



**How Will the Proposed Amendments to the Broker-Dealer Financial Reporting Rules (Exchange Act Rule 17a-5) Affect Broker-Dealers and their Auditors?** by Brian Wallace, CPA, Partner

**On June 15, 2011, the Securities and Exchange Commission (“SEC”) proposed amendments to Rule 17a-5, also known as the “broker-dealer financial reporting rule.” The proposed amendments were posted to the Federal Register on June 27, 2011, marking the start of the 60 day comment period.**



The amendments focused on three key areas: (1) changes to the annual reporting requirements; (2) an unaudited quarterly report related to custody; and (3) SEC access to auditors and audit documentation. The spirit of the amendments is to bring the audit and compliance rules related to broker-dealers more consistent with current accounting and auditing standards, as well as the provisions of the Dodd-Frank Act.

specified rules and related internal controls, as well as a report from their auditors that addresses those assertions. Broker-dealers that do not carry customer funds or securities would be required to file a management report asserting exemption from the requirements of Rule 15c3-3, along with a report from the auditors that addresses this assertion. Further, audits of broker-dealers would be required to be performed in accordance with standards of the Public Company Accounting Oversight Board (“PCAOB”), rather than U.S. Generally Accepted Auditing Standards (“US GAAS”). This proposed amendment also places an additional responsibility on the auditor to report any material instances of non-compliance with the Financial Responsibility Rules to the SEC within one business day of the determination. Under current rules, the burden of reporting remains with the broker-dealer.

**ANNUAL REPORTING REQUIREMENTS**

The requirements of broker-dealers to file an annual report consisting of audited financial statements and supporting schedules remains unchanged, however the amendments require additional reports to be filed. Carrying broker-dealers would be required to file a management report asserting to compliance with

These proposed amendments, if approved in their current form, are scheduled to be effective for fiscal years ending on or after December 15, 2011.

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**It is clear that these amendments will have a significant impact to broker-dealers and to accounting firms currently auditing broker-dealers. With the additional regulatory and reporting requirements, and audit documentation burden required under PCAOB auditing standards, the status of this proposed amendment should be followed closely so you can be prepared.**

**FORM CUSTODY**

The SEC is proposing the creation of a new "Form Custody" to be filed in conjunction with a broker-dealers quarterly FOCUS Report. The Form is designed to help regulators identify potential abuses related to customer assets. It is intended to provide regulators with better information on the broker-dealers custodial activities and enable them to identify potential inconsistencies or red flags more timely, at which time a more focused examination of the broker-dealer could be initiated.

**ACCESS TO AUDIT DOCUMENTATION**

This proposed amendment specifically relates to broker-dealers that clear transactions or carry customer accounts. It would require that such broker-dealers consent to permitting its independent public accountant to make available to the SEC and the broker-dealer's designated examining authority ("DEA") examination staff the audit documentation associated with its annual audit reports required under Rule 17a-5 and to discuss findings relating to the audit reports with them. The purpose of this access is to enable the SEC and DEA to more quickly identify the areas of higher risk to assist them in performing more

targeted and effective examinations of the broker-dealer. Clearing brokers have been specifically targeted (and introducing brokers specifically excluded) because of the inherent complexities in their business models.

It is clear that these amendments will have a significant impact to broker-dealers and to accounting firms currently auditing broker-dealers. With the additional regulatory and reporting requirements, and audit documentation burden required under PCAOB auditing standards, the status of this proposed amendment should be followed closely so you can be prepared.

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**If you have any questions or comments regarding the SEC's proposed changes to Rule 17a-5, please contact WithumSmith+Brown, P.C.**

**A complete copy of the proposed amendments to Rule 17a-5 is available on the SEC's website ([www.sec.gov/rules/proposed/2011/34-64676.pdf](http://www.sec.gov/rules/proposed/2011/34-64676.pdf)).**

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