

Alert

Regulated Funds: SEC Provides No-Action Relief to Money Market Funds in Response to COVID-19 Outbreak

March 25, 2020

On March 19, 2020, the staff of the Division of Investment Management of the U.S. Securities and Exchange Commission (“Staff”) issued a no-action letter (“No-Action Letter”) loosening restrictions on purchases of securities from registered open-end investment companies that are regulated as money market funds under Rule 2a-7 under the Investment Company Act of 1940 (“1940 Act”) by affiliates of such money market funds, in light of recent market disruptions arising from the COVID-19 outbreak.¹ The No-Action Letter provides relief in situations where the existing exemption provided by Rule 17a-9 under the 1940 Act cannot be relied upon with respect to purchases by affiliates because of conflicting regulations to which such affiliates may be subject under federal banking regulations (e.g., Sections 23A and 23B of the Federal Reserve Act and Regulation W, and the exemption referenced in condition 2 below). Affiliates are generally restricted in their ability to acquire securities from a money market fund pursuant to Section 17(a) of the 1940 Act, absent reliance on an applicable exemption, such as Rule 17a-9.

Pursuant to the No-Action Letter, the Staff will not recommend enforcement action against money market funds or their affiliates under Section 17(a) of the 1940 Act, or Rule 17a-9 thereunder, under the circumstances described in the letter and pursuant to the following conditions.

1. The purchase price of the purchased security would be its fair market value as determined by a reliable third-party pricing service.
2. The purchases by affiliates satisfy the conditions of Rule 17a-9 under the 1940 Act except to the extent that the terms of such purchases would otherwise conflict with (i) applicable banking regulations or (ii) the exemption issued by the Board of Governors of the Federal Reserve System on March 17, 2020, defining “covered transaction” for purposes of section 23A of the Federal Reserve Act to not include the purchase of assets from an affiliated money market fund.
3. The money market fund timely files Form N-CR reporting such transaction under Part C of such form, and reports in Part H of such form that the purchase was conducted in reliance on the No-Action Letter.
4. The relief set forth in the No-Action Letter is in effect on a temporary basis in response to the national emergency concerning the COVID-19 outbreak, which was proclaimed by the President of the United States on March 13, 2020, and will cease to be in effect upon notice from the Staff.

¹ Investment Company Institute, SEC No-Action Letter (March 19, 2020), available [here](#).

In addition to the issuance of the No-Action Letter, other measures currently are being taken by market regulators to enhance the liquidity and functioning of crucial money markets and to stabilize the financial markets generally, including the establishment by the Federal Reserve Bank of Boston of the Money Market Mutual Fund Liquidity Facility.²

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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² See "Federal Reserve Board broadens program of support for the flow of credit to households and businesses by establishing a Money Market Mutual Fund Liquidity Facility (MMLF)," Federal Reserve Board press release (March 18, 2020), available [here](#).