

## Statement

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# Covered Clearing Agency Resilience and Recovery and Wind-Down Plans

Elizabeth Fitzgerald, Assistant Director, Division of Trading and Markets, Office of Clearance and Settlement

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Thank you, Haoxiang.

Good morning Chair Gensler and Commissioners.

The Division is recommending certain rule changes and a new rule related to covered clearing agencies. I will now provide a brief overview of the proposed changes to Exchange Act Rule 17Ad-22, which encompasses the Covered Clearing Agency Standards, and proposed new Rule 17ad-26, which would build upon an existing requirement in Rule 17Ad-22.

For context, I wanted to explain that a covered clearing agency is a registered clearing agency that provides the services of a central counterparty or a central securities depository. In 2016, the Commission adopted the Covered Clearing Agency Standards, which require covered clearing agencies to establish, implement, maintain, and enforce written policies and procedures reasonably designed to, as applicable, meet certain minimum standards regarding, among other things, operations, governance, and risk management.

First, the recommended proposal would build upon and strengthen the existing requirement in Rule 17Ad-22 that a covered clearing agency have policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, among other things, includes the authority and operational capacity to make intraday margin calls in defined circumstances. Specifically, the proposed amendments to this rule would require that a covered clearing agency's risk-based margin system monitor intraday exposure on an ongoing basis and include the authority and operational capacity to make intraday margin calls as frequently as circumstances warrant, including when risk thresholds specified by the covered clearing agency are breached or when the products cleared or markets served display elevated volatility.

Second, the recommended proposal would amend and expand the requirements that a covered clearing agency have policies and procedures that would apply in the event that the covered clearing agency relies on substantive inputs from third parties to calculate margin and, specifically, when such inputs are not readily available or reliable. This proposal would require that the procedures used in such circumstances must include substantive inputs from an alternate source or, if it does not use an

alternate source, the use of an alternate risk-based margin system that does not similarly rely on the unavailable or unreliable substantive inputs.

Finally, the Commission is proposing to prescribe requirements for the contents of a covered clearing agency's recovery and orderly wind-down plan. Currently, the Covered Clearing Agency Standards require that a covered clearing agency's policies and procedures include a plan for recovery and orderly wind-down, but does not establish requirements for specific elements to include within those plans.

The new rule would identify nine elements that a covered clearing agency would be required to include in its plan and would also include definitions of "recovery" and "orderly wind-down" which would identify the objective that these plans are designed to meet. Specifically, the proposed new rule would require that a covered clearing agency's plan shall:

1. identify and describe the covered clearing agency's critical payment, clearing, and settlement services and address how the covered clearing agency would continue to provide such critical services in the event of recovery and during an orderly wind-down, including the identification of the staffing necessary to support such critical services and analysis of how such staffing would continue in the event of a recovery and during an orderly wind-down;
2. identify and describe any service providers upon which the covered clearing agency relies to provide its identified critical payment, clearing, and settlement services, specify to what critical services such service providers are relevant, and address how the covered clearing agency would ensure that service providers would continue to provide such critical services in the event of a recovery and during an orderly wind-down, including consideration of contractual obligations with such service providers and whether those obligations are subject to alteration or termination as a result of initiation of the recovery and orderly wind-down plan;
3. identify and describe scenarios that may potentially prevent the covered clearing agency from being able to provide its critical payment, clearing, and settlement services as a going concern, including scenarios arising from uncovered credit losses, uncovered liquidity shortfalls, or general business losses;
4. identify and describe criteria that could trigger the implementation of the recovery and orderly wind-down plans and the process that the covered clearing agency uses to monitor and determine whether the criteria have been met, including the governance arrangements applicable to such process;
5. identify and describe the rules, policies, procedures, and any other tools the covered clearing agency would use in a recovery or orderly wind-down;
6. address how the identified rules, policies, procedures, and any other tools or resources would ensure timely implementation of the recovery and orderly wind-down plans;

7. include procedures for informing the Commission as soon as practicable when the covered clearing agency is considering initiating a recovery or orderly wind-down;
8. include procedures for testing the covered clearing agency's ability to implement the recovery and wind-down plans at least every 12 months, including by requiring the covered clearing agency's participants and, when practicable, other stakeholders to participate in the testing of its plans, providing for reporting the results of the testing to the covered clearing agency's board of directors and senior management, and specifying the procedures for, as appropriate, amending the plans to address the results of the testing; and
9. include procedures for review of the plans by the board of directors at least every twelve months or following material changes to the system or environment in which the covered clearing agency operates that would significantly affect the viability or execution of the plans, with such review informed, as appropriate by the covered clearing agency's testing of the plans.

Thank you.