2014 Money Market Fund Reform Frequently Asked Questions

The staff of the Division of Investment Management has prepared the following responses to questions related to the money market fund reforms adopted in July 2014 and expects to update this document from time to time to include responses to additional questions. Any updates will include appropriate references to dates of new or modified questions and answers. These responses represent the views of the staff of the Division of Investment Management. They are not a rule, regulation, or statement of the Commission, and the Commission has neither approved nor disapproved these FAQs or the interpretive answers to these FAQs. The 2014 money market fund reform Adopting Release is available at: http://www.sec.gov/rules/final/2014/33-9616.pdf.

Form N-MFP

1. Q. Is the sponsor support referred to in Item C.18 of Form N-MFP the same as the financial support with respect to a portfolio security required to be disclosed in Part C of Form N-CR?

A. Yes. The terms sponsor support and financial support are generally used interchangeably throughout the proposing and Adopting Releases, although only the term financial support is explicitly defined. In the staff's view, a fund should report in item C.18 of Form N-MFP the value of securities held in the fund's portfolio both excluding and including the value of any sponsor support or financial support as defined in Form N-CR. Such financial support, and financial support for securities no longer held by the fund, would also be reported on Form N-CR.

Form N-CR

2. Q. Would a capital contribution made by the fund's investment adviser to correct an NAV error qualify as financial support that must be reported on part C of Form N-CR?

A. Not necessarily. The intent of the financial support reporting in Part C of Form N-CR is to provide transparency to shareholders and the Commission in order to help investors understand the ongoing risks associated with investment in a fund and the extent of the sponsor's discretionary support of the fund. While a capital contribution by an adviser to a fund would typically qualify as financial support that must be reported, Part C contains exceptions, including one that allows a fund not to file a report if the board of directors finds that an action is not "reasonably intended to increase or stabilize the value or liquidity of the fund's portfolio." The staff believes that, for example, in the case of a NAV error, a fund board might determine that the purpose of the action is to remedy an operational error, and not to stabilize the value or liquidity of the fund's portfolio due to investment losses, and accordingly could determine that such an action is not reportable financial support. The staff will not object if a fund board determines in advance that these types of routine actions will not constitute financial support.

3. Q. Would a capital contribution made by the fund's investment adviser to a fund to avoid dilution or other unfair results during a fund reorganization pursuant to the exemptive relief provided in the Adopting Release or in connection with a conversion of a fund to a floating NAV qualify as financial support that must be reported on Form N-CR**?**

A. No, provided that the contribution occurs as part of a ~~one-time reorganization made pursuant to the exemptive relief the Commission provided in the Adopting Release.~~transition for money market funds to implement the floating NAV reform before the October 16, 2016 compliance deadline. As discussed in the previous question, financial support reporting is intended to increase transparency of investment risks. ~~A~~For example, a capital contribution meant to "top up" a fund as part of a voluntary reorganization made in the ordinary course of business would normally qualify as financial support that would be reported on Part C of Form N-CR because it would be an action meant to stabilize or increase the value of the fund. However, the staff recognizes that reorganizations made pursuant to the exemptive relief are primarily intended to bring a fund into compliance with the 2014 money market fund reforms. In addition, the staff recognizes that an adviser or its affiliates may elect to top-up a fund converting to a $1.0000 floating NAV, so that all shareholders will receive the same value per share at the time of the transition from a stable NAV to a floating NAV. This may be important to assure a smooth transition to floating NAV funds. Accordingly, the staff would not object if associated capital contribution actions designed to avoid unfair results or dilution made ~~as part of such~~ to bring a ~~reorganization~~fund into compliance with the 2014 money market fund reforms are not reported as financial support on Form N-CR (or in Form N-1A and on funds' websites). However, in the staff's view, any such future contributions would need to be reported as financial support on Form N-CR once the compliance period for the amendments has passed.

Form N-1A

4. Q. Should a floating NAV money market fund continue to rely on the instruction in Item 11(a)(1) of Form N-1A allowing a money market fund to omit an explanation of how it uses fair value?

A. No. The instruction states that funds other than a "money market fund" should provide "a brief explanation of the circumstances under which it will use fair value pricing and the effects of using fair value pricing." The staff believes that a stable value money market fund (such as a government fund as defined in rule 2a-7(a) 16) or a retail fund as defined in rule 2a-7(a)(25)) need not include such an explanation because it generally uses the amortized cost valuation method for all the securities in its portfolio. However, if a floating NAV fund regularly uses fair value pricing as part of its valuation procedures, the staff believes that such a fund should include such an explanation in its Form N-1A filing.

5. Q. May a retail money market fund disclose in the summary section of its statutory prospectus (*i.e.*, Items 2 through 8 of Form N-1A) that investments in the fund are limited to retail persons?

A. Yes. The Adopting Release states a retail money market fund may disclose in its prospectus that it limits investments to accounts beneficially owned by natural persons. This statement in the Adopting Release includes a footnote with citations to Items 6 ("Purchase and Sale of Fund Shares") and 11 ("Shareholder Information") of Form N-1A. Items 6 and 11, as currently drafted, require disclosure of a fund's investment requirements and procedures for purchasing the fund's shares, respectively. The staff believes that these Items should be read to permit a retail money market fund to disclose in the summary section of its statutory prospectus that investments in the fund are limited to accounts beneficially owned by natural persons. The staff believes that the Item 6 obligation to disclose a fund's investment requirements may be read to permit a fund to disclose the retail money market fund investment limitation at issue.

6. Q. What method(s) should a money market fund use to update its registration statement to reflect the disclosure requirements of the 2014 reforms?

A. A money market fund must update its registration statement to reflect any material changes by means of a post-effective amendment or a prospectus supplement (a "sticker") pursuant to rule 497 under the Securities Act of 1933 (the "Securities Act"). The Adopting Release notes that, to meet this requirement, the Commission expects that a money market fund would update its registration statement, by means of a post-effective amendment or prospectus supplement, to reflect the following: 1) relevant disclosure related to the fund's transition to a floating NAV (applicable to institutional prime money market funds); 2) relevant disclosure relating to the fund's ability to impose fees and gates, as well as disclosure of any fee or gate currently in place (applicable to all money market funds except government money market funds); and 3) historical disclosure of financial support received after the compliance date of the reforms (applicable to all money market funds).

In the staff's view, based on the materiality and breadth of the disclosure related to a fund's transition to a floating NAV and a fund's ability to impose fees and gates, a money market fund may find it appropriate to update its registration statement to incorporate this disclosure by filing a post-effective amendment pursuant to rule 485(a) under the Securities Act. The staff believes that a fund imposing a fee or gate would generally find it appropriate to file a prospectus supplement pursuant to rule 497 of the Securities Act disclosing that a fee or gate is currently in place (or that a fee or gate has been removed), reflecting the need for immediacy in disseminating information concerning the event at issue. The staff would generally consider ongoing historical disclosure concerning the imposition of fees and gates and/or receipt of financial support, provided pursuant to Item 16 of Form N-1A, to be an update of a specified, routine Form N-1A item. Thus, the staff believes that a fund ~~sh~~could include this Item 16 disclosure as part of a post-effective amendment filed pursuant to rule 485(~~a~~b) under the Securities Act. This information would also be reported on Form N-CR.

Website Disclosure

7. Q. Is a tax-exempt fund required to calculate and disclose daily liquid assets percentages on the fund's website each day?

