

**MEMO# 35173**

March 14, 2023

# SEC Adopts Rule to Shorten Securities Settlement Cycle to T+1

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TO: ICI Members  
Audit Committee  
Derivatives Markets Advisory Committee  
Equity Markets Advisory Committee  
ETF (Exchange-Traded Funds) Committee  
ETF Advisory Committee  
Fixed-Income Advisory Committee  
International Operations Working Group  
Operations Committee  
SEC Rules Committee  
Securities Operations Advisory Committee  
Small Funds Committee  
Transfer Agent Advisory Committee  
SUBJECTS: Derivatives  
Fund Accounting & Financial Reporting  
Operations  
Recordkeeping  
Transfer Agency RE: SEC Adopts Rule to Shorten Securities Settlement Cycle to T+1

On February 15, 2023, the Securities and Exchange Commission (the "Commission") adopted rule changes to shorten the standard settlement cycle for most broker-dealer transactions in securities from two business days after the trade date ("T+2") to one business day after the trade date ("T+1").[\[1\]](#) The Commission also adopted new rules related to the processing of institutional trades by broker-dealers and central clearing agencies and amended certain recordkeeping requirements applicable to registered investment advisers. This memorandum summarizes relevant portions of the Adopting Release.

## Compliance Date

The effective date for the amendments and final rules is May 5, 2023, and the Commission will require compliance with most of these rules,[\[2\]](#) including with a T+1 standard settlement cycle, by May 28, 2024. This differs from the compliance date of March 31, 2024 initially proposed.[\[3\]](#)

Although ICI had recommended a compliance date of September 3, 2024,<sup>[4]</sup> the compliance date that the Commission ultimately adopted still aligns in many respects with the report that ICI, DTCC, SIFMA and Deloitte published in December 2021 outlining the Industry Steering Committee's recommendations for achieving a T+1 standard settlement cycle and proposing the transition to T+1 settlement by the second quarter of 2024.<sup>[5]</sup>

## **Shortening the Standard Settlement Cycle**

### **Exchange Act Rule 15c6-1(a)**

As proposed, the Commission adopted amendments to Exchange Act Rule 15c6-1(a) to implement a T+1 standard settlement cycle.<sup>[6]</sup> Specifically, the final rule prohibits broker-dealers from effecting or entering into a contract for the purchase or sale of a security (other than exempted securities, government securities, municipal securities, commercial paper, bankers' acceptances, and commercial bills)<sup>[7]</sup> that provides for payment of funds and delivery of securities later than on a T+1 basis, unless otherwise expressly agreed to by the parties at the time of the transaction.<sup>[8]</sup> The Commission cites several benefits to moving to T+1 settlement consistent with those articulated in the Proposal, including reduction in the number and total value of unsettled trades that exist at any point in time and of different risk exposures for central counterparties ("CCP") and the CCP's participants. Further, the Commission notes that market participants have already made sufficient progress to facilitate a transition to T+1.<sup>[9]</sup>

### **Exemption for US-Listed ETFs with Foreign Securities and for ADRs**

The Commission declined to grant ICI's request for exemptions from T+1 settlement for US-listed ETFs that have a basket of securities that include foreign securities and for American Depositary Receipts (ADRs). ICI had requested these exemptions to address the misalignment that will result between US and non-US-settlement cycles once the US moves to T+1. The Commission states, however, that it will not amend the scope of existing exemptive relief from Rule 15c6-1(b) for securities that do not have facilities for transfer or delivery in the US. Specifically, the Commission suggests that exempting ADRs or US-listed ETFs that include foreign securities and/or ADRs is not necessary, and that such exemptions would instead diminish the benefits of shortening the settlement cycle.<sup>[10]</sup>

### **Exchange Act Rule 15c6-1(c) - Firm Commitment Offerings**

Consistent with a recommendation from the ISC Report, the Commission amended Rule 15c6-1(c) to shorten the settlement cycle for firm commitment offerings for securities priced after 4:30 p.m. ET, unless otherwise expressly agreed to by the parties at the time of the transaction. Specifically, the amendment will shorten the settlement cycle for these offerings from T+4 to T+2. The Proposal would have deleted Rule 15c6-1(c) to implement a T+1 settlement cycle for such firm commitment offerings. However, the Commission states being persuaded by commenters that a T+1 settlement cycle is not long enough to prevent these offerings from failing to settle on time.

