

SEC Proposes Amendments to Modernize and Expand Cross Trade Eligibility for Regulated Funds

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On October 9, 2026, the U.S. Securities and Exchange Commission (SEC) [proposed amendments](#) to Rule 17a-7 under the Investment Company Act of 1940 (Investment Company Act), which exempts certain cross-trade transactions with registered investment companies and business development companies (BDCs) (collectively, Regulated Funds) from the prohibitions on affiliated principal transactions set forth in Section 17(a) of the Investment Company Act. The proposed amendments would expand the current scope of eligible securities under Rule 17a-7 to permit cross trading of securities that were commonly effected prior to September 2022 and otherwise seek to modernize securities pricing and board reporting requirements.

Cross-trade transactions can benefit Regulated Funds by mitigating costs and risks associated with open market transactions with third parties (e.g., brokerage commissions and other transaction expenses, as well as counterparty risk) while also providing price and execution certainty. The proposed amendments would facilitate cross trading in certain fixed-income securities – a practice that essentially has been dormant for the last four years – although Regulated Fund managers should review closely the SEC’s proposal given the more stringent findings and reporting obligations that would be imposed as compared to the current Rule and [similar SEC no-action relief](#) for other exemptive Rules under the Investment Company Act that permit transactions with affiliates (i.e., Rules 10f-3, 17a-6 and 17e-1).

Eligible Securities

To qualify for the Rule 17a-7 exemption, a cross-trade transaction must involve a security for which there is a readily available market quotation. Prior to the adoption of

Rule 2a-5 under the Investment Company Act in December 2020, no standard definition of “readily available market quotation” existed, and fixed-income and equity securities with directly or indirectly observable inputs (i.e., “Level 2” securities under the U.S. generally accepted accounting principles (U.S. GAAP) fair value hierarchy) were commonly cross traded pursuant to this exemptive Rule. However, Rule 2a-5 brought with it a definition of “readily available market quotation” that referenced only Level 1 inputs under the fair value hierarchy in U.S. GAAP and, as a result, effectively ended cross trading in those securities as of the Rule’s effective date of September 8, 2022, with limited exceptions for transactions in municipal securities effected in accordance with SEC staff no-action relief. The SEC’s proposed amendments to Rule 17a-7 would expand the types of eligible securities under the Rule to include Level 2 securities, effectively restoring the ability of affiliates of Regulated Funds to effect cross trades in many fixed-income securities.

Securities Pricing

Rule 17a-7 requires a cross-traded security to be priced at its “independent current market price,” and defines the independent current market price as the last sales price for an exchange-traded security or the average of the highest and lowest bids for a security traded over the counter. The SEC’s proposed amendments would retain the requirement to price the security at its independent current market price but revise the definition to include two pricing options: (i) the value given to the security in the Regulated Fund’s next computation of its net asset value (NAV) made on the business day the cross trade occurs, or (ii) a price that the Regulated Fund’s investment adviser determines reasonably represents the current market price for the security, using one or more unaffiliated pricing sources, provided that the investment adviser periodically reviews the reasonableness of such prices. Of note, if a cross trade involves two Regulated Funds, the Regulated Funds must share the same valuation processes to arrive at the same price using the NAV pricing method. Further, a Regulated Fund that does not compute its NAV on a daily basis would only be able to utilize the NAV pricing method on the days it computes its NAV.

Board Duties and Reporting

The SEC’s proposed amendments would shift the ongoing review requirements of Rule 17a-7 transactions from the Regulated Fund’s board to its chief compliance officer (CCO). Under the proposed amendments, the CCO would be required to (i) review cross trades on a quarterly basis to determine compliance with Rule 17a-7, (ii) at least

annually, review cross trades and any other transactions necessary “to determine whether any such transaction, or pattern of transactions, may have disadvantaged the [Regulated Fund] relative to the eligible affiliate(s),” and (iii) provide quarterly and annual reports, as applicable, to the board regarding the CCO’s findings from the quarterly and annual reviews. Notably, the proposed amendments include a prescriptive obligation for a CCO to review the timing and price of any subsequent sale of a security that a Regulated Fund purchased in a cross-trade transaction. This requirement, as proposed, does not have a time limit for such review.

