Statement

Statement on Customer Protection Rule

Chair Gary Gensler

July 12, 2023

Today, the Commission is considering proposing amendments that would require broker-dealers carrying large customer balances to calculate and deposit on a daily basis the net cash they owe their customers and other broker-dealers. I am pleased to support this proposal because, if adopted, it would help protect customers in the event that a broker-dealer fails.

A key tenet of our securities laws is the segregation of customers' cash and securities from a broker-dealer's own account. Congress gave us authority to adopt this key protection as part of the Securities Investor Protection Act of 1970 (SIPA). The Commission in 1972 adopted Rule 15c3-3, requiring broker-dealers that custody customers' cash and securities to maintain a special reserve bank account that contains the net cash a broker owes to its customers. The rule requires broker-dealers to calculate and deposit the appropriate balance for that account on a weekly basis.

SIPA also is known for setting up the Securities Investor Protection Corporation (SIPC) and establishing the SIPC Fund, which together help protect customers in the event a broker not only fails financially but also cannot repay its customers. Taken together, Rule 15c3-3 and SIPA are designed to ensure that if a broker-dealer fails, its customers will be made whole.

Our markets have evolved dramatically in the 51 years since Rule 15c3-3 was adopted. It was the same year that Atari released the first mass-produced arcade game, Pong. Though the game was revolutionary for its time, you now are more likely to find Pong at the Smithsonian Institution than at an arcade.[1]

Given the speed, scale, and volume of today's market activity—much faster than a game of Pong—I believe customers would benefit if broker-dealers carrying large credit balances made daily reserve account calculations and deposits. This frequency would better align with the inflows, swings, and balances that broker-dealers experience in today's markets.

As discussed in the release, currently 11 of the largest broker-dealers already make these calculations on a daily basis. Today's proposal would standardize this practice for broker-dealers carrying total credit balances that averaged at least $250 million for the previous 12 months.[2]

This would reduce the likelihood and duration of a mismatch between the size of the reserve bank account and the amount of net cash currently owed to customers and other broker-dealers. Further, it would better help to protect the SIPC Fund, particularly from the risk that when a broker-dealer fails, it has a midweek shortfall in its reserve account.

Accordingly, this proposal, if adopted, would help protect customers as well as the SIPC Fund. That enhances trust in the markets.

I'd like to thank the members of the SEC staff who worked on this proposal, including:

- Haoxiang Zhu, Sheila Swartz, Abraham Jacob, Randall Roy, Mike Macchiaroli, Tom McGowan, Ray Lombardo, Tim Fox, David Saltiel, Andrea Orr, Yue Ding, John Prochilo, and Roni Bergoffen in the Division of Trading and Markets;
- Jessica Wachter, Juan Echeverri, Dasha Safonova, Ryan Brady, Caroline Schulte, Oliver Richard, Jill Henderson, Lauren Moore, and Charles Woodworth in the Division of Economic and Risk Analysis; and
- Megan Barbero, Robert Teply, Donna Chambers, Cynthia Ginsberg, Marie-Louise Huth, and Meridith Mitchell in the Office of the General Counsel.

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[1] *See* The Week, "Pong at 50: the video game that 'changed the world'" (Nov. 29, 2022), *available at* https://www.theweek.co.uk/news/technology/958675/pong-at-50-the-video-game-that-changed-the-world.

[2] The proposal would define "average total credits" to mean the arithmetic mean of the sum of total credits in the customer and PAB reserve computations reported in a carrying broker-dealer's 12 most recently filed month-end FOCUS Reports. This means the average total credits would be a 12-month rolling average.