



NOVEMBER 2025

Investment Management **Update**

In This Update

Covering legal developments and regulatory news for funds, their advisers, and industry participants for the quarter ended September 30.

Rulemaking and Guidance

SEC and CFTC Extend Form PF Compliance Date to October 1, 2026

09.17.25

The Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) jointly issued a final rule extending the compliance date for amendments to Form PF from October 1, 2025, to October 1, 2026.

Background and Purpose of Form PF:

Form PF is a confidential reporting form required for certain investment advisers to private funds. The form is designed to collect data that aids in monitoring systemic risk and enhancing investor protection. It was initially established under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which authorized the SEC to require private fund advisers to file reports deemed necessary for public interest and investor protection.

Reasons for Compliance Date Extension:

The extension is primarily driven by the need for additional time to address substantial questions of fact, law, and policy raised by the amendments to Form PF. These concerns were highlighted following a Presidential Memorandum issued in January 2025, directing federal agencies to consider postponing the effective dates of rules pending further review. The memorandum aims to ensure that regulatory actions are thoroughly vetted for their implications on the market and stakeholders.

Impact and Considerations:

The extension allows the CFTC and SEC to conduct a comprehensive review of the amendments, considering feedback from industry stakeholders. These organizations have expressed concerns regarding the challenges posed by the amendments and the timing of reporting cycles. The delay in compliance is intended to reduce the immediate costs for advisers in adapting to the new requirements while ensuring that any future amendments are well-informed and beneficial. However, it also postpones the potential benefits of enhanced data collection, which could improve market efficiency, competition, and capital formation.

Economic Analysis:

The SEC has conducted an economic analysis to assess the implications of the compliance date extension. The analysis considers the costs and benefits, as well as the effects on market efficiency, competition, and capital formation. The baseline for this analysis includes the current state of the market, existing practices of Form PF filers, and the current regulatory framework.

The extension is expected to save advisers the incremental costs associated with complying with the final Form PF during the one-year delay. However, it also delays the realization of benefits from updated information that would be collected under the amended Form PF, affecting the ability of the CFTC and SEC and the Financial Stability Oversight Council to monitor systemic risk effectively.

Procedural Matters:

The CFTC and SEC have determined that notice and public comment on the extension are impracticable, unnecessary, or contrary to the public interest. This decision is based on the need to provide sufficient time for review in accordance with the Presidential Memorandum and to address any substantial questions that may arise.

The extension is not considered a "major rule" under the Congressional Review Act and is not subject to Executive Order 12866 review. The Office of Management and Budget has determined that this action is not a significant regulatory action.

A copy of the SEC's final rule can be found at:

<https://www.sec.gov/files/rules/final/2025/ia-6919.pdf>.

FINRA Requests Comment on Modernizing FINRA Rules, Guidance and Processes to Facilitate Capital Formation

06.11.25

FINRA, the Financial Industry Regulatory Authority, announced a sweeping review and modernization of its regulatory requirements for member firms and associated persons. This initiative was detailed in Regulatory Notice 25-04 (March 12, 2025) and was extended to June 11, 2025 in Regulatory Notice 25-06 (the “June Notice”) in response to feedback that FINRA received from many sources on the changes to the marketplace and how FINRA rules, guidance and processes should be modernized in response. Over the years, FINRA has published Regulatory Notices requesting comment on ways to increase efficiency and reduce unnecessary costs and burdens to promote capital formation and has updated its regulatory framework based on that feedback. The June Notice requested comment on whether additional changes to FINRA rules, guidance, operations or administrative processes would further facilitate its modernization initiative. The June Notice requested comment in specific areas, including:

- Capital acquisition brokers (CABs) and other limited purpose broker-dealers (for example, whether CABs should be permitted to engage in a broader range of M&A and private placement activities than currently specified in the CAB rules);
- Research (for example, are FINRA’s regulatory requirements around the conflicts attendant to research reports and research analysts appropriately tailored); and
- FINRA rules, guidance or processes supporting capital formation or that may impose barriers to capital raising, including a number of FINRA rules that cover aspects of public and private securities offerings, as well as trading standards and practices.

For a copy of FINRA’s Regulatory Notice, click here: [Regulatory Notice 25-06](#).