## **New Requirement for Same-Day Affirmation**

### **Exchange Act Rule 15c6-2**

To "improve the processing of institutional transactions" in a T+1 environment, the Commission adopted a "same-day affirmation" requirement under new Exchange Act Rule

15c6-2.[\[11\]](#) In a change from the Proposal, which would have mandated broker-dealers to establish a written agreement with each institutional customer requiring the parties to complete the same-day affirmation,[\[12\]](#) the rule gives broker-dealers, for transactions that require same-day affirmation, the option to either:

- Enter into written agreements with the relevant parties (e.g., investment managers and bank custodians, as agents of a broker-dealer's customer)[\[13\]](#) to ensure completion of allocations, confirmations, and affirmations as soon as technologically practicable and no later than by the end of the trade date; or
- Establish, maintain, and enforce specified written policies and procedures reasonably designed to ensure completion of the allocations, confirmations, and affirmations as soon as technologically practicable and no later than by the end of the trade date.[\[14\]](#)

#### **Advisers Act Rule 204-2 - Investment Adviser Recordkeeping**

The Commission also amended Advisers Act Rule 204-2, substantially as proposed, to require registered investment advisers, for transactions subject to the same-day affirmation requirement under Rule 15c6-2(a), to make and keep records of each confirmation received, and of any allocation and each affirmation sent or received, each with a date and time stamp.[\[15\]](#)

As with other records required under Rule 204-2(a)(7), advisers will be required to keep originals of confirmations, and copies of allocations and affirmations, but may maintain records electronically if they satisfy certain conditions.[\[16\]](#) The Commission also confirmed that an adviser may rely on a third party to make and keep the required records, but noted that such use of a third party does not reduce an adviser's obligations under Rule 204-2.[\[17\]](#)

#### **New Requirement for CMSPs to Facilitate Straight-Through Processing**

The Commission adopted, substantially as proposed, new Exchange Act Rule 17Ad-27 to improve straight-through processing[\[18\]](#) of institutional trades through clearing agencies acting as central matching service providers (CMSPs) and better accommodate shorter settlement cycles. Specifically, the rule requires a CMSP to establish, implement, maintain, and enforce written policies and procedures reasonably designed to facilitate straight-through processing of institutional trades.[\[19\]](#) The rule additionally requires a CMSP to file an annual report with the Commission that includes specified qualitative and quantitative information that the Commission expects to use to assess the CMSP's progress in facilitating straight-through processing.[\[20\]](#)

#### **Commission Response to Comments Relating to T+0**

The Proposal stated that the Commission was actively assessing the benefits and costs associated with shortening the standard settlement cycle to T+0, and that as the securities industry plans how to implement T+1, this process should include consideration of potential paths to achieve T+0. In the Adopting Release, however, the Commission explains that given the operational and technological challenges associated with moving to a T+0 settlement cycle as identified by commenters, it believes that a successful move to T+0 would take longer to design and implement, and cost more than, a successful move to a T+1 settlement cycle. The Commission believes, nonetheless, that the transition to a T+1 settlement cycle can be a useful step in identifying potential paths to T+0 settlement.[\[21\]](#)

## Impact on Other Rules

Despite some commenters' concerns, the Adopting Release confirmed that the Commission does not believe that changes are necessary for most of the SEC rules and guidance listed in the Proposal as potentially being affected by a T+1 settlement cycle.<sup>[22]</sup>

Notably, the Commission declined ICI's request to make electronic delivery ("e-delivery") the default method for funds and broker dealers to provide trade confirmations under Exchange Act Rule 10b-10. The Commission explained that broker-dealers and their customers may already establish an arrangement for e-delivery of 10b-10 confirmations, and that considering widespread changes to e-delivery standards is inappropriate in the context of shortening the settlement cycle because it is not necessary to establish an e-delivery

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### Notes

[1] Shortening the Securities Transaction Settlement Cycle, Release Nos. 34-96930; IA-6239 (Feb. 15, 2023) 88 FR 13872 ("Adopting Release"), available at <https://www.govinfo.gov/content/pkg/FR-2023-03-06/pdf/2023-03566.pdf>.

[2] The amendments to Exchange Act Rule 15c6-1(b) to exempt security-based (SB) swaps from T+1 settlement will become effective on May 5, 2023 (the effective date), to "avoid any possible confusion as to whether broker-dealer transactions in SB swaps may or may not be subject to Rule 15c6-1(a) between the effective and the compliance date. See *infra* note 7.

[3] Shortening the Securities Transaction Settlement Cycle, Release Nos. 34-94196, IA-5957 (Feb. 9, 2022), 87 FR 10436 (Feb. 24, 2022) ("Proposal"), available at <https://www.govinfo.gov/content/pkg/FR-2022-02-24/pdf/2022-03143.pdf>. For a summary of the Proposal, please see ICI Memorandum No. 34044, available at <https://www.ici.org/memo34044>.

[4] ICI's comment letter on the Proposal and a summary of the letter is available at <https://www.ici.org/memo34110>.

[5] See Accelerating the U.S. Securities Settlement Cycle to T+1 (Dec. 1, 2021) ("ISC Report"), available at <https://www.sifma.org/wp-content/uploads/2021/12/Accelerating-the-U.S.-Securities-Settlement-Cycle-to-T1-December-1-2021.pdf>.

