

US Securities and Exchange Commission Adopts Amendments to Money Market Fund Rule (Rule 2a-7)

On July 23, 2014, the US Securities and Exchange Commission (“SEC”) by a 3-2 vote, adopted amendments to Rule 2a-7 under the Investment Company Act of 1940 (“1940 Act”), as amended (“Rule 2a-7” or the “Rule”).¹ Rule 2a-7 imposes quality, liquidity, and other requirements on any registered open-end management investment company that holds itself out to the public as a money market fund (“MMF”). Compliance with the various provisions of the amended Rule will be phased in over the next two years.

The amendments adopted in July are a continuation of the SEC’s efforts to better address liquidity and other related risks experienced by certain MMFs during times of stress (such as, for example, significant market events like the 2008 financial crisis, the subsequent 2011 Eurozone sovereign debt crisis, and the 2013 US Government debt ceiling impasse).² Although the SEC adopted amendments to the Rule in 2010, in which additional portfolio quality and liquidity restrictions were placed on MMFs, the SEC, in the Adopting Release, stated that the latest set of amendments are “designed to address [MMFs’] susceptibility to heavy redemptions in times of stress, improve their ability to manage and mitigate potential contagion from such redemptions, and increase the transparency of their risks, while preserving, as much as possible, their benefits.”³

The 2014 amendments, the proposed version of which received over 1,400 comments, include a number of provisions:

- Requiring institutional non-government MMFs to sell and redeem their shares based on the current market-based value of their portfolio securities (a so-called “floating” net asset value (“NAV”));
- Allowing (or sometimes requiring) MMFs to impose liquidity fees or to temporarily suspend redemptions (so called “redemption gates”);
- Providing valuation guidance for all registered funds, not just MMFs;
- Imposing new disclosure requirements on MMFs and certain large unregistered liquidity funds;
- Revising the Rule’s diversification and stress testing requirements;
- Clarifying certain 2010 amendments to the Rule; and
- Proposing the removal of references to credit ratings and certain amendments to the Rule’s issuer diversification provisions.

New Floating NAV for Institutional MMFs

(Compliance Date: October 14, 2016)

The 2014 amendments to the Rule require MMFs that are neither “government” MMFs nor “retail” MMFs (i.e., MMFs that are either institutional prime or institutional municipal

MMFs) to value their portfolio securities using market-based factors and to transact purchases and redemptions of their shares based on a floating NAV (rather than at a stable \$1.00 NAV per share, using either the penny rounding method and/or the amortized cost method set out in the Rule).

A floating NAV must be calculated by rounding to the fourth decimal place in the case of an MMF with a \$1.0000 share price (i.e., basis point rounding is to the nearest 1/100th of 1%) or an equivalent or more precise level of accuracy for MMFs with a different share price.⁴ This is a change from the current penny rounding standard (i.e., to the nearest 1%, or two decimal places for an MMF with a \$1.00 share price). MMFs using a floating NAV may continue to hold themselves out as “money market funds.”

An MMF that does not fall under either the definition of a retail MMF or a government MMF (i.e., an institutional prime or institutional municipal MMF) is subject to the new floating NAV requirement. MMFs that qualify as either government or retail MMFs can continue to use penny rounding or amortized cost.

A “government” MMF is defined as any MMF that invests 99.5% or more of its total assets in cash, government securities (as defined in the 1940 Act), and/or repurchase agreements that are “collateralized fully” by government securities or cash.⁵

A “retail” MMF is defined as an MMF that has policies and procedures reasonably designed to limit all beneficial owners to natural persons.⁶ A retail MMF can be any type of MMF (e.g., a municipal/tax-exempt or government MMF). The SEC expects retail MMFs to review periodically the adequacy of such policies and procedures and the effectiveness of their implementation.⁷ The SEC believes that most MMFs will use social security numbers as part of their compliance process to limit beneficial ownership to natural persons, as institutional

investors are not issued social security numbers.⁸ The SEC stated that social security numbers are almost always obtained as part of the account-opening process (for natural persons) and are included in MMF transfer agent and intermediary records. In addition, financial intermediaries using omnibus account registrations obtain social security numbers for natural persons as part of the account-opening process and compliance, which will enable the intermediaries (and thus the MMF) to distinguish between retail and institutional investors. Often, MMFs and financial intermediaries collect social security numbers as part of “know your customer” and similar anti-money laundering procedures.⁹ The SEC noted that an MMF may require (as a matter of doing business) that its financial intermediaries implement policies related to qualification as a retail MMF.¹⁰

The SEC also expects that an MMF that intends to qualify as a retail MMF would disclose in its prospectus that it limits investments to accounts beneficially owned by natural persons.¹¹

Rationale for Institutional MMFs – The SEC adopted a floating NAV requirement for institutional MMFs because it believes that institutional shareholders often respond more quickly than retail shareholders to potential market stresses, giving institutional shareholders “first mover advantage” in a stable \$1.00 NAV per share MMF, where the shareholders who redeem first in a period of heavy redemptions can avoid the share dilution effects from the market and liquidity losses that non-redeeming shareholders face.¹² Further, because institutional MMFs are required to adopt a floating NAV, they must use the basis point rounding convention.¹³ The SEC believes that basis point rounding should better highlight for investors the greater risks involved in institutional MMFs as compared to government MMFs, by regularly showing market gains and losses in the institutional MMF’s portfolio.¹⁴

Rationale for Government and Retail

MMFs – The SEC said that it did not apply the floating NAV requirement to government MMFs because, among other things, government MMFs historically have experienced inflows, rather than outflows, in times of stress, and the assets in such MMFs tend to appreciate in value in times of stress rather than depreciate (most likely due to the flight to quality investments).¹⁵ Regarding retail MMFs, the SEC stated that retail investors historically have behaved differently from institutional investors in a crisis and were less likely to make large redemptions quickly in response to the first sign of market stress.¹⁶ However, retail MMFs will still have the ability to impose liquidity fees and redemption gates (discussed below) and will be required to include additional disclosures in their prospectuses and statements of additional information (“SAIs”) to warn retail investors about relevant risks.¹⁷

Rationale for Municipal MMFs (Tax-Exempt MMFs)

– As mentioned above, the amended Rule requires municipal (or tax-exempt) MMFs to transact purchases and redemptions at a floating NAV unless the MMF meets the definition of a retail MMF (if so, it would be permitted to use the amortized cost method and/or penny rounding method of pricing).¹⁸ While the SEC in the Adopting Release noted that many municipal MMFs may qualify under the definition of retail MMFs (and thus will be able to price at a stable \$1.00 NAV by restricting beneficial owners to natural persons), the SEC stated that there are some municipal MMFs that self classify as institutional MMFs or have beneficial owners that are institutional investors.¹⁹ As such, the SEC stated that tax-exempt (municipal) MMFs should be subject to the floating NAV provisions.²⁰