FINRA Adopts Exemption From FINRA Rules 5130 and 5131 for Business Development Companies

07.23.25

FINRA has announced the adoption of amendments to FINRA Rule 5130 (Restrictions on the Purchase and Sale of Initial Equity Public Offerings) and FINRA Rule 5131 (New Issue Allocations and Distributions). These amendments exempt business development companies (BDCs) from FINRA Rule 5130 and from paragraph (b) of FINRA Rule 5131. By adopting these amendments, FINRA aims to maintain the integrity of the public offering process, while still facilitating thriving capital markets by expanding access to initial public offerings (IPOs) through a highly regulated entity.

Background on FINRA Rule 5130

FINRA Rule 5130's general purpose is to protect the integrity of the public offering process. Specifically, except as otherwise permitted under Rule 5130, (i) a member or a person associated with a member, may not sell a "new issue" to an account in which a restricted person has a beneficial interest; (ii) a member or an associated person may not purchase a new issue in any account in which such member or associated person has a beneficial interest; and (iii) a member may not continue to hold new issues acquired as an underwriter, selling group member, or otherwise. "New issue" is defined as "any initial public offering of an equity security as defined in Section 3(a)(11) of the Securities Exchange Act of 1934, made pursuant to a registration statement or offering circular," subject to several exceptions.

Additionally, Rule 5130 requires that before selling a new issue to any account, a member must in good faith have obtained within the 12 months before the sale a representation from the account holder(s), or a person authorized to represent the beneficial owners of the account, that the account is eligible to purchase new issues in compliance with this rule.

Background on FINRA Rule 5131

FINRA Rule 5131 addresses conflicts and abuses in the allocation and distribution of new issues, including prohibiting the practice of "spinning." Spinning is the allocation of new issues by a member firm to an account whereby a "covered person," which is also the member firm's current, former or prospective investment banking client, has a beneficial interest. "Covered person" refers to an executive officer or director of a public company or a covered non-public company, or a person materially supported by such executive officer or director.

Current Exemptions Under Rule 5130 and Rule 5131

There are currently a few general exemptions under Rule 5130(c), and, by reference, Rule 5131(b)(2). For example, there are general exemptions for an investment company registered under the Investment Company Act of 1940 (Investment Company Act), and

for a publicly traded entity listed on a national securities exchange (such as Nasdaq or the New York Stock Exchange). Further, “traded BDCs,” which are BDCs with registered shares under the Securities Act of 1933 that are publicly traded on a national securities exchange, are subject to the general exemption for publicly traded entities. But there is not currently a general exemption for non-traded or private BDCs. Unless a different general exemption applies, non-traded and private BDCs would be required to represent that they are eligible to purchase new issues, which may not be practical, or even feasible, due to their size and operational structure.

Impact of Amendments

FINRA has adopted these amendments to Rules 5130 and 5131 to create this previously unavailable general exemption for non-traded and private BDCs. The categorical exemption would apply to a BDC, as that term is defined in Section 2(a)(48) of the Investment Company Act, with the caveat that the BDC utilizing this exemption is not formed or maintained for the specific purpose of permitting restricted persons to invest in new issues. The categorical exemption for publicly traded entities continues to apply to traded BDCs.

In sum, this new exemption will lead to FINRA treating non-traded and private BDCs more similarly to traded BDCs and investment companies registered under the Investment Company Act, which already have general exemptions. The new exemption will also enable BDCs to diversify their portfolios more easily with new issues to the extent that such investments are consistent with all other relevant regulations. By expanding access to IPOs through a highly regulated entity, this new exemption will continue to maintain the integrity of the public offering process, while helping to facilitate more vibrant capital markets.

The amendments became effective on July 23, 2025.

For a copy of FINRA’s Regulatory Notice, click here: [Regulatory Notice 25-08](#).

FINRA Reminds Members and Associated Persons, Wherever Located, of Their Obligation to Comply With Rule 8210

09.25.25

FINRA issued a regulatory notice to remind members and associated persons that, no matter where they are located, they are required to provide information and testimony in response to a request from FINRA staff pursuant to FINRA Rule 8210 (Provision of Information and Testimony and Inspection and Copying of Books).

Background on FINRA Rule 8210

FINRA Rule 8210 authorizes FINRA staff and adjudicators to request information from members and their associated persons for the purpose of an investigation, complaint, examination or proceeding authorized by FINRA's By-Laws or rules. Specifically, Rule 8210(a)(1) gives FINRA staff and adjudicators the right to require a member, associated person or other person that is subject to FINRA's jurisdiction "to provide information orally, in writing, or electronically (if the requested information is, or is required to be, maintained in electronic form), and to testify at a location specified by FINRA staff." For purposes of Rule 8210, an "associated person" of a member includes: (1) a natural person who is registered or has applied for registration under FINRA Rules; (2) a sole proprietor, partner, officer, director or branch manager of a member, or other natural person occupying a similar status or performing similar functions, or a natural person engaged in the investment banking or securities business who is directly or indirectly controlling or controlled by a member, whether or not any such person is registered or exempt from registration with FINRA under its By-Laws or Rules; and (3) any other person listed in Schedule A of a member's Form BD.

