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COMPLIANCE

22c-2 Deadline Comes - and Goes - Without Fanfare

Fred Schnayer - 11/01/2007

With an extended time to prepare, the final kick-in date for the anti-market timing rule 22c-2 came and went earlier this month with little industry fanfare.

Industry representatives say they are not surprised at the lack of fireworks because providers had already set up the systems allowing the required information sharing about shareholders and transactions in advance of the October 16 deadline.

The reprieve came from a September 2006 decision by the Securities and Exchange Commission (SEC) to delay the 22c-2 rule until 2007 and to put it into place with a two-stage implementation process.

"With that year reprieve," said Susie Thomann, vice president and chief information officer for Retirement Investor Services at The Principal Financial Group, "most of the recordkeepers already had a good start toward it anyway. I think there was a lot of hoopla early on about the deadline being so close."

By April 16, 2007, fund families had to have in place agreements with their financial intermediaries like recordkeepers providing that the intermediaries would, on request, furnish the fund providers with information about shareholders and transactions to allow them to spot market timers.

Implementing Systems

In the second stage, regulators gave the industry until October 16 before the systems had to be fully implemented. The intermediaries - including brokerage firms and retirement plan administrators - also covered those holding shares through omnibus accounts.

At one industry provider group, the 22c-2 rule implementation date was largely a non-event. "It gave everyone enough time to figure out what their responsibilities were going to be," said Larry Goldbrum General Counsel of The SPARK Institute. "We haven't heard that (providers) were concerned about the implementation date." (See Retirement Plan Intermediaries Nearly Geared up for 22c-2).

Goldbrum's organization represents a cross section of retirement plan service providers, including banks, mutual fund companies, insurance companies, third party administrators, and benefits consultants.

Another factor contributing to the 22c-2 calm: fund companies are not exactly flooding their recordkeepers with requests for investor or transaction information, according to Thomann and Fred Teufel, a Principal with The Vanguard Group's Institutional Retirement Planning Services Group.

Thomann said some fund companies may still be testing their transaction tracking systems that would typically trigger a 22c-2 information demand.

The Redemption Fee Issue

The remaining piece of the 22c-2 mandate requires fund boards of directors to consider whether a redemption fee policy is appropriate for their funds. More than 60% of the 50 largest fund groups charge such fees, according to a recent survey by the Coalition of Mutual Fund Investors, a shareholder advocacy group.

Teufel said he did not think such fees would necessarily be inadvertently triggered by the routine trading of asset allocation funds - an increasingly popular retirement plan option - or an investor's deliberate move to rebalance a retirement account.

In both instances, he said, the trades are more of a long-term proposition than the rapid-fire transactions the new rule is intended to prevent. "Rebalancing is not something you do every day or every month," Teufel noted.

Investors Beware

In any event, the providers said, investors need to be aware of the consequences of their transactions. Principal, like other providers, built in special participant notifications of the redemption fees, according to Thomann. "Our primary concern," she said, "is that our participants get educated about the choices they are making."

The bottom line, according to Goldbrum and the providers: the whole experience has been a positive one. "To the extent it forced the industry to focus and put in systems to track market timing, it was a good thing," he said.

Vanguard's Teufel said the rule merely codified what many in the industry were doing on an informal basis anyway. "The rule helped us make explicit what was already implicit," he said. "Now it's much quicker."

The final 22c-2 rule is here.

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