Tax Implications of a Floating NAV

– In July 2014, the US Treasury Department and the Internal Revenue Service (“IRS”) proposed new regulations to allow investors in floating NAV MMFs to use a simplified tax accounting method for tracking gains and losses.²¹ The proposed regulations will eliminate the requirement that investors, for tax reporting purposes, track individual share purchase and redemption transactions for MMFs with floating NAVs.²² Instead, investors can use their account statements from the MMFs (information that is routinely provided to them for non-tax purposes) to determine their net gain or loss (which is calculated by the increase/decrease in the value of the investor’s shares during a period *minus* the net investment in those holdings).²³ Further, the IRS, the US Treasury Department, and the SEC recognized that because many MMF investors automatically reinvest their dividends (which are often paid monthly), virtually all redemptions by these investors would be within 30 days of a dividend reinvestment (i.e., a purchase) and subject to the IRS wash sale rule.²⁴ In response, the IRS released a new revenue procedure that exempts, from the IRS wash sale rule, dispositions of shares in any floating NAV MMF.²⁵

Proposed Rule 10b-10 Exemptive Relief

– The SEC stated that broker-dealers can no longer rely on the current exception under Rule 10b-10(b) of the Securities Exchange Act of 1934 for transactions in shares of floating NAV MMFs.²⁶ Absent exemptive relief, broker-dealers must provide immediate confirmations for all such transactions. To address this situation, the SEC issued a contemporaneous release that requested comment on a proposed order that would grant exemptive relief under certain circumstances from Rule 10b-10’s immediate confirmation delivery requirements for transactions effected in shares of floating NAV MMFs.²⁷ As of the publication of this Legal Update, the SEC has yet to finalize the proposal for exemptive relief.

Liquidity Fees and Redemption Gates (Compliance Date: October 14, 2016)

The Rule amendments allow (and sometimes require) non-government MMFs to impose liquidity fees and redemption gates under certain circumstances. Government MMFs are not obligated to impose liquidity fees or redemption gates, but are permitted to impose such restrictions, provided they disclose their authority to do so in the prospectus and comply with the liquidity fee and redemption gate parameters in the amended Rule.²⁸

In the Adopting Release, the SEC explained that liquidity fees and redemption gates are designed to be tools that MMFs can use to manage the threat of high redemptions during periods of stress.²⁹ Liquidity fees are intended to provide MMF shareholders continued access to their investments while also reducing the incentives for those shareholders to redeem their shares.³⁰ The SEC suggested that MMFs could use liquidity fees and redemption gates strategically, balancing the benefits and costs of these tools by, for example, choosing to first impose a liquidity fee and then, if needed, imposing a redemption gate.³¹ Fees and gates can be imposed by an MMF at any time during the day.³² In addition, MMFs are not required to impose liquidity fees on net redemptions; instead liquidity fees apply to each redemption separately.³³

Discretionary Liquidity Fees – Under the amended Rule 2a-7(c)(2)(i), any type of MMF is *permitted* to impose a discretionary liquidity fee of up to 2% on all redemptions if the MMF’s weekly liquid assets fall below the minimum amount required by the Rule, which is 30% of total assets.³⁴ To impose a discretionary liquidity fee, the MMF’s board of directors (the “Board”), including a majority of the independent directors, must determine that the fee is in the MMF’s best interests.³⁵ Once imposed, a discretionary liquidity fee will remain in effect until: (i) the Board, including a majority of the independent directors, determines that

the fee is no longer in the MMF’s best interests; or (ii) the next business day after the MMF’s weekly liquid assets reach the required 30% minimum, whichever occurs first.³⁶

Mandatory Liquidity Fees – A non-government MMF is *required* to impose a liquidity fee of 1% on all redemptions if the MMF’s weekly liquid assets fall below 10%,³⁷ unless the Board, including a majority of the independent directors determines that the 1% fee is not in the MMF’s best interests (in which case no fee would be imposed), or that a lower or higher (up to 2%) liquidity fee is in the MMF’s best interests (in which case the Board-approved fee would be imposed).³⁸

Discretionary Redemption Gates – Similar to discretionary liquidity fees, any type of MMF is *permitted* to temporarily suspend redemptions (i.e., impose a “redemption gate”) if the MMF’s weekly liquid assets fall below 30% of its total assets.³⁹ To impose a redemption gate, the Board, including a majority of the independent directors, must determine that the redemption gate is in the MMF’s best interests.⁴⁰ A redemption gate must be lifted on the earlier of: (i) the 10th business day after the gate is imposed; (ii) the next business day after the MMF’s weekly liquid assets return to the required 30% minimum;⁴¹ or (iii) the date on which the Board, including a majority of the independent directors, determines that the gate is no longer in the MMF’s best interests.⁴² However, an MMF may not impose a redemption gate for more than 10 business days in any rolling 90-calendar day period.⁴³

Board Determinations Regarding Liquidity Fees and Redemption Gates

– The amended Rule requires the Board to make “best interests” determinations with respect to liquidity fees and redemption gates. In the Adopting Release, the SEC declined to provide a definitive set of factors that Boards must consider when making these determinations, stating that “a fund board should consider any factors it deems appropriate when determining

whether fees and/or gates are in the best interests of a fund.”⁴⁴ However, the SEC did provide some guidance on what Boards may want to consider when making these determinations,⁴⁵ and offered the following factors:

- i) The reason(s) why the MMF’s weekly liquid assets have fallen (e.g., market factors or unrelated shareholder redemptions);
- ii) The MMF’s liquidity profile and expectations as to how that profile might change in the immediate future, including any expectations as to how quickly the MMF’s liquidity may decline and whether the drop in weekly liquid assets is likely to be very short-term (e.g., the Board should ask, “Will the decline in weekly liquid assets be cured in the next day or two when securities currently held in the [MMF]’s portfolio qualify as weekly liquid assets?”);
- iii) For retail and government MMFs (i.e., stable NAV MMFs), whether the fall in weekly liquid assets has been accompanied by a decline in the MMF’s shadow price (similarly, a floating NAV MMF’s Board may wish to consider any drops in the MMF’s NAV);
- iv) The make-up of the MMF’s shareholder base and previous shareholder redemption patterns; and/or
- v) The MMF’s experience, if any, with the imposition of fees and/or gates in the past.⁴⁶

Some commenters proposed that Boards should be permitted to reasonably determine and commit themselves in advance to a policy not to allow a fee or gate to ever be imposed on an MMF. The SEC disagreed with this. It believes that a blanket decision on the part of a Board not to impose fees or gates, without any knowledge or consideration of the particular circumstances of an MMF at a given time, would be flatly inconsistent with the fees and gates amendments. The SEC said that when an MMF falls below 10% weekly liquid assets, its liquidity

is sufficiently stressed that the Board should be required to consider, *based on the facts and circumstances at that time*, what, if any, action should be taken to address the MMF’s liquidity.

