SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC–36282]

Investment Company Governance Technical Amendments

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; technical amendments.

SUMMARY: The Securities and Exchange Commission (the ''Commission'') is adopting technical amendments to a rule under the Investment Company Act of 1940 (the ''Investment Company Act'') related to registered investment company and business development company (collectively ''regulated funds'') governance standards to reflect a Federal court's vacatur of certain amendments to those standards that the Commission adopted on July 27, 2004. The court's vacatur of the amendments was effective as of July 6, 2006, and had the legal effect of reverting the fund governance standards to those standards in effect before adoption of the vacated requirements. These technical amendments revise the Code of Federal Regulations (the ''CFR'') to reflect the court's vacatur.

DATES: This release was published in the **Federal Register** on August 6, 2026. Effective August 6, 2026. The Federal court issued its vacatur of the rule amendments on April 7, 2006.

FOR FURTHER INFORMATION CONTACT: Claudia Rios, Senior Counsel; Bradley Gude, Branch Chief; Brian McLaughlin Johnson, Assistant Director, at (202) 551–6792, Investment Company Regulation Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Commission is adopting technical amendments to rule 0–1(a)(7) [17 CFR 270.0–1(a)(7)] under the Investment Company Act.

I. Background

Rule 0–1(a)(7) sets forth governance standards that regulated funds must meet in order to rely on various exemptive rules under the Investment Company Act.[1] The Commission adopted fund governance standards in 2001 to enhance the independence and effectiveness of disinterested directors of regulated funds that choose to rely on these exemptive rules.[2] These standards required that, among other things, boards have a majority of disinterested directors and were silent as to whether the chairman of the board needed to be disinterested. In 2004, the Commission amended these standards to encapsulate seven requirements, including, among other things, that at least seventy-five percent of the directors of the regulated fund be disinterested (the ''75% requirement'') and a disinterested director serve as chairman of the board of the regulated fund (the ''chairman requirement''). Those amendments became effective on September 7, 2004.[3] In 2006, a Federal court of appeals vacated the 75% requirement and the chairman requirement.[4] The Court's action did not address the other requirements of rule 0–1(a)(7) that were amended in 2004, such as a requirement that disinterested directors of the fund select and nominate any other disinterested director of the fund. The court's vacatur of the 75% and chairman requirements went into effect July 6, 2006,[5] thereby reverting the fund governance standards to those standards as previously in effect before September 7, 2004. These technical amendments reflect the court's vacatur in the CFR by removing the 75% requirement and the chairman requirement, and reverting to the requirement of a simple majority of directors of the regulated fund be disinterested directors. The other provisions of rule 0–1(a)(7), which were not subject to the court's vacatur, remain unchanged.

II. Procedural and Other Matters

The Administrative Procedure Act (the ''APA'') generally requires an agency to publish notice of a rulemaking in the **Federal Register** and provide an opportunity for public comment. This requirement does not apply, however, if the agency ''for good cause finds . . . that notice and public procedure thereupon are impracticable, unnecessary, or contrary to the public interest.''[6]

The technical amendments do not impose any new substantive regulatory requirements on any person and merely reflect the court's vacatur of the 75% requirement and chairman requirement. For these reasons, for good cause, the Commission finds that notice and public comment are unnecessary.[7]

For similar reasons, although the APA generally requires publication of a rule at least 30 days before its effective date, the Commission finds there is good cause for the amendments to take effect on August 6, 2026.[8]

For purposes of Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act),[9] the Office of Management and Budget (OMB) has determined the final rule is not a ''major rule.'' OMB also determined that this action is not a significant regulatory action under Executive Order 12866, and therefore it was not subject to Executive Order 12866 review.

Statutory Authority

We are amending rule 0–1(a) pursuant to the authority set forth in sections 6(c), 10(f), 12(b), 17(d), 17(g), 23(c), and 38(a) of the Investment Company Act [15 U.S.C. 80a–6(c), 80a–10(f), 80a–12(b), 80a–17(d), 80a–17(g), 80a–23(c), and 80a–37(a)].

List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule and Form Amendments

For the reasons set out in the preamble, the Commission amends title 17, chapter II of the Code of Federal Regulations as follows:

[1] *See, e.g.,* 17 CFR 270.23c–3(b)(8).

