



AICPA Investment Companies Expert Panel Meeting Highlights July 21, 2020

I. AICPA/Administrative:

1. AICPA Investment Companies Expert Panel (EP) May meeting highlights are being finalized.

II. Accounting/Reporting Issues:

1. The EP was made aware of the [potential EITF agenda request topic re: Application of FASB ASC Topic 820, Fair Value Measurement, when valuing a security subject to an underwriter lockup agreement](#).
2. The EP members shared that at this time they are not aware of any new accounting, reporting, or valuation challenges related to COVID-19 matters. The EP members are only aware of a handful of investment companies that have taken advantage of SEC provided COVID-19 relief (see SEC Staff Update portion of the [March 2020 AICPA IC EP meeting highlights](#) for more information on relief offered).
3. At the April 2020 EP meeting, the EP discussed how a lender should account for loan payment holidays to assist borrowers impacted by COVID-19. Business development companies (BDCs) and other investment company lenders are also making modifications to other terms of the loans in addition to loan payment holidays (e.g., changing interest rates or maturity dates).
At the July 2020 EP meeting, the EP discussed loan modifications for BDCs. Specifically, an EP member asked the EP to share observations in practice and whether BDCs are applying loan modification guidance (that is, FASB ASC 310-20) by analogy, absent investment company-specific guidance.
The EP members noted that generally, a BDC should establish a policy on when a loan modification results in a realization event that it applies consistently and continuously. One EP member noted that if that policy is to analogize to guidance in FASB ASC 310-20, the BDC should consider other guidance in that Topic as well.
Another EP member observed that there may be more modifications of loan agreements in the future due to transitioning from LIBOR to another alternative reference rate.

4. The EP shared themes from [comment letters submitted](#) on the [SEC proposed rule Good Faith Determinations of Fair Value](#).
5. The AICPA Audit and Accounting Guide *Investment Companies* in par. 2.120 indicates that an investment company should classify paydown gain and losses on mortgage-backed and asset-backed securities (MBS and ABS) as an adjustment to interest income. The EP considered whether similar logic applies to paydowns relating to loans that are not in the form of MBS or ABS. The EP will resume this discussion at a future meeting.

III. SEC Staff Update

Disclaimer

The following comments and observations were compiled by the AICPA Investment Companies Expert Panel and AICPA staff and are not authoritative positions or interpretations issued by the SEC or its staff. The comments and observations were not transcribed by the SEC or its staff and have not been considered or acted upon by the SEC or its staff. Accordingly, these comments and observations do not constitute a statement of the views of the SEC or its staff.

1. The Commission remains fully operational in current telework environment due to COVID-19 and continues to monitor markets and address market issues and risks, provide regulatory relief and guidance to registrants, coordinate with other federal regulators and maintain its enforcement and investor protection efforts.
2. The SEC staff discussed [Asset Management Advisory Committee \(AMAC\)](#) activities, including 2 recent meetings:
 - a. [May 27, 2020, meeting on](#)
 - ESG
 - Private investments
 - Impact of COVID-19
 - b. [July 16, 2020, meeting on](#)
 - improving diversity and inclusion in the asset management industry and
 - data privacy and technology's impact on investment advice
3. The SEC staff provided an update on emerging markets initiatives:
 - a. April 21, 2020 [Joint Statement on Emerging Markets](#) by the SEC Chairman, Division Directors, and PCAOB Chairman covering key matters related to emerging market investments, including challenges related to audits, financial reporting, and related disclosure;
 - b. May 4, 2020 [Statement Announcing SEC Staff Roundtable on Emerging Markets](#) by Chairman Jay Clayton;
 - c. July 9, 2020, [SEC Staff Roundtable on Emerging Markets](#) included four panels:
 - **Investments in Emerging Markets by U.S. Retail Investors**
 - **Limitations on Inspection and Enforcement in Emerging Markets; Auditors' Global Oversight of Member Firms in Emerging Markets**
 - **Disclosure and Reporting Considerations with Respect to Investments in Emerging Markets**
 - **Improving Emerging Market Investing for US Retail Investors and Markets**

4. The SEC staff highlighted recent testimony and other speeches:
 - a. June 23, 2020 [Statement on the Continued Importance of High-Quality Financial Reporting for Investors in Light of COVID-19](#) by Sagar Teotia, Chief Accountant
 - b. June 24, 2020 [Statement on Commencement of Appointment Process for the 2020-2025 PCAOB Board Seat](#) by Sagar Teotia, Chief Accountant
 - c. July 14, 2020, [Remarks to the Financial Stability Oversight Council](#) by Chairman Jay Clayton
 - d. July 7, 2020 [Keynote Speech at the Society for Corporate Governance National Conference](#) by Commissioner Elad L. Roisman
 - e. June 25, 2020, [Testimony before the Investor Protection, Entrepreneurship, and Capital Markets Subcommittee, U.S. House Committee on Financial Services](#) by Chairman Jay Clayton on the SEC's response to the impact of COVID-19 and fiscal year 2021 budget request
 - f. Following the EP meeting, Division of Investment Management Director Dalia Blass [published remarks](#) from PLI's Investment Management Institute highlighting the Division's accomplishments and upcoming agenda

5. Rulemaking:
 - a. July 6, 2020 [Amendments to Procedures With Respect to Applications Under the Investment Company Act of 1940](#)
 - b. July 10, 2020 [Reporting Threshold for Institutional Investment Managers](#) – a proposed amendment to Form 13F reports by institutional investment managers
 - c. Adoption of [Securities Offering Reform for Closed-End Investment Companies](#)

