

October 19, 2022

*Via Electronic Submission*

Ms. Vanessa Countryman  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

**Re: Shortening the Securities Transaction Settlement Cycle (SEC Rel. Nos. 34-94196, IA-5957; File No. S7-05-22)**

Dear Ms. Countryman:

The Investment Adviser Association<sup>1</sup> (IAA) is writing to supplement our previous comments<sup>2</sup> on the Commission's proposal to shorten the standard settlement cycle for most broker-dealer transactions from two business days after the trade date (**T+2**) to one business day after the trade date (**T+1**) (**Proposal**).<sup>3</sup> We appreciate the constructive discussions that we have had with Commission staff regarding the Proposal and its potential implications for investment advisers and our Prior Letter. We are supplementing our Prior Letter following up on questions raised by staff to recommend that the Commission:

- Set the T+1 settlement cycle compliance date for September 3, 2024;
- Replace the proposed requirement of a written agreement with a requirement that investment advisers adopt policies and procedures reasonably designed to facilitate the allocation, confirmation, and affirmation process as soon as technologically practicable and no later than the end of the day on the trade date; and
- Take further action to reduce disruption in the foreign exchange (**FX**) markets.

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<sup>1</sup> The IAA is the leading organization dedicated to advancing the interests of investment advisers. For more than 85 years, the IAA has been advocating for advisers before Congress and U.S. and global regulators, promoting best practices and providing education and resources to empower advisers to effectively serve their clients, the capital markets, and the U.S. economy. The IAA's member firms manage more than \$35 trillion in assets for a wide variety of individual and institutional clients, including pension plans, trusts, mutual funds, private funds, endowments, foundations, and corporations. For more information, please visit [www.investmentadviser.org](http://www.investmentadviser.org).

<sup>2</sup> See Letter from Gail C. Bernstein, General Counsel, Investment Adviser Association, to the Commission re: *Shortening the Securities Transaction Settlement Cycle* (Apr. 11, 2022), available at <https://investmentadviser.org/resources/comments-on-sec-proposal-to-shorten-securities-settlement-cycle-to-t1/> (**Prior Letter**).

<sup>3</sup> *Shortening the Securities Transaction Settlement Cycle*, SEC Rel. Nos. 34-94196, IA-5957 (Feb. 9, 2022), 87 Fed. Reg. 10436 (Feb. 24, 2022), available at <https://www.govinfo.gov/content/pkg/FR-2022-02-24/pdf/2022-03143.pdf>.



**I. The compliance date for the T+1 settlement cycle should be changed to after the Labor Day weekend in 2024.**

The IAA agrees that the securities industry needs sufficient time to allow an orderly transition to the T+1 settlement cycle. We reiterate the request made in a recent joint letter to Chair Gensler from a number of groups, including the IAA, urging the Commission to set a T+1 compliance date of September 3, 2024.<sup>4</sup> As discussed and for the reasons stated in that letter, beginning compliance following the Labor Day weekend would better ensure minimal disruption to markets and investors. It would also align the U.S. timing for transition with Canada, where there are significant dual-listed securities.<sup>5</sup>

**II. The Commission should provide greater flexibility to investment advisers with respect to the allocation, confirmation, and affirmation process.**

As discussed in our Prior Letter, many investment advisers rely on a third party to allocate or affirm trades, such as a portfolio management system or order management system (collectively **OMS**), sub-adviser, or custodian. We initially requested that the Commission confirm that these third parties may conduct allocations and affirmations under Rule 15c6-2 agreements with investment advisers.

Upon further analysis, we understand that requiring advisers to enter into specific contractual arrangements would create significant challenges for advisers and thus recommend a more principles-based approach that we believe would better achieve the Commission's goals. Specifically, we recommend that the Commission require investment advisers to adopt and implement policies and procedures reasonably designed to ensure that allocations, confirmations, and affirmations are completed on a timeline that allows settlement on T+1 (or, in some cases, on T+2, as discussed below).<sup>6</sup> This approach would relieve investment advisers, when they are parties to an allocation, confirmation, and affirmation process, from the burden of negotiating and having to regularly update written agreements. It would also create incentives for investment advisers to work with broker-dealers and other third parties to complete the process in a timely

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<sup>4</sup> See IAA and Joint Trade Associations' Letter Requesting Later Transition Date for T+1 Settlement Cycle, available at <https://investmentadviser.org/resources/iaa-joint-trades-letter-requesting-later-compliance-date-for-transition-to-t1-securities-settlement/>.

<sup>5</sup> In our Prior Letter, we recommended a compliance date of May 28, 2024. However, for the reasons discussed in the Joint Letter, we believe that market participants, including investment advisers, would benefit from additional time to finalize the transition to T+1 and that the Labor Day weekend provides a particularly good final transition window. We are thus modifying our recommendation accordingly.