Omnibus Relationships – The SEC expects MMFs to use their contractual relationships with financial intermediaries to impose liquidity fees on beneficial owners holding shares through omnibus accounts, much like other registered funds do with respect to redemption fees that are designed to prevent market timing.⁴⁷ Some MMFs may seek certifications or other assurances that these intermediaries and service providers will apply any liquidity fees to the beneficial owners, and otherwise may need to engage in certain communications with intermediaries and others regarding liquidity fees.⁴⁸

Valuation Guidance for All Registered Funds

Use of Amortized Cost – Noting that retail and government MMFs may still utilize the amortized cost and/or penny rounding pricing methods to maintain a stable \$1.00 NAV, the SEC provided valuation guidance regarding *any registered fund’s* use of amortized cost when valuing debt securities with remaining maturities of 60 days or less (“short-term debt securities”).⁴⁹ According to the SEC, a registered fund may only use the amortized cost method to value a short-term debt security when it can reasonably conclude, *each time it makes a valuation determination*, that the amortized cost value of the security is approximately the same as the fair value of the security as determined without the use of amortized cost valuation.⁵⁰ The SEC believed that existing credit, liquidity, or interest rate conditions in the relevant markets and issuer specific circumstances at each such time should be taken into account, and that each registered fund should have readily available market-based data to assist it in monitoring any potential deviation between a security’s amortized cost and fair

value determined using market-based factors.⁵¹ In this regard, the SEC stated that a registered fund's policies and procedures could be designed to ensure that the registered fund's adviser is actively monitoring both market- and issuer-specific developments that may indicate that the market-based fair value of a short-term debt security has changed during the day, and therefore indicate that the use of amortized cost valuation for that security may no longer be appropriate.⁵²

Use of Matrix Pricing for Thinly-Traded Debt Securities – The SEC also provided guidance regarding *any registered fund's* use of “mark-to-model” or “matrix pricing” estimates from pricing services for portfolio securities that do not have readily available market quotations (i.e., thinly-traded debt securities).⁵³ The SEC stated that while registered funds may consider such model and matrix pricing estimates when fair valuing a thinly-traded debt security, they must still take into account “market conditions existing at the time.” The SEC also stated that registered funds should not fair value thinly-traded debt securities “at par or amortized cost based on the expectation that the [registered] funds will hold those securities until maturity, if the funds could not reasonably expect to receive approximately that value upon the current sale of those securities under current market conditions.”⁵⁴

Use of Matrix and Other Evaluated Prices Generally – The SEC also provided guidance regarding *any registered fund's* use of evaluated prices (i.e., matrix or model-based pricing from pricing services) to help determine the fair value of portfolio securities that do not have readily available market quotations (i.e., thinly-traded debt securities).⁵⁵ Evaluated prices are prices that are provided by third-party vendors and, generally, are determined by taking into account the inputs used for matrix pricing (e.g., pricing of new issues, yield curve information, spreads, and prices of similar securities), as well as the prices quoted from market makers in these

instruments and from financial models.⁵⁶ According to the SEC, evaluated prices provided by pricing services are not, by themselves, “readily available” market quotations or fair values as determined in good faith by the Board.⁵⁷ The SEC generally noted that a Board should have a good faith basis for believing that evaluated prices reflect the portfolio asset's current value.⁵⁸ The SEC recommended that Boards consider the inputs, methods, models, and assumptions used by pricing services to calculate evaluated prices, and how those inputs, methods, models, and assumptions are affected (if at all) as market conditions change.⁵⁹ Specifically, the SEC suggested that Boards consider, among other things: (i) the quality of the evaluated prices provided by the pricing service; (ii) the chronological proximity between when the pricing service determines its evaluated prices and the registered fund calculates its net asset value; and, more generally (iii) the appropriateness of using evaluated prices provided by pricing services as the fair values of the registered fund's portfolio securities (e.g., where the Board does not have a good faith basis for believing that the pricing service's pricing methodologies produce evaluated prices that reflect what the registered fund could reasonably expect to obtain for the securities in a current sale under current market conditions).⁶⁰

Amendments to Rule 22e-3

The SEC also revised Rule 22e-3 to align it with amended Rule 2a-7.⁶¹ Under the prior version of Rule 22e-3, MMFs were permitted to permanently suspend redemptions and liquidate if the MMF's Board determined that the deviation between the MMF's amortized cost price per share and its market-based NAV per share might result in material dilution or unfair results to investors or existing shareholders (i.e., it has broken the buck or is about to “break the buck”).⁶² In the Adopting Release, the SEC made two significant revisions to Rule 22e-3.

First, stable NAV MMFs (i.e., retail and government MMFs) and floating NAV MMFs are permitted (but *not* required) to permanently suspend redemptions and liquidate if their level of weekly liquid assets falls below 10% of total assets.⁶³ Second, *only* a stable NAV MMF can continue to be able to invoke Rule 22e-3's exemption if the MMF has broken the buck or is about to "break the buck."⁶⁴ Thus, under amended Rule 22e-3, an MMF may suspend redemptions and payments of redemption proceeds, if:

- i) The MMF's liquidity is significantly stressed, because either:
 - a) With respect to stable NAV MMFs *only*, the Board, including a majority of independent directors, determines that the deviation between the MMF's amortized cost price per share and the market-based NAV per share may result in material dilution or other unfair results to investors (i.e., the MMF has broken the buck or is about to "break the buck"⁶⁵); or
 - b) With respect to floating NAV MMFs *and* stable NAV MMFs, the MMF's weekly liquid assets have fallen below 10% of total assets (whether or not that MMF has previously imposed a fee or gate);
- ii) The MMF's Board, along with a majority of independent directors, has irrevocably approved the MMF's liquidation; and
- iii) The MMF provides prior notification to the SEC of its decision to suspend redemptions and liquidate.⁶⁶

Importantly, the SEC staff has clarified that if an MMF drops below the 10% weekly liquid asset threshold, the MMF is not required to impose a fee before relying on Rule 22e-3 to suspend redemptions and liquidate, so long as the MMF's Board determines that such action is in the MMF's best interests.⁶⁷

Enhanced Disclosure Requirements

As mentioned previously, the amended Rule also included a number of enhanced disclosure requirements in an effort to have more transparency of an MMF's portfolio holdings, operations, and risks.

