

Investment Management Update

June 2025

SEC Announces Withdrawal of Proposed Rulemaking Actions

The Securities and Exchange Commission (SEC) is withdrawing a number of notices of proposed rulemaking due to changes in its priorities and the evolving regulatory landscape. While the SEC initially proposed changes in various areas affecting securities and investment practices, it has determined that no final rules will be issued regarding these proposals at this time. This includes proposed regulations that were published between October 2020 and November 2023. The SEC has clarified that should it choose to revisit these regulatory matters, it will introduce new proposals for public comment.

Key Withdrawn Proposals

Following are the key regulatory proposals the SEC is officially withdrawing, along with summaries of their original scope.

Substantial Implementation, Duplication, and Resubmission of Shareholder Proposals Under Exchange Act Rule 14a-8

Proposal date: July 27, 2022

This proposed amendment sought to change how shareholder proposals could be excluded under Rule 14a-8 of the Securities Exchange Act of 1934 (Exchange Act). The SEC had planned to revise the exclusions related to proposals that a company has “substantially implemented,” that duplicate previous proposals, or that are resubmitted too frequently. The rule was designed to streamline the shareholder proposal process, making it harder for companies to block proposals that shareholders might want to raise.

Conflicts of Interest Associated with the Use of Predictive Data Analytics by Broker-Dealers and Investment Advisers

Proposal date: August 9, 2023

This proposed rule aimed to address growing concerns about the use of predictive data analytics by financial firms like broker-dealers and investment advisers. The SEC was seeking to implement rules that would mitigate conflicts of interest arising from the use of predictive data analytics that assess, predict or influence investor behavior and ensure that firms use data analytics in ways that align with fiduciary responsibilities and do not unduly influence investment decisions. The SEC has suggested it needs further time to assess the potential market impacts and explore alternative approaches.

Safeguarding Advisory Client Assets

Proposal date: March 9, 2023

The SEC proposed changes to the existing custody rule to, among other things, expand its scope beyond client funds and securities to include any client assets of which an adviser has custody, explicitly include within the definition of “custody” an adviser’s discretionary authority to trade client assets, require a qualified custodian to have “possession or control” of advisory client assets and specify the way qualified custodian banks and savings associations must hold client assets, and modify the current custody rule’s exception from the obligation to maintain client assets with a qualified custodian for certain privately offered securities, including expanding the exception to include certain physical assets.

Cybersecurity Risk Management for Investment Advisers, Registered Investment Companies, and Business Development Companies*Proposal date: March 9, 2022*

This proposed rule sought to mandate that registered investment advisers and investment companies implement detailed cybersecurity policies and procedures to address the increasing risk of cyberattacks. It also would have required firms to report cybersecurity incidents to the SEC, notify clients in a timely manner, and maintain records related to cybersecurity risks. The proposal was part of a broader effort to protect the financial sector from the growing threat of cyberattacks.

Enhanced Disclosures on Environmental, Social, and Governance (ESG) Investment Practices*Proposal date: June 17, 2022*

With increasing interest in ESG investing, the SEC proposed amendments to the rules governing disclosures by registered investment advisers and companies regarding their ESG investment practices. The rule would have required firms to provide more detailed information on how they incorporate ESG factors into their investment decisions, aiming to improve transparency for investors.

Outsourcing by Investment Advisers*Proposal date: November 16, 2022*

The SEC proposed a new rule that would limit investment advisers' ability to outsource key services and functions without meeting specific regulatory requirements. This proposal aimed to ensure that advisers maintain adequate oversight and control over outsourced services, particularly in critical areas such as compliance, risk management and client reporting.

Position Reporting of Large Security-Based Swap Positions*Proposal date: February 4, 2022*

This proposed rule aimed to introduce mandatory reporting requirements for individuals or firms holding large positions in security-based swaps. The SEC stated that the rule would

have provided it with more detailed information on the participants in the security-based swap market, helping to enhance transparency and reduce systemic risk.

Volume-Based Exchange Transaction Pricing for NMS Stocks*Proposal date: November 6, 2023*

This proposal sought to prohibit national securities exchanges from offering volume-based transaction pricing for agency-related orders in National Market System stocks. It also would have introduced additional anti-evasion measures and required exchanges to adopt detailed compliance policies. The proposal was intended to enhance market fairness by ensuring that pricing models were not based on transaction volume in ways that might disadvantage certain market participants.

Regulation Best Execution*Proposal date: January 27, 2023*

This proposal was designed to establish a comprehensive regulatory framework regarding broker-dealers' duty of best execution, particularly when executing trades for retail clients. The SEC's intention was to provide more granular guidance for broker-dealers in implementing best execution practices, including enhanced policies, procedures and documentation requirements.

Order Competition Rule*Proposal date: January 3, 2023*

This proposal sought to amend Exchange Act regulations by introducing new requirements for "restricted competition trading centers" – trading platforms that do not expose orders to competition before executing them. The proposal would have mandated that such platforms offer orders to a competition trading center before executing them at a given price.

Regulation Systems Compliance and Integrity (SCI)*Proposal date: April 14, 2023*

The SEC proposed amendments to expand the definition of "SCI entity," bringing a broader range of market

participants, including key market infrastructure entities, under its purview. The amendment would have strengthened compliance requirements for such entities, aiming to improve the securities markets' overall stability and reliability.

Cybersecurity Risk Management for Broker-Dealers, Clearing Agencies, and Other Entities

Proposal date: April 5, 2023

This proposal aimed to enhance cybersecurity protections across a range of financial market participants, including broker-dealers, clearing agencies and security-based swap dealers. The rule would have required these entities to implement comprehensive cybersecurity policies and report significant cybersecurity incidents to the SEC and, in some cases, the public.

Amendments Regarding the Definition of "Exchange" and Alternative Trading Systems (ATSS)

Proposal date: March 18, 2022

This proposal aimed to clarify and expand the definition of "exchange" to include systems that bring together buyers and sellers using non-firm trading interest. The changes were designed to enhance oversight of ATSS, especially those trading U.S. Treasury securities and other government-related securities.

Amendments to the National Market System Plan Governing the Consolidated Audit Trail (CAT)

Proposal date: October 16, 2020

The SEC proposed amendments to improve the security and integrity of the CAT, a system designed to track trading activity across markets. These amendments were part of a broader effort to enhance the safety and reliability of market surveillance.

Next Steps for Future Regulatory Action

The SEC made it clear that while these specific proposed rules are withdrawn, it may consider future regulatory action in some of these areas. If the SEC decides to proceed

with any of these issues in the future, it will issue a new proposed rule with an updated process for public comment.

Conclusion

The SEC's decision to withdraw these proposals marks a significant shift in its regulatory approach. As the agency refines its priorities, it will continue to monitor the evolving needs of the financial markets and investor protection landscape. Participants in the investment, securities and trading industries should remain attentive to future updates and be prepared for new proposals as the SEC moves forward with its regulatory agenda.

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