

Some Fund Names Guarantee SEC Scrutiny

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The SEC staff is trying to limit the use of investment company fund names that include terms such as "guaranteed" or "protected" that suggest protection from market, credit, or other risk. A recent Guidance Update issued by the Division of Investment Management encourages investment companies to consider eliminating or qualifying such terms. The Guidance Update emphasizes that, even if the body of a prospectus and other disclosure documents qualify fund names by fully disclosing any limitations on the scope of the protection provided, investors often focus on a name to determine the level of risk. Accordingly, **the SEC staff has already requested that some funds (including long-established ones) change their names.** Practically speaking, any such change generally will involve removing the offending word (or any of its derivatives), as it is usually awkward to add satisfactory qualifying language to the name itself. Still unresolved is the impact on names of variable annuity or variable life insurance products, or of specific benefits offered under them. These products and benefits, consistent with their insurance element, not infrequently have names that include terms such as "guaranteed" and "protection." At a recent industry conference, Division Director Norm Champ noted that, while insurance is frequently associated with protection, when it is also an investment product, the protection is often limited in significant ways, making it important that the product name not overstate the safety provided. On the other hand, at the same conference, an Assistant Director of the Division suggested that SEC staff may not consider it necessary to scrutinize the names of some rider benefits under these products as closely as the names of the underlying funds that support them.

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