Required Disclosure Statement (Compliance Date: April 14, 2016 (disclosure not related to liquidity fees and redemption gates) and October 14, 2016 (for disclosure related to liquidity fees and redemption gates))

– MMFs are required under revisions to the various disclosure rules (e.g., Rule 482 under the Securities Act of 1933 and Form N-1A) to include a specific and required risk disclosure statement in their advertisements, other sales materials (including the MMF's website), and summary prospectus (or summary portion of its statutory prospectus if summaries are not used).⁶⁸ This required disclosure also includes a modified version that will apply to MMFs that price based on a floating NAV.⁶⁹

Disclosure of Tax Consequences and Effect on Fund Operations (Floating NAV) (Compliance Date: October 14, 2016)

– The SEC also discussed the additional floating NAV-related disclosure obligations for institutional prime MMFs in their prospectuses and SAIs as a result of the revisions to the Rule.⁷⁰ The Adopting Release stated that these MMFs should update their prospectuses and SAIs to include disclosures about the tax consequences to shareholders of buying, holding, exchanging, and selling the shares of the floating NAV MMF as well as any necessary revisions to the current disclosure regarding the purchase, redemption, and pricing of the MMF's shares to reflect any changes resulting from its use of a floating NAV.⁷¹

Disclosure on Use of Liquidity Fees and Redemption Gates (Compliance Date: October 14, 2016)

– The Adopting Release stated that MMFs must disclose any restrictions

on fund redemptions in their registration statement. In order to comply with this requirement, the Adopting Release explained that each MMF (other than government MMFs that have not chosen to impose liquidity fees and redemption gates) must disclose in its registration statement the effects that the potential imposition of liquidity fees and/or redemption gates may have on a shareholder's ability to redeem shares of the MMF.⁷² A government MMF that relies on Rule 2a-7(c)(2)(iii) and is not subject to the fees and gates requirements, but that later decides to rely on the ability to impose discretionary liquidity fees, must update its registration statement to reflect such ability through either a post-effective amendment or a prospectus supplement,⁷³ and must (according to the SEC staff) provide at least 60 days' written notice to shareholders of its ability to impose such fees.⁷⁴

The Adopting Release stated that this disclosure should help investors evaluate the costs that they could incur in redeeming MMF shares. The SEC recommended (in the Adopting Release) that, when drafting this disclosure for the prospectus, MMFs consider the following:

- i) The means of notifying shareholders about the imposition and lifting of fees and/or gates;
- ii) The timing of the imposition and lifting of fees and gates, including:
 - a) An explanation that if an MMF's weekly liquid assets fall below 10% of its total assets at the end of any business day, the next business day it must impose a 1% liquidity fee on shareholder redemptions unless the MMF's Board determines that doing otherwise is in the best interests of the MMF;
 - b) An explanation that if the MMF's weekly liquid assets fall below 30% of its total assets, it may impose fees or gates as early as the same day; and
- c) An explanation of the 10 business day limit for imposing gates;
- iii) The use of fee proceeds by the MMF, including any possible return to shareholders in the form of a distribution;
- iv) The tax consequences to the MMF and its shareholders of the MMF's receipt of liquidity fees; and
- v) The general description of the process of liquidation if the MMF's weekly liquid assets fall below 10%, and the MMF's Board determines that it would not be in the best interests of the MMF to continue operating.

In addition to the above, the Adopting Release stated that such MMFs also must provide certain historical disclosure in their SAIs regarding liquidity fees and redemption gates. This disclosure includes any occasion during the last 10 years (other than for occasions prior to the above Compliance Date) on which: (i) the MMF's weekly liquid assets have fallen below 10%, and with respect to each such occasion, whether the MMF's Board has decided to impose a liquidity fee and/or suspend the MMF's redemptions; or (ii) the MMF's weekly liquid assets have fallen below 30% (but not less than 10%) and the MMF's Board has decided to impose a liquidity fee and/or suspend the MMF's redemptions.⁷⁵

Historical Disclosure of Affiliate Financial Support (Compliance Date: April 14, 2016) – MMFs also are now required to disclose in their SAI any occasion during the last 10 years (but not for occasions that occurred before the Compliance Date) in which the MMF received “financial support” (defined in the Rule) from any of its affiliated persons (or affiliates of such persons).⁷⁶ The Adopting Release stated that the SEC believes that these disclosures will provide transparency to shareholders and to the SEC about the frequency, nature, and amount of affiliate financial support.⁷⁷

Website Disclosure (Compliance Date: July 14, 2015 (for disclosures not related to liquidity fees and redemption gates) and October 14, 2016 (for disclosures related to liquidity fees and redemption gates)) – MMFs are also required to disclose certain operational data and other matters prominently on their website. This includes the disclosure of: (i) the MMF’s levels of daily and weekly liquid assets; (ii) the MMF’s daily net shareholder inflows or outflows; (iii) the MMF’s daily current market-based NAVs per share; (iv) when an MMF’s weekly liquid assets fall below 10% of its total assets (if the MMF imposes liquidity fees and redemption gates); and (v) the MMF’s use of affiliate financial support.⁷⁸

Form N-CR (Significant Event Disclosure) (Compliance Date: July 14, 2015 (for disclosures not related to liquidity fees and redemption gates) and October 14, 2016 (for disclosures related to liquidity fees and redemption gates)) – Pursuant to new Rule 30b1-8 under the 1940 Act, the SEC created a new Form N-CR, which includes several disclosure items regarding certain significant events affecting MMFs. Under the new Form N-CR, MMFs are required to promptly disclose: (i) the imposition or removal of liquidity fees or redemption gates, including the primary considerations or factors taken into account by an MMF’s Board in its decision to impose such fees and gates; (ii) a default in a portfolio security (if applicable); (iii) affiliate financial support, including the amount of support and a brief description of the reason for support; and (iv) falls in the MMF’s market-based NAV per share below \$0.9975 for retail and government MMFs.⁷⁹ The Adopting Release stated that MMFs generally are required to submit a brief summary filing on Form N-CR within 1 business day of the occurrence of the event, and a follow-up filing within 4 business days that includes a more complete description and information.⁸⁰

Form N-MFP (Reporting of Portfolio Holdings) (Compliance Date: April 14, 2016) – The SEC also amended the reporting requirements within Form N-MFP, the form providing monthly portfolio holdings information about MMFs. Under amended Form N-MFP, MMFs are required to report additional information that is useful in evaluating the MMF’s risk (including, but not limited to the MMF’s NAV per share, liquidity levels, and shareholder flow).⁸¹ The SEC also eliminated the current 60-day delay on public availability of the information filed on this Form (it is now publicly available immediately upon filing).⁸²