The SEC’s proposed amendments also would remove the requirement from the face of Rule 17a-7 that the board adopt cross-trade procedures, although the Regulated Fund’s board, including a majority of independent directors, would continue to be required to satisfy the fund governance standards under Rule 0-1(a)(7). Pursuant to Rule 38a-1 under the Investment Company Act, the Regulated Fund’s board also would be required to adopt policies and procedures that are reasonably designed to prevent violations of Section 17(a), which would include procedures for compliance with Rule 17a-7.

Additional Proposed Amendments to Rule 17a-7

The SEC’s proposed amendments also would require the Regulated Fund’s investment adviser to make a determination, prior to each cross trade, that the transaction is in the best interest of each participating Regulated Fund. If the cross trade involves two Regulated Funds, separate determinations must be made for each Regulated Fund. The SEC identified certain factors for an investment adviser to consider in making this best interest determination, including: investment rationale and current market conditions; characteristics of the security (including liquidity); pricing considerations; execution quality, costs, timing and trade size; and the characteristics of the affiliate involved in the cross trade. Rule 17a-7 currently contains no such requirement. The proposed amendments would continue to require that the transaction be consistent with the Regulated Fund’s policies and investment strategies as recited in its registration statement and reports filed under the Investment Company Act.

Additionally, the SEC’s proposed amendments would disallow any remuneration in connection with the cross-trade transaction, except for the price of the security and *de minimis* payments to unaffiliated parties for certain transaction-related services, such as clearing, settlement and custody. Rule 17a-7 currently contains similar restrictions except it allows for payment of customary transfer fees instead of the proposed amendments’ *de minimis* payments.

Cross-Trade Reporting

The SEC also proposed to amend Forms N-PORT and N-MFP to require reporting of cross-trade transactions made in reliance on Rule 17a-7, on an aggregated basis, if the Regulated Fund engaged in cross trades in reliance on the Rule during the trailing 12 months. BDCs, of note, would not be subject to these reporting requirements.

Takeaways and Next Steps

In many ways the proposed amendments represent a “return to practice” rather than a wholesale expansion of the ability to cross trade securities between Regulated Funds and their affiliates. While the proposed amendments would expand the universe of eligible securities, they still effectively exclude many types of private assets, as the SEC declined to include “Level 3” securities (i.e., securities that are valued based on unobservable inputs) in the expanded scope due to conflicts of interest and unfair pricing concerns.

The SEC also did not propose any amendments to the eligible cross-trade affiliates under Rule 17a-7, such as narrowing the scope of affiliates (e.g., to more closely track the scope of affiliates covered by Section 57 as applied to BDCs and the ability of the board to approve certain transactions thereunder).

The SEC requested comment on, among other things, the scope of eligible securities and conditions associated with an expansion of such, removal of eligibility criteria altogether, the appropriateness of the pricing definitional amendments, and whether the restrictions on remuneration are too stringent.

The proposed amendments are open for comment for 60 days following publication of the proposed amendments in the Federal Register. Please contact the Kirkland attorneys with whom you regularly work if you have questions regarding these proposals.

Authors

Kristin H. Burns

Partner / New York

Pamela Poland Chen

Partner / New York

Tessa J. Davis

Partner / New York

Paul J. Delligatti, P.C.

Partner / Washington, D.C.

Brad A. Green, P.C.

Partner / New York

James W. Hahn

Partner / Washington, D.C.

Claire Hinshaw

Partner / Boston

Kim Kaufman

Partner / New York

William P. Lane

Partner / Washington, D.C.

Erin M. Lett

Partner / Washington, D.C.

Nick Losurdo

Partner / Boston

Jason F. Monfort

Partner / Boston

Lisa Nosal

Partner / Boston

Christopher E. Palmer

Partner / Washington, D.C.

Jessica L. Patrick

Partner / Washington, D.C.

Nicole M. Runyan, P.C.

Partner / New York

Nick Tarnowski

Partner / New York

William J. Tuttle, P.C.

Partner / Washington, D.C.

Andrew L. Zutz

Partner / Washington, D.C.

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- Investment Funds
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Suggested Reading

- 02 October 2026 Kirkland Alert SEC Proposes Significant Rulemakings to Expand and Modernize Retail Fund Access
- 30 September 2026 Kirkland Alert Guidance Meets the Market: A Practical Look at ILPA's 2026 Draft Continuation Vehicle Guidance

- 21 May 2026 Kirkland Alert SEC Proposes Sweeping Offering Reform – Significant Implications for Registered Closed-End Funds, BDCs and Other Private Wealth Products

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