A. No. Under rule 2a-7(d)(4)(ii), tax-exempt money market funds are not required to maintain daily liquid assets. Therefore, notwithstanding the requirement that money market funds disclose the percentage of daily liquid assets on its website pursuant to rule 2a-7(h)(10)(ii)(A), in the staff's view, a tax-exempt money market fund may omit such disclosure.

8. Q. Under rule 2a-7(h)(10)(iii) (website disclosure of shadow NAV), should a floating NAV fund that uses existing guidance allowing it to value certain portfolio securities that mature in 60 days or less at amortized cost, report the price it transacts in its shares on its website (even if that price is affected by the use of amortized cost), or should it report the fund's NAV per share calculated before using amortized cost, even if that were to result in a different price?

A. Rule 2a-7(h)(10)(iii) requires all money market funds to report on their websites the funds' NAV per share based on current market factors, and calculated before applying the amortized cost and/or penny rounding methods (if used). Under the 2014 amendments, a floating NAV fund is not permitted to use the amortized cost method of valuing its shares to maintain a stable NAV. However, a floating NAV fund (like all other funds) may use the amortized cost method to value a portfolio security with a remaining maturity of 60 days or less when it can reasonably conclude, at each time it makes a valuation determination, that the amortized cost value of the portfolio security is *approximately the same* as the fair value of the security as determined *without* the use of amortized cost valuation.

If a floating NAV fund's use of amortized cost to value a portfolio security that matures in 60 days or less were to result in a difference in the fund's NAV used to transact in fund shares and the fund's NAV calculated without the use of amortized cost, the staff believes that such a difference would not be compatible with the guidance provided in the 2014 release. In such a situation, the amortized cost value of the portfolio security would not be "approximately the same" as the fair value of the security determined without the use of amortized cost valuation. Accordingly, a fund should not use the amortized cost method to value such a security. As a consequence, the staff believes that such a disparity in NAV should not arise, because a fund's NAV used for purchases, redemptions, and exchanges should not differ from its NAV calculated without the use of amortized cost valuation. Associated issues are also discussed in question 9 below and in the FAQs provided on the valuation guidance

Funds that Invest only in Securities that Mature in 60 Days or Less

9. Q. Can a money market fund that is subject to a floating NAV state in its advertising, sales literature or prospectus that it will seek to maintain a stable NAV by limiting its portfolio securities to only those securities with a remaining maturity of 60 days or less and valuing those securities using amortized cost?

A. No. The staff believes that a floating NAV money market fund may not state in its advertising, sales literature, or prospectus that it will seek to maintain a stable NAV by limiting its portfolio securities to only those securities with a remaining maturity of 60 days or less and valuing those securities using amortized cost, as such a statement would be misleading to investors. The staff expects that there will be market circumstances that may require a floating NAV money market fund's share price to fluctuate, regardless of how it limits its investment duration or its use of amortized cost for certain portfolio securities. For example, if a MMF is holding a security that experiences credit deterioration, that security's amortized cost may not be approximately the same as fair market value, even where the remaining maturity of that security is 60 days or less. Accordingly, as discussed in the Adopting Release, all floating NAV money market funds must state in their advertisements, sales materials, and prospectus, that the funds' share price will fluctuate. However, if a floating NAV money market fund states that it will seek to maintain a stable NAV, the staff is concerned that such potential contradictions could be confusing or misleading to investors.

A floating NAV money market fund may use amortized cost to value *individual* portfolio securities under certain circumstances pursuant to the guidance the Commission has provided in the Adopting Release and previously. However, as discussed in question 8 above, if a disparity were to arise between the amortized price of a security that matures in 60 days or less and the fair value of such a security that was large enough that it would affect the fund's NAV, then the staff believes that the use of amortized cost in that situation would not be compatible with the guidance provided in the Adopting Release as the amortized cost value of the portfolio security would not be "approximately the same" as the fair value of the security determined without the use of amortized cost valuation. Associated issues are also discussed in question 8 above and in the FAQs provided on the valuation guidance

Amortized Cost Guidance

10. Q. Is the guidance on the use of amortized cost valuation for securities with a remaining maturity of 60 days or less contained in the Adopting Release applicable to stable value government or retail money market funds?

A. The guidance on the amortized cost method contained in the Adopting Release applies to funds' use of the amortized cost valuation method for certain *individual* securities. Under rule 2a-7, stable value money market funds may value their *entire* portfolio using the amortized cost method of valuation, and accordingly in the staff's view, the guidance would generally not be relevant to those funds operations. Additionally, as noted in footnote 873 of the Adopting Release, under rule 2a-7(h)(10)(iii), stable value money market funds may not use the amortized cost method for individual securities or for their portfolio when they shadow price their shares.

Compliance Dates

11. Q. Do the compliance dates for revised Form N-MFP occur in two stages — *e.g.*, report shareholder flows by April 14, 2016 but report NAV per shares to the fourth decimal place by October 14, 2016?

A. The compliance date for amendments to all questions in revised Form N-MFP is April 14, 2016. However, for those funds that have not determined whether they are retail or institutional before April 14, 2016, the fields in Form N-MFP that pertain to NAV reporting may be marked as not applicable prior to October 14, 2016.

12. Q. What is the compliance date for reporting of Part D on Form N-CR, given that Part D relates only to "retail" and "government" money market funds, which are categorizations of funds that would have a compliance date of October 14, 2016?

A. The compliance date for Part D of Form N-CR is July 14, 2015. Prior to October 14, 2016, any money market fund (including institutional funds) that seeks to maintain a stable NAV should respond to Part D.

13. Q. The compliance date for the amendments to Form PF is April 14, 2016, which falls during the 15-day filing period for the first quarter ending March 31, 2016. Should a large liquidity fund provide the new portfolio holdings information required under the Form PF amendments in their first quarter 2016 filing?

A. No. If filers were to include the new portfolio holding data as of April 14, 2016, it could create disparities, because filers who file before April 14 during the 15-day filing period would not be required to include the new data, but those who filed afterwards, on the deadline date of April 14, would include it. Therefore, staff does not believe that large liquidity funds should include the new portfolio holdings information required under the Form PF amendments in their first quarter 2016 filing. The first Form PF filing with such holdings data should be the second quarter filing, covering the period between April 1, 2016 and June 30, 2016. Having all filers begin to submit portfolio holdings information at the same time will help maintain the integrity and comparability of data filed on Form PF and reduce potential systems issues.

14. Q. The compliance date for stress testing and certain other amendments is April 14, 2016; however, at least some of the amendments are not effective on that date if "specifically related to either floating NAV or liquidity fees and gates." Since certain of the changes to stress testing modify the tests so they are appropriate to floating NAV money market funds, is the compliance date for stress testing amendments October 14, 2016?

A. The compliance date for the amended stress testing requirements is April 14, 2016. However, for any stress testing requirements that are specifically related to a floating NAV fund (such as the requirement to test principal volatility) the compliance date is October 14, 2016, although a fund may comply earlier.

~~14~~15. Q. What is the compliance date for the new definition of government money market fund?

A. The compliance date for the amendments related to the fundamental reforms (floating NAV and liquidity fees and gates, which includes the definitions of government money market fund) is October 14, 2016. Accordingly, a fund must meet the new definition of government money market fund by October 14, 2016 in order to use amortized cost or the penny rounding method thereafter, although the fund may begin to comply earlier.

Retail Money Market Funds

~~15~~16. Q. For purposes of qualifying as a retail money market fund, may a fund determine *beneficial ownership* using the direct or indirect pecuniary interest test (as defined in rule 16a-1(a)(2) under the Securities Exchange Act of 1934 ("Exchange Act")), in lieu of the sole or shared voting and/or investment power test (as defined in rule 13d-3 under the Exchange Act)?

