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Petitioner, Rulemaking Petition File No. 4-891
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September 17, 2026

Vanessa A. Countryman, Secretary

U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

By e-mail to rule-comments@sec.gov, for the file of Petition No. 4-891, and to the Office of the Secretary

Re: Request under 5 U.S.C. § 555(b) for the date by which the Commission will respond to the severable requests in Petition File No. 4-891

Dear Ms. Countryman:

Rule 192 directs that the Secretary "shall notify the petitioner of the action taken by the Commission." This letter asks when.

The Petition was docketed on March 19, 2026. On July 15, 2026, the Chairman was asked to answer its sixteen interpretive questions and to issue an interim investor alert by August 15, 2026; proposed answers and a model alert in issuable form were enclosed, and the letter was filed to the Petition's docket. But that date passed without a response. The letter was referred to the Ombuds.

Two requests follow. Each is separable from the others and from the Petition's rulemaking request, and each concerns work the Commission has already done.

1. Date certain. Please state, by October 1, 2026, the date by which the Commission will respond to Section IV of the Petition and to its request for an interim investor alert. The Administrative Procedure Act requires an agency to conclude a matter presented to it within a reasonable time, 5 U.S.C. § 555(b), and to give prompt notice, with a brief statement of grounds, of any denial, *id.* § 555(e). A response may be a grant, a denial with grounds, or a deferral to a stated date. A statement that the matter remains under consideration is not one of those three. No estimated date has been provided at any time since the Petition was docketed, and the Commission has not said when it will respond. Please also confirm, as Rule 192 provides, that the Petition was referred to a division or office for consideration and recommendation, and identify it.

2. The August 19 bulletin. On August 19, 2026, the Office of Investor Education and Advocacy published "Fund Distributions – Investor Bulletin."[1] It states that when a fund distributes income or gains, net asset value decreases, and that "these decreases do not mean you lost money" because they "reflect a transfer of value (cash or new shares) to you." That is true for a shareholder who held the fund before the income accrued. **It is not true for a purchaser who paid a price that already included the fund's accrued income.** For that purchaser, the distribution transfers no value; it returns part of the price he paid, and it is taxed as income. He is, therefore, poorer by the tax. The bulletin does not say when this effect arises. Under Rule 2a-4(a)(5)–(6), income enters net asset value when earned and remains there until distributed; the effect therefore exists on any day that income is in the price, and does not magically appear in the price in the days "just before" a distribution is made. Please confirm that statement or state the Commission's disagreement with it. Please complete the bulletin by adding the two paragraphs at Exhibit B under the heading "What many investors do not realize," beginning "The 'buying a dividend' risk does not exist only in the days immediately before a distribution," which state it. Exhibit B is being delivered today to the Director of that Office by name. And please state whether the August 19 bulletin was issued in response to the Petition's request for an interim investor alert.

I will consent to a stipulated schedule for a response to the two severable requests in the Petition — Section IV and the interim investor alert — and will treat compliance with such a schedule as satisfying this letter. Absent a response by October 1, 2026, I will petition the United States Court of Appeals for the District of Columbia Circuit for a writ of mandamus under 28 U.S.C. § 1651 and 5 U.S.C. § 706(1), asking the court to order the Commission to respond to Section IV of the Petition and to its investor-alert request within a fixed period. In the alternative, the petition will ask the court to require the Commission to state the date by which it will respond and to report on its progress while the court retains jurisdiction.

My July 15 letter asked for a response by August 15, 2026. That date passed. On August 17, 2026, I filed *Roseberry v. SEC*, No. 1:26-cv-02977-RDM (D.D.C.).

That proceeding will ask the court to require what Section 555 requires and what the Commission was created to do: respond to the matter presented and tell investors the truth about the securities they buy. The Commission will respond. The only open question is to whom.

Semper Fidelis,

/s/ Jeremy T. Roseberry
Jeremy T. Roseberry

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[1] Office of Investor Education and Advocacy, *Fund Distributions – Investor Bulletin* (Aug. 19, 2026), https://www.investor.gov/introduction-investing/general-resources/news-alerts/alerts-bulletins/investor-bulletins/fund-distributions-investor-bulletin (archived copy enclosed).

Petitioner, File No. 4-891

Enclosures

1. Exhibit B to the July 15, 2026 letter to the Chairman (model investor alert), as filed to the docket of File No. 4-891
2. "Fund Distributions – Investor Bulletin," Office of Investor Education and Advocacy, August 19, 2026 (archived copy)

cc

Director, Office of Investor Education and Advocacy (with Exhibit B)
Office of the Investor Advocate
Mark Tallarico, Senior Special Counsel, Office of the General Counsel
The Honorable Paul S. Atkins, Chairman

EXHIBIT B

Model Investor Alert

The following is a model Investor Alert, drafted in the form and voice of alerts issued by the Commission's Office of Investor Education and Advocacy, so that the interim protective step requested in this letter — warning investors before this year's distribution season — requires no drafting, only a decision. Every factual statement in it is established by the record of the Petition and by the answers at Exhibit A. The Commission is free to adopt, adapt, or improve it.

