

You'll just have to settle for less — SEC shortens settlement window to T+2

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On March 22, 2017, the U.S. Securities and Exchange Commission (SEC) amended its rules under the *Securities Exchange Act of 1934*, as amended (*U.S. Exchange Act*) to shorten the standard trade settlement window from three business days (T+3) to two business days (T+2), unless a longer settlement period is agreed to by the trade parties at the time of the transaction. Currently, when a purchaser places an order to buy a security trading on a U.S. stock exchange (which is the trade date referred to as "T"), the buyer will generally receive legal ownership of the security three business days later, which is the settlement date. This change will reduce the period between the trade date and the settlement date to only two business days.

The amended rule is designed to recognize advancements in trade settlement technology, enhance capital efficiency and reduce credit, market and counterparty default risks. Market participants will be required to comply with the new T+2 settlement deadline beginning on September 5, 2017. Changes to other rules and practices will have to be made to accommodate the reduction in the period between the trade date and the settlement date, such as rules for determining the "ex-dividend" date for dividends and distributions — that is, the date before which a purchaser of a share will acquire the right to receive the dividend or distribution together with the share, and after which it will not.

Both the New York Stock Exchange and Nasdaq Stock Market have indicated that they will amend their rules to provide that stocks will trade ex-dividend on the first business day preceding the record date fixed by a listed company instead of the second prior business day. The Canadian Securities Administrators (CSA) previously indicated that Canadian settlement rules should remain consistent with the U.S. rules due to the interconnectedness of the Canadian and U.S. markets, and so a similar transition to T+2 settlement in Canada may soon be announced by the CSA. T+2 settlement is already used by Australia, New Zealand and 29 countries in the European Union.

As amended, Rule 15c-6 under the *U.S. Exchange Act* will provide that a broker or dealer may not make a contract to buy or sell a security that provides for payment of funds and delivery of the security later than two business days after the date of the contract, unless expressly agreed to by the parties at the time of the transaction. The SEC's exception for firm commitment underwritten offerings is not affected by the amendment, so sales of securities in U.S. underwritten offerings priced after 4:30 p.m. EST will still settle on a T+4 basis. In some cases it may not be practicable to settle an underwritten offering of securities in three business days, let alone two, owing to the steps that may have to be taken to prepare for the closing of the offering. Rule 15c-6 will preserve the current T+4 settlement cycle for these offerings as well as the ability to agree to an even longer settlement period. Similarly, any move towards adopting T+2 in Canada is unlikely to impact the settlement cycle for Canadian prospectus offerings, which is already usually longer than three business days, because

purchasers in a Canadian prospectus offering are entitled to exercise withdrawal rights for two days following their receipt of the prospectus and it is conventional to ensure these rights have expired before closing.