In addition, Rule 8210(a)(2) gives FINRA staff and adjudicators the right to "inspect and copy the books, records, and accounts of such member or person . . . that is in such member's or person's possession, custody or control."

It is important for members to remember that Rule 8210 applies to all FINRA members, their associated persons and other persons subject to FINRA's jurisdiction, regardless of where they, or their books and records, are located.

Importance of FINRA Rule 8210

Due to FINRA's lack of subpoena power, compliance with Rule 8210 by FINRA members, their associated persons and other persons subject to FINRA's jurisdiction is critical for FINRA to fulfill its self-regulatory mission. Rule 8210 is so important to FINRA's purpose that FINRA may seek to expel a firm from membership, or bar an associated person or other person subject to FINRA's jurisdiction from associating with a member, if they fail to respond, or do not respond truthfully or completely, to a request made pursuant to this rule.

A number of FINRA members have operations, personnel or copies of books and records

located outside of the U.S. (approximately 75 different countries). There are also some FINRA members that are part of global corporate structures with their respective parent companies or other affiliates located in foreign countries. Some of these foreign jurisdictions have laws that may potentially conflict with the requirements of Rule 8210 by prohibiting persons from responding to information requests from foreign regulators. Rule 8210 does not, however, provide any exception to complying with its requirements based on foreign law.

Additionally, FINRA Rule 3110 (Supervision) requires all members to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations as well as applicable FINRA rules, including Rule 8210. In fact, applicants for new or continuing membership with FINRA must demonstrate that both the applicant and its associated persons will be able to comply with applicable securities laws and regulations, and with applicable FINRA rules. Where a potential conflict with foreign law is identified, FINRA's Membership Application Program will require a member firm to provide assurances of the member's and its associated persons' ability to comply with Rule 8210.

Necessary Actions to Maintain Compliance With FINRA Rule 8210

It is imperative that members with operations, personnel or copies of books and records located outside of the U.S. ensure that their supervisory systems and procedures are reasonably designed to achieve compliance with Rule 8210. When completing this compliance assessment, members should understand that compliance with Rule 8210 may require the following:

- That a member provide information orally, in writing or electronically, and produce the books, records and accounts in its possession, custody or control, including both records that the member is required to keep under FINRA rules, the Securities Exchange Act of 1934 (Exchange Act), or applicable Exchange Act rules and other books, records or accounts that the broker-dealer makes or keeps relating to its operation as a broker-dealer or a person's association with the member;
- That an associated person of a member or other person subject to FINRA's jurisdiction provide information orally, in writing or electronically, and produce the books, records and accounts in their possession, custody, or control;
- That a member, associated person of a member or other person subject to FINRA's jurisdiction produce records relating to a FINRA investigation of outside business activities, private securities transactions or possible violations of just and equitable principles of trade, as well as other FINRA rules, Municipal Securities Rulemaking Board rules, and the federal securities laws;
- That a member, associated person of a member or other person subject to FINRA's jurisdiction produce books, records or accounts that are in the possession of another person or entity, such as a professional service provider, where the member, associated person or other person subject to FINRA's jurisdiction controls

or has a right to demand them;

- That a member, associated person or other person subject to FINRA's jurisdiction appear for testimony under oath at a location specified by FINRA staff, such as a FINRA office in the U.S.; and
- That a member, associated person or other person subject to FINRA's jurisdiction comply with a request to inspect and copy the original books, records and accounts of the member, associated person or other person subject to FINRA's jurisdiction.

Furthermore, members that operate or maintain personnel in foreign jurisdictions that have laws that might potentially conflict with the requirements of Rule 8210 should anticipate that FINRA's examination program will continue to review the given member and their associated persons' ability to comply with Rule 8210. If necessary, FINRA staff can initiate an enforcement action for failing to comply with Rule 8210, which may then result in its expulsion from membership or a bar from associating with a member firm.

For a copy of FINRA's Regulatory Notice, click here: [Regulatory Notice 25-11](#).

