TIME TO GET WITH THE (LIQUIDITY RISK) PROGRAM: SEC ISSUES LIQUIDITY RISK MANAGEMENT RULE FOR OPEN-END FUNDS

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Investment Management Alert

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EXECUTIVE SUMMARY

On October 13, 2016, the Securities and Exchange Commission ("SEC") adopted new Rule 22e-4 ("Liquidity Rule") under the Investment Company Act of 1940 ("1940 Act"), which requires registered open-end funds, including open-end exchange-traded funds ("ETFs") but excluding money market funds and closed-end funds, to establish and implement written Liquidity Risk Management Programs ("LRMPs").[1] The SEC also amended fund reporting forms, and adopted new forms, mandating disclosure of liquidity-related information to the SEC and to the public.[2] In a separate adopting release, the SEC adopted new paragraph (a)(3) of Rule 22c-1 under the 1940 Act ("Swing Pricing Rule"), which permits open-end funds, other than money market funds and ETFs, to use "swing pricing."[3] Swing pricing allows a fund to adjust its net asset value ("NAV") to pass on the costs associated with heavy trading activity to purchasing or redeeming shareholders.

Click here to read the full alert.

Notes:

[1] Investment Company Liquidity Risk Management Programs, SEC Release No. IC-32315 (Oct. 13, 2016) (the "Adopting Release"), www.sec.gov/rules/final/2016/33-10233.pdf. Unless otherwise indicated, references to "funds," "mutual funds," and "open-end funds" do not include money market funds or closed-end funds.

[2] For additional information on new disclosure and reporting obligations, see the related K&L Gates Client Alert, SEC Issues Investment Company Reporting Modernization Rules (Nov. 3, 2016), http://www.klgates.com/sec-issues-investment-company-reporting-modernization-rules-11-03-2016/.

[3] Investment Company Swing Pricing, SEC Release No. IC-32316 (Oct. 13, 2016), www.sec.gov/rules/final/2016/33-10234.pdf. The Swing Pricing Rule will be the subject of a separate K&L Gates Client Alert.

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