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February 14, 2020

The Honorable Mike Crapo
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Maxine Waters
Chairwoman
The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Securities and Exchange Commission: Risk Mitigation Techniques for Uncleared Security-Based Swaps*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (Commission) entitled “Risk Mitigation Techniques for Uncleared Security-Based Swaps” (RIN: 3235-AL83). We received the rule on December 20, 2019. It was published in the *Federal Register* as a final rule on February 4, 2020. 85 Fed. Reg. 6359. The effective date of the rule is April 6, 2020.

The final rule requires the application of specific risk mitigation techniques to portfolios of uncleared security-based swaps. According to the Commission, the final rule establishes requirements for each registered security-based swap dealer with respect to, among things: reconciling outstanding security-based swaps with applicable counterparties on a periodic basis; engaging in certain forms of portfolio compression exercises, as appropriate; and executing written security-based swap trading relationship documentation with each of its counterparties prior to, or contemporaneously with, executing a security-based swap. In addition, the Commission also stated it is issuing an interpretation addressing the application of the portfolio reconciliation, portfolio compression, and trading relationship documentation requirements to cross-border security-based swap activities and is amending its regulation to address the potential availability of substituted compliance in connection with those requirements. Lastly, the final rule includes corresponding amendments to the recordkeeping, reporting, and notification requirements.

Enclosed is our assessment of the Commission’s compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any

questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Janet Temko-Blinder, Assistant General Counsel, at (202) 512-7104.

signed

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Vanessa A. Countryman
Secretary
Securities and Exchange Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
SECURITIES AND EXCHANGE COMMISSION
ENTITLED
“RISK MITIGATION TECHNIQUES FOR
UNCLEARED SECURITY-BASED SWAPS”
(RIN: 3235-AL83)

(i) Cost-benefit analysis

The Securities and Exchange Commission (Commission) stated the final rule will have broad market effects impacting efficiency, competition, and capital formation. According to the agency, the final rule would specifically: increase accurate information for counterparties that will enable them to evaluate their own risk exposure; reduce the overall costs of financial intermediation; and contribute to broader stability, particularly during periods of distress. However, the Commission also stated the final rule may also place a larger burden on smaller dealers than larger ones if the costs are fixed. The Commission also stated the costs and benefits of particular requirements of the final rule. In the final rule, the Commission evaluated the costs and benefits of the portfolio reconciliation, portfolio compression, trading relationship documentation, and recordkeeping requirements.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

The Commission certified the final rule would not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On February 15, 2019, the Commission published a proposed rule. 84 Fed. Reg. 4614. The Commission responded to the comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

The Commission determined that the final rule contains information collection requirements (ICRs) under the Act. The Commission submitted the ICRs to the Office of Management and Budget (OMB) for review, and the Commission estimated the burden of each ICR. The Commission stated Rules 15Fi-3, 15Fi-4, and 15Fi-5 created new ICRs and thus associated with no OMB control number. The Commission further stated rules 3a71-6, 17a-3, 17a-4, 18a-5, and 18a-6 modify existing ICRs associated with OMB control numbers 3235-0715, 3235-0033, 3235-0279, 3235-0745, and 3235-0751, respectively.

Statutory authorization for the rule

The Commission promulgated the final rule pursuant to sections 78c, 78o-10, 78q, 78w, and 78mm of title 15, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, the Commission is not subject to the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Commission is not subject to the Order.