The New ETF Rule 6c-11

September 26, 2019

Today the SEC announced the approval of the new ETF rule 6c-11 designed to modernize the regulation of exchange-traded funds (ETFs) by establishing a clear and consistent framework for the vast majority of ETFs operating today. This should facilitate greater competition and innovation in the ETF marketplace by lowering barriers to entry, leveling the playing field among most ETFs and protecting ETF investors by providing new information on the secondary market. Once effective, ETFs will be allowed to come to market quicker and at a lower cost.

Foreside applauds the SEC for providing this new framework and we look forward to working with our current and future ETF clients so they are prepared to comply with the requirements. Below are highlights of the new rule.

1. **Removal of Exemptive Relief Approach**

   This element of the rule will simplify the approach, shorten the timeline to launch funds, as well as substantially reduce costs.

2. **Impact to Existing ETFs**
   a. ***Transparency***
      Requirement for all ETFs to disclose portfolio holdings on the ETF’s website daily.
   b. ***Custom basket policies and procedures***
      Custom baskets will be permitted that do not a reflect a pro-rata representation of the fund’s portfolio or that differ from the initial basket used on the same day if the ETF adopts written policies and procedures that set forth detailed parameters for the construction and acceptance of custom baskets that are in the best interest of the ETF and its shareholders. The rule also will require an ETF to comply with certain recordkeeping requirements.
   c. ***Website disclosure***
      Discount / Premium and Bid-Ask spreads, including historical information, will be required on ETF websites daily. This information is intended to inform investors about the costs and efficiency of an ETF’s arbitrage process.
3. **Not all ETFs will benefit**

   It’s important to note not all ETF types will be eligible for the proposed rule 6c-11, which excludes unit investment Trusts (UIT), levered and inverse ETFs, ETFs structured as a share class of a multi-class fund, and non-transparent ETFs.

4. **Rescission of Certain ETF Exemptive Relief**<

   One year after the effective date of rule 6c-11, the SEC is rescinding exemptive relief previously granted to ETFs that will be permitted to operate in reliance on the rule.

   a. This includes previous granted exemptive relief permitting ETFs to operate in master-feeder structures. Certain existing master-feeder arrangements are to be grandfathered and the formation of new ones will not be allowed.
   b. ETFs relying on rule 6c-11 that do not already have their own exemptive relief may enter into fund or funds arrangements as set forth in recent ETF exemptive orders.
   c. The SEC will not rescind exemptive relief that permits ETF fund of fund arrangements.

5. **Effective Date**

   Rule 6c-11 is expected to become effective December 23, 2019 with a one-year transition period for compliance.