[6] Rule 15c6-1(a) covers contracts for the purchase or sale of all types of securities except for securities it explicitly excludes. Under Exchange Act Section 3(a)(10), a "security" includes, among others, equities, corporate bonds, unit investment trusts ("UITs"), mutual funds, exchange-traded funds ("ETFs"), American depository receipts ("ADRs"), security-based swaps, and options. Application of Rule 15c6-1(a) extends to the purchase and sale of securities issued by investment companies (including mutual funds), private-label mortgage-backed securities, and limited partnership interests that are listed on an

exchange.

[7] In response to comments on the Proposal, the Commission also amended Rule 15c6-1(b) to exclude SB swaps from T+1 settlement. The Commission notes that key characteristics of SB swaps transactions (e.g., contractual terms that specify timing) make them inconsistent with the purpose of Rule 15c6-1. Adopting Release at 13883.

[8] Rule 15c6-1(a) does not apply to mutual fund shares purchased directly from a fund, though the Commission notes that such shares "generally settle on T+1" already. Adopting Release at 13923.

[9] The Commission also states its belief that "a successful move to T+1 settlement can occur by the compliance date" due to market participants' efforts and that "delaying such a move would allow undue risk to continue to exist in the U.S. clearance and settlement system." Adopting Release at 13881.

[10] The Commission in particular suggests that: (i) exempting ADRs would create "another misalignment" between the settlement cycle for ADRs and that for other types of securities; (ii) any additional cost from settling ADRs or US-listed ETFs that include foreign securities and/or ADRs would be offset by the reduction in other costs that would result from moving to a T+1 standard settlement cycle; and (iii) market participants will have sufficient time to complete operational changes necessary to minimize any risks resulting from a misalignment in settlement cycles. Adopting Release at 13885-86.

[11] "Same-day affirmation" refers to the completion of trade allocations, confirmations, and affirmations on trade date. Adopting Release at 13890.

[12] ICI opposed mandating this written agreement requirement and, instead, recommended implementing a policies and procedures approach if the Commission identified a basis to adopt a requirement. In adopting Rule 15c6-2, the Commission states believing that a same-day affirmation requirement is necessary to facilitate a T+1 settlement cycle, given that industry efforts and incentives as described by commenters have "not sufficiently improved" the rate of same-day affirmations. Adopting Release at 13890.

[13] The Commission replaced the reference to "customer" in the rule text with "relevant parties" to better align the obligations under Rule 15c6-2 with current market dynamics between broker-dealers, their customers, and their customers' use of advisers, custodians, and other third-party agents as they participate in post-trade processes.

[14] Under Rule 15c6-2(b), such policies and procedures must: (i) identify and describe any technology systems, operations, and processes used to coordinate with other relevant parties, including investment advisers and custodians, to ensure completion of the allocation, confirmation, or affirmation process; (ii) set target time frames on trade date for completing the allocation, confirmation, and affirmation; (iii) describe procedures for communicating trade information promptly, investigating any discrepancies in trade information, and adjusting trade information to help ensure that the allocation, confirmation, and affirmation can be completed by the target time frames; (iv) describe how the broker-dealer plans to identify and address delays if another party, including an investment adviser or a custodian, is not promptly completing the allocation or affirmation for the transaction or if the broker-dealer experiences delays in promptly completing the confirmation; and (v) measure, monitor, and document the rates of allocations,

confirmations, and affirmations completed no later than the end of the day on trade date.

[\[15\]](#) Amended Rule 204-2(a)(7)(iii).

[\[16\]](#) See Rule 204-2(g).

[\[17\]](#) The Commission also stated that requiring these records will "aid the Commission staff in preparing for examinations of investment advisers and assessing adviser compliance with Rule 204-2, and ultimately help ensure that trades involving such advisers will timely settle on T+1." Adopting Release at 13898-99.

[\[18\]](#) "Straight-through processing" refers to the automation of the entire trade process from trade execution through settlement without manual intervention.

[\[19\]](#) Rule 17Ad-27(a), as adopted, does not require CMSPs to remove a manual process if doing so would clearly undermine the prompt and accurate clearance and settlement of securities transactions. However, where a CMSP continues to allow a manual process, it should explain in its policies and procedures why those manual processes remain necessary and initiate incremental steps to alleviate the need for any manual process.

[\[20\]](#) The final rule text specifies five components that CMSPs must include in the annual report. These include, for instance, a summary of the CMSPs policies and procedures, a quantitative presentation of certain data elements, and a qualitative description of the actions the CMSP intends to take to facilitate straight-through processing. CMSPs must file the report via EDGAR, and it will be published on the Commission's website. New Rule 17Ad-27(b).

[\[21\]](#) The Commission further stated that "[a]s the securities industry moves forward to implement a T+1 standard settlement cycle, this process generally should include consideration of the potential paths to achieving T+0 to help ensure that investments in new technology and operations undertaken to achieve T+1 can maximize the value of such investments over the long term." Adopting Release at 13883.

[\[22\]](#) The Commission believes that no changes to these rules are necessary, in part because they mostly use terms such as "trade date," "settlement date," or "completion of the transaction," but they do not reference a particular settlement cycle (e.g., T+2). Adopting Release at 13911-13913.