

# The Funds They Are A-Changin':

## A Closer Look at Mutual Fund to ETF Conversions

March 20, 2023

**Bruce G. Leto**

**Michael W. Mundt**

**J. Stephen Feinour, Jr.**

**Jana L. Cresswell**

*This presentation is for educational purposes only. It should not be construed as legal advice or opinion or as a substitute for the advice of counsel.*

**STRADLEY  
RONON**

# Introduction to Mutual Fund to ETF Conversions

- Conversions by shell fund reorganization
- First conversion in March 2021
- More than 40 conversions to date with more scheduled

# Summary of Conversion Process



Approval by Fund Board



File registration statement to  
create shell series



File registration statement on  
Form N-14 for reorganization



May or may not require  
shareholder approval

# Investment Strategy Considerations

- Suitability of strategy to operate as ETF – including portfolio constraints
- Reliance on Rule 6c-11 or semi-transparent ETF order
- Portfolio holdings disclosure considerations
- Issues with certain foreign markets:
  - no off-market in-kind transfers
  - foreign transfer fees and taxes
- Considerations about how ETF fits into overall fund line-up

# Shareholder Base and Other Considerations

Consideration of  
distribution channels  
and conversion  
issues for certain  
account types

- Accounts at transfer agent
- 401(k) and similar accounts
- Mutual fund only platforms

Converting  
shareholders without  
appropriate  
brokerage accounts

- Providing advance notice for shareholders to set up brokerage account
- Redeeming shareholders without brokerage accounts immediately prior to the reorganization
- Use of stock transfer agent for shareholders without a brokerage account

Multiple class funds

- Consolidation of classes
- Rule 12b-1 and sub-transfer agency fees not available with ETF

# Determination if Shareholder Vote Required

- State law and charter document analysis
- Rule 17a-8 analysis
- Other shareholder vote considerations

# Board Approval and Considerations

- Best interest determination under Rule 17a-8
- Board considerations:
  - fee and expense comparison
  - ETF structure appropriate for strategy and shareholder base
  - costs of reorganization

# Operational Issues

- Issues with different account types and platforms
- Fractional shares considerations
- Timing of closing acquired fund to purchases and redemptions



# Registration Statement on Form N-14

- Filing strategies
- SEC disclosure concerns:
  - instructions to shareholders without brokerage accounts
  - differences between mutual fund and ETF structure
  - reasons that ETF structure benefits shareholders
  - fee and expense comparison
  - treatment of shareholders without brokerage accounts at time of reorganization



# Recent Developments

- Mutual fund to ETF conversions are a SEC 2023 exam priority
- Exchange-traded class relief
- Reorganization of mutual fund with existing operational ETF

# Contacts



**Bruce G. Leto**  
Partner & Co-Chair,  
Investment Management Group  
215.564.8115  
bleto@stradley.com



**Jana L. Cresswell**  
Partner  
215.564.8048  
jcresswell@stradley.com



**J. Stephen Feinour, Jr.**  
Partner  
215.564.8521  
jfeinourjr@stradley.com



**Michael W. Mundt**  
Partner  
202.419.8403  
mmundt@stradley.com