Amendments to Form PF Reporting Requirements (Compliance Date: April 14, 2016) – The SEC amended Form PF, the reporting form for certain registered private fund advisers, to help the SEC and the US Financial Stability Oversight Board track assets shifting from MMFs to unregistered products (such as liquidity funds⁸³) and to understand better the risks associated with such asset shifts. Under the amended Form PF, a liquidity fund adviser managing at least \$1 billion in combined MMF and liquidity fund assets is required to report very similar portfolio information on Form PF as MMFs are required to report on Form N-MFP.⁸⁴

Revised Diversification and Stress Testing Requirements under the Rule (Compliance Date: April 14, 2016)

As mentioned previously, the Rule amendments included revisions to the diversification and stress-testing requirements that the SEC believes are designed to make MMFs more resilient.

Diversification Amendments – The amendments to the Rule include the following changes to the diversification requirements for MMFs’ Portfolios:

- i) **Aggregation of Affiliates:** Under the prior version of the Rule, an MMF

generally could not invest more than 5% of its assets in a single issuer. Under the amended Rule, MMFs are now required to aggregate their investments in affiliated entities for purposes of this 5% limit; thus, MMFs must now limit their exposure to affiliated entities.⁸⁵ This resembles the existing approach in Rule 2a-7 with respect to the 10% limit on investments subject to guarantees and demand features.⁸⁶ For the purpose of aggregating affiliates, an entity is affiliated with another if it controlled the other entity, is controlled by it, or is under common control with it; and “control” is defined, for this purpose, to mean ownership of more than 50% of an entity’s voting securities.⁸⁷ However, with respect to the 5% issuer diversification limit, the amended Rule now excepts from this 50% test for “control” certain majority equity owners of asset-backed commercial paper special purpose entities (“SPEs”).⁸⁸

- ii) **The “25% Basket” for Guarantee and Demand Feature Diversification:** The former version of the Rule applied a 10% diversification limit on guarantees and demand features, but that 10% limit applied only to 75% of an MMF’s total assets.⁸⁹ This permitted an MMF to have as much as 25% of its portfolio subject to guarantees or demand features from a single institution (referred to as the “25% basket”).⁹⁰ Under the amended Rule, the 25% basket is removed for MMFs other than tax-exempt MMFs (i.e., municipal MMFs).⁹¹ For tax-exempt MMFs, the 25% basket is reduced to 15% so that no more than 15% of the value of securities held in a tax-exempt MMF’s portfolio can be subject to guarantees or demand features from a single institution.⁹²
- iii) **Diversification for Sponsors of Special Purpose Entities:** Under the prior version of the Rule, each SPE was

considered a separate issuer and MMFs were not required to diversify against certain ABS sponsor support.⁹³ As a result, an MMF’s portfolio could consist entirely of securities issued by multiple SPEs, but all with a single ABS sponsor.⁹⁴ Thus, under the prior Rule, an MMF could assume a substantial concentration of risk in a single economic enterprise—a result that the SEC considered inconsistent with Rule 2a-7’s diversification requirements.⁹⁵ Under the amended Rule, MMFs are required to treat the sponsor of a SPE that issues ABS as a guarantor of the ABS subject to the Rule’s diversification limitations, which are applicable to guarantors and demand feature providers (i.e., the 10% diversification limit described above).⁹⁶ There are two exceptions to this requirement under the amendments to the Rule. First, the MMF’s Board (or its delegate) is allowed to waive this requirement by determining that the MMF is not relying on the financial strength of the SPE’s sponsor or its ability or willingness to provide liquidity, credit, or other support to determine the ABS’s quality or liquidity.⁹⁷ Second, where a security is subject to a fractional demand feature or guarantee (i.e., where only a portion of the principal is subject to a demand feature or guarantee) by the ABS sponsor, then the MMF may count the fractional demand feature or guarantee *in place of* deeming the sponsor as a guarantor of the entire principal amount of the ABS.⁹⁸

Enhanced Stress Testing – The amended Rule enhances its recently established stress testing requirements by requiring each MMF to test its ability to maintain weekly liquid assets of at least 10% and to minimize principal volatility under certain hypothetical stress scenarios. The amended Rule provides more detail regarding these scenarios, which generally include: (i)

increases in the level of short-term interest rates; (ii) the downgrade or default of particular portfolio security positions, each representing various exposures in the MMF's portfolio; and (iii) the widening of spreads in various sectors to which the MMF's portfolio is exposed, in combination with differing increases in shareholder redemptions.⁹⁹ Lastly, the amended Rule provides more specificity about the report that the MMF's investment adviser must provide to the MMF's Board regarding the results of the stress tests.¹⁰⁰

Clarifying Amendments

(Compliance Date: April 14, 2016)

The SEC also adopted certain clarifying amendments with regard to provisions previously implemented in the 2010 revisions to the Rule. Specifically, the SEC clarified the following:

i) **Daily and Weekly Liquid Assets**

Definitions: The SEC amended Rule 2a-7 to provide clarity as to certain characteristics of instruments that qualify as “daily liquid assets”¹⁰¹ or “weekly liquid assets.” More specifically, under the Rule amendments, MMFs cannot use the maturity-shortening provisions in Rule 2a-7(d) regarding interest rate readjustments when determining whether a security satisfies the maturity requirements of a “daily liquid asset” or “weekly liquid asset.”¹⁰² Generally, the maturity of a portfolio security is the period remaining (from the trade date) until the date on which, in accordance with the terms of the security, the principal amount must be paid.¹⁰³ Without these amendments (i.e., under the prior version of the Rule), an MMF using interest rate readjustments to determine maturity could include securities as daily or weekly liquid assets that the MMF has no legal right to convert to cash in 1 or 5 business day(s).¹⁰⁴ The SEC considered this result inconsistent with the

purpose of the daily and weekly liquidity requirements, which is to increase an MMF's ability to pay redeeming shareholders in times of market stress when the MMF cannot rely on the market or a dealer to provide immediate liquidity.¹⁰⁵

