

Press Release

SEC Adopts Rules for Enhanced Regulatory Framework for Securities Clearing Agencies

FOR IMMEDIATE RELEASE

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Washington D.C., Sept. 28, 2016— The Securities and Exchange Commission voted today to adopt new rules to establish enhanced standards for the operation and governance of securities clearing agencies that are deemed systemically important or that are involved in complex transactions, such as security-based swaps. The Commission also voted to propose to apply the enhanced standards established by the new rules to other categories of securities clearing agencies, including all SEC-registered central counterparties.

“Securities clearing agencies are a vital part of the infrastructure underpinning the U.S. financial system,” said SEC Chair Mary Jo White. “The Commission has taken an important step today toward enhancing investor protection and ensuring that clearing agencies continue to be subject to effective regulations that appropriately address the risks they pose to the financial system.”

The Dodd-Frank Wall Street Reform and Consumer Protection Act called for an enhanced regulatory framework for certain securities clearing agencies, which perform a range of services critical to the effective operation of the securities markets, including acting as intermediaries between the parties to a securities transaction, ensuring that funds and securities are correctly transferred between parties and, in some cases, assuming the risks of a party defaulting on a transaction by acting as a central counterparty.

The rules adopted today apply to SEC-registered securities clearing agencies that have been designated as systemically important by the Financial Stability Oversight Council (FSOC) or that are involved in more complex transactions. Securities clearing agencies covered by the new rules will be subject to new requirements regarding, among other things, their financial risk management, governance, recovery planning, operations, and disclosures to market participants and the public.

The Commission’s proposal would apply the newly-adopted rules to other categories of securities clearing agencies, including all SEC-registered securities clearing agencies that are central counterparties, central securities depositories, or securities settlement systems. The public will have 60 days to comment after publication in the Federal Register.

The adopted rules will become effective 60 days after publication in the Federal Register. Affected securities clearing agencies must comply with the requirements 120 days after the effective date.

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FACT SHEET
Enhanced Regulatory Framework for Covered Clearing Agencies
SEC Open Meeting
Sept. 28, 2016

Action

The Securities and Exchange Commission will consider whether to adopt rules to strengthen the regulatory framework for clearing agencies that are designated as systemically important or that are involved in complex transactions, such as security-based swaps. The Commission will also consider whether to propose amendments to the new rules that would require other types of clearing agencies to be subject to the enhanced framework.

These initiatives are part of the Commission's ongoing effort to strengthen its oversight of clearing agencies in order to better address potential systemic risks and enhance investor protection, and would adhere to a global set of standards.

Highlights

The rules are consistent with relevant global standards for clearing agencies, such as the CPMI-IOSCO principles for financial market infrastructures (PFMI). The rules are also consistent with the Commission's obligations for clearing agency oversight under the Dodd-Frank Wall Street Reform and Consumer Protection Act. In developing these rules, the Commission staff consulted with the Financial Stability Oversight Council (FSOC), the Commodity Futures Trading Commission (CFTC), the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation (FDIC).

Under Rule 17Ad-22(e), which the Commission is considering whether to adopt, a covered clearing agency would be required to establish, implement, maintain, and enforce policies and procedures reasonably designed to address all major aspects of its operations, including its governance, risk management (including financial, business, and operational risks), access requirements, and settlement and depository systems.

Governance and Comprehensive Risk Management

- Rule 17Ad-22(e)(2) would require a covered clearing agency to have policies and procedures that establish qualifications of members of boards of directors and senior management of a covered clearing agency, specify clear and direct lines of responsibility, and consider the interests of relevant stakeholders in the covered clearing agency.

- Rule 17Ad-22(e)(3) would require a covered clearing agency to have policies and procedures for recovery and wind-down planning. It also would require policies and

procedures designed to ensure that risk management and internal audit personnel have sufficient authority, resources, independence from management, and access to the board to fulfill their functions effectively.

Financial Risk Management

- *Credit Risk*: Rule 17Ad-22(e)(4) would require a covered clearing agency to have policies and procedures for daily stress testing, monthly review and annual validation of credit risk models.

- *Collateral*: Rule 17Ad-22(e)(5) would require a covered clearing agency to have policies and procedures regarding setting and enforcing appropriately conservative haircuts and concentration limits and subjecting them to annual review at least annually.

- Rule 17Ad-22(e)(6) would require a covered clearing agency to have policies and procedures for marking positions to market, collecting margin at least daily, and conducting daily backtesting, monthly sensitivity analyses, and performing model validation at least annually.

- *Liquidity Risk*: Rule 17Ad-22(e)(7) would require a covered clearing agency to have policies and procedures that address holding “qualifying liquid resources” sufficient to withstand the default of the participant family that would generate the largest aggregate payment obligation in extreme but plausible market conditions. A covered clearing agency also would be required to have policies and procedures to test the sufficiency of its liquidity providers.

General Business Risk

Rule 17Ad-22(e)(15) would require a covered clearing agency to have policies and procedures that provide for holding liquid net assets funded by equity equal to at least six months of current operating expenses so that the covered clearing agency can continue operations during a recovery or wind-down. The rule also would require policies and procedures to maintain a viable plan – approved by the board of directors and updated at least annually – for raising additional equity should its equity fall close to or below the amount required.

Scope of Coverage

Rule 17Ad-22(e) generally would apply to clearing agencies designated as systemically important financial market utilities by FSOC and for which the Commission is the supervisory agency under the Dodd-Frank Act and clearing agencies involved in activities with a more complex risk profile for which the CFTC is not the supervisory agency under the Dodd-Frank Act. Rule 17Ab2-2 would establish procedures for the SEC to make determinations about certain financial resource requirements a covered clearing agency would have to satisfy depending on specific factors, such as whether the covered clearing agency is systemically important in multiple jurisdictions or provides central counterparty services for products with a more complex risk profile.

Amendments to Rule 17Ad-22, which the Commission is separately considering whether to propose,

would expand the definition of “covered clearing agency” beyond designated clearing agencies and complex risk profile clearing agencies to any registered clearing agency that provides the services of a central counterparty, central securities depository, or a securities settlement system.

Background

A clearing agency acts as a middleman between the parties to a securities transaction, performing a range of services important for the effective operation of the securities markets. These services include, for example, ensuring that funds and securities are correctly transferred between parties and, in some cases, assuming the risks of a party defaulting on a transaction by acting as a “central counterparty.”

The SEC has overseen securities clearing agencies since 1975, when Congress provided it with broad authority to write rules under Section 17A of the Exchange Act. Title VIII of the Dodd-Frank Act enhanced the SEC’s authority to adopt rules addressing risk management standards for securities clearing agencies that have been designated systemically important by the FSOC.

The SEC serves as the supervisory agency for four of the designated clearing agencies, and the CFTC serves as the supervisory agency for the remaining two.

In 2012, the SEC adopted Rule 17Ad-22 under the Exchange Act, which established standards for the risk management and operation of registered clearing agencies. New Rule 17Ad-22(e) builds on existing Rule 17Ad-22 by subjecting certain clearing agencies to enhanced policies and procedures requirements concerning risk management, operations, governance, and disclosure.

What’s Next

The final rules, if adopted, will become effective 60 days after publication in the Federal Register. Covered clearing agencies must comply with the requirements 120 days after the effective date.

The SEC will seek public comment on the proposed rules for 60 days following publication in the Federal Register. The SEC will then review the comments and determine whether to adopt final rules.

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Related Materials

- [Proposed Rule](#)