6. Policy initiatives:
 - a. SEC has a dedicated [COVID 19 response page and the Division of Investment Management has a dedicated COVID-19 Response FAQ page.](#)
 - b. June 26, 2020 joint statement [An Update on the Commission's Targeted Regulatory Relief to Assist Market Participants Affected by COVID-19 and Ensure the Orderly Function of our Markets](#)

7. The SEC staff noted that the [SEC Spring 2020 regulatory agenda](#) has been updated and currently includes the following IM-related items:
 - a. Proposed rule stage:
 - Amendments to the Custody Rules for Investment Advisers
 - Investment Company Summary Shareholder Report and Modernization of Certain Investment Company Disclosure
 - Amendments to Rule 17a-7 Under the Investment Company Act
 - Amendments to Form PF
 - [Investment Company Fair Value](#) (proposed April 21st)
 - [Amendments to Form 13F Filer Threshold](#) (proposed July 10th)

 - b. Final rule stage:
 - Use of Derivatives by Registered Investment Companies and Business Development Companies
 - Fund of Funds Arrangements

- Amendments to Certain Provisions of the Auditor Independence Rules
 - Amending the "Accredited Investor" Definition
 - [Amendments to Financial Disclosures About Acquired Businesses](#) (adopted May 20th)
 - [Amendments to Procedures for Applications Under the Investment Company Act](#) (adopted July 6th)
8. The SEC staff noted that comment periods have closed and comments filed are available for proposals on [Auditor Independence](#) and [Good Fair Determinations of Fair Value](#).
9. On May 20, 2020, the SEC adopted [Amendments to Financial Disclosures about Acquired and Disposed Businesses](#). The rule is effective on January 1, 2021. To date, the SEC staff received a handful of questions, including some on supplemental financial information. The SEC staff reminded that while voluntary early adoption of the rule is permitted in advance of the effective date, registrants who early adopt must apply the final amendments in their entirety. The SEC staff encouraged registrants to reach out with questions on particular facts and circumstances.
10. Operations related: Financial statement reviews comments
1. Presentation of recoupments of previously waived fees on the statement of operations:
 - a. The SEC staff highlighted previously issued guidance, see [Dear CFO position 1995-09](#) and [ADI 2019-09](#), which indicates that for fee table presentation in the registration statement, recoupments should be presented in gross expenses either in a separate line item or in other expenses.
 - b. For financial statement purposes on the statement of operations, certain registrants include recoupments in gross expenses, while others include them below gross expenses and above net expenses, which is the same section in which fee waivers are presented. The EP members inquired whether the staff would object to the presentation of recoupments in either of these manners.
 - c. The SEC staff noted that management, in consultation with the fund's auditors, should evaluate the placement of recoupments in a manner that reflects what management believes is best disclosure for shareholders, and that the SEC Staff would not object to either presentation for typical recoupment agreements at this time, absent unique facts or circumstances.
 2. As noted in item #9 above, if registrants choose to early adopt the new rules within [Amendments to Financial Disclosures about Acquired and Disposed Businesses](#), registrants are required to adopt all provisions of the rule, including the supplemental financial information. The SEC staff highlighted a best practice is to disclose that the fund has early adopted the rule within the Form N-14 filing or in the cover letter. Lastly, the SEC staff emphasized that pro-forma financial statements should be included if a registrant does not early adopt the [rule](#).
 3. In a SOX review, the SEC staff identified a fund that had recorded and expensed fees through the fund that related to services performed by the Chief Compliance Officer (CCO); however, the fund's advisory agreement specified that the adviser was responsible for paying the CCO fees. The fund was reimbursed for all years impacted in accordance with the fund's NAV error policies. The SEC staff reminded registrants of the importance of evaluating whether expense accruals match the terms and conditions of the agreements entered into by the fund, particularly

when new agreements are entered into that may conflict with the language in previous agreements.

4. The SEC staff reminded registrants that LIBOR transition may impact registrants in variety of ways, not just with respect to fund investments. The SEC staff offered an observation from one review of a registration statement where a BDC had an incentive fee hurdle rate based on LIBOR and included disclosure around the adviser's ability to move from LIBOR to SOFR. The SEC staff explained that funds may have non-investment related agreements that reference LIBOR and, to the extent that exposure is known and material, registrants are encouraged to include disclosures describing the exposure. The SEC staff also reminded registrants to review the [June 2019 staff statement on LIBOR transition](#).
5. Form N-PORT Item C.7. a. "Liquidity classification information" requires disclosure of the liquidity classification(s) for each portfolio investment among the four categories as specified in SEC Rule 22e-4 and the percentage amount attributable to each classification. Liquidity classifications are:
 - i. Highly Liquid Investments
 - ii. Moderately Liquid Investments
 - iii. Less Liquid Investments
 - iv. Illiquid Investments

The SEC staff reminded registrants that for a fund with multiple liquidity classifications, a percentage amount attributed to each classification should be indicated, and that the percentages included should total 100%. The SEC staff emphasized the importance of the accuracy and consistency of all data contained in such reports to analyses performed by the Commission.

11. Recent OCIE Risk Alerts:

- a. [Risk Alert: Observations from Examinations of Investment Advisers Managing Private Funds](#) June 23, 2020
- b. [Risk Alert: Cybersecurity: Ransomware Alert](#) July 10, 2020

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