A. No. Rule 16a-1(a)(2) defines beneficial ownership using a pecuniary interest test because Section 16's requirements, in part, impose strict liability under which a corporate insider's short-swing profits can be recovered regardless of whether the insider actually was in possession of material, non-public information. Rule 13d-3, however, looks to investment and/or voting power to define beneficial ownership for purposes of Section 13(d) and (g). The Commission exempted retail money market funds, defined as funds that limit beneficial ownership to natural persons, from the floating NAV requirement because past experience demonstrated that retail investors are less likely to redeem quickly in times of market stress. The staff believes it is an exercise of an investor's *investment power* when such investor decides to redeem securities. Accordingly, the staff believes that the rationale and purpose behind the retail money market fund exemption would therefore be undercut if beneficial ownership could be determined based on entitlement to funds alone (*i.e.*, using the direct or indirect pecuniary interest test), without having sole or shared ~~voting and/or~~ investment power.

Rule 13d-3 also treats a person as a beneficial owner based on the person having sole or shared voting power over securities. Voting power may be unrelated to the power to redeem securities, and therefore would not be significant when determining beneficial ownership of a retail money market fund. Accordingly, in the staff's view and notwithstanding Rule 13d-3, policies and procedures would be deemed "reasonably designed to limit all beneficial owners of the fund to natural persons" even if they do not use voting power as a basis for identifying beneficial owners of the fund. The staff believes that such policies and procedures may also permit institutional decision makers to share investment power with a natural person. For example, accounts managed by an institutional decision maker on behalf of one or more natural persons may qualify to invest in a retail money market fund, provided that such natural persons have sole or shared investment power over the shares as defined in rule 13d-3.

~~16~~17. Q. Would the existence of a forfeiture account or other suspense account used in conjunction with the administration of a defined contribution plan disqualify such a plan from investing in a retail money market fund?

A. No, provided that the participants in the defined contribution plan ~~is owned by~~are natural persons who have sole or shared ~~voting and/or~~ investment power over their investment in the money market fund. The staff understands that defined contribution plans may include a forfeiture account or other suspense account to hold plan assets in certain circumstances, for example, where an employee leaves employment prior to full vesting and forfeits a portion of his/her benefits. Money allocated to this type of account is generally used to pay plan administrative expenses or is allocated to active employees' accounts. In the staff's view, the mere existence of such an account would not disqualify the plan participants from investing in a retail money market fund. ~~However~~Although, under such circumstances, it would not appear likely that such a forfeiture or other suspense account *itself* would be permitted to invest in a retail money market fund because natural persons would not have ~~sole or shared voting or~~ investment power over the account's investments, the staff will not object if such accounts were invested in a retail money market fund solely to facilitate plan administration and operations. *See* Question 19 below.

~~17~~18. Q. Would an estate of a natural person qualify as a *natural person* for purposes of qualifying as a retail money market fund?

A. Yes. The estate of a natural person is the legal successor to the interests of the natural person. Accordingly, because the interests of the natural person and its estate are aligned, the staff would view such treatment as consistent with one of the primary purposes underlying the "natural person" requirement for retail money market funds—natural persons have proved to be less likely to redeem quickly during times of market stress. However, when the estate's money market fund shares are transferred to the ultimate beneficiaries, those ultimate beneficiaries must be natural persons if they are to remain invested in the retail money market fund.

~~18~~19. Q. May a retail money market fund have a non-natural person affiliate beneficially own shares of the fund in order to facilitate fund operations (*e.g.*, providing initial seed capital, or financial support)?

A. Yes. The staff would not object if a non-natural person affiliate beneficially owns shares of a retail money market fund to provide initial seed capital or financial support, so long as these investments solely are intended to facilitate fund administration and operations. Determining whether a non-natural person affiliate beneficially owns shares of a retail money market fund solely to facilitate fund administration and operations in other situations would depend on the particular facts and circumstances of the investment.

~~19~~20. Q. In a master-feeder money market fund structure, will a master fund qualify as a retail money market fund if all of its feeder funds are qualified retail money market funds, and if so, may the master fund satisfy its obligation (with respect to the feeder funds) to have policies and procedures reasonably designed to limit all beneficial owners of the fund to natural persons by relying on such policies and procedures of the feeder funds?

A. Yes. As noted in the Adopting Release, a money market fund must "look through" the fund's shareholders of record to the fund's beneficial owners when determining if the fund qualifies as a retail money market fund. In addition, a retail money market fund must have policies and procedures reasonably designed to limit all beneficial owners of the fund to natural persons. Consistent with this "look through" approach and the flexibility provided to funds in the context of determining beneficial ownership for omnibus accounts (as discussed in the Adopting Release), the staff believes that a master money market fund may consider itself a retail money market fund where all of its feeder funds are qualified retail money market funds and the master fund relies on the policies and procedures of the feeder funds to ensure that all of the feeder fund's beneficial owners are natural persons.

~~20~~21. Q. Would the staff object if a retail money market fund involuntarily redeemed investors who no longer met the disclosed eligibility requirements of the fund, even outside the context of the exemptive relief provided by the Commission in the Adopting Release for involuntary redemptions as part of a one-time reorganization?

A. No. If a retail money market fund operating under the 2014 reforms complies with all the other terms and conditions of the exemptive relief provided in the Adopting Release, the staff would not object if such retail money market fund involuntarily redeemed investors who it determines do not meet the eligibility requirements set forth in the retail fund's prospectus without obtaining separate exemptive relief, even outside the context of a one-time reorganization. The staff believes that in this limited circumstance it is appropriate to ensure the integrity of the retail and institutional money market fund distinction, provided the fund complies with the conditions of the relief (*i.e.* 60 day notice).

22. Q: May a retail money market fund continue to rely on the retail exception where some of its shares have been transferred to state custody under applicable escheatment or unclaimed property laws?

A: State laws may require a retail money market fund or a financial intermediary to transfer escheated or unclaimed shares to a state's treasurer or other administrator. This may be accomplished by transferring the shares into a securities account in the state administrator's name or otherwise turning over the shares to the state. The state administrator maintains custody over such shares until they are reclaimed by the missing owner. Accordingly, so long as the missing owner has the right to reclaim escheated or unclaimed shares, the staff would not object if a retail money market fund or a financial intermediary continues to rely on the retail exception.

Insurance Separate Accounts

~~21~~23. Q. Life insurance company separate accounts (as defined in Section 2(a)(35)) funding variable insurance products may invest in money market funds as underlying funds of the accounts. Even though the insurance company/separate account (a non-natural person) is the direct (legal) fund shareholder, individual contract owners may effectively have ~~voting and/or~~ investment power in the shares of the underlying money market fund. In such a case, may a retail money market fund treat insurance company separate accounts similar to financial intermediaries or omnibus accounts for purposes of "looking through" the separate account to the individual contract owners as the beneficial owners of the money market fund shares? Would a retail money market fund still be able to "look through" to contract owners where the money market fund was held indirectly through an insurance fund of funds?

A. Even though the technical ownership in an underlying investment by a contract owner may be different from that in omnibus accounts and other financial intermediaries, the staff understands that redemption behaviors of contract owners who are natural persons are likely to be similar to that of other retail investors so long as they retain ~~voting and/or~~ investment power over the shares. Accordingly, the staff believes that a retail money market fund may "look through" an insurance company separate account to a natural person who beneficially owns such a contract. However, in the case of an insurance company fund of funds where an investment adviser manages the fund's investments, the underlying natural person does not retain direct investment power over the bottom-tier fund. Accordingly, the staff believes that a retail money market fund would not be able to "look through" such a fund of funds to the individual contract owners as the beneficial owners. A retail fund may assess the natural person status of insurance company contract owners through the same or similar policies and procedures that it uses for other intermediaries or omnibus accounts.

