

SEC Adopts T+1 Settlement Cycle

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On February 15, 2023, the Securities and Exchange Commission (SEC) adopted amendments to Exchange Act Rule 15c6-1, including an amendment that decreased 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) (*15c6-1(a)*). Additionally, security-based swaps are now excluded from the settlement cycle requirements under Rule 15c6-1(a) (*15c6-1(b)*). Lastly, the settlement cycle for firm commitment underwritten offerings for securities that are priced after 4:30 p.m. ET was shortened from four business days after the date of the contract to two business days after the date of the contract (*15c6-1(c)*).

Note that parties may still vary settlement dates by express agreement at the time of the transaction. Moreover, the exceptions to Rule 15c6-1(a) and (c) remain on the whole, unaltered, meaning Rule 15c6-1(a) and (c) do not apply to contracts (i) for the purchase or sale of limited partnership interests that are not listed on an exchange or for which quotations are not distributed through an automated quotation system of a registered securities association or (ii) for the purchase or sale of securities that the SEC may exempt from the requirements of 15c6-1(a) if it finds that such exemption is consistent with the public interest and investors' protection.

According to the SEC, the final rules have been crafted to address recent bouts of volatility in the market, including the effects of the COVID-19 pandemic and the meme stock events of 2021, curtail market participants' exposure to liquidity, credit and market risks resulting from unsettled securities trades, and improve efficiency in the market, specifically by improving the processing of institutional trades and facilitating straight-through processing.

Practice Point - Derivative Securities

Investors and issuers alike would be well served to consider the impact of a T+1 settlement period on, among other things, certain derivative securities, such as convertible debt securities and warrants. For example, many such securities require that shares of common stock issuable upon conversion or exercise be delivered within the standard settlement period for equity trades effected by US broker-dealers. Accordingly, the issuer of such a security should ensure that it and its transfer agent are prepared to timely settle conversions or exercises, as applicable, following the effectiveness of new Rule 15c6-1(a). On the other hand, an investor that expects to settle trades effected through US broker-dealers by delivering shares of common stock issuable upon exercise or conversion of a derivative security should ensure that the instrument governing the terms of such exercise or conversion is drafted in such a manner that the issuer is obligated to deliver underlying shares within the T+1 settlement period.

Compliance Date

The compliance date for the rule amendments is May 28, 2024. However, unlike the rest of the amendments to Rule 15c6-1, the amendment to Rule 15c6-1(b) excluding security-based swaps became effective on May 5, 2023.

To read the full newsletter, please click here.

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