[2] Role of Independent Directors of Investment Companies, Investment Company Act Release No. 24816 (Jan. 2, 2001) [66 FR 3733 (Jan. 16, 2001)]. Disinterested directors are directors that are not ''interested persons'' of the fund as defined in the Investment Company Act. *See* 17 CFR 270.0–1(a)(7)(i); *see also* 15 U.S.C. 80a–2(a)(19) (defining ''interested person'').

[3] Investment Company Governance, Investment Company Act Release No. 26520 (July 27, 2004) [69 FR 46378 (Aug. 2, 2004)].

[4] *See Chamber of Commerce of the United States* v. *SEC,* 443 F.3d 890 (D.C. Cir. 2006) (''Chamber''). Specifically, the court determined that the adoption of the 75% requirement and the chairman requirement violated the Administrative Procedure Act by relying on materials that had not been provided to the public for notice and comment. In response, the Commission requested further public comment on the amendments but did not take action to appeal or modify the court mandate. *See, e.g.,* Investment Company Governance, Investment Company Act Release No. 27395 (Jun. 13, 2006) [71 FR 35366 (Jun. 19, 2006)]; Investment Company Act Release No. 27600 (Dec. 15, 2006) [71 FR 76618 (Dec. 21, 2006)].

[5] *See* Chamber, 443 F.3d 890, 909 (withholding the issuance of the order to vacate for ninety days).

[6] 5 U.S.C. 553(b)(B).

[7] This finding also satisfies the requirements of 5 U.S.C. 808(2), allowing the amendments to become effective notwithstanding the requirement of 5 U.S.C. 801 (if a Federal agency finds that notice and public comment are impractical, unnecessary or contrary to the public interest, a rule shall take effect at such time as the Federal agency promulgating the rule determines). The amendments also do not require analysis under the Regulatory Flexibility Act. *See* 5 U.S.C. 604(a) (requiring a final regulatory flexibility analysis only for rules required by the APA or other law to undergo notice and comment).

[8] *See* 5 U.S.C. 553(d)(3).

[9] *See* 5 U.S.C. chapter 8.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

■ 1. The authority for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.,* 80a–34(d), 80a–37, 80a–39, 1681w(a)(1), 6801–6809, 6825, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

Section 270.0–1 also issued under sec. 38(a) (15 U.S.C. 80a–37(a));

Section 270.0–1(a)(7) is also issued under 15 U.S.C. 80a–10(e);

* * * * *

■ 2. Amend § 270.0–1 by revising paragraph (a)(7) to read as follows:

§ 270.0–1 Definition of terms used in this part.

(a) * * *

(7) *Fund governance standards.* The board of directors of an investment company (''fund'') satisfies the *fund governance standards* if:

(i) A majority of the directors of the fund are not interested persons of the fund (''disinterested directors'');

(ii) The disinterested directors of the fund select and nominate any other disinterested director of the fund;

(iii) Any person who acts as legal counsel for the disinterested directors of the fund is an independent legal counsel as defined in paragraph (a)(6) of this section;

(iv) The board of directors evaluates at least once annually the performance of the board of directors and the committees of the board of directors, which evaluation must include a consideration of the effectiveness of the committee structure of the fund board and the number of funds on whose boards each director serves;

(v) The disinterested directors meet at least once quarterly in a session at which no directors who are interested persons of the fund are present; and

(vi) The disinterested directors have been authorized to hire employees and to retain advisers and experts necessary to carry out their duties.

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By the Commission.

Dated: August 4, 2026.

Sherry R. Haywood,

Assistant Secretary.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 892

[Docket No. FDA–2026–N–7954]

Medical Devices; Radiology Devices; Classification of the Fludeoxyglucose F18-Guided Radiation Therapy System

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the fludeoxyglucose F18-guided radiation therapy system into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for classification of the fludeoxyglucose F18-guided radiation therapy system. We are taking this action because we have determined that classifying the device into class II will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective August 6, 2026. The classification was applicable on February 1, 2023.

FOR FURTHER INFORMATION CONTACT: Lora Weidner, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3652, Silver Spring, MD 20993–0002, 240–402–6424, *Lora.Weidner@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA (the Agency or we) has classified the fludeoxyglucose F18-guided radiation therapy system into class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness of the device. In addition, we believe this action will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified into, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate device by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act (see also part 860, subpart D (21 CFR part 860, subpart D)). Section 207 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) established the first procedure for De Novo classification. Section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) modified the De Novo classification process by adding a second procedure. A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a premarket notification (510(k)) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo