2017 BOSTON INVESTMENT MANAGEMENT CONFERENCE

Regulatory Developments

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AGENDA

- SEC Developments under the Trump Administration
- Implementation of New Rules
  - Liquidity Risk Management Program
  - Investment Company Reporting Modernization
  - Form ADV Amendments
- Potential New Rulemaking
- Examination Process
Developments under Trump administration
NEW LEADERSHIP AT THE SEC

- New Leadership at the SEC
  - Jay Clayton sworn in on May 4, 2017 as SEC Chairman
  - Dalia Blass appointed Director of the Division of Investment Management on August 31, 2017

- Significant reduction in the SEC’s rulemaking agenda
- Expected to focus on matters related to capital formation and access to capital instead of increased regulation
- Enforcement is expected to focus on individual accountability as opposed to large corporate penalties
There are currently only three SEC commissioners:
- Jay Clayton (since 2017 – term expires in 2021)
- Kara M. Stein (since 2013 – term expires in 2017)
- Michael S. Piwowar (since 2013 – term expires in 2018)

President Trump has made nominations for the two open seats:
- Hester Peirce (Republican)
- Robert L. Jackson Jr. (Democrat)
Implementation of new rules
LIQUIDITY RISK MANAGEMENT RULE

- Rule 22e-4 was adopted October 2016 to promote effective liquidity risk management for mutual funds and ETFs
- Current compliance dates for Liquidity Risk Management Program and related disclosures on Form N-PORT, N-CEN, N-LIQUID:
  - December 1, 2018 for most funds (fund groups with more than $1 billion in assets under management)
  - June 1, 2019 for all other funds
- Implementation presents a number of challenges for the industry
LIQUIDITY RISK MANAGEMENT RULE – INDUSTRY RESPONSE

- ICI actively engaged with SEC on behalf of its members
  - Letter to SEC in July 2017 urging the SEC to allow each fund to create its own classification policies and procedures, among other requests, and to delay compliance dates
  - Letter to SEC in November 2017 reiterating the request for delay noting significant vendor-related implementation delays
- Many firms in direct discussions with SEC on similar issues
SEC’S MODERNIZED REPORTING RULE - FORMS N-PORT/N-CEN: OVERVIEW

- Enhances data reporting for mutual funds, ETFs and other registered investment companies
- Registered funds required to file new monthly portfolio reporting form (Form N-PORT) and new annual reporting form (Form N-CEN) that requires census-type information
- Significant amounts of new data required for Forms N-PORT and N-CEN
- Current compliance dates on Form N-PORT/N-CEN
  - December 1, 2018 for most funds (fund groups with more than $1 billion in assets under management)
  - June 1, 2019 for all other funds
ICI actively engaged with SEC on behalf of its members

- July 2017 ICI Letter urged SEC to require quarterly (instead of monthly) reporting of portfolio holdings on Form N-PORT until the SEC managed to address information security concerns adequately
- Also urged SEC to delay the compliance deadlines for the Form N-PORT and Form N-CEN reporting requirements for at least six months
FORM ADV AMENDMENTS

- As of October 1, 2017, all investment advisers required to use an amended version of Part 1A
  - Must provide aggregate information about the separately managed accounts ("SMAs") managed by advisers in a new section
    - Includes the percentage of SMA regulatory assets under management across different asset categories, the use of borrowings and derivatives, and the identification of custodians that account for at least 10% of SMA regulatory assets under management
    - For purposes of reporting on Form ADV, SMAs are advisory accounts other than those that are pooled investment vehicles
FORM ADV AMENDMENTS (CONT’D)

- Revised Form ADV creates new disclosure protocol for advisers relying on umbrella registration and codifies the registration requirements in the 2012 SEC Guidance

- Amended Items 1.I., 1.F., and 1.J.
  - Item 1.I. requests information regarding the registrant’s accounts on publicly available social media platforms
  - Item 1.F. requests total number of offices from which adviser conducts investment advisory business and provides information
  - Item 1.J. requests whether the chief compliance officer (“CCO”) is compensated or employed by any person other than the adviser for providing CCO services to the adviser
Potential new rulemakings
POTENTIAL RULES ON THE HORIZON

- Derivatives Rule (proposed rule 18f-4 under Section 18 of the Investment Company Act of 1940)
  - Seeks to regulate the use of derivatives by registered investment companies and business development companies
    - Establishes limits on the size of derivatives and other senior security positions
    - Codifies asset segregation requirements and requires regulated funds with large positions in derivatives to establish risk management programs
  - Unclear if Rule will be adopted
  - October 2017 Treasury Report addressed Rule
    - Reconsider what, if any, portfolio limits should be part of the Rule
    - Reconsider the scope of assets that would be considered qualifying coverage assets
POTENTIAL RULES ON THE HORIZON (CONT’D)

- SEC Fiduciary Rule
  - SEC drawing up proposed rule with the DOL, whose fiduciary standard already went into effect this year
  - Clayton has mentioned four key elements to a potential rule
    - Preservation of investors’ choice to use a broker or advisor
    - Clarity
    - Application to retirement and non-retirement accounts
    - Cooperation between the SEC and the Labor Department
  - No timeframe provided
Examination process
EXAMINATION PROCESS UPDATES

- Reduction in funding to OCIE’s National Examination Program
- Agency on track this year to examine 20% more investment advisors
  - Increase attributed to 100 SEC staff members reassigned to national examination program’s investment advisor unit in 2016
- Likely to see shorter, more focused exams
Questions?