

SEC Approves Move to T+2 Standard Settlement Cycle in September 2017

March 24, 2017

On March 22, the SEC approved a **rule amendment** to shorten the standard settlement cycle for most broker-dealer securities transactions to two business days after the trade date (T+2) from the current three-business-day cycle (T+3). **The compliance date for broker-dealers to implement the rule change will be September 5, 2017** (the Tuesday following Labor Day). This compliance date is consistent with the target date for industry implementation chosen by the Industry Steering Committee, a working group of market participants that has been facilitating the industry's planning for the transition to T+2.

The SEC explained that shortening the settlement cycle is intended to reduce credit, market and liquidity risk arising from unsettled securities trades, as shortening the time period between trade execution and trade settlement would reduce the number and market value of unsettled trades outstanding at any point in time. Implementing T+2 will also harmonize the U.S. standard settlement cycle with non-U.S. markets that have adopted T+2 standard settlement, such as those in the European Union.

The exceptions in the current rule that allow for trades to settle on an agreed-upon alternative settlement cycle, and the types of securities exempted or excluded from the standard settlement cycle, will remain unchanged following the rule amendment. As a practical matter, the rule change will not affect the settlement of securities that already settle in less than three days after the trade date, such as transactions in options and certain mutual funds.

The rule change does not alter the existing ability of the parties to vary settlement dates by express agreement at the time of the transaction. In addition, the rules permitting most firm commitment underwritten transactions that price after 4:30 p.m. ET to use a T+3 or T+4 settlement cycle without express agreement are unaffected by the rule change. As a consequence of T+2 standard settlement, underwriters may choose nonetheless to settle offerings on a T+2 basis to avoid forcing subsequent secondary traders to extend their settlement cycle or, if they elect to settle on a T+3 or longer basis, underwriters may include disclosure alerting purchasers about the longer settlement cycle.

As a result of a T+2 standard settlement cycle, time frames in certain other rules that are keyed off of the settlement date will also be compressed, such as (among others) the time frame(s) for:

- various aspects of Regulation SHO, such as the date by which a fail-to-deliver must be closed out under Rule 204 and the time within which a loaned security must be recalled in order for a sale of the security to be marked "long" under Rule 200(g);
- obtaining cash or securities under certain broker-dealer financial responsibility and customer protection rules, such as the date by which a broker-dealer must close out a customer sell order under Rule 15c3-3 if the customer has not yet delivered the securities;
- delivery of written trade confirmations under Rule 10b-10;
- a broker-dealer to obtain cash or margin from a customer following a transaction under Regulation T; and
- prospectus delivery obligations.

The SEC acknowledged that as part of the transition efforts, operational changes will need to be made by broker-dealers and other market participants to adjust to reduced time frames for compliance in all such

rules that may be impacted by the shortened settlement cycle. Similarly, all parties involved in the closing process for securities offerings that settle on a T+2 standard settlement cycle will also face a shorter time period to prepare for closing.

Looking beyond the September 2017 move to T+2, the SEC also has asked its staff to undertake a study, due by September 2020, that will include, among other things, an assessment of the potential impact of moving to a settlement cycle *shorter* than T+2.

If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your regular Davis Polk contact.

Alan F. Denenberg	650 752 2004	alan.denenberg@davispolk.com
Joseph A. Hall	212 450 4565	joseph.hall@davispolk.com
Sophia Hudson	212 450 4762	sophia.hudson@davispolk.com
Michael Kaplan	212 450 4111	michael.kaplan@davispolk.com
Byron B. Rooney	212 450 4658	byron.rooney@davispolk.com
Richard J. Sandler	212 450 4224	richard.sandler@davispolk.com
Lanny A. Schwartz	212 450 4174	lanny.schwartz@davispolk.com
Richard D. Truesdell, Jr.	212 450 4674	richard.truesdell@davispolk.com
Hilary Sunghee Seo	212 450 4178	hilary.seo@davispolk.com
Zachary J. Zweihorn	202 962 7136	zachary.zweihorn@davispolk.com

© 2017 Davis Polk & Wardwell LLP | 450 Lexington Avenue | New York, NY 10017

This communication, which we believe may be of interest to our clients and friends of the firm, is for general information only. It is not a full analysis of the matters presented and should not be relied upon as legal advice. This may be considered attorney advertising in some jurisdictions. Please refer to the firm's [privacy policy](#) for further details.