain ESG-specific considerations within categories most frequently impacted by characteristics of ESG investing. The list is not intended to be comprehensive—each ESG investing strategy is unique and ESG investment approaches can vary widely.	***Fast Facts and Resources:*** **SEC Division of Examinations Risk Alert:** April 9, 2021 **SEC ESG Website:** Established 2021 **SEC Proxy Voting Guidance:** September 10, 2019 **SEC Supplemental Proxy Voting Guidance:** September 3, 2020 **Environmental, Social, and Governance (ESG) & Sustainability** **The SEC Staff Takes on ESG Investing** **The Regulatory Overlay on ESG Investing**

Compliance	
☐	• Ensure compliance programs cover all ESG aspects of investment strategies. • Consider whether any ESG-specific policies and procedures are warranted. • Determine whether time of trade testing and other controls are adequate to implement ESG strategies, stated screens, client guidelines, and restrictions. • Consider what compliance oversight is appropriate from an ESG perspective. • Are compliance professionals sufficiently knowledgeable about ESG investment practices?
Investment Management	
☐	• Are investment strategies related to ESG considerations being implemented as disclosed? • Are fund holdings consistent with client disclosures? • Can ESG-related investment decisions, as well as ongoing monitoring of ESG investments, be demonstrated with documentation (e.g., if fund purports to be adhering to a global ESG framework—can this adherence be demonstrated)? • Is monitoring in place to ensure compliance with stated buy/sell criteria?
☐	Oversight of sub-advisers, as applicable: • Ensure there is a clear understanding of how sub-advisers implement stated ESG strategies. • Ensure sub-adviser proxy voting policies and procedures are adhered to regarding ESG-related topics.

Disclosure – Prospectus	
☐	Investment strategy disclosures should be clear and accurate. • See April 9, 2021, Risk Alert for guidance and several examples. • Strategy disclosures should articulate how ESG will be incorporated into investment process.
☐	Risk disclosures should cover relevant aspects of ESG strategy (e.g., does the strategy contemplate reliance on third-party data or indexes?) • State that ESG/sustainability varies across the industry and investment products. • Adhere to global ESG frameworks and clearly disclose how any global ESG frameworks are incorporated into a strategy. • If considering an issuer voluntary disclosure (e.g., TCFD, SASB), state how the information will be used. • For index-based funds, ensure that the index methodology is clear and accurate.
☐	Consider whether Rule 35d-1 (names rule) applies to a fund and if an 80% investment policy is needed. • Disclosure should be clear as to whether the ESG component considers ESG a strategy or an investment type.
Disclosure – Other	
☐	• Ensure accuracy and consistency across all materials, including marketing materials, websites, and public statements, among others. • Ensure consistency with prospectus disclosures. • Ensure all claims in all disclosures can be substantiated.
Proxy Voting	
☐	• General proxy voting guidance applies in the ESG space. • Because the SEC is focused on this area, it is worthwhile to review proxy voting records internally to ensure adherence to policies and procedures.
Cross-Border Considerations	
☐	• If relevant, consider how compliance with EU/UK ESG regimes would be synced with how domestic products are managed.
ESG Oversight	
☐	• Consider whether an ESG committee is appropriate. • Consider whether designating a chief sustainability officer or similar position makes sense. • Consider whether to issue a corporate sustainability report.

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