

Regulatory Insights

*Regulatory Insights for Asset Managers,
Mutual Funds and Retirement Firms*

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FINAL SEC RULE 30E-3 – OPTIONAL INTERNET AVAILABILITY OF INVESTMENT COMPANY SHAREHOLDER REPORTS

On June 5, the SEC announced adoption of rule 30e-3 under the Investment Company Act of 1940, which creates an optional “Notice and Access” method for delivering annual and semi-annual shareholder reports to shareholders. The rule allows mutual funds (and certain other registered investment companies) to deliver shareholder reports by making them publicly accessible on a website, free of charge, and sending shareholders paper notices of the reports’ availability by mail. Shareholders will still have the option to receive the full reports in paper.

Important Aspects of the Final Rule:

- The rule allows (but does not mandate) funds to rely on a ‘Notice & Access’ method to deliver shareholder reports. Funds relying on this rule can send a paper notice to shareholders of the availability of annual and semi-annual reports on the Internet, effective Jan 1, 2021 (if they include required disclosures on reports and prospectuses for the 2-year transition period).
- The mailed Notice must include (i) the website address where investors can access the full report, and (ii) how to request a full report by mail, (whether on an ad-hoc basis or permanently).
- The Notice must also have instructions on how to sign up for e-delivery, if applicable.

Compliance Dates:

- The rule is optional and effective on January 1, 2019.
- If the transition disclosure notifying investors about the intended use of the rule is included on shareholder reports and prospectuses for the 2-year transition period, Notices can be used as soon as on January 1, 2021.
- The transition disclosure notifications must be included on the front page of prospectuses, annual and semi-annual reports.
- Funds that wait until 2022 to begin sending Notices do not need to include the transition disclosures on fund documents.

- Funds and intermediaries need to be in a position to receive shareholder preferences for full paper reports after the first notification or first notice, whichever comes first.
- Funds that newly offer shares during January 1, 2019 to December, 31, 2020 can rely on the rule starting January 1, 2021, if they provided notification to shareholders starting with their first public offering. Funds newly offered after January 1, 2021 can start immediately relying on the rule.

Additional Requirements:

- Notices have to be sent within 70 days after the close of the fiscal period (extended from current 60-day rule). 60-day rule still applies for distribution of full paper reports and e-delivery.
- Notices can be consolidated with certain other documents, including account statements, prospectuses and proxy notices. Consolidated Notices are allowed for shareholder reports for multiple funds, including across fund complexes; House-holding and other suppression methods are permitted.
- Notices that include content from the shareholder reports have to be filed with the SEC, as part of Form N-CSR. Filing is required within 70 days after close of period being reported.
- The shareholder report and the fund's most recent prior report must be publicly accessible, free of charge, at a specified website.
- Quarterly holdings for the last fiscal year must also be publicly accessible at the website. These holdings would include those in the shareholder reports, which would cover the second and fourth fiscal quarters, and would also include holdings for the first and third fiscal quarters.

Other Key Information:

- Current e-delivery investors will not be affected and will continue to receive their reports electronically.
- The Notice must contain a prominent legend that states that the shareholder report is available online and in paper by request, and that the report contains important information about the fund including portfolio holdings and financial statements.
- Website – The website URL in the Notice does not have to be specific for each report, but shareholders would need to be able to go to a central landing page and navigate to the required document with one-click. The website can be hosted by the fund, intermediary, or a third party.
- Elections to receive reports in paper with respect to one fund will apply to other funds held currently or in the future in the same account with the fund complex or financial intermediary.