~~22~~24. Q. As discussed in the Adopting Release, when a fund imposes a liquidity fee, insurance companies would "pass through" any underlying liquidity fees to contract owners. In such a case, are the liquidity fees being imposed by *the fund*, and not by the insurance company, even if the insurance company administers and applies the liquidity fee to contract owners?

A. Yes. In the context of redemption fees imposed pursuant to Rule 22c-2, the Commission has previously stated that such fees are imposed by the underlying funds, and not by the insurance companies, even when an insurance company applies the redemption fee to contract owners. *See* Release IC-27255, Feb. 28, 2006, at note 12; and Release IC-27504, Sept. 27, 2006, at note 50. The staff believes that the same analysis would also be similarly applicable to any liquidity fee charged pursuant to rule 2a-7. Because both discretionary and default liquidity fees are imposed subject to a finding by a majority of the board's directors, the staff believes that such fees are not fees that the insurance companies are themselves imposing pursuant to the contract between the insurance company and the variable contract owner. Instead, they are fees that the funds underlying the separate accounts are imposing. Hence, the staff believes that liquidity fees (like redemption fees) are not subject to any limitations that may be contained in the variable contract. Paragraph (c)(2)(iv) of Rule 2a-7 allows the insurance company to administer a liquidity fee imposed by the fund, by applying the fund's liquidity fee to contract owners, without violating section 27(i) of the 1940 Act.

~~23~~25. Q. If a money market fund underlying an insurance company unit investment trust separate account imposes a redemption gate, would this create an emergency for the subaccount for purposes of the contract between the insurance company and the contract holder, making disposal by the separate account of its securities of the underlying money market fund impracticable?

A. Yes. In the staff's view, if an underlying money market fund imposes a redemption gate, then for a separate account sub-account that has all of its assets invested in that fund, the fund's suspension of redemptions would in effect likely create an emergency for the sub-account for purposes of the relevant contractual provisions. Accordingly, the staff believes that a suspension of redemptions by the sub-account, as permitted by ~~subparagraph~~rule 2a-7(c)(2)(iv~~) of rule 2a-7,~~), would be because of such an emergency. As a result, the staff believes that it would be impracticable for the separate account sub-account to dispose of its securities in the underlying money market fund during the temporary period the redemption gate is imposed.

Fees and Gates

~~24~~26. Q. If a shareholder of a money market fund submits a redemption order while a gate is in effect, must that shareholder submit a new redemption order after the gate is lifted for the order to be effective?

A. Yes. As stated in the Adopting Release, when a gate is in effect, the fund rejects shareholder redemption orders, and any shareholders who submit a redemption order while a gate is in effect must submit a new redemption order after the gate is lifted for the order to be effective. As stated in the Adopting Release, the Commission anticipates that money market funds will disclose the "means of notifying shareholders about the imposition and lifting of fees and/or gates" as well as the "timing of the imposition and lifting of fees and gates." A fund might provide this disclosure through prospectus disclosure indicating that, while redemptions are suspended, the fund and its agents will not accept redemption orders until the fund has notified shareholders that the gate is lifted, and that any pending redemption orders will be cancelled without further notice and that any shareholder that wishes to redeem will need to submit a new redemption request.

~~25~~27. Q. If a money market fund received but has not yet processed a *purchase* order prior to notifying investors of the imposition of liquidity fees or gates, may it require the shareholder to reconfirm the order after such notification has been provided?

A. Item 11(b) of Form N-1A requires a mutual fund to disclose the procedures for purchasing its shares. As part of this disclosure, a money market fund may choose to include procedures for how it handles unprocessed *purchase* orders that it has received prior to notification of the implementation of a liquidity fee or gate. The staff believes that these procedures could either treat such an order as cancelled unless reconfirmed, or could treat such unprocessed purchases orders as valid purchases and process them normally.

~~26~~28. Q. If a money market fund's weekly liquid assets have fallen below 30% (but not below 10%) of the fund's total assets, may the board of directors determine to impose a fee or gate at a later time in the future, whether it is the next day's opening or another specified time?

A. While a fee or gate may not immediately come into effect due to practical considerations, in the staff's view, a fund should begin to implement a fee or gate immediately after the board's determination to impose one. Any delay in implementation beyond that required to take into account practical considerations as discussed below would raise significant concerns. Given the potential for material developments to occur between a board's determination and a delayed fee or gate, directors should consider whether it would be consistent with their fiduciary duties to allow for a material lapse of time between their determination and implementation. However, the staff recognizes that it may not be feasible for a fee or gate to take immediate effect. For example, it may take some time to notify intermediaries and shareholders that a fee or a gate is in place. The fund's transfer agent and other intermediaries in turn may need additional time to implement the liquidity fee or gate. The staff recognizes that a fund's board of directors may need to consider the practical limitations on the capacity of intermediaries and systems when implementing a liquidity fee or gate.

~~27~~29. Q. If a liquidity fee is imposed intraday, may an intermediary that receives both purchase and redemption orders from a single underlying accountholder apply the liquidity fee to the net amount of redemptions made by that same accountholder, even if the purchase order was received before the time the liquidity fee was implemented?

A. Yes. When the Commission proposed the amendments to Rule 2a-7, it contemplated net redemptions as an investor-friendly manner of applying a liquidity fee. However, in light of the comments it received on the proposal, the Commission was persuaded that such an approach may be too operationally difficult and costly for funds to apply and, thus, did not require funds to apply a liquidity fee on a net basis. However, even though the Commission did not require it, the staff believes that an intermediary may collect a liquidity fee on the amount of an accountholder's net redemptions, even if orders for some of the purchases netted against the redemptions were received prior to the time the liquidity fee went in effect.

~~28~~30. Q. If a redemption request was verifiably submitted to the fund's agent *before* a gate or fee is imposed, but is received by a money market fund (or its agent) *after* such an action is taken, may the fund pay the proceeds of the redemption request despite the gate, or similarly, not impose a liquidity fee on the redemption associated with the payment?

A. The staff would not object if a money market fund's board chooses to honor checks or other written redemption orders (or pay redemptions without adding the liquidity fee to the redemption amount) if the fund can verify that the redemption order was submitted (for example by mail) to the fund's agent (such as a bank, if the bank is the fund's agent) *before* the fund suspended redemptions or imposed a liquidity fee. If the fund's board so determines, the staff would not object if a fund relied on an endorsement or coding showing the time or date a check was presented to a bank for payment or deposit, or a postmark on an envelope containing a written redemption order, to establish that the order was submitted to the agent *before* the fund suspended redemptions or imposed a liquidity fee. However, in the staff's view, orders submitted to the fund's agent *after* notification of the liquidity fee or gate has been issued should be subject to the gate or fee.

31. Q. Some money market funds have charters providing that the fund may suspend redemptions only in certain specified circumstances, such as during an emergency. If a money market fund imposes a redemption gate, would it be doing so as the result of an "emergency"?

A. Yes. Under rule 2a-7(c)(2)(i), a money market fund is allowed to impose a redemption gate only in extraordinary circumstances, *i.e.* if the fund's weekly liquid assets fall below 30% and the fund's board of directors determines that imposing a gate is in the best interest of the fund. In the staff's view, such extraordinary circumstances would in effect likely create an emergency for the fund. Accordingly, the staff believes that a suspension of redemptions by a money market fund, as permitted by rule 2a-7(c)(2)(i), would be because of such an emergency.

