

October 10, 2022

# SEC Reopens Comment Period on 11 Rulemaking Releases

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## Interested Parties Have Additional Time to Submit or Resubmit Comments on Proposed Rulemakings on Climate, Cybersecurity, Share Repurchases, SPACs, Investment Advisers, Investment Companies and Money Market Fund Reforms

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### SUMMARY

On October 7, the SEC reopened public comment periods for 11 rulemaking releases and one request for comment, citing a technological error.<sup>1</sup> According to the SEC's [reopening release](#), between June 2021 and August 2022, a number of public comments submitted through the SEC's internet comment form failed to be received by the SEC as a result of the technological error.

The affected releases include, among others, the SEC's proposed rulemakings on climate, cybersecurity, share repurchases, SPACs, investment advisers, investment companies and money market fund reforms. This memorandum sets forth a full list of the affected releases, including previously announced timing for expected final rulemaking.

The reopened comment period expires 14 days following the publication of the SEC's reopening release in the Federal Register. For those rules for which final rulemaking was expected this fall, it is possible that the reopened comment period could lead to delays.

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### LIST OF AFFECTED RELEASES

As of the date of the reopening release, the SEC has identified 11 rulemaking releases and one request for comment, as well as eight self-regulatory organization ("SRO") matters, as being affected by the technological error. The affected SEC rulemaking releases and request for comment are listed below, together with the expiration date of their previous comment periods and the expected timing for final rules

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New York   Washington, D.C.   Los Angeles   Palo Alto   London   Paris   Frankfurt   Brussels  
Tokyo   Hong Kong   Beijing   Melbourne   Sydney

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announced in the Office of Information and Regulatory Affairs' Spring 2022 SEC rulemaking list. A list of affected SRO matters can be found on page 6 of the SEC's reopening release.

Title of SEC Release	Close of Comment Period	Status in Spring 2022 Agenda <sup>2</sup>
<i>Reporting of Securities Loans</i>	April 1, 2022	Final rule pending, expected for Spring 2023.
<i>Prohibition Against Fraud, Manipulation, or Deception in Connection with Security-Based Swaps; Prohibition against Undue Influence over Chief Compliance Officers; Position Reporting of Large Security-Based Swap Positions</i>	March 21, 2022	Final rule pending, expected for Fall 2022.
<i>Money Market Fund Reforms</i>	April 11, 2022	Final rule pending, expected for Fall 2022.
<i>Share Repurchase Disclosure Modernization</i>	April 1, 2022	Final rule pending, expected for Fall 2022.
<i>Short Position and Short Activity Reporting by Institutional Investment Managers; Notice of the Text of the Proposed Amendments to the National Market System Plan Governing the Consolidated Audit Trail for Purposes of Short Sale-Related Data Collection</i>	April 26, 2022	Final rule pending, expected for Spring 2023.
<i>Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure</i>	May 9, 2022	Final rule pending, expected for Spring 2023.
<i>Private Fund Advisers; Documentation of Registered Investment Adviser Compliance Reviews</i>	June 13, 2022	Final rule pending, expected for Spring 2023.
<i>The Enhancement and Standardization of Climate-Related Disclosures for Investors</i>	June 17, 2022	Final rule pending, expected for Fall 2022.
<i>Special Purpose Acquisition Companies, Shell Companies, and Projections</i>	June 13, 2022	Proposed rule stage. No expected date for final rule listed.
<i>Investment Company Names</i>	August 16, 2022	Proposed rule stage. No expected date for final rule listed.
<i>Enhanced Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices</i>	August 16, 2022	Proposed rule stage. No expected date for final rule listed.
<i>Request for Comment on Certain Information Providers Acting as Investment Advisers</i>	August 16, 2022	Proposed rule stage. No expected date for final rule listed.

