BDO BULLETIN

CHANGES TO THE SEC'S "NAMES RULE" WILL AFFECT REGISTERED FUNDS

OCTOBER 2023

EDITOR'S NOTE

This bulletin summarizes the SEC's final "Names Rule" issued in September 2023. In March 2025, the SEC **extended** the compliance deadlines by six months. In February 2026, the SEC **proposed** amendments to Form N-PORT, including removing the Names Rule (refer to **Fact Sheet**). In connection with this proposal, the SEC **extended** the compliance dates for the N-Port reporting requirements related to the Names Rule. The **Adoption Timeline** has been updated to reflect these extensions. Additionally, in February 2026, the SEC staff provided more guidance on the final rules in its **Names Rule FAQs**.

SUMMARY

On September 20, 2023, the SEC amended Rule 35-1 under the Investment Company Act of 1940 (the "Names Rule") and related requirements for business development companies (BDCs) and registered investment companies (collectively, "funds").

The amendments:

- Broaden the scope of funds subject to the existing requirement to invest at least 80% of their assets with an investment focus consistent with the funds' names and require more frequent monitoring of compliance with the 80% threshold
- Require enhanced disclosures related to the terms used in fund names
- Establish more recordkeeping requirements

The adoption timeline varies by fund size and gives funds time to review their portfolios and strategies. The earliest extended compliance date for the largest funds is in mid-2026. Smaller funds will have an additional six months.

WHAT'S IN A NAME?

The name of a registered investment company or BDC communicates information about the fund to investors and is an important marketing tool for the fund. The purpose of the Names Rule is to prevent fund names from misrepresenting the fund's investments and risks. Given the proliferation of diverse fund strategies since the initial adoption of the Names Rule in 2001, the amendments modernize and enhance requirements to further protect investors.

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AMENDMENTS TO THE NAMES RULE

80 PERCENT INVESTMENT POLICY

The Names Rule currently requires funds whose names suggest a focus in a particular type of investment to adopt a policy to invest at least 80% of their assets in that investment type (the "80% Investment Policy"). The amendments require more funds to adopt the 80% Investment Policy, including funds with names suggesting a focus in investments with specific characteristics (for example, fund names that include "growth," "value," or refer to environmental, social, or governance factors).

Funds also must now review compliance with their 80% Investment Policies at least quarterly. If a fund departs from its 80% Investment Policy, it will generally have 90 days to comply.[1]

Other amendments:

- Require derivatives to be valued at notional amount, subject to certain adjustments (rather than previously fair value) when complying with the 80% Investment Policy. The rules also specify the derivatives that may be included in the calculation when complying with the 80% Investment Policy (the "80% basket").
- Generally prohibit a registered closed-end fund or unlisted BDC from changing its 80% Investment Policy without a shareholder vote.

The requirement to give shareholders 60-days' notice of any changes to the 80% Investment Policy, unless the 80% Investment Policy is a fundamental policy[2] of the fund, did not change.

ENHANCED DISCLOSURES

The amendments require funds to enhance their prospectus disclosures about their fund names, including defining the terms used in their names and the criteria used to select the investments that the terms describe. Any terms that suggest an investment focus must be consistent with those terms' plain English meaning or established industry use.

In addition, Form N-Port now requires a fund to report the definitions of the terms used in the fund's name, identify the investments in its 80% basket, and to report the total value of the fund's 80% basket as a percentage of its assets ("Form N-Port names rule requirements").

RECORDKEEPING REQUIREMENTS

To comply with the Names Rule, funds will need to keep the following records:

- At the time the fund makes an investment:
  - Whether the investment is included in the 80% basket, and if so, the basis for that conclusion
  - The value of the fund's 80% basket as a percentage of its net assets
- The fund's quarterly review of its portfolio investments' inclusion in the fund's 80% basket
- Any deviation from the 80% Investment Policy, including the date identified and the reasons for the departure
- Notices sent to the fund's shareholders pursuant to the rule

A fund must retain records for at least six years after creation (or for notices, the date the notice was sent). The first two years of records must be easily accessible.

ADOPTION TIMELINE

The extended compliance dates for the Names Rule amendments are as follows:

- June 11, 2026, for fund groups[3] with net assets of $1 billion or more
- December 11, 2026, for fund groups with net assets of less than $1 billion

[1] The rules permit funds that are launching or reorganizing to temporarily invest less than 80% of their assets to reposition or liquidate assets. However, the departure period from the 80% Investment Policy may not exceed 180 consecutive days starting from the day the fund begins operations. For funds undergoing a reorganization, the amendments do not place a time limit for when such funds need to be compliant with the Names Rule.

[2] A fundamental policy is a policy that may not be changed without shareholder approval.

[3] The net asset determination is based on the net assets of the "fund group" which is a fund that, together with other investment companies, are in the same "group of related investment companies."

In February 2026, the SEC extended the compliance dates the Form N-PORT names rule requirements as follows:

- November 17, 2027, for fund groups with net assets of $10 billion or more; and
- May 18, 2028, for fund groups with net assets of less than $10 billion

In a separate, concurrent rulemaking, the SEC proposed amendments to reporting requirements on Form N-PORT, including the proposed removal of the Form N-PORT names rule requirements. The compliance date extension is intended to provide registered funds with sufficient time to comply with the Form N-PORT names rule requirements in the event the SEC does not adopt the Form N-Port amendments to remove the Form N-PORT names rule requirements. In that event, registered funds would be required to file Form N-PORT reports incorporating the names rule requirements as of the first fiscal-quarter-end month after the extended compliance date.

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Link to the 2023 **Final Rule**

Link to the 2023 **Fact Sheet**

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