

## SEC Issues Updated “Names Rule” FAQ

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On January 8, 2025, the Securities and Exchange Commission’s (SEC) Division of Investment Management (Division) issued responses to certain frequently asked questions (FAQ) to the SEC’s 2023 adoption of amendments (Amendments) to Rule 35d-1 (Names Rule) under the Investment Company Act of 1940, as amended (Investment Company Act). The SEC’s Names Rule, originally adopted in 2001, requires a regulated investment fund to adopt a policy to invest at least 80 percent of the fund’s net assets (plus borrowings for investment purposes) in the types of investments or in investments in the particular industries, countries or geographic regions, suggested by such fund’s name (an 80 percent Investment Policy). The Amendments expanded the applicability of the 80 percent Investment Policy as described in our prior client advisory: [SEC Adopts Amendments to ‘Names Rule’ Impacting Regulated Investment Funds](#).

The primary updates contained in the FAQ provide clarification regarding:

- i. When and whether shareholder approval is needed in the event a regulated investment fund seeks to revise a pre-existing 80 percent Investment Policy or adopt a new one;
- ii. How the Names Rule applies to single-state tax-exempt funds and whether funds with the term “municipal” in their name are treated like tax-exempt funds under the Names Rule; and
- iii. Specific commonly used terms in regulated investment fund names that suggest a fund specializes in investments with particular characteristics.

These three areas are summarized in further detail below.

### **What circumstances require a fund to obtain shareholder approval before adopting or revising a fundamental 80 percent investment policy?**

The Names Rule, as amended, requires a fund to provide 60 days’ prior notice to shareholders if there is any change to its 80 percent Investment Policy. However, if the 80 percent Investment Policy is a fundamental policy of the fund, explicit shareholder approval is required to revise such policy. Prior to the FAQ, the Names Rule and the Amendments were silent with respect to the circumstances in which shareholder approval would be required to adopt a new fundamental 80 percent Investment Policy and the types of revisions to a pre-existing fundamental 80 percent Investment Policy that would require shareholder approval.

The FAQ clarifies that shareholder approval is only required before adopting a new fundamental 80 percent Investment Policy if the new policy deviates from any of the fund’s other existing fundamental policies. Similarly, in the event a fund wishes to revise an existing fundamental 80 percent Investment Policy, shareholder approval is only necessary if the revisions to the existing policy represent a deviation from that original policy or any of the fund’s other existing fundamental policies.

To provide additional context as to what would constitute a deviation, the Division included a clarifying hypothetical where a fund with a fundamental 80 percent Investment Policy concerning equity investments which sought to revise the policy by adding reference to “growth” equity investments, would not be required to obtain prior shareholder approval to do so. This is because, in the Division’s view, while the revision references a specific type of instrument with particular characteristics, “growth” equity investments still fall under the broader category of equity investments expressed in the original policy,

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and thus would not be considered a deviation from it. Nevertheless, the Division emphasized that funds must also consider obligations beyond the Investment Company Act, such as state law or governing documents, that may require shareholder approval to adopt or revise a fundamental 80 percent Investment Policy.

## Tax exempt funds

The FAQ also provides guidance on the Names Rule's application to single-state tax-exempt funds. It notes that in instances in which a fund's name suggests its distributions are exempt from both federal and state income tax (e.g., the Maryland Tax-Exempt Fund), such fund must either have a fundamental investment policy in place which provides for (i) the income from at least 80 percent of the value of the fund's assets to be exempt from both federal income tax and the income tax of the state referenced in the fund's name, or (ii) at least 80 percent of the distributed income from the assets that the fund invests in to be exempt from both federal income tax and the income tax of the state referenced in the fund's name. Additionally, the FAQ clarifies that a security of an issuer located outside the state referenced in the single-state tax-exempt fund's name may be included in the fund's "80 percent investment basket" as long as the security pays interest that is exempt from both federal income tax and the tax of the state referenced in the fund's name, and the fund reports in its prospectus that it may invest in tax-exempt securities of issuers located outside of the state referenced in the fund's name.

The FAQ also confirms that funds with the term "municipal" or "municipal bond" in their names will be treated like tax-exempt funds under the Names Rule and will be expected to comply with Section (a)(3) of the Names Rule because the inclusion of such terms in a fund's name indicates the fund's distributions are exempt from income tax.

