

Statement

Statement on Proposed Amendments to Exchange Act Rule 15c3-3



Commissioner Hester M. Peirce

July 12, 2023

Thank you, Mr. Chair. I support proposing to amend Exchange Act rule 15c3-3 to decrease the likelihood of customer losses in the event of a broker-dealer failure. Rule 15c3-3 effectively segregates customer activity from a broker-dealer's proprietary activity. It helps ensure that the broker-dealer has set aside sufficient funds to facilitate self-liquidation and to satisfy customer claims in the event that the broker-dealer fails.^[1] If the rule functions properly, it protects not only broker-dealer customers, but the Securities Investor Protection Corporation (SIPC) fund that assists in making customers of a failed broker-dealer whole.^[2] Today's amendments are narrowly tailored to address the risk that a mismatch may develop and persist between the net cash large broker-dealers owe to their customers and the amount on deposit in a bank account established to hold these funds. The data presented in the recommendation suggest that requiring the largest firms to perform the required calculation—and make any necessary deposits—daily instead of weekly could reduce the amount of this mismatch. Reducing the mismatch would, in turn, reduce the risk of a disorderly liquidation and of unnecessary withdrawals from the SIPC fund.

I hope that commenters will help us determine whether the threshold for determining whether a firm needs to perform these calculations daily is set at the appropriate level. I also hope they will address whether the threshold should be measured on a rolling basis, as proposed, or once a calendar year. It also would be helpful to hear from firms that are likely to be required to perform these daily calculations whether their own data show that the rule is likely to reduce the frequency and size of mismatches and, if so, how significant those reductions are likely to be. Finally, I hope commenters will respond to the release's urging to alert us of any unexpected interactions between the proposed Rule 15c3-3 amendments and last year's proposal regarding Treasury clearing.^[3]

I do have two questions for the staff:

1. Although the release urges commenters to review the Treasury clearing proposal to determine whether it is relevant to their comments on this release, why are we not reopening the comment period on that earlier proposal? Do we think that the proposed changes in this release are *not* likely to have an effect on that proposal?
2. If we adopt this rule, how much time do you recommend allowing affected broker-dealers to come into compliance with the new calculation cadence?

I would like to express my appreciation to the staff in Trading and Markets and DERA who produced a refreshingly succinct release and worked to answer my office's questions about it.

[1] Michael P. Jamroz, The Customer Protection Rule, 57 Business Lawyer 1069, 1070-1074 (2002).

[2] See Mission, Securities Investor Protection Corporation, <http://www.sipc.org/about-sipc/sipc-mission>. The customer protection rule should operate “to limit the exposure of SIPC . . . to claims resulting from the payment of advances to customers of a failed estate.” Jamroz at 1073.

[3] See Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule With Respect to U.S. Treasury Securities; Proposed Rule, Exchange Act Release No. 95763 (Sept. 14, 2022), 87 FR 64610 (Oct. 25, 2022).