



Private Managers Face High Threshold to Retail Riches

Firms already in the registered fund market stand to gain the most from the SEC's retail proposals, while private managers without a toehold face a costly build.

By **Justine Ra** | October 14, 2026

The Securities and Exchange Commission's "responsible retailization" proposals would give private managers more room to charge performance fees and manage liquidity in registered funds. But taking advantage of that freedom comes with a hefty operational build followed by ongoing post-launch burdens, compliance consultants say.

Launching a registered fund follows a barbell pattern, said Jamie Peterson, a managing director at Iron Road Partners.

The first phase involves "very substantive upfront legal work," which includes a registration process that can require extensive back-and-forth with the SEC, he said. Compliance, finance and operational responsibilities then "really start to intensify after launch."

Even the basics of running a registered fund are new territory for many private managers, Peterson said. The fundamentals include calculating the fund's net asset value accurately and on time, filing regulatory reports such as Forms N-PORT and N-CEN, and reporting to a fund board far more extensively than private managers are used to, he added.

Private managers' investment skills are "very fungible" in registered funds, Peterson said, but "the regulatory considerations amongst those different types of vehicles are actually quite significant."

The '40 Act's prescriptive requirements often surprise managers coming from private funds, and even minor missteps can draw regulators' scrutiny and widen the scope of an exam, he said.

"It's much easier for a traditional manager to move into private than it is for a private manager to move into retail," said Elizabeth Fries, a managing partner and global leader of Sidley's investment funds practice.

Valuation at the Center

Valuation is the biggest challenge to solve, said Dan Campbell, a managing director at ACA Group and former SEC exam supervisor, particularly as the proposals would let managers charge performance fees on unrealized gains, and the fund's valuations would directly shape what its manager earns.

The performance fee proposal, passed in a 3-0 vote in an open meeting on Sept. 30, would let registered investment advisors charge clients performance fees of up to 20% of a fund's net gains, both realized and unrealized.

Examiners are already drilling into valuation at private credit and other private market managers, Campbell said. They're asking how often firms change methodologies, where inputs come from and what managers discuss with borrowers and valuation agents, then checking valuation committee minutes against firms' stated procedures.

Most private managers value holdings quarterly, and daily valuation is close to unworkable, said Peterson.

"It is very, very difficult to perform fair valuation across the board in every holding on a daily basis," Peterson said. "That's operationally near impossible."

Interval funds, with periodic repurchases, are less exposed than vehicles investors trade constantly, said Daniel Michael, a partner at Skadden and former chief of the enforcement division's complex financial instruments unit, noting that with products like ETFs, valuations that go stale between month-end reviews can lead to people buying and selling at the wrong prices.

Pricing between month-end reviews is where controls will have to tighten, as the more often investors can trade a fund, the more intramonth valuation matters, Michael said.

Performance fees also come with a new approval step, with the proposal requiring fund boards to sign off on any performance fee and document their reasoning.

The detailed rules around those approvals carry their own risk, Fries added. By setting "very prescriptive requirements" for performance fees, the SEC has effectively created a standard that can be used against managers in hindsight, she said.

Liquidity's Trade-Off

Swapping the interval fund rule's 100% liquid-asset test for a principles-based standard cuts both ways.

Under the current rule, an interval fund must hold 100% of its repurchase offer amount in liquid assets while an offer is outstanding. Under the proposed standard, funds would be able to manage liquidity so they can meet repurchase requests without having to sell investments at prices that deviate significantly from their value.

"The net effect of these changes is it creates a little more freedom to hold assets that may not be liquid [as well as] greater freedom to provide liquidity," Michael said. "And if not managed correctly, those two things can be in tension."

Managers would have to prove their liquidity plans hold up, Campbell added.

"That flexibility comes at a price, because now you have to show how the fund can reliably meet these repurchases," Campbell added. That means stress-testing the cash flow assumptions behind those plans, which he expects examiners to do.

Even under the new standard, interval funds may "not always be able to satisfy 100%" of redemption requests at a given time, Peterson said. Managers who want more control over payouts may instead choose tender offer funds, which let them decide when to buy back shares, he said. Either way, managers should match the vehicle to the liquidity they can realistically offer before launch.

Explaining those limits falls mostly on the firms that sponsor and distribute the funds, not on investors, Peterson said. Buyers need to understand they aren't getting a daily-traded mutual fund, he added.

Performance fees will need the same care, said Lance Dial, a partner at K&L Gates. Unlike a flat management fee, he said, a performance fee takes a share of the fund's gains, a concept most retail investors haven't encountered.

Unless marketing materials are "hyper clear" about how the fee works, managers could end up with "unhappy shareholders who would otherwise be really, really happy because they made a lot of money," he said.

The Gaps

The proposals leave some of the hardest structural problems for another day, Fries said, including how managers seed new funds and how Section 17 limits dealings with affiliates.

Some managers warehouse assets, buying and holding them before launch so the fund can start with a ready-made portfolio, Fries said. The proposals don't address how those assets can be moved into a registered fund.

The interval fund proposal takes a different approach, instead giving new funds up to two years to build their portfolios before making their first repurchase offer. Today, a fund with quarterly repurchases must start within six months.

Moving warehoused assets into a new fund is far harder on the registered side, Fries said. Private funds can transfer assets in kind with investor approval, she added, but that doesn't work in the registered fund context.

Registered funds instead rely on a December 2006 no-action letter known as GuideStone, which is generally viewed as unavailable once affiliated money tops 5%, keeping seeding small-scale, Fries said.

The strict regulatory ceiling of the no-action letter effectively forces managers to keep their initial capital investments small, making it much harder to scale a newly registered fund with corporate money the same way they might with a private vehicle.

Section 17 compounds the problem, Dial said. The provision treats a seed investor holding more than 5% of a fund as an affiliate and one holding more than 25% as controlling it, restricting its dealings with the fund.

The SEC can't just erase the resulting conflicts, Dial said, but it could allow seeding under conditions such as minimum holding periods. Now is the time for the industry to spell out what it needs, he added.

The question remains whether private managers will decide that the operational lift would be worth the potential gain in retail investors.

Retail is "possibly one of the largest sources of available capital in this country," said Michael. "It comes with a price tag. Is the price tag worth it? It depends on the issuer, but I certainly see a significant opportunity."