Treasury Money Market Funds

~~29~~32. Q. In 2012, the staff issued guidance stating that the staff would not object if an investment adviser of a U.S. Treasury money market fund (*i.e.*, a fund that invests solely in direct obligations of the U.S. government such as U.S. Treasury bills and other short term securities backed by the full faith and credit of the U.S. government) refrained from stress testing for downgrades or defaults if the fund's board determines that these types of events are not relevant for the particular fund. Does this guidance remain in effect under the 2014 reforms, including the new definition of a government money market fund?

A. Yes, the staff's previous guidance on refraining from stress testing Treasury money market funds (funds that invest *solely* in direct obligations of the U.S. Government) is unaffected by the 2014 reforms. That guidance on refraining from stress testing Treasury money market funds is not applicable to government money market funds generally, as by its terms it only applied to money market funds that invest solely in direct obligations of the U.S. government.

Government Money Market Funds

~~30~~33. Q. Must a "government security" be backed by the full faith and credit of the U.S. Government?

A. No. A "government security" is defined in section 2(a)(16) and means "any security issued or guaranteed as to principal or interest by the United States, or by a person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States; or any certificate of deposit for any of the foregoing."

~~31~~34. Q. May repurchase agreements under the New York Federal Reserve Bank's ("NY Fed") Overnight Reverse Repurchase Agreement Operational Exercise ("Fed Reverse Repo Program") be considered "government securities" under Section 2(a)(16) of the Investment Company Act of 1940?

A. The staff understands that the NY Fed is responsible for conducting certain open market operations under the authorization and direction of the Federal Open Market Committee of the Federal Reserve System. The Fed Reverse Repo Program is an open market operation in which the NY Fed issues overnight reverse repurchase agreements to eligible counterparties. As such, the staff would not object if a fund considers the NY Fed to be an instrumentality of the U.S. government in its capacity as administrator of the Fed Reverse Repo Program. Therefore, in the staff's view, overnight reverse repurchase agreements issued under the Fed Reverse Repo Program may ~~therefore~~ be considered "government securities" under Section 2(a)(16) of the Investment Company Act of 1940.

~~32~~35. Q. When should a fund test to ensure that it meets the definition of a "government money market fund" as defined in rule 2a-7(a)(16)?

A. Rule 2a-7(a)(16) defines a government money market fund as a money market fund that invests 99.5% or more of its total assets in cash, government securities, and/or government repurchase agreements. In the staff's view, a government money market fund should determine that it meets this requirement at each time it acquires a portfolio security. The staff believes this is consistent with how a number of other rule 2a-7 provisions are evaluated, including for example, minimum daily and weekly liquidity requirements (measured immediately following acquisition of a portfolio security, *see* rule 2a-7(d)(4)). For example, if a government money market fund's qualifying assets fall below 99.5% of total assets due to a redemption, the fund should not purchase non-qualifying assets until its qualifying assets exceed 99.5% of total assets (but should not immediately lose its status as a "government money market fund").

~~33~~36. Q. May a money market fund include the value of trade receivables arising from the sale of government securities as government securities for purposes of qualifying as a government money market fund as defined in rule 2a-7(a)(16)?

A. Yes. The staff understands that there may be a small period of time between the trade date and settlement date on the pending sale of a portfolio security, and that, given the small 0.5% de minimis basket for non-conforming securities permitted to be held by government money market funds, treatment of such pending trade receivables as non-government securities might result in a government money market fund no longer qualifying as such. The staff would not object if a fund treated the value of trade receivables arising from the sale of government securities as "government securities" as this is consistent with the treatment of trade receivables on pending securities sales in the definitions of daily and weekly liquid assets (*see* rule 2a-7(a)(8)(iv), 2a-7(a)(34)(v)).

~~34~~37. Q. Are bank certificates of deposit, which are insured up to the $250,000 FDIC insurance limit, "government securities" for purposes of the definition of a government money market fund?

A. The staff has previously declined to provide no-action assurance that FDIC-insured bank certificates of deposit are "government securities" within the meaning of Section 2(a)(16) of the Act for purposes of determining whether an entity is an investment company under the Act. See Western International Insurance Company (pub. avail. July 24, 1985). The staff has not altered or rescinded this no-action position. The staff similarly does not view FDIC-insured bank certificates of deposit as "government securities" for purposes of the definition of a government money market fund.

~~35~~38. Q. Can a money market fund that relies on the retail exception to maintain a stable NAV invest at least 80% of its total assets in government securities, but less than 99.5%, and call itself a "government money market fund?"

A. No. As discussed in the Adopting Release, a government money market fund was previously defined based on Rule 35d-1 (the "Names Rule") of the Investment Company Act. The Names Rule states that a materially deceptive and misleading name of a fund for purposes of section 35(d) of the Investment Company Act includes a name suggesting that the fund focuses its investments in a particular type of investment or in investments in a particular industry or group of industries, unless, among other requirements, the fund has adopted a policy to invest, under normal circumstances, at least 80% of the value of its assets in the particular type of investments or industry suggested by the fund's name. The 2014 amendments, however, established a definition for a "government money market fund." Rule 2a-7(a)(16) defines a "government money market fund" to mean a money market fund that invests 99.5% or more of its total assets in cash, government securities, and/or repurchase agreements that are collateralized by cash or government securities. As the Commission stated in the Adopting Release, a money market fund may not call itself or include in its name "government money market fund" or similar names unless the fund meets the definition in rule 2a-7(a)(16).

Transition and Reorganizations

~~36~~39. Q. In the Adopting Release, the Commission provided money market funds exemptive relief from sections 17, 18, and 22 of the Investment Company Act allowing involuntary redemptions in the context of a one-time *reorganization* transaction designed to allow a fund to comply with the amendments. Is this relief also applicable to a one-time involuntary redemption in order to comply with the definition of retail money market fund in the *absence of a specific reorganization* transaction?

A. Although the release discusses the exemptive relief allowing certain involuntary redemptions in the context of a fund reorganization, the staff recognizes that there may be situations where a money market fund may need to engage in an involuntary redemption of certain shareholders to comply with the amendments even in the absence of a specific reorganization. For example, in seeking to qualify as a retail money market fund, a fund that only had a limited number of institutional shareholders might determine that the most efficient way to comply could be to involuntarily redeem those shareholders, but not to engage in any further reorganization transactions. In such a situation, even if the fund is not reorganizing, the staff would not object if a fund were to engage in an involuntarily redemption transaction of such shareholders, provided that the other requirements of the exemptive relief were followed (*i.e.* 60 days prior written notice of redemption).

~~37~~40. Q. Under the exemptive relief provided by the Commission in the Adopting Release, in connection with an involuntary redemption may a money market fund *exchange* the redeemed shares for shares of another money market fund that maintains a stable NAV (such as a government money market fund), rather than sending the shareholder a check for the redemption proceeds?

A. No. The investment goals and risk tolerances of a shareholder in a money market fund that is converted to a floating NAV fund may not align with the risks and investment goals provided by a stable value government money market fund or other investment option. If the proceeds of an involuntary redemption were automatically reinvested in another fund, such a reinvestment could be inconsistent with shareholders' expectations, investment goals, or risk tolerances. If a fund or its adviser is concerned that shareholders may disregard the notice of redemption, or discard the proceeds check accidentally, they may engage in outreach to shareholders with other voluntary reinvestment options, as appropriate.