<sup>6</sup> The IAA notes that other organizations have noted the challenges created by requiring parties to re-negotiate and amend potentially hundreds, or even thousands, of agreements and have made similar requests for broker-dealers and other parties to the proposed agreements to rely on policies and procedures rather than contractual amendments. See, e.g., letter from Thomas Price and Lindsey Keljo, SIFMA, to the Commission (Apr. 13, 2022), available at <https://www.sec.gov/comments/s7-05-22/s70522-20123609-279857.pdf>.



manner while allowing them greater flexibility to comply in a manner best suited to their existing infrastructure, clients, and resource levels.

### **III. The Commission should take further action to reduce disruption in the FX markets.**

As the Commission considers how best to move from T+2 to T+1, it is important that it more thoroughly evaluate the implications of T+1 settlement for the FX markets. While the Proposal briefly discusses the potential mismatches of settlement cycles, in our view it does not sufficiently acknowledge or address the greater challenges and misalignment scenarios that the move to T+1 will create for U.S. markets and market participants than did the previous move to T+2.

The IAA is concerned that there may not be sufficient time for investment advisers to match foreign currency amounts to settle all trades on T+1.<sup>7</sup> There are circumstances in which a U.S.-based FX trading desk will switch over to its Asia-based FX trading desk upon the U.S. market close to provide ongoing liquidity. This, however, does not occur on a Friday evening. In addition, some asset owners and managers, including Sovereign Wealth Funds, only trade from their country of domicile. These factors will make it costly and difficult for investment advisers to execute FX after the U.S. market close.

FX transactions largely settle on a T+2 basis currently. Because of this, market participants that seek to fund a cross-border securities transaction with the proceeds of an FX transaction would, in a T+1 environment, be required to settle the securities transaction before the proceeds of the FX transaction become available and pre-fund these securities transactions. Under these circumstances, they would either incur opportunity costs and currency risk associated with holding FX reserves or be exposed to price volatility by delaying securities transactions by one business day, which would potentially adversely impact client performance and increase operating and settlement risk for advisers.<sup>8</sup>

One other issue leading to failed trades is if there is a market holiday in a non-U.S. leg of the currency pair. For example, when trading AUD to USD, if there is an Australian public

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<sup>7</sup> Once equity trading is complete at 4:00 pm ET, there will be a narrow window for trades to be matched and the correct amount of settlement FX (purchase of USD) to be executed. We understand that it gets more difficult to trade currencies after 5:00 pm ET. In fact, after 5:30 pm ET, trading moves over to the following trade date as Australian markets open. We also understand that it is difficult to obtain best execution after 5:00 pm ET of transactions in currencies such as the Australian Dollar (AUD), New Zealand Dollar (NZD), and Swedish Krona (SEK).

<sup>8</sup> We understand that some of our members' clients prefer to execute their own settlement FX to avoid intermediation costs. We are concerned that they would be unlikely to be able to execute and settle all their FX transactions in a timely manner to ensure T+1 settlement of the securities transaction.



holiday the next working day, there is no possible way to ensure USD is available to settle a purchase of U.S. securities.

The issues described above impact both domestic and internationally based investment advisers. However, non-U.S.-based investment advisers will face additional expenses in that they will either need to set up an FX trading and settlement presence in the U.S. or add staff abroad to create, execute, and settle FX transactions to meet a T+1 timeline.

We suggest several options for actions the Commission could take, separately or together, that could reduce disruption in FX markets. We believe that the third option we suggest would be the most effective in helping to alleviate our concerns.

- The Commission could consult with the Commodity Futures Trading Commission (CFTC), which has primary responsibility for overseeing foreign currency trading, to determine whether that agency can take any action in the FX markets to support the SEC's move to T+1 settlement.
- The Commission could encourage banks to agree to extend the day of their FX trading activities in the U.S. and continue to provide liquidity up until at least 6:00 pm ET, five days a week, for T+1 settlement.
- The Commission could allow for a mismatch of FX settlement dates as a valid reason for T+2 settlement arrangements without it breaching an investment adviser's best execution obligation. While we appreciate that the Proposal would allow parties to agree to a longer settlement cycle, in order to avail themselves of that extended settlement date, the parties must reach that agreement at the time of the transaction. We understand that this would be difficult to implement in the context of trades that require the settlement of FX transactions to occur and that a standing option to settle at T+2 would be far more effective.<sup>9</sup>

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<sup>9</sup> The Commission could also consider studying a potential change to the official equity trading day for U.S. markets that would close the markets one hour earlier, at 3:00 pm rather than 4:00 pm ET. This change could provide firms more time to match trades and ensure the settlement FX is in place for the following day.



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We appreciate the Commission's consideration of our supplemental comments on this important Proposal. Please do not hesitate to contact the undersigned at (202) 293-4222 if we can be of further assistance.

Respectfully Submitted,

/s/ Gail C. Bernstein

Gail C. Bernstein  
General Counsel

/s/ William A. Nelson

William A. Nelson  
Associate General Counsel

cc: The Honorable Gary Gensler, Chair  
The Honorable Hester M. Peirce, Commissioner  
The Honorable Caroline A. Crenshaw, Commissioner  
The Honorable Mark T. Uyeda, Commissioner  
The Honorable Jaime Lizárraga, Commissioner  
William Birdthistle, Director, Division of Investment Management  
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