INVESTOR ALERT

"Buying a Dividend" — A Fund Distribution Can Return Your Own Money and Leave You With the Tax Bill

The SEC's Office of Investor Education and Advocacy is issuing this Investor Alert to help investors understand a risk known as "buying a dividend," which can result in investors owing tax on distributions that do not increase their wealth. This risk is greatest for purchases made in a taxable account in the weeks and months before a fund pays a distribution — including the final months of the calendar year, when many mutual funds and ETFs pay their largest distributions.

Understanding the risk

Mutual funds and ETFs regularly earn dividends and interest from their holdings and realize gains when they sell securities. Under standard fund accounting, that income becomes part of the fund's share price — its net asset value, or NAV — from the day it is earned or realized, and it stays in the share price until the fund pays it out to shareholders as a distribution.

If you buy shares while that income is part of the price, you are paying for income the fund earned before you invested. When the fund later pays its distribution, part of what you receive is simply that money coming back to you — and the fund's share price drops by roughly the amount of the distribution. Your overall wealth has not increased. But if you hold the fund in a taxable account, the distribution may be reported to you, and taxed, as income.

> **Example:** You buy one fund share for $100 at a time when $3.00 of income and realized gains the fund has already earned is included in that price. The fund then pays a $3.00 per-share distribution. You receive $3.00, and the share price falls to approximately $97.00. You have $100 of total value — exactly what you started with — but you may owe tax on the $3.00 "distribution" of your own purchase price, creating a non-market related tax loss.

What many investors do not realize

The "buying a dividend" risk does not exist only in the days immediately before a distribution. Because income becomes part of the share price when it is earned — and can remain there for days, weeks, or months before it is paid out — the risk can be present on almost any trading day, and it generally grows

as a distribution date approaches. Investors should not assume that avoiding purchases in the final days before a distribution eliminates this risk.

Funds calculate the income and realized gains embedded in their share prices every day as part of computing NAV. This information exists at the time of your purchase.

What you can do before you invest

Before buying shares of a mutual fund or ETF in a taxable account — particularly in the second half of the year — consider taking these steps:

– **Check the fund's distribution schedule and call the funds portfolio manager.** Fund websites typically

publish the dates of upcoming distributions, and many publish distribution estimates in the fall.

– **Ask how much undistributed income and realized gain is currently**

included in the fund's share price, per share, broken out by type — ordinary dividends, short-term capital gains, and long-term capital gains. Funds calculate these amounts daily.

– **Ask what the next distribution is expected to be**, when it will

be paid, and how it is expected to be taxed.

– **Ask whether part of your first distribution will effectively**

return the money you just invested — and whether you would be better off waiting until after the distribution's ex-date to buy.

– **Get the answers in writing**, and consider consulting a qualified

tax professional about the timing of fund purchases, particularly late in the year.

Questions to ask your investment professional

If a broker-dealer recommends a fund purchase to you, Regulation Best Interest requires the recommendation to be in your best interest, taking into account, among other things, its costs and tax consequences to you. If an investment adviser recommends a fund, the adviser owes you a fiduciary duty.

Ask any professional recommending a fund purchase in a taxable account:

– Did you determine how much undistributed income and realized gain is

built into this fund's price right now?

– Will part of my next distribution be taxable to me even though it

returns money I just invested?

– Why is buying before the upcoming distribution, rather than after

it, in my best interest?

An investment professional who recommends purchasing a fund before a large, known distribution — without addressing these questions — may not be meeting the applicable standard of conduct.

The bottom line

A fund distribution is not always new wealth. If income was already built into the price you paid, part of your distribution is your own money coming back — and in a taxable account, you may owe tax on it. Ask before you buy, get the answers in writing, and pay particular attention to purchases made in the months before a fund's scheduled distributions.

Report a problem or ask a question at Investor.gov, or call the SEC's investor assistance line at (800) 732-0330. Receive Investor Alerts and Bulletins from OIEA by email or RSS feed.

This Investor Alert represents the views of the staff of the Office of Investor Education and Advocacy. It is not a rule, regulation, or statement of the Securities and Exchange Commission ("Commission"). The Commission has neither approved nor disapproved its content. This Alert, like all staff guidance, has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person.

Investor.gov
U.S. SECURITIES AND EXCHANGE COMMISSION

Fund Distributions – Investor Bulletin

Aug. 19, 2026

The SEC's Office of Investor Education and Assistance (OIEA) is issuing this Investor Bulletin to explain fund distributions and how they can impact investors.

What are fund distributions?

