

SEC Extends Annual Report Filing Deadline for Certain Smaller Broker-Dealers

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Broker-dealers registered with the Securities and Exchange Commission (SEC) are generally required to file their audited financial report and either a compliance or exemption report within 60 days of the broker-dealer's fiscal year-end. In addition, broker-dealers are required to file their fourth quarter FOCUS report by the 17th business day subsequent to their fiscal year-end — the majority being December 31st. These deadlines can present significant constraints to certain broker-dealers as their auditors are often left with a little over a month after the books have been closed to complete their annual audit.

FINRA's Request

In a letter dated February 11, 2021, the Financial Industry Regulatory Authority (FINRA) requested that pursuant to paragraph (m)(3) of Rule 17a-5, the SEC extend by 30 days the deadline for certain smaller broker-dealers to file their annual reports if certain conditions are met. In its letter, FINRA pointed out that the additional 30 days may, among other things, reduce the burden of certain smaller broker-dealers by effectively extending the availability of auditors and outside professional and consulting service providers during a time of greatest demand.

The SEC's Analysis and Conclusion

The SEC has acknowledged that auditors of smaller broker-dealers generally do not perform interim work prior to the broker-dealer's fiscal year-end, unlike larger broker-dealers. The compressed time to perform the audit can narrow the window for smaller broker-dealers and their auditors to identify and resolve issues. The SEC analyzed FINRA's proposal and related conditions for relief and found them to be appropriate and agreed with FINRA that such relief could promote audit quality.

Therefore, the SEC has ordered that, pursuant to section 17(a)(1) of the Exchange Act and paragraph (m)(3) of Rule 17a-5 thereunder, the deadline in paragraph (d)(5) of Rule 17a-5 for filing the annual reports be extended by 30 calendar days, provided that the broker-dealer meets all the following conditions:

- As of the its most recent fiscal year-end, the broker-dealer:
 - Was in compliance with Rule 15c3-1 under the Securities Exchange Act of 1934. (A broker-dealer that was not in compliance with the Rule poses a heightened risk to its customers and other securities market participants.)
 - Had total capital and allowable subordinated liabilities of less than \$50 million. (This is how the SEC would distinguish “smaller” broker-dealers.)
- Is permitted to file an exemption report as part of its annual report filing requirements. (Such broker-dealers do not custody customer assets and, therefore, pose less risk for customer-protection purposes.)

- Submits written notification to its designated examining authority of its intent to rely on this order on an ongoing basis for as long as it meets the conditions of the order. (This would allow the SEC to distinguish broker-dealers using the relief from those that are late filers.)
- Files the annual report electronically with the SEC using an appropriate process. (The electronic filing condition promotes efficiency as it allows the SEC quicker access to annual reports filed.)

Broker-Dealers' Course of Action

If management believes that their broker-dealer may benefit from the SEC's relief, they should promptly discuss with their auditors. If the broker-dealer meets the respective aforementioned conditions as outlined in the [SEC's Release No. 34-91128](#), it should submit written notification to its designated examining authority as soon as possible.

Contact Us

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