MAYER | BROWN SEPTEMBER 28, 2026

REVERSE inquiries

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REVAMPING ABBREVIATED DISCLOSURE REQUIREMENTS FOR EQUITY-LINKED SECURITIES 30 YEARS FOLLOWING ISSUANCE OF THE MORGAN STANLEY NO-ACTION LETTER

This week, the Staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission ("SEC") granted our no-action letter modernizing and expanding the framework established with the issuance of the 1996 Morgan Stanley no-action letter ("MS Letter"). This no-action letter relief confirms the application of the abbreviated disclosure approach described in the MS Letter for the offer of debt securities registered under the Securities Act of 1933, as amended, referencing the performance of certain underlying securities ("Underlying Securities") to registered debt securities referencing the performance of a broader selection of underlying equity assets (such debt securities, "Structured Notes").

Given the extensive regulatory scheme applicable to exchange-traded funds ("ETFs"), the Staff confirms that, for purposes of a Structured Note prospectus in which an ETF is the Underlying Security, an ETF description that consists of certain specified elements identified in the letter satisfies the abbreviated disclosure requirement. To the extent that market participants choose to rely on this approach, it will provide for streamlined documents that are more user-friendly for investors.

The Staff also confirms, in connection with Structured Notes referencing equity securities, that no seasoning period is necessary if the issuer of underlying securities meets the listing criteria identified in the MS Letter and has filed with the SEC all reports other than Current Reports on Form 8-K or Form 6-K required to be filed under Section 13 of the Securities Exchange Act of 1934, as amended, for the twelve calendar months or any portion thereof preceding the sale of the Structured Notes or such shorter period as the issuer of the Underlying Securities was required to file such reports. This resolves some ambiguity in the market regarding the securities of companies that have recently gone public.

Finally, for the first time, the Staff addresses indices. The Staff confirms that detailed disclosure of individual index constituents would not be required in respect of a Structured Note referencing the performance of a "Permissible Index." For this limited purpose only, a Permissible Index constitutes an index that: (1) is formulaic (rules-based) and does not involve discretion (as understood for purposes of Proposed Treasury Regulation Section 1.6011-16) and (2) consists only of components that either represent a weight of less than 10% of the overall index or in respect of which the structured notes issuer would be permitted to provide abbreviated disclosure. The letter specifies the required disclosure elements in respect of a

Permissible Index to the extent an issuer chooses to rely on this approach (reliance on a no-action letter is, of course, optional).

In addition, the letter clarifies that inclusion of a hyperlink does not amount to adoption of the linked disclosure. The modernized approach will provide an efficient path forward for those who choose to rely on the abbreviated disclosure options it provides and reflects approaches consistent with those expressed in recent Commission proposing releases.

See Mayer Brown's incoming request, and the Staff's no-action relief.

CONTACTS

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