Fund distributions are payments an investment fund makes to its shareholders. These payments are one way shareholders of a mutual fund (https://www.investor.gov/introduction-investing/investing-basics/investment-products/mutual-funds-and-exchange-traded-funds-etfs/mutual-funds) , exchange-traded fund (ETF) (https://www.investor.gov/introduction-investing/investing-basics/investment-products/mutual-funds-and-exchange-traded-2) , closed-end fund (https://www.investor.gov/introduction-investing/investing-basics/investment-products/closed-end-funds/publicly-traded-closed-end-funds) , or other type of investment fund might make money from their investment. Not all funds pay distributions.

Some funds plan to make distributions to shareholders on a regular basis, such as monthly or quarterly. Regular distributions can help provide shareholders with predictable cash flow. However, distributions are not guaranteed. It is also possible to lose money in a fund that pays distributions.

Shareholders might have the option to reinvest distributions automatically. In that case, the fund does not send cash to the shareholder. Instead, the fund uses the cash to buy more shares of the fund for the shareholder. Reinvesting distributions can help grow a shareholder's investment over time.

Funds pay distributions to shareholders in proportion to the amount of shares they own.

Where can I find information about a specific fund's distributions?

An SEC-regulated fund must explain its distribution policy in its prospectus. SEC-regulated funds include mutual funds, ETFs, and closed-end funds like business

development companies (BDCs) (https://www.investor.gov/introduction-investing/investing-basics/investment-products/closed-end-funds/publicly-traded-business-development-companies-bdcs) and interval funds (https://www.investor.gov/introduction-investing/investing-basics/investment-products/closed-end-funds/interval-funds) .

You can obtain a prospectus from the SEC's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) database (https://www.sec.gov/search-filings) or directly from the fund. Most funds make their prospectuses available on their websites and have toll free numbers for requesting a copy, free of charge.

In addition, many fund websites post distribution schedules (but distributions are not guaranteed).

How do funds pay for distributions?

A fund pays for distributions out of money the fund makes and/or with return of capital.

A fund might make money from, for example, ***dividends, interest, or capital gains.*** Dividends are payments from equity securities the fund owns. Interest is money earned from fixed income securities the fund owns. Capital gains are money the fund makes (or realizes) from selling securities that increased in value.

Return of capital is when the fund uses shareholder principal, or the money shareholders paid to buy fund shares, to pay for all or part of a distribution. In other words, the fund gives shareholders back their own money. A fund might issue a return of capital if the fund's income is not enough to pay for a promised distribution.

When an SEC-regulated fund issues a return of capital, it must send you a written notice called a 19(a) notice. You can often find 19(a) notices on fund websites.

How do distributions affect my investment value?

When a fund distributes ***dividends, interest, or capital gains*** to shareholders, the fund's net asset value (NAV) (https://www.investor.gov/introduction-investing/investing-basics/glossary/net-asset-value) decreases. For ETFs and other funds that trade on national securities exchanges, the market price of fund shares also typically decreases. But these decreases do not mean you lost money. Rather, they reflect a transfer of value (cash or new shares) to you.

When a fund distributes a ***return of capital***, it reduces the fund's asset base, or the money available for the fund to invest. A smaller asset base could make it harder for the fund to make money in the future or could raise its operating costs. Thus, returns of capital can limit the growth of or cause a loss on your remaining investment.

Exercise caution with a fund that consistently uses return of capital. Frequent or regular returns of capital could be a sign the fund is making higher distributions than it can afford.

Some funds promote high distribution rates that may look appealing. It is important to understand where those distributions come from. Keep in mind:

A fund's distributions are not the same as performance.

A fund can perform poorly and still make distributions.

Do not rely solely on a fund's distributions to understand fund performance. More reliable indicators of fund performance include total return and standardized yield (also called SEC yield). If an SEC-regulated fund reports total return and/or SEC yield, you may find those figures in the fund prospectus and typically on the fund website.

What are the tax consequences of distributions?

When you hold fund shares in a taxable account (such as a brokerage account), you might have to pay taxes on distributions from the fund's capital gains, interest income and dividend income. This can be true even if you reinvest your distributions.

Return of capital is not taxable when you receive it, but it can increase your taxable capital gains when you sell your fund shares. This is because a return of capital decreases the principal in your investment, or basis.

Consult a tax professional for more information about the taxation of fund distributions.

Additional Resources:

Using EDGAR to Research Investments | Investor.gov (https://www.investor.gov/introduction-investing/getting-started/researching-investments/using-edgar-research-investments)

How to Read a Mutual Fund Prospectus (Part 3 of 3: Management, Shareholder Information, and Statement of Additional Information) | Investor.gov

(https://www.investor.gov/introduction-investing/general-resources/news-alerts/alerts-bulletins/investor-bulletins/how-read-1)

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