~~38~~41. Q. As a means of facilitating implementation of the retail money market fund exemption, in the Adopting Release, the Commission provided exemptive relief from sections 17, 18, and 22 of the Investment Company Act allowing funds, in certain circumstances to *split* share classes of a single fund into separate funds for retail and institutional investors, (and permits certain involuntary redemptions to facilitate this goal). Does this exemptive relief also extend to *combining* two retail share classes of similar prime funds into one new or existing retail fund with multiple classes?

A. No. The exemptive relief was focused on splitting a single money market fund and its classes into separate funds. The relief by its terms was not applicable to fund mergers or combinations of share classes. The staff believes that such transactions raise different issues. As discussed in the previous response, although the exemptive relief allows a fund to involuntarily *redeem* a shareholder in certain circumstances, the staff believes that a fund may not involuntarily *exchange* a shareholder into a new fund under the provided relief. Accordingly, the exemptive relief provided in the release does not apply to such situations. However, a fund that wishes to combine share classes of funds that have been split into new funds under the exemptive relief may still be able to accomplish this goal. For example, funds could engage in fund mergers pursuant to rule 17a-8 under the Investment Company Act, make an exchange offer, or seek to reorganize through other methods.

~~39~~42. Q. Does the exemptive relief from section 17, 18, and 22 of the Investment Company Act provided by the Commission in the Adopting Release also apply to reorganizing a single fund currently owned by both retail and institutional shareholders into two or more new funds, such as a retail fund and a government or floating NAV fund?

A. Yes. As discussed in the Adopting Release, in seeking to "qualify as a retail money market fund, funds with separate share classes for different types of investors (as well as single class funds for both types of investors) will need to reorganize into separate money market funds…" and the Commission provided exemptive relief to facilitate such reorganizations. Accordingly, under the exemptive relief, a single class fund may reorganize into two or more money market funds, provided the fund complies with the conditions for the relief included in the release (pro rata distribution of assets, *etc.*). However, the exemptive relief provided in the release applies only to sections 17, 18, and 22 of the Investment Company Act (and the rules thereunder) and does not apply to any other provisions of the Act that may require a fund to take certain other actions as part of such a reorganization. For example, if one of the new funds would have a fundamental policy that deviates from an existing fundamental policy of the previous fund (such as a fund's investment concentration limit), the new fund would still need to seek shareholder approval to deviate from such a fundamental policy pursuant to section 13(a)(3) of the Investment Company Act.

Registration Fee Credits

~~40~~43. Q. If a money market fund engages in a one-time reorganization into separate retail and institutional funds in order to comply with the rule 2a-7 reforms, would the successor fund(s) to such reorganization be permitted to receive any available registration fee credits of the predecessor fund for purposes of Form 24f-2, even if this one-time reorganization did not meet all the requirements of rule 24f-2(b)?

A. Yes. Rule 24f-2(b) generally prevents the payment of duplicative registration fees on Form 24f-2 in connection with certain reorganizations. In particular, if a reorganization meets the three conditions under rule 24f-2(b), the predecessor fund will not be deemed to have ceased operations and the successor fund will assume the obligations, fees, and redemption fee credits of the predecessor fund incurred pursuant to section 24(f) of the Act.

However, a money market fund reorganizing into separate retail and institutional funds for purposes of the rule 2a-7 reforms may not meet all of the conditions under rule 24f-2(b). For example, a money market fund might reorganize into two or more newly formed funds (rather than just one) and/or merge into an already existing money market fund (rather than a newly formed entity). Any redemption fee credits of the predecessor fund would therefore be otherwise disallowed under rule 24f-2(b).

Because complying with the retail fund exemption of the rule 2a-7 reforms would be the primary impetus for these reorganizations, the staff believes that such money market funds should not be required to pay additional registration fees. Accordingly, the staff would not object if, as part of a one-time reorganization into separate retail and institutional funds in order to comply with the rule 2a-7 reforms, each newly formed money market fund or any existing money market fund receiving assets from such reorganization is treated as a successor issuer for purposes of rule 24f-2. In such a case, each successor fund will be deemed to assume a share of the obligations, fees, and redemption credits of the predecessor issuer, as allocated by the board of directors of the predecessor fund.

Staff recognizes that funds may wish to document any redemption fee credits that they may apply to a successor fund. For example, predecessor fund boards may wish to reflect any relevant details in its board minutes, including (i) a finding that the predecessor fund is engaged in a one-time reorganization into separate retail and institutional funds solely in order to comply with the rule 2a-7 reforms and (ii) the allocation of the share of the obligations, fees, and redemption credits that each successor fund will be deemed to assume from the predecessor fund.

Cash Items for Purposes of "Investment Company" Definition

~~41~~44. Q. Do shares of a floating NAV money market fund qualify as "cash items" for purposes of meeting the definition of "investment company" under section 3(a)(1)(C) of the Investment Company Act?

A. Yes. Section 3(a)(1)(C) of the Investment Company Act deems as an "investment company" any issuer that is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire "investment securities" having a value exceeding 40% of the value of the issuer's total assets (exclusive of Government securities and *cash items*) on a consolidated basis. The treatment of floating NAV money market fund shares as "cash items" is consistent with the Commission's statement in the Adopting Release that an investment in a floating NAV money market fund would, under normal circumstances, meet the definition of a "cash equivalent" (under U.S. accounting standards) because the fluctuations in the amount of cash received upon redemption would likely be small and would be consistent with the concept of a 'known' amount of cash. It is also consistent with a previous no action position the staff has taken in our letter to Willkie Farr & Gallagher (pub. available Oct. 23, 2000). The staff notes, however, that an issuer that is determining its status as an "investment company" under section 3(a)(1)(C), may wish to consider events that may give rise to credit and liquidity issues for money market funds and reassess whether such investments continue to appropriately reflect "cash items." *See also* related discussion in the Adopting Release at 47784.

Diversification

~~42~~45. Q. If a state, municipal or foreign government or its agencies or instrumentalities owns (directly, through legislative act or other means) more than 50 percent of an entity's voting securities, is a money market fund required to treat such entity and the state, municipal or foreign government or its agencies or instrumentalities that owns more than 50 percent of that entity's voting securities as a single issuer for purposes of the five percent issuer diversification provision?

A. Yes. Pursuant to rule 2a-7(d)(3)(ii)(F)*(1)* (*Treatment of certain affiliated entities — General*), a money market fund, when calculating the amount of its total assets invested in securities issued by any particular issuer for purposes of rule 2a-7(d)(3)(i) (*Issuer diversification*), must treat as a single issuer two or more issuers of securities owned by the money market fund if one issuer controls the other~~, is controlled by the other issuer, or is under common control with the other issuer.~~. The definition of "control" in revised rule 2a-7 for this purpose means ownership of more than 50 percent of the issuer's voting securities. Therefore, if a state, municipal or foreign government or its agencies or instrumentalities controls the other entity~~ or is controlled by it or is under common control with it~~, a money market fund is required to treat the state, municipal or foreign government or its agencies or instrumentalities and such other entity as a single issuer.

A money market fund also must treat two or more issuers as one single issuer if one issuer is controlled by, or under common control with the other issuer. In the staff's view, a state, municipal or foreign government or one of its agencies or instrumentalities that does not issue voting securities, as is typically the case, is not considered controlled by or under common control with another entity. If a state, municipal or foreign government or one of its agencies or instrumentalities does issue voting securities, however, the above diversification requirements would apply to such issuer.