Further, under the Rule amendments, an agency discount note¹⁰⁶ with a remaining maturity of 60 days or less qualifies as a “weekly liquid asset,” only if the note is non-interest bearing (i.e., it is issued without an obligation to pay interest on the principal amount).¹⁰⁷ The SEC excluded interest-bearing agency notes from “weekly liquid assets” because such notes are extremely rare and were not among the agency notes that were relatively liquid during the 2008 financial crisis.¹⁰⁸ Finally, the Rule was amended to include under the definition of “daily liquid assets” and “weekly liquid assets,” amounts receivable that are due unconditionally within 1 or 5 business day(s), respectively, on pending sales of portfolio securities, so long as there is no reason to believe that the buyer might not perform.¹⁰⁹

ii) **Demand Feature Definition:** Under the prior version of the Rule, a “demand feature” was defined as a feature that, among other things, was exercisable at any time on no more than 30 calendar days' notice or at specified intervals not exceeding 397 calendar days and upon no more than 30 calendar days' notice.¹¹⁰ The SEC has eliminated from the amended Rule the requirement that a demand feature be exercisable at any time on no more than 30 calendar days' notice.¹¹¹ Thus, a “demand feature” now means a feature permitting the holder of a security to sell the security at an exercise price equal to the approximate amortized cost of the security plus accrued interest, if any, at the later of the time of exercise or settlement of the

transaction, paid within 397 calendar days of exercise.¹¹² The SEC believed that the 30-day notice requirement, which was originally designed to ensure that MMFs maintain adequate liquidity, had become obsolete after the 2010 amendments to the Rule.¹¹³

iii) **Short-Term Floating Rate Securities:** Under the prior version of the Rule, the maturity-shortening provision for a short-term floating rate security stated that such security was “deemed to have a maturity of one day.”¹¹⁴ This maturity-shortening method was used because the interest rate of a floating rate security could fluctuate daily.¹¹⁵ However, the maturity-shortening provision for a short-term variable rate security allowed for a maturity determination based on the time remaining until the principal amount could be recovered through demand.¹¹⁶ The SEC stated that it had always intended for the maturity-shortening provisions for the floating rate and variable rate securities to work in parallel and provide the same results.¹¹⁷ The SEC noted, however, that the lack of an explicit reference to “demand features” in the maturity-shortening provision for short-term floating rate securities had created uncertainty in determining the maturity of such securities with a demand feature for the purpose of calculating an MMF’s weighted average life (“WAL”).¹¹⁸ Thus, under the amended Rule, for purposes of determining an MMF’s WAL, a short-term floating rate security is deemed to have a maturity equal to the period remaining until the principal amount can be recovered through demand.¹¹⁹

iv) **Second Tier Securities:** The 2010 Rule amendments limited MMFs to acquiring second-tier securities with remaining maturities of 45 days or less.¹²⁰ Although the SEC’s analysis in the 2010 adopting

release focused primarily on second-tier securities, the prior version of the Rule did not explicitly state that such 45-day limit must be determined without reference to the maturity-shortening provisions for interest rate readjustments.¹²¹ Accordingly, amended Rule 2a-7(d)(2)(ii) now incorporates that language (i.e., it specifically states that the 45-day limit for second-tier securities must be determined without reference to the maturity-shortening provisions in the Rule for interest rate readjustments).¹²²

Proposed Amendments: Removal of References to Credit Ratings and Amendments to the Rule’s Issuer Diversification Provisions

(Comment Period Ended: October 14, 2014)

In tandem with the Rule amendments, the SEC also re-proposed further amendments to the Rule and Form N-MFP with regard to credit ratings as well as a proposed revision to the Rule’s issuer diversification requirements.¹²³ First and in response to requirements under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the SEC is proposing to remove any references to, or any requirement of reliance on, credit ratings in its regulations. In its place, the SEC is proposing that MMFs and their Boards establish alternative and appropriate creditworthiness standards for portfolio securities. Additionally, the re-proposed amendments would revise Form N-MFP to require that an MMF disclose, for each portfolio security, (i) each rating assigned by any National Registered Securities Rating Organization (“NRSRO”) if the MMF or its investment adviser subscribes to that NRSRO’s services, as well as the name of the agency providing the rating; and (ii) any other NRSRO rating that the MMF’s Board (or its delegate) considered in making its minimal credit risk determination, as well as the name of the agency providing the rating.¹²⁴

Lastly, the proposed amendment to the Rule will eliminate an exception to the 5% limit on an MMF's direct investments in any one issuer (i.e., the 5% diversification requirement discussed above). Under the prior version of the Rule, an MMF could invest more than 5% of its total assets in a single issuer, if that issuer's securities were subject to a guarantee issued by a *non-controlled* person (i.e., a non-affiliated entity or an ABS sponsor of a SPE).¹²⁵ Thus, under the prior Rule, an MMF's entire portfolio could be comprised of securities issued by the same issuer, so long as the securities were guaranteed by different *non-controlled* guarantors and satisfied the 10% limit on indirect exposures to guarantors.¹²⁶ Consequently, the MMF would be diversifying against the guarantor, not the issuer; and the MMF would be relying on the guarantor's credit quality and repayment ability, not the issuer's.¹²⁷ The SEC believed that an MMF with a portfolio so heavily concentrated in one issuer would face substantial risk should that issuer come under stress or default.¹²⁸ Therefore, the SEC proposes to eliminate the distinction between controlled and non-controlled guarantors, so that MMFs that invest in securities subject to any type of guarantee, whether issued by a controlled or non-controlled guarantor, will have to comply with the 10% diversification requirement with respect to the guarantees, as well as the 5% diversification requirement for issuers.¹²⁹

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Endnotes

- ¹ Money Market Fund Reform; Amendments to Form PF, Investment Company Act Release No. 31166 (July 23, 2014) [79 Fed. Reg. 47736 (Aug. 14, 2014)], available at <http://www.sec.gov/rules/final/2014/33-9616.pdf> (hereinafter, the "Adopting Release").
- ² *See generally id.* Section II.
- ³ *Id.* at 1.
- ⁴ As an example of such an equivalent rounding method of MMFs that do not have a \$1.0000 share price, the SEC stated that an MMF with a \$10 target share price could price its shares at \$10.000. *Id.* at 157-58.
- ⁵ *Id.* at 202. The SEC also stated in the Adopting Release that "permitting government [MMFs] to invest potentially up to 20% of fund assets in riskier non-government securities [as proposed] may promote a type of hybrid money market fund that presents new risks that are not consistent with the purposes of the money market reforms adopted [in the amended Rule]." *Id.* at 207. The Rule defines "collateralized fully" as collateral that consists entirely of cash items or government securities. *See* Rule 2a-7(a)(5); *see also* Adopting Release, *supra* note 1, at 202 n.627, 807 (providing that "collateralized fully" is to be defined by reference to Rule 5b-3(c)(1)).
- ⁶ Rule 2a-7(a)(25); *see also* Adopting Release, *supra* note 1, at 214, 814.
- ⁷ Adopting Release, *supra* note 1, at 234.
- ⁸ *Id.* at 224.
- ⁹ *Id.* at 225.
- ¹⁰ *Id.* at 240.
- ¹¹ *Id.*
- ¹² *Id.* at 138-39.
- ¹³ *Id.* 157-58.
- ¹⁴ *Id.* at 159-61.
- ¹⁵ *Id.* at 204-05.
- ¹⁶ *Id.* at 214.
- ¹⁷ *Id.* at 217-18. Also, see Section III.E in the Adopting Release.