## Specific terms commonly used in fund names

Lastly, the FAQ highlights several key terms commonly used in fund names and provides further insight as to the Names Rule's application with respect to these terms.

Specifically, the FAQ clarifies the Division's interpretation of the following terms:

- **"High-Yield"** – The FAQ bifurcates funds that use the term "high-yield" in their name into two separate categories. The first applies to fund names which simply include the term "high-yield," and the second applies to fund names which include the term "high-yield" in tandem with the terms "municipal" or "tax-exempt." In the first case, the Division notes that the industry standard for the term "high-yield" generally denotes corporate bonds with lower credit ratings. Accordingly, in this case the Division interprets "high-yield" as referencing an investment with "particular characteristics," meaning that funds with names employing such a term would be required to adopt an 80 percent Investment Policy specifically for corporate bonds with lower credit ratings. In the second case, the FAQ states that a fund would be required to adopt an 80 percent Investment Policy to invest in "municipal" or "tax-exempt" securities. However, due to the historical trend of funds that use the term "high-yield" in conjunction with "municipal" or "tax-exempt" in their names not always investing at least 80 percent of their assets in bonds that meet the funds' high-yield rating criteria, the Division would permit a fund in this category to invest less than 80 percent of the value of its assets in bonds that meet the fund's "high-yield" rating criteria. Additionally, the FAQ specifies that all funds using "high-yield" in their names, regardless of category, must still comply with the prohibition on materially deceptive or misleading names under Section 35(d) of the Investment Company Act.
- **"Tax-Sensitive"** – The FAQ clarifies that funds with names that use the term "tax-sensitive" or some variation thereof (e.g., "tax-efficient," "tax-advantaged," "tax-managed" and "tax aware") are not subject to an 80 percent Investment Policy with respect to such term because the Division interprets the term as describing the fund's overall investment objectives rather than the particular characteristics of the investments composing the fund's portfolio.
- **"Income"** – The FAQ states that the use of the term "income" alone in a fund name does not require the fund to adopt an 80 percent Investment Policy, as the use of such term only indicates that a fund seeks to achieve current income as a portfolio-wide result. However, the adopting release for the Amendments indicates that if a term in a fund's name could be reasonably understood to reference either a fund's investments or a portfolio-wide result, such a fund would be required to adopt an 80 percent Investment Policy. Accordingly, the exact criteria are still unclear for when an 80 percent Investment Policy is required for a fund that has "income" in its name. The FAQ further explains that "income" used in the context of

the term “fixed-income securities” would trigger the 80 percent Investment Policy requirement, as the Division would interpret the usage of such term in a fund name as sufficiently descriptive of an investment’s particular characteristics. While this provides some insight into the Division’s interpretation of the use of “income” in a fund’s name, the FAQ does not further elaborate on when the use of “income” would allude to fixed income securities.

- **“Money Market”** – With respect to generic money market funds with names indicating that they invest in money market instruments (e.g., the “XYZ Money Market Fund”), the FAQ provides that such funds would not need to adopt an 80 percent Investment Policy to generally invest in money market instruments because adherence to Rule 2a-7 under the Investment Company Act already requires money market funds to invest solely in such instruments. However, the FAQ further clarifies that a fund using the term “money market” in its name would be required to adopt an 80 percent Investment Policy, so long as such fund name refers to specific money market instruments rather than simply using the generic term “money market.” To highlight this distinction, the FAQ includes the example of a fund with the name “XYZ US Treasury Money Market Fund” being required to adopt an 80 percent Investment Policy with respect to US Treasury securities.

## Conclusion

As the December 11, 2025 Names Rule compliance date approaches, this FAQ should provide helpful guidance with respect to the Division’s interpretation of the usage of certain terms in fund names and the requirements that stem from usage of such terms. It is also important to note that these FAQs modify, supersede, or withdraw portions of FAQs released in 2001 in conjunction with the adoption of the Names Rule, and are inclusive of the Division’s reviews of no-action letters concerning adherence to the Names Rule. The Division released a useful chart highlighting the portions of the 2001 FAQs that have been modified, withdrawn or superseded, which can be found [here](#). While these FAQs are helpful, uncertainty still remains regarding the timing of implementation of the Amendments in light of a recently issued Presidential executive order to delay the effectiveness of federal regulations that have not yet been enacted.

The SEC’s entire 2025 Names Rule FAQ is available [here](#).

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