~~43~~46. Q. Can a tax-exempt fund acquire a first tier security if it will result in the fund investing more than ten percent but not more than 15 percent in first tier securities issued by, or subject to guarantees or demand features provided by, an institution (and is the only first-tier security to do so)?

A. Yes. Rule 2a-7(d)(3)(i)(A)(*2*) (*Issuer diversification - Taxable and national funds*) and rule 2a-7(d)(3)(iii) (*Diversification rules for demand features and guarantees*) together generally prohibit, at the time of acquisition, investment of more than ten percent of a money market fund's total assets in securities issued by *or* subject to demand features or guarantees from the institution that issued the demand feature or guarantee. While the diversification provision in rule 2a-7(d)(3)(iii) (*Diversification rules for demand features and guarantees*) requires a tax-exempt fund to comply with this diversification limitation with respect to only 85 percent of the fund's total assets, there is no similar provision in rule 2a-7(d)(3)(i)(A)(*2*) (*Issuer diversification — Taxable and national funds*) that provides the percentage of total assets that must be in compliance with the limitation. The Adopting Release amendments provided that as much as 15 percent of the value of securities held in a tax-exempt money market fund's portfolio may be subject to guarantees or demand features from a single institution. Therefore, a tax-exempt fund (other than a single state fund, which is addressed below) is required to comply with rule 2a-7(d)(3)(i)(A)(*2*) (*Issuer diversification — Taxable and national funds*) with respect to only 85 percent of its total assets.

~~44~~47. Q. Can a money market fund (other than a single state fund) invest up to 25 percent of its total assets in a single issuer's first tier securities for a period of up to three business days ("three-day safe harbor") if some of the money market fund's securities are subject to guarantees or demand features provided by such issuer (provided that the fund does not invest in the securities of more than one issuer in accordance with the three-day safe harbor at any time)?

A. Yes. Rule 2a-7(d)(3)(i)(A)(*1*) (*Issuer diversification — Taxable and national funds, subparagraph (1)*) generally prohibits a money market fund (other than a single state fund) from investing more than five percent of its total assets in an issuer's first tier securities, provided that such a fund may invest up to 25 percent of its total assets in the first tier securities of a single issuer for a period of up to three business days after the acquisition thereof. In addition, rule 2a-7(d)(3)(i)(A)(*2*) (*Issuer diversification — Taxable and national funds, subparagraph (2)*) prohibits, at the time of any acquisition, investment of more than ten percent of a money market fund's total assets in securities issued by *or* subject to demand features or guarantees from the institution that issued the demand feature or guarantee, without making reference to the three-day safe harbor. Although the three-day safe harbor is referenced solely in subparagraph (*1*) of rule 2a-7(d)(3)(i)(A) and not in subparagraph (*2*) of rule 2a-7(d)(3)(i)(A), the staff believes that the three-day safe harbor for issuer diversification should be read to apply to both subparagraphs (*1*) and (*2*).

~~45~~48. Q. Can a single state fund invest up to 25 percent of its total assets in a single issuer's securities if some of the money market fund's securities are subject to guarantees or demand features provided by such issuer?

A. Yes. Rule 2a-7(d)(3)(i)(B)(*1*) (*Issuer diversification — Single state funds, subparagraph (1)*) prohibits a single state fund, with respect to 75 percent of its assets, from investing more than five percent of its total assets in an issuer's securities at the time of any acquisition. In addition, rule 2a-7(d)(3)(i)(B)(*2*) (*Issuer diversification — Single state funds, subparagraph (2)*) prohibits, at the time of any acquisition, investment of more than ten percent of a single state fund's total assets in securities issued by *or* subject to demand features or guarantees from the institution that issued the demand feature or guarantee. While the limitation in rule 2a-7(d)(3)(i)(B)(*1*) (*Issuer diversification — Single state funds, subparagraph (1)*) applies to only 75 percent of the single state fund's total assets, the limitation in rule 2a-7(d)(3)(i)(B)(*2*) (*Issuer diversification — Single state funds, subparagraph (2)*) applies to all of a single state fund's total assets.

Although the 75 percent provision is referenced only in subparagraph (*1*) of rule 2a-7(d)(3)(i)(B) and not in subparagraph (*2*) of rule 2a-7(d)(3)(i)(B), the staff believes that the 75 percent provision should be read to apply to both subparagraphs (*1*) and (*2*). Accordingly, a single state fund should comply with the diversification limitations of rule 2a-7(d)(3)(i)(B)(*2*) (*Issuer diversification — Single state funds, subparagraph (2))* with respect to only 75 percent of its total assets, so long as not more than 15 percent of its total assets are invested in securities subject to guarantees or demand features provided by an institution as provided for in rule 2a-7(d)(iii)(B) (*Diversification rules for demand features and guarantees — Tax exempt funds)*.

Performance Record

~~46~~49. Q. If a money market fund is reorganizing into a separate retail fund (with a stable NAV) and institutional fund (with a fluctuating NAV) solely for purposes of the rule 2a-7 reforms, may both funds continue to include the original fund's performance in their performance disclosures and marketing materials?

A. Yes. The staff believes that for purposes of a one-time reorganization to comply with the MMF reforms, so long as both the separate retail money market fund and institutional fund are managed in a manner that is in all material respects equivalent to the management of the prior money market fund (other than the fact that institutional funds will now have a fluctuating NAV), both funds may continue to include the original fund's performance in their performance disclosures and marketing materials. For additional staff guidance on whether a reorganized fund is managed in a manner that is in all material respects equivalent to the management of the prior fund, we refer to our prior staff no-action letters to Janus Adviser Series (pub. avail. August 28, 2000) and MassMutual Institutional Funds (pub. avail. Sep. 28, 1995).

Rule 2a-7 References

~~47~~50. Q. In paragraph (c)(2)(i), should the reference to "paragraphs (c)(i)(A) and (B) of this section" instead refer to paragraphs (c)*(2)*(i)(A) and (B) of rule 2a-7?

A. Yes.

Asset-Backed Securities

~~48~~51. Q. May a special purpose entity ("SPE") issue only equity interests and asset-backed commercial paper to qualify under rule 2a-7(d)(3)(ii)(F)(*2*) (*Treatment of certain affiliated entities — Equity owners of asset-backed commercial paper special purpose entities*)?

A. Yes. Pursuant to rule 2a-7(d)(3)(ii)(F)(*2*) (*Treatment of certain affiliated entities — Equity owners of asset-backed commercial paper special purpose entities*), a money market fund is not required to aggregate an asset-backed commercial paper SPE and its equity owners for purposes of the issuer diversification provisions of rule 2a-7 provided that: a primary line of business of the SPE's equity owners is owning equity interests in SPEs and providing services to SPEs; the independent equity owners' activities with respect to the SPEs are limited to providing management or administrative services; and no qualifying assets of the SPE were originated by the equity owners. The staff believes that this exception to the issuer diversification provisions applies to SPEs issuing *only* equity interests and asset-backed commercial paper, and not to SPEs *also issuing other types* of asset-backed securities.

~~49~~52. Q. Pursuant to rule 2a-7(a)(18)(ii) (*Definitions — Guarantee*), the sponsor of an SPE with respect to an asset-backed security ("ABS") generally is deemed to guarantee the principal amount of an ABS, absent a finding by a board of directors or its delegate to the contrary (collectively, a "Deemed Guarantee"). Does such a Deemed Guarantee qualify as a "guarantee" for purposes of rule 2a-7(d)(2)(iv)(C) (*Portfolio quality — Securities subject to conditional demand features*)?

