

[Securities Regulation Daily Wrap Up, TOP STORY—SEC adopts enhanced framework for clearing agencies; proposes shorter trade settlement cycle, \(Sept. 28, 2016\)](#)

Securities Regulation Daily Wrap Up

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By [Jacquelyn Lumb](#)

The Commission has unanimously approved final rule requirements for systemically important clearing agencies and those involved in complex transactions such as security-based swaps. The commissioners also voted to issue a proposal to broaden the scope of those requirements to include all registered clearing agencies that act as central counterparties, central securities depositories, or securities settlement systems, and approved a proposal to seek comments on shortening the settlement cycle for most broker-dealer transactions from three business days to two.

In opening [remarks](#), Chair Mary Jo White said that clearing agencies' centralized role in concentrating and managing financial exposures has grown significantly since the financial crisis. Given their critical role in the safety and efficiency of securities trading, the SEC has expanded its regulatory focus on clearing agency activities. Five registered clearing agencies have been designated by the Financial Stability Oversight Council as systemically important, four of which fall under the SEC's oversight.

Enhanced regulatory framework. The [final rules](#), which will become effective 60 days after publication in the *Federal Register*, with a compliance date 120 days after the effective date, require comprehensive policies and procedures for governance and risk management, including financial, liquidity, credit, operational, and general business risks. White noted that the final rules were drafted with consideration given to the global system of regulation over clearing agencies, including the principles for financial market infrastructures (PFMI) published by IOSCO's committee for payment and settlement systems, to which the SEC staff contributed.

Careful monitoring. White said she expects the staff to focus on evaluating the rule proposals by the clearing agencies to ensure that they meet the newly adopted requirements in a manner that is tailored to their particular risk profile. The staff also will take a careful look at the implementation of the new requirements during its supervisory reviews and examinations. The [proposal](#) to extend these enhanced requirements to other categories of clearing agencies will further strengthen the national system for clearance and settlement and help to further mitigate risk to the broader U.S. financial system, according to White.

Commissioner Kara Stein, while voting to adopt the final rules, expressed concern that they fall short and provide too much wiggle room. The rules should have been stronger, in her [view](#), but given how overdue they are, she voted in favor only because they will marginally decrease risk. She encouraged commenters to suggest improvements in response to the proposal to extend the requirements to additional clearing agencies.

Commissioner Michael Piowar credited the staff for not taking the easy approach of codifying the PFMI, which in his [view](#) would not have fulfilled the SEC's obligation to regulate these entities under the Exchange Act and would have ignored the unique mandate and experience the SEC has gained through its years of clearing agency oversight.

Piowar said the current state of central counterparty clearing agency regulation is one of the issues that keeps him up at night, not because of the staff's ability to supervise these entities, but because even the best supervisory programs cannot overcome bad policy decisions. In his view, policymakers jammed increasingly risky and complex financial products into these critical infrastructures, which has resulted in a new class of "too big to fail" entities with the power to bring down the entire financial system.

Proposal on T+2 settlement cycle. In [proposing](#) a T+2 trading cycle to replace the current T+3 cycle, White said both industry and regulatory initiatives have laid the foundation for the shorter settlement cycle, although it remains a significant undertaking. Stein suggested that the move to T+2 should lay the groundwork for an even shorter settlement cycle. Piwovar [noted](#) that the SEC's Investor Advisory Committee said that with only one or two exceptions, it could think of no higher impact measure than T+2 that is within the SEC's reach and does not pose potentially adverse consequences.

Piwovar, long a supporter of T+2, added that the move would align trade processing in the U.S. with other global markets. He encouraged commenters to address a potential move to T+1, including the potential costs and benefits.

Industry participants have been working toward T+2 on a voluntary basis, with a goal of adopting the shortened cycle by September 5, 2017. The SEC is seeking comment on using that as the compliance date in its rulemaking proceeding.

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