SEC OKs Dual Classes of Shares for Mutual Funds and Exchange Traded Funds (ETF)

09.30.25

In a landmark decision, the SEC has announced its intention to approve Dimensional Fund Advisors' application to offer exchange-traded fund (ETF) share classes alongside traditional mutual fund share classes. This decision is expected to significantly impact the investment landscape by making ETFs more accessible to retail investors and encouraging similar applications from other asset managers.

Industry Impact

Dimensional Fund Advisors, a major active ETF issuer, has been advocating for the dual-share class structure since July 2023. The firm highlights the benefits of this structure, including lower transaction costs and enhanced tax efficiency for mutual fund investors, while ETF shareholders may benefit from efficient rebalancing and reduced portfolio transaction costs.

Opening the Door for Others

The SEC's decision is seen as a pivotal moment, potentially leading other asset managers to adopt the dual-share class model. This model, initially pioneered by Vanguard, allows mutual funds to offer ETF shares, enabling investors to trade shares throughout the day at market prices. The SEC's notice includes safeguards to reduce conflicts of interest between the classes and ensure proper disclosures to investors.

Future Prospects

With mutual funds experiencing significant outflows, the SEC's decision could provide a lifeline to firms seeking to expand into the \$12.6 trillion ETF industry. Despite concerns about potential erosion of ETF benefits during market downturns, the approval is viewed as a significant step forward.

SEC AND SRO NEWS

SEC Names Judge Margaret Ryan as Director of the Division of Enforcement

08.21.25

The SEC has announced the appointment of Judge Margaret “Meg” Ryan as the new Director of the Division of Enforcement, effective September 2, 2025.

Judge Ryan brings a distinguished career to the SEC. She has served as a senior judge on the United States Court of Appeals for the Armed Forces, a position she held from her nomination by President George W. Bush in 2006 until reaching senior status in 2020. Her academic roles include lecturing on military law and justice at Harvard University Law School, with previous teaching positions at Notre Dame Law School and The George Washington University Law School.

Her legal career is further distinguished by her partnership at law firms Wiley Rein & Fielding and Bartlit Beck Herman Palenchar & Scott, as well as her clerkships with Supreme Court Justice Clarence Thomas and Judge J. Michael Luttig.

Judge Ryan's career began in the U.S. Marine Corps, where she served as a judge advocate and communications officer, including deployments during Desert Shield/Desert Storm. Her academic achievements include a B.A., *cum laude*, in political science from Knox College and a J.D., *summa cum laude*, from the University of Notre Dame Law School, where she was first in her class and served on the *Notre Dame Law Review* editorial board. She is also an elected member of the American Law Institute.

SEC Names James Moloney as Director of the Division of Corporation Finance

09.10.25

The SEC has announced the appointment of James J. Moloney as the Director of the Division of Corporation Finance.

James Moloney brings extensive experience and expertise to his new role, having served as legal counsel to public companies worldwide, specializing in corporate transactions and governance issues. His distinguished career includes 25 years at Gibson Dunn & Crutcher, where he advanced from corporate associate to equity partner. Moloney has co-chaired the firm's securities regulation and corporate governance practice, advising a broad spectrum of clients on corporate governance, disclosure rules, mergers and acquisitions, tender offers, proxy contests, and going-private transactions.

Moloney's previous tenure at the SEC from 1994 to 2000 included roles as an attorney-advisor and special counsel in the Office of Mergers and Acquisitions within the Division of Corporation Finance. During this period, he was the primary author of the proposing and adopting releases for Regulation M-A, a comprehensive set of rules governing mergers and acquisitions, tender offers, and proxy solicitations.

Moloney holds an LL.M. degree in securities regulation with distinction from Georgetown University Law Center, a J.D. degree, *cum laude*, from Pepperdine University, where he served as an editor of *The Pepperdine Law Review*, and a B.S. degree in business administration from Boston University.

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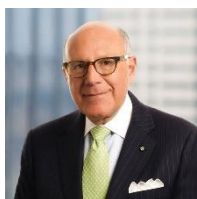
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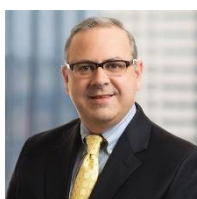
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Joseph's work encompasses the representation of investment advisers, mutual funds, closed-end investment companies, unit investment trusts, hedge funds, offshore funds and publicly owned venture capital funds, usually organized as business development companies. He advises clients on the development of new or innovative securities products that are regulated by the Investment Company Act and works closely with the SEC, state securities regulators, and federal and state banking regulatory authorities that are primarily responsible for the oversight of collectively managed investment vehicles.



