

Proposed Enhancements to the Broker-Dealer Customer Protection Rule



The Securities and Exchange Commission proposed enhancements to Rule 15c3-3—the rule that protects a customer’s cash and securities held at a broker-dealer—to require certain broker-dealers to increase the frequency of the computations of the net cash they owe to customers and other broker-dealers from weekly to daily.

Why This Matters

Rule 15c3-3, known as the Customer Protection Rule, requires broker-dealers that maintain custody of customer securities and cash (“carrying broker-dealers”) to have a special reserve account at a bank that must hold cash and/or qualified securities in an amount determined by a computation of the net cash owed to the carrying broker-dealer’s customers. Generally, carrying broker-dealers are required to perform the customer reserve computation and make any required deposits into the customer reserve bank account weekly. Carrying broker-dealers also perform a similar computation and make the required deposit, generally on a weekly basis, for the net cash a carrying broker-dealer owes to other broker-dealers whose accounts the broker-dealer carries, known as PAB account holders (*i.e.*, proprietary securities account of a broker-dealer).

Carrying broker-dealers may receive large cash inflows that are not deployed for or on behalf of their customers or PAB account holders for the purpose of investing in securities prior to the next required customer and PAB reserve computations and the associated deposits into the customer and PAB reserve bank accounts. When this occurs, the value of the cash and/or qualified securities in the customer and PAB reserve bank accounts may not equal the net cash owed to customers and PAB account holders for a period of time. This mismatch poses a risk to the carrying broker-dealer’s customers and PAB account holders that, if the carrying broker-dealer fails financially, it may not be able to return all of the securities and cash owed to the customers and PAB account holders. The proposal is intended to address this potential mismatch risk by shortening the time between required computations and deposits.

How This Rule Would Apply

The proposal would require carrying broker-dealers with large total credits (generally the amount of cash owed to customers and PAB account holders) to increase the frequency of their customer and PAB reserve computations from weekly to daily. Specifically, the proposal would require carrying broker-dealers with average total credits equal to or greater than \$250 million to make the relevant computations daily, as of the close of the previous business day.

Those carrying broker-dealers would be required to make deposits no later than one hour after the opening of banking business on the following business day. For example, a carrying broker-dealer performing a computation on Tuesday as of the close of business on Monday would be required to make the deposit on Wednesday, assuming all three days are business days.

The proposal would define average total credits as the arithmetic mean of the sum of total credits reported in a carrying broker-dealer's customer and PAB reserve computations in its 12 most recently filed month-end financial and operational reports (known as FOCUS Reports). This means the average total credits would be a 12-month rolling average, as the carrying broker-dealer would add up the sum of the total credits reported in the customer and PAB reserve computations in each of the 12 most recently filed month-end FOCUS Reports and divide that amount by 12 to calculate the arithmetic mean of the total credits.

The proposal would also require that a carrying broker-dealer comply with the daily computation requirement for the customer and PAB reserve bank accounts no later than six months after having exceeded the \$250 million threshold. This is intended to provide time for a carrying broker-dealer to make the systems and staffing changes necessary to perform a daily computation after it exceeds the \$250 million threshold.

In the event that a carrying broker-dealer's average total credits subsequently fall below the \$250 million threshold, the proposed amendments would require it to continue performing daily computations and provide written notification to its designated examining authority of its election to perform weekly computations. The carrying broker-dealer would be required to provide such notification 60 days prior to reverting to weekly computations.

Additional Information:

The public comment period will remain open for 60 days following publication of the proposing release on the SEC website or 30 days following publication of the proposing release in the Federal Register, whichever period is longer.