A. No. Rule 2a-7(d)(2)(iv) (*Portfolio quality — Securities subject to conditional demand features*) provides certain conditions that must be met in order for a security that is subject to a conditional demand feature to qualify as an eligible security, which is defined in Rule 2a-7(a)(12)(iii). One of those conditions is that any "guarantee" of such security must have received certain ratings or, if unrated, is determined to be of comparable quality. The definition of "guarantee" in Rule 2a-7(a)(18)(ii) (*Definitions — Guarantee*) specifically exempts Deemed Guarantees from the definition of eligible security, which the staff believes includes the determination of whether a security that is subject to a conditional demand feature is an eligible security pursuant to Rule 2a-7(d)(2)(iv)(C) (*Portfolio quality — Securities subject to conditional demand features*).

~~50~~53. Q. Pursuant to rule 2a-7(a)(18)(ii) (*Definitions — Guarantee*), the sponsor of an SPE with respect to an ABS is deemed to guarantee the principal amount of an ABS, absent a finding by the fund's board of directors or its delegate to the contrary ("deemed guarantee"). Is a sponsor's deemed guarantee of an ABS a "guarantee issued by a non-controlled person," for purposes of rule 2a-7(d)(3)(i) (*Issuer diversification*)?

A. Yes. Under rule 2a-7(d)(3)(i) (*Issuer diversification)*, a money market fund is required to be diversified with respect to issuers of securities acquired by the fund, other than with respect to government securities and securities subject to a "guarantee issued by a non-controlled person." In the 2013 Proposed Money Market Fund Reform, the Commission proposed that the definition of a "guarantee issued by a non-controlled person" include a sponsor of a SPE with respect to an ABS if the money market fund's board of directors has determined that the fund is not relying on the sponsor's financial strength or its ability or willingness to provide liquidity, credit or other support in connection with the ABS to determine the quality or liquidity of the ABS. The effect of the proposed definition of a "guarantee issued by a non-controlled person" was that a sponsor's deemed guarantee would no longer qualify as a guarantee issued by a non-controlled person, and therefore a money market fund that invested in an ABS subject to a deemed guarantee would have had to comply with both the ten percent diversification requirement for the guarantor pursuant to rule 2a-7(d)(3)(iii) as well as the five percent diversification requirement for the issuer pursuant to rule 2a-7(d)(3)(i). The proposed definition, however, would have created a disparity between treatment of ABS and non-ABS for purposes of the issuer diversification exclusion in rule 2a-7(d)(3)(i) for securities subject to a guarantee issued by a non-controlled person.

To address this potential disparity, the Commission in the Adopting Release stated that instead of adopting the proposed definition of a "guarantee issued by a non-controlled person", the Commission was retaining the current definition. Accordingly, the definition of a "guarantee issued by a non-controlled person", as adopted, included a sponsor of a SPE with respect to an ABS (without the requirement that a determination be made by the money market fund's board of directors that the fund is not relying on the sponsor's financial strength or its ability or willingness to provide liquidity, credit or other support in connection with the ABS to determine the quality or liquidity of the ABS). The effect of the adopted definition was that a sponsor's deemed guarantee of an ABS would qualify as a guarantee issued by a non-controlled person for purposes of rule 2a-7(d)(3)(i) (*Issuer diversification*) and a fund investing in ABS with a deemed guarantee would not need to be diversified with respect to issuers of such securities.

However, the Commission stated in the Adopting Release that in order to advance its diversification reform goal of limiting concentrated exposure of money market funds to particular economic enterprises, it was proposing in the Removal of Certain References to Credit Ratings and Amendment to the Issuer Diversification Requirement in the Money Market Fund Rule Proposing Release that the current issuer diversification exclusion for securities subject to guarantees by non-controlled persons, which provides that a money market fund is not required to be diversified with respect to issuers of securities that are subject to a guarantee issued by a non-controlled person, be removed. The proposed removal of the exclusion would require that the five percent issuer diversification limit be imposed on all securities (both ABS and non-ABS) with a guarantee by a non-controlled person. That proposal is pending.

~~51~~54. Q. Does the insolvency of a sponsor of an ABS trigger rule 2a-7(f)(2)(iv) (*Defaults and other events*) regarding disposal of the security in the absence of a finding by the board of directors following insolvency of a guarantor?

A. Yes. Rule 2a-7(f)(2) (*Defaults and other events*) provides that upon the occurrence of certain events with respect to a portfolio security, a money market fund must dispose of such security as soon as practicable, absent a finding by the board of directors that disposal of the portfolio security would not be in the best interests of the money market fund. One of those events (provided in rule 2a-7(f)(2)(iv)) includes an insolvency with respect to the issuer of a portfolio security or the provider of any demand feature or guarantee. Because the sponsor of an ABS is deemed to guarantee the principal amount of an ABS unless the board of directors (or its delegate) determines otherwise pursuant to rule 2a-7(a)(18)(ii) (*Definitions — Guarantee*), the staff believes that the event of insolvency of the sponsor of an ABS is generally considered an event of insolvency of a guarantor. If, however, a money market fund's board of directors (or its delegate) determines pursuant to rule 2a-7(a)(18)(ii) (*Definitions — Guarantee*) that the fund is not relying on the sponsor's financial strength or its ability or willingness to provide liquidity, credit or other support in connection with the ABS to determine the quality or liquidity of the ABS, then a sponsor of an ABS would not be deemed to guarantee the principal amount of an ABS, and the event of insolvency of the sponsor of an ABS would not be considered an event of insolvency of a guarantor.

Rule 22e-3

~~52~~55. Q. May the board of directors of a government or retail money market fund suspend redemptions under rule 22e-3 if its shadow price deviates, or the board of directors determines that the shadow price is likely to deviate, by more than 0.5%?

A. As stated in rule 22e-3, a government or retail fund may permanently suspend redemptions in preparation of liquidation under the rule if the fund's price per share has deviated (or is likely to deviate) from the stable price per share. The rule does not specify a specific percentage by which the price per share must deviate before a fund may impose such a suspension. Instead, the Commission in the Adopting Release stated "Amended rule 22e-3 will allow all money market funds, not just those that maintain a stable NAV as currently contemplated by rule 22e-3, to rely on the rule when the fund's liquidity is significantly stressed. A money market fund whose weekly liquid assets have fallen below 10% of its total assets (whether that fund has previously imposed a fee or gate, or not) may rely on the rule to permanently suspend redemptions and liquidate. Under amended rule 22e-3, stable value funds also will continue to be able to suspend redemptions and liquidate if the board determines that the deviation between its amortized cost price per share and its market-based NAV per share may result in material dilution or other unfair results to investors or existing shareholders."

Maturity

~~53~~56. Q. Under the guidance allowing funds to use amortized cost when fair valuing certain securities with remaining maturities of 60 days or less, may a floating NAV money market fund use the "maturity shortening" provisions of rule 2a-7 to determine the maturity date of those securities?

A. No. The guidance initially provided in ASR 219 in 1977 relating to the use of amortized cost in the context of securities with a remaining maturity of 60 days or less applies not just to money market funds, but other mutual funds as well. The guidance predates the adoption of rule 2a-7 and its maturity shortening provisions, which are applicable only to money market funds for certain purposes in complying with the risk limiting provisions of the rule. The staff believes that using the maturity shortening provisions of rule 2a-7 in such a different context would be inconsistent with the guidance provided in ASR 219 and the Adopting Release and, therefore, that such use would not be an appropriate application of the maturity shortening provisions of the rule or the amortized cost method of valuation.