

SEC Adopts Rules Requiring Daily Computation of Customer and PAB Reserve Requirements for Certain Broker-Dealers

December 30, 2024

On December 20, 2024, the Securities and Exchange Commission (the “SEC”) adopted amendments to Exchange Act Rule 15c3-3 (the “Customer Protection Rule”) to require carrying broker-dealers with \$500 million or more in average total credits to perform the customer and PAB (i.e., proprietary accounts of broker-dealers) reserve account computations and make any required deposits daily, rather than weekly (the “[Final Rules](#)”). Approved by a 4-1 vote,¹ the Final Rules included several changes from the proposed rules, which we discussed in our prior [Blog Post](#).

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¹ Commissioner Uyeda was the lone dissenter. See Mark Uyeda, Statement on Daily Computation of Customer and Broker-Dealer Reserve Requirements under an Amended Broker-Dealer Customer Protection Rule (Dec. 20, 2024), available at <https://www.sec.gov/newsroom/speeches-statements/uyeda-15c3-122024>.



Daily Computation Requirement

Currently, the Customer Protection Rule requires carrying broker-dealers (i.e., broker-dealers that maintain custody of customer securities and cash) to compute the amount required to be deposited into the customer and PAB reserve bank accounts on a weekly basis, though some in-scope broker-dealers currently perform the computations and make deposits on a daily basis.

The Final Rules will require carrying broker-dealers with \$500 million or more in average total credits to perform such computations and make such deposits on a daily basis. This \$500 million threshold was raised from the proposed rule, which set the threshold at \$250 million. The SEC estimates that 49 carrying broker-dealers meet this \$500 million threshold, and therefore will be subject to the daily computation requirements.

Under the Final Rules, “average total credits” means the arithmetic mean of the sum of total credits in the customer reserve computation and the PAB reserve computation reported in the carrying broker-dealer’s 12 most recently filed month-end FOCUS Reports. The average total credits are based on a rolling 12-month average, rather than determined at a single time during the year.

Under the Final Rules, a carrying broker-dealer must comply with the daily computation requirements within six months after its average total credits equal or exceed the \$500 million threshold. If a broker-dealer that was performing daily computations falls below the threshold, it must continue to perform daily computations until notifying its Designated Examining Authority (“DEA”) in writing, and then waiting for a 60-day period following that notification.

Net Capital Amendments

The Final Rules also made certain amendments to Exchange Act Rule 15c3-1 (the “Net Capital Rule”) to reduce the Customer Protection Rule reserve account burden for firms making daily computations. Under the Net Capital Rule, broker-dealers can calculate their required net capital either by using the “basic method”

(which requires no greater than a 15-to-1 ratio of the broker-dealer’s aggregate indebtedness to the broker-dealer’s net capital) or by using the “alternative method” (which requires that the broker-dealer’s net capital is at least 2% of the broker-dealer’s aggregate debit items).

Under the current Net Capital Rule, a carrying broker-dealer using the alternative method must reduce aggregate debit items (i.e., the total of all debit items in the customer reserve computation) by 3% when performing its customer reserve computation under the Customer Protection Rule. Under the Final Rules, however, a carrying broker-dealer that performs daily customer reserve computations must only reduce its aggregate debit items by 2% rather than 3%, which should decrease the amount that must be on deposit in the customer reserve bank account. This reduction is not limited to firms with \$500 million or more in average total credits—firms below that threshold may voluntarily perform a daily customer reserve computation under the Customer Protection Rule, and then apply the 2% aggregate debit item reduction so long as they receive prior approval from their DEA.

Comments on the Proposal that were not Adopted

Commenters made a number of noteworthy suggestions that were not adopted by the SEC in the Final Rules. These suggestions include:

- Issues on a specific day. Some commenters suggested that carrying broker-dealers should be allowed to notify their DEA if they will be unable to perform a customer or PAB reserve computation or make a required deposit on a

specific day due to exigent circumstances, such as a system outage or a natural disaster.²

The SEC did not provide such an exception to the daily computation requirement, though it noted that if “exigent circumstances interfere with the carrying broker-dealer’s ability to perform the reserve computation, the firm [would be] encouraged to notify its DEA of the situation, explain how the exigent circumstances are interfering with its ability to perform the customer or PAB reserve computation, and describe any steps it is taking to address the situation such as using the prior day’s figures to perform the computation, depositing an additional buffer into the customer or PAB reserve account, or opening a reserve account at an alternative bank.” The SEC also encouraged firms to contact the SEC or SEC staff, as well as their DEA, if they anticipate that performing the reserve computations or making the required deposits will be challenging due to staffing issues related to holidays, or when banks or exchanges are closed or will close early, and indicated that the SEC or SEC staff might provide exemptive or other relief as appropriate.

This outcome seems to be the worst of both worlds – providing no explicit relief for firms when they encounter challenges beyond their control, but outlining a path for dealing with such circumstances that is potentially quite demanding. It remains to be seen whether this expression in the adopting release becomes a “de facto” set of additional reporting expectations for in-scope broker-dealers.

- Relief related to sweep programs. Some commenters suggested providing relief for “sweep

² See Letter from Kevin Zambrowicz, Deputy General Counsel (Institutional) & Managing Partner, SIFMA (Sept. 11, 2023) (“SIFMA Letter”) at 8-9.

³ *Id.* at 7.

⁴ *Id.*

⁵ Mark Uyeda, Statement on Daily Computation of Customer and Broker-Dealer Reserve Requirements under an Amended Broker-Dealer Customer Protection Rule (Dec.

programs”, where broker-dealers automatically transfer free credit balances in the securities account of their customers to money market funds or FDIC-insured bank accounts.³ Requiring daily reserve computation for such broker-dealers might be problematic where the broker-dealers regularly deposit inflows of customer cash into reserve bank accounts or instead transfer them into a sweep account. This is especially true in the case of end-of-day deposits, as the broker-dealers may need to temporarily fund the reserve account with their own capital, knowing that the capital would be able to be withdrawn the next day.⁴

One suggestion was to permit carrying broker-dealers to exclude from the customer and PAB reserve computations any funds that the carrying broker-dealer has swept or deposited promptly upon receipt. The SEC did not provide such relief, and noted that the final amendments lowering the debit reduction from 3% to 2% in the customer reserve computations mitigate these concerns

In his dissenting statement, Commissioner Uyeda noted that the failure of the SEC to address each of these issues was a critical flaw in the Final Rules that prevented him from voting in favor,⁵ and Commissioner Peirce also pointed to the lack of relief around sweep programs as a problem, though she ultimately supported the adoption in spite of that.⁶ These issues, therefore, may represent topics that call for future advocacy, clarification and improvement under the new SEC leadership.

Additionally, the adopting release does not include any discussion on how a broker-dealer should calculate debits and credits where the broker-dealer pre-funds

20, 2024), available at <https://www.sec.gov/newsroom/speeches-statements/uyeda-15c3-122024>.

⁶ Hester M. Peirce, It’s Been a Week: Statement on Amendments to Exchange Act Rule 15c3-3 (Dec. 20, 2024), available at <https://www.sec.gov/newsroom/speeches-statements/peirce-15c3-122024>.

customer margin or settlement obligations as a result of the [new rules](#) requiring clearing of cash and repo transactions in U.S. Treasury securities.

Compliance Date

Carrying broker-dealers that meet the \$500 million threshold using each of the 12 filed month-end FOCUS Reports from July 31, 2024, through June 30, 2025, must perform the new daily customer and PAB reserve computations beginning no later than December 31, 2025.

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