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## LIST OF UNAFFECTED RELEASES

The following releases issued by the SEC between June 2021 and August 2022 with respect to proposed rulemakings were **not** identified in the SEC's reopening release as being affected by the technological error:

Title of SEC Release	Status in Spring 2022 Agenda <sup>3</sup>
<i>Form PF; Reporting Requirements for All Filers and Large Hedge Fund Advisers</i>	Proposed rule stage; comments due October 11, 2022.
<i>Clearing Agency Governance and Conflicts of Interest</i>	Proposed rule stage; comment period ended October 7, 2022. No expected date for final rule listed.

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<b>Title of SEC Release</b>	<b>Status in Spring 2022 Agenda<sup>3</sup></b>
<i>Exemption for Certain Exchange Members</i>	Proposed rule stage; comment period ended September 27, 2022. No expected date for final rule listed.
<i>Substantial Implementation, Duplication, and Resubmission of Shareholder Proposals Under Exchange Act Rule 14a-8</i>	Proposed rule stage; comment period ended September 12, 2022. No expected date for final rule listed.
<i>Listing Standards for Recovery of Erroneously Awarded Compensation</i>	Proposed rule stage; comment period reopened and ended July 14, 2022. No expected date for final rule listed.
<i>Amendments Regarding the Definition of ‘Exchange’ and Alternative Trading Systems (ATSS) That Trade U.S. Treasury and Agency Securities, National Market System (NMS) Stocks, and Other Securities</i>	Proposed rule stage; comment period reopened and ended June 13, 2022. No expected date for final rule listed.
<i>Further Definition of “As a Part of a Regular Business” in the Definition of Dealer and Government Securities Dealer</i>	Final rule pending, expected for Spring 2023.
<i>Removal of References to Credit Ratings From Regulation M</i>	Final rule pending, expected for Spring 2023.
<i>Modernization of Beneficial Ownership Reporting</i>	Final rule pending, expected for Spring 2023.
<i>Shortening the Securities Transaction Settlement Cycle</i>	Final rule pending, expected for Fall 2022.
<i>Rule 10b5-1 and Insider Trading</i>	Final rule pending, expected for Spring 2023.
<i>Electronic Recordkeeping Requirements for Broker-Dealers, Security-Based Swap Dealers, and Major Security-Based Swap Participants</i>	Final rule pending, expected for Fall 2022.
<i>Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers</i>	Final rule pending, expected for Fall 2022.

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## NEXT STEPS

The SEC is advising affected commenters who submitted files through the internet comment form between June 2021 and August 2022 to check the relevant comment file on SEC.gov to determine whether their comment was received and posted. If a comment has not been posted, the Commission has asked the commenter to follow SEC instructions, which are included in the reopening release, to repost their comments.

Furthermore, the SEC’s reopening release indicates that all interested persons, not just commenters affected by the technological error, will have the opportunity to comment on the affected releases during the reopened comment period. The SEC will evaluate any comments resubmitted with respect to these matters and consider whether further action is warranted.

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ENDNOTES

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- <sup>1</sup> See Securities and Exchange Commission, SEC Reopens Comment Periods for Several Rulemaking Releases Due to Technological Error in Receiving Certain Comments (Oct. 7, 2022), *available at* <https://www.sec.gov/news/press-release/2022-186>; Securities and Exchange Commission, Resubmission of Comments and Reopening of Comment Periods for Several Rulemaking Releases Due to a Technological Error in Receiving Certain Comments (Oct. 7, 2022), *available at* <https://www.sec.gov/rules/proposed/2022/33-11117.pdf>.
- <sup>2</sup> Timing based on the Office of Information and Regulatory Affairs' Spring 2022 SEC rulemaking list, *available at* [https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION\\_GET\\_AGENCY\\_RULE\\_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=3235&srftoken=A1215F2185FE7B7C85C707950E7AAD265D4C70700ECBF24EDD6C007DE5F94735468E7938011C55CB3CEA00E2E8B4A727465E](https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=3235&srftoken=A1215F2185FE7B7C85C707950E7AAD265D4C70700ECBF24EDD6C007DE5F94735468E7938011C55CB3CEA00E2E8B4A727465E).
- <sup>3</sup> *Id.*

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