- 18 *Id.* at 243 & n.737.
- 19 *Id.* at 245-47.
- 20 *Id.* at 254-55.
- 21 See Method of Accounting for Gains and Losses on Shares in Certain Money Market Funds; Broker Returns with Respect to Sales of Shares in Money Market Funds, IRS REG-107012-14 (July 23, 2014) [79 Fed. Reg. 43694 (July 28, 2014)], available at <https://s3.amazonaws.com/public-inspection.federalregister.gov/2014-17689.pdf> (hereinafter, the “IRS Proposing Release”); see also Adopting Release, *supra* note 1, at 174-75.
- 22 IRS Proposing Release, *supra* note 21, at 7.
- 23 Adopting Release, *supra* note 1, at 175; see also IRS Proposing Release, *supra* note 21, at 6-7.
- 24 Rev. Proc. 2014-45, 2014-34 I.R.B., at 6-7 (July 23, 2014), available at <http://www.irs.gov/pub/irs-drop/rp-14-45.pdf>. For the SEC’s corresponding discussion, see Adopting Release, *supra* note 1, at 176-77.
- 25 See Rev. Proc. 2014-45, at 8; see also Adopting Release, *supra* note 1, at 176-77.
- 26 Adopting Release, *supra* note 1, at 179.
- 27 See Notice of Proposed Exemptive Order Granting Permanent Exemptions under the Securities Exchange Act of 1934 from the Confirmation Requirements of Exchange Act Rule 10b-10 for Certain Money Market Funds, Exchange Act Release No. 72658 (July 23, 2014) [79 Fed. Reg. 44076 (July 29, 2014)], available at <http://www.sec.gov/rules/exorders/2014/34-72658.pdf>.
- 28 See Rule 2a-7(c)(2)(iii); see also Adopting Release, *supra* note 1, at 202-03 n.630 (stating that government MMFs should provide shareholders with notice (e.g., at least 60 days’ notice) of the MMFs’ ability to impose liquidity fees and redemptions gates).
- 29 Adopting Release, *supra* note 1, at 42.
- 30 *Id.*
- 31 *Id.*
- 32 *Id.* at 120-21.
- 33 *Id.* at 120.
- 34 Rule 2a-7(c)(2)(i); see also Adopting Release, *supra* note 1, at 818. Weekly liquid assets generally include cash, US Treasury securities, certain other government securities with remaining maturities of 60 days or less, and securities that convert into cash within 5 business days (i.e., a business week). See Rule 2a-7(a)(34); see also Adopting Release, *supra* note 1, at 815-16. The weekly liquid asset requirement was part of the 2010 amendments.
- 35 Rule 2a-7(c)(2)(i); see also Adopting Release, *supra* note 1, at 818.
- 36 Rule 2a-7(c)(2)(i)(A); see also Adopting Release, *supra* note 1, at 818.
- 37 Rule 2a-7(c)(2)(ii); see also Adopting Release, *supra* note 1, at 819.
- 38 Rule 2a-7(c)(2)(ii)(A); see also Adopting Release, *supra* note 1, at 819. The SEC staff has clarified that if an MMF drops below the 10% weekly liquid asset threshold, the MMF’s Board may determine that a liquidity fee is not in the best interests of the MMF and instead decide to rely on Rule 22e-3 to suspend redemptions and liquidate. See Adopting Release, *supra* note 1, at 116 & n.359.
- 39 Rule 2a-7(c)(2)(i); see also Adopting Release, *supra* note 1, at 818.
- 40 Rule 2a-7(c)(2)(i); see also Adopting Release, *supra* note 1, at 818.
- 41 Rule 2a-7(c)(2)(i)(B); see also Adopting Release, *supra* note 1, at 818-19.
- 42 Rule 2a-7(c)(2)(i)(B); see also Adopting Release, *supra* note 1, at 818-19.
- 43 Rule 2a-7(c)(2)(i)(B); see also Adopting Release, *supra* note 1, at 819.
- 44 Adopting Release, *supra* note 1, at 89-90.
- 45 *Id.* at 90.
- 46 *Id.* at 90-91.
- 47 *Id.* at 121.
- 48 *Id.* at 122.
- 49 *Id.* at 278 n.873 (see also the accompanying text). The SEC stated that, although primarily focused on MMFs, the SEC’s expanded valuation guidance “is applicable to all registered investment companies and business development companies,” unless noted otherwise. *Id.*
- 50 *Id.* at 280.
- 51 *Id.* at 280-81.
- 52 *Id.* at 281.
- 53 *Id.* at 281-85.
- 54 *Id.* at 284-85.
- 55 *Id.* at 281-82.
- 56 *Id.*
- 57 *Id.* at 286.
- 58 *Id.* at 285-88.
- 59 *Id.* at 287

60 *Id.* at 287-88.

61 *Id.* at 114-16, 755-57. Rule 22e-3 exempts MMFs from Section 22(e) of the 1940 Act, which prohibits the suspension of redemptions or payments of redemption proceeds. *See* Money Market Fund Reform, Investment Company Act Release No. 29132, at 97 (Feb. 23, 2010) [75 Fed. Reg. 10060 (Mar. 4, 2010)], available at <http://www.sec.gov/rules/final/2010/ic-29132.pdf> (hereinafter “2010 Adopting Release”).

62 Adopting Release, *supra* note 1, at 114, 755-56.

63 *Id.* at 114-15.

64 *Id.* at 116, 755-56.

65 *Id.* at 755-56 (discussing Rule 22e-3 as applied to stable NAV MMFs).

66 *See* Rule 22e-3; *see* Adopting Release, *supra* note 1, at 115, 755-56, 845-46; *see also* 2010 Adopting Release, *supra* note 61, at 97-98.

67 Adopting Release, *supra* note 1, at 116 & n.359.

68 *Id.* at 288-89. See more generally Section III.E.1 of the Adopting Release. This paragraph form of required disclosure is as follows:

You could lose money by investing in the Fund. Although the Fund seeks to preserve the value of your investment at \$1.00 per share, it cannot guarantee it will do so. The Fund may impose a fee upon the sale of your shares or may temporarily suspend your ability to sell shares if the Fund’s liquidity falls below required minimums because of market conditions or other factors. An investment in the Fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The Fund’s sponsor has no legal obligation to provide financial support to the Fund, and you should not expect that the sponsor will provide financial support to the Fund at any time.