- The Notice must contain a toll-free telephone number – to contact the fund or intermediary and include:
 - Instructions for requesting full paper report or email copy at no charge
 - Instructions for how to opt for full paper reports in the future
 - Instructions for how to opt for e-delivery for future reports, if applicable

Additional information that MAY be included in the Notice

- Additional information from the full report may be included in the Notice, such as, a list of fund's top 10 holdings, performance information, type of fund, brief statement of the fund's objectives and investment strategies, expense ratio, name of fund manager, etc.
- The additional content should include all information appropriate for the shareholder to have, and should not be selective.
- There is no specified page limit, but funds should limit optional content to a relatively brief amount to avoid detracting from the primary purpose of the Notice, and to encourage investors to access the full report.
- If the Notice contains additional content, it must be filed with Form N-CSR.
- Control numbers or account numbers may be included on the Notice or on a coversheet to identify shareholders for ease of preference management.
- Pictures, logos or similar design elements may be used as long as they are not misleading.

SEC Chairman Jay Clayton's Comments from a June 5, 2018 Press Release

"In my view, the rule 30e-3 is an important and positive step toward modernizing the delivery of fund disclosures. Rule 30e-3 requires that shareholder reports and other specified documents be available to investors on a publicly available website. Website accessibility and electronic documents provide investors numerous tools that are not available with paper documents. They can offer improved search functions, the ability to hyperlink and move quickly within a document, and the option to more conveniently save a document for future reference. And, this is only the beginning of the Commission exploring the ways that electronic documents can be more interactive and ultimately useful for investors.

This rule also will help funds save on printing and mailing costs, which are ultimately borne by fund investors. Retail investors bear increasing responsibility to save for retirement, college, and other important financial goals. All cost savings helps investors get closer to meeting those goals."

The Rule and Public Statements by the SEC Commissioners Can be Found at:

- Rule 30e-3 Adopting Release and Rule <https://www.sec.gov/rules/final/2018/33-10506.pdf>
- Chairman Clayton's Statement: <https://www.sec.gov/news/public-statement/statement-clayton-060518>
- Commissioner Stein's Statement: <https://www.sec.gov/news/public-statement/statement-stein-060518>
- Commissioner Peirce's Statement: <https://www.sec.gov/news/public-statement/statement-peirce-060518>
- Commissioner Piovowar's Statement: https://www.sec.gov/news/public-statement/statement-piovowar-060518#_ftn1
- Commissioner Jackson's Statement: <https://www.sec.gov/news/public-statement/statement-jackson-060618>



SEC: FUND RETAIL INVESTOR EXPERIENCE AND DISCLOSURE - REQUEST FOR COMMENT

- On June 5, the SEC Commission announced that it issued a release requesting public comment on enhancing fund disclosures to retail investors and improving the investor experience. The primary focus is on the content, delivery, and format of disclosures, including fund prospectuses, statements of additional information, shareholder reports and other information.
- The request for comment examines whether funds present information in a way that works best for investors. It also solicits feedback on how to utilize technology to make disclosure more interactive and personalized.
- Comments are due on October 31, 2018.
- The Request for Comment can be found at: <https://www.sec.gov/rules/other/2018/33-10503.pdf>

HR 4610 "RECEIVING ELECTRONIC STATEMENTS TO IMPROVE RETIREE EARNINGS (RETIRE) ACT"

- House bill 4610 would change the defaults to e-delivery for communications to retirement plan participants. The bill was introduced in the House on 12/11/17 and referred to committee for consideration.
- On May 16, Paul Schott Stevens, CEO of the Investment Company Institute ("ICI"), voiced his support of the bill in testimony before the House Committee on Education and the Workforce Subcommittee on Health, Employment, Labor, and Pensions. Steven's full testimony can be found at: https://www.ici.org/pdf/18_house_cew_mep.pdf

EU GENERAL DATA PROTECTION REGULATION (GDPR)

- On May 25, the new GDPR went into effect in Europe, which replaced the Data Protection Directive 95/46/EC and was designed to harmonize data privacy laws across Europe.
- GDPR regulates the processing by an individual, a company or an organization of personal data relating to individuals in the EU.
- An overview of who is covered by the regulations (and who is not covered), the types of processing that are covered and the type of data covered can be found at: https://ec.europa.eu/commission/priorities/justice-and-fundamental-rights/data-protection/2018-reform-eu-data-protection-rules_en#abouttheregulationanddataprotection

FOR MORE INFORMATION

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