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John's practice focuses on corporate governance, legal administration and registration of investment companies under the Investment Company Act of 1940, including mutual funds, closed-end investment companies and exchange traded funds. He represents clients in a number of regulatory matters and has served as counsel to an SEC receivership.



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John focuses his practice on investment company and investment adviser regulatory issues, and related issues affecting the investment management activities of financial institutions. He assists clients with the formation and registration of investment companies and investment advisers, and provides advice about regulatory compliance and securities law issues. He serves as fund counsel to a broad array of mutual fund complexes and is experienced in the issues impacting both large-scale fund operations and smaller complexes operating as niche players.



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Genna provides targeted, practical advice to asset managers and financial services industry participants. She routinely advises clients on SEC and state investment adviser, broker-dealer, and private fund regulation; Investment Advisers Act compliance programs, annual reviews and ongoing compliance matters; and regulatory examinations and investigations. Genna represents asset managers trading digital assets as well as investing in digital asset treasury companies (DATs). She also has extensive experience representing financial institutions in a variety of transactional and regulatory matters.

**Terrance James Reilly**

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Terrance advises registered investment companies, investment advisers, hedge funds, broker-dealers and other financial services industry firms, bringing industry experience and a practical approach to addressing their ongoing management needs. He has been involved in the investment industry for more than 25 years and is well-versed in all applications of the Investment Company Act of 1940 and the Investment Advisers Act of 1940. Terrance also has extensive experience with the ongoing representation of several mutual fund complexes.

**Joseph T. Cataldo**

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Joe is an associate in the firm's Corporate practice, advising clients on mergers and acquisitions, venture financing, securities transactions, and corporate governance. He represents private equity funds and portfolio companies in technology, business support services, and real estate sectors. Joe also counsels capital markets clients on securities offerings, SEC compliance, and cross-border transactions, and advises emerging companies on corporate governance and organizational matters.

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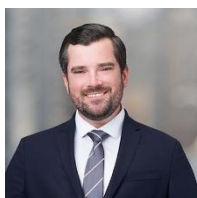
Theodore advises private and registered funds and their sponsors on formation, transactions, and regulatory compliance. He has experience with open-end and closed-end funds, and funds pursuing a variety of strategies, including private equity, real estate, private credit, and hedge funds. Theodore counsels investment advisers as to formation, registration, compliance, and disclosure matters. His sponsor work also includes design and implementation of carried interest programs and upper tier structuring, and he has advised investment advisers in connection with regulatory exams. Theodore regularly addresses status issues under the Investment Company Act of 1940 and the Investment Advisers Act of 1940.

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Michael is an associate in the firm's Corporate practice. He received his J.D. from the Temple University Beasley School of Law, where he served as managing and staff editor for the Temple Law Review.

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Matthew provides counsel to private companies on a range of corporate matters, with a focus on mergers and acquisitions. His experience in mergers and acquisitions includes representation of strategic purchasers and sellers, as well as private equity funds and their portfolio companies. Matthew also counsels private companies in a wide array of corporate governance and organizational matters. He maintains an active pro bono practice.

**James L. Severs**

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James advises clients on transactional and regulatory matters, including the formation of privately offered investment funds; the formation, registration, and offering of publicly traded closed-end investment companies, business development companies, and exchange-traded funds. He also advises on the operation of commodity pools; public securities offerings (including IPOs); and compliance with the Investment Advisers Act of 1940, Investment Company Act of 1940, Commodity Exchange Act, Securities Act of 1933, and the Securities Exchange Act of 1934.

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Taylor is an associate in the firm's Corporate practice. While attending law school, Taylor served as a member of the Villanova Student Bar Association, the Villanova Black Law Students Association, and the Corporate Law Society. Additionally, Taylor was a student attorney in the school's Clinic for Law and Entrepreneurship, where she helped provide pro bono legal services to Philadelphia-area community enterprises, nonprofit organizations, entrepreneurs, and small businesses.

**Barbara H. Grugan**

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A financial professional for more than 35 years, Barbara has broad experience with financial and compliance issues in investment management, including the design and oversight of procedures to assist investment professionals and other fiduciaries in carrying out their responsibilities. She is a designated Investment Adviser Certified Compliance Professional.

Related Practices and Industries

[Investment Funds + Investment Management Services](#)