Id. at 291-92.

69 *Id.* at 292-93. The modified version of such risk disclosure is as follows:

You could lose money by investing in the Fund. *Because the share price of the Fund will fluctuate, when you sell your shares they may be worth more or less than what you originally paid for them.* The Fund may impose a fee upon the sale of your shares or may temporarily suspend your ability to sell shares if the Fund’s liquidity falls below required minimums because of market conditions or other factors. An investment in the Fund is not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency. The Fund’s sponsor has no legal obligation to

provide financial support to the Fund, and you should not expect that the sponsor will provide financial support to the Fund at any time.

Id. (emphasis added).

70 *Id.* at 300-01.

71 *Id.* at 301.

72 *Id.* at 302-03.

73 *Id.* at 306.

74 *See id.* at 203 n.630, 306. Although not explicitly requiring 60 days’ notice, the SEC cautioned that the “60-day notice is required by [SEC] rules for other significant changes by funds, for example, when a fund changes its name.” *Id.* at 306 n.955.

75 *Id.* at 307-08. The Adopting Release stated that with respect to each occasion, the SEC is requiring MMFs to disclose: (i) the length of time for which the MMF’s weekly liquid assets remained below 10% (or 30%, as applicable); (ii) the dates and length of time for which the MMF’s Board determined to impose a liquidity fee and/or temporarily suspend the MMF’s redemptions; and (iii) the size of any liquidity fee imposed. *Id.* at 308.

76 *Id.* at 317-18.

77 *Id.* at 317.

78 *Id.* at 335-48, 351-53, 356-57.

79 *Id.* Section III.F.

80 *Id.* at 374-75.

81 *Id.* Section III.G.

82 *Id.* at 462.

83 A liquidity fund is any private fund that invests in short-term obligations to maintain a stable NAV or to minimize principal volatility; essentially, a liquidity fund is an unregistered, privately-offered MMF. *Id.* at 466 n.1532; *see also* Press Release, SEC, SEC Adopts Money Market Fund Reform Rules (July 23, 2014), <http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370542347679> (comparing liquidity funds to MMFs).

84 *See* Adopting Release, *supra* note 1, Section III.H.

85 Rule 2a-7(d)(3)(ii)(F); *see also* Adopting Release, *supra* note 1, at 486-87, 826.

86 *See* Adopting Release, *supra* note 1, at 488 n.1584 (noting that Rule 2a-7 will continue to require “that [MMFs] treat affiliates as a single entity for purposes of the 10% diversification limit on investments in securities subject to a demand feature or guarantee”).

87 Rule 2a-7(d)(3)(ii)(F); *see also* Adopting Release, *supra* note 1, at 489, 826.

88 Rule 2a-7(d)(3)(ii)(F)(2); see Adopting Release, *supra* note 1, at 491-93, 826.

89 Adopting Release, *supra* note 1, at 517 n.1660 (citing former Rule 2a-7(c)(4)(iii)(A)).

90 *Id.* at 517.

91 Rule 2a-7(d)(3)(i), (iii); see also Adopting Release, *supra* note 1, at 517, 823-24, 826-27.

92 Rule 2a-7(d)(3)(iii); see also Adopting Release, *supra* note 1, at 517, 826-27.

93 Money Market Fund Reform; Amendments to Form PF, Investment Company Act Release No. 30551, at 443 (June 5, 2013) [78 Fed. Reg. 36834 (June 19, 2013)], available at <http://www.sec.gov/rules/proposed/2013/33-9408.pdf>.

94 *Id.*

95 *Id.*

96 Rule 2a-7(a)(18)(ii), (d)(3)(iii); see also Adopting Release, *supra* note 1, at 812-13, 826-28.

97 Rule 2a-7(a)(18)(ii); see also Adopting Release, *supra* note 1, at 812-13.

98 Adopting Release, *supra* note 1, at 510.

99 *Id.* at 552-53. See Rule 2a-7(g)(8)(ii), which is also available in the Adopting Release. *Id.* at 835-36.

100 *Id.* at 553.

101 “Daily liquid assets” includes cash, direct obligations of the US government, or securities that will mature or are subject to a demand feature that is exercisable and payable within 1 business day. Rule 2a-7(a)(8); see also Adopting Release, *supra* note 1, at 808.

102 Adopting Release, *supra* note 1, at 703-04.

103 *Id.* at 703 n.2150.

104 *Id.* at 704.

105 *Id.*

106 An agency discount note is a note that has been issued by a US government-sponsored entity (e.g., the Federal National Mortgage Association).

107 Adopting Release, *supra* note 1, at 704.

108 *Id.* at 705.

109 *Id.*

110 For the prior Rule’s definition of “demand feature,” see Adopting Release, *supra* note 1, at 707 n.2163.

111 *Id.* at 707.

112 Rule 2a-7(a)(9); see Adopting Release, *supra* note 1, at 707, 808-09.

113 Adopting Release, *supra* note 1, at 707-08.

114 *Id.* at 709.

115 *Id.* at 709-10.

116 *Id.* at 709.

117 *Id.* at 710.

118 *Id.*

119 See Rule 2a-7(d)(4); see also Adopting Release, *supra* note 1, at 710, 843.

120 Adopting Release, *supra* note 1, at 712.

121 *Id.* at 712-13.

122 *Id.* at 712.

123 Removal of Certain References to Credit Ratings and Amendment to the Issuer Diversification Requirement in the Money Market Fund Rule, Investment Company Act Release No. 31184 (July 23, 2014) [79 Fed. Reg. 47986 (Aug. 14, 2014)], available at <http://www.sec.gov/rules/proposed/2014/ic-31184.pdf> (hereinafter “Re-Proposing Release”). For the original proposal, see References to Credit Ratings in Certain Investment Company Act Rules and Forms, Investment Company Act Release No. 29592 (Mar. 3, 2011) [76 Fed. Reg. 12896 (Mar. 9, 2011)], available at <http://www.sec.gov/rules/proposed/2011/33-9193.pdf>.

124 See Re-Proposing Release, *supra* note 123, at 40, 84.

125 *Id.* at 46 & n.136. The Rule was different for guarantees issued by control persons.

126 *Id.* at 44, 46 (citing and discussing Rule 2a-7(d)(3)(i)).

127 *Id.* at 46-47.

128 *Id.*

129 *Id.* at 47, 94-95.

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