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# The SEC's Rules Are Getting Unreal

### 'Regulation by hypothesis' is bad for the capital markets.

**By Eric J. Pan**

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The Securities and Exchange Commission's job is to make markets work. But today's SEC leadership—which as of August had proposed 26 new rules this year alone—is ignoring the real-world effects of its regulations on market participants. Its approach can be described as "regulation by hypothesis." If not remedied, it will prove disastrous.

Examples of this pedantic approach to regulation abound. Take the SEC's current rule proposal on money-market funds, which would require certain institutional money market funds to "swing," or adjust the fund's net asset value in the event of net redemptions. Swing pricing would remove features that investors value, such as same-day settlement and multiple net-asset-value strikes per day, and impose unpredictable costs. It may sound good in theory, proposing a way to charge investors leaving a fund, but in reality it will fundamentally alter the product, making it unattractive to investors and forcing sponsors to close and stop offering the funds. So much for healthy capital markets.

The SEC also has proposed several rules requiring market participants to report information such assecurities loans or beneficial ownership to the commission in short time frames—days or even minutes. But gathering information like this needs weeks or hours. Faster reporting sounds good in theory, yet the benefits remain elusive. The SEC proposals fail to check if the requisite information is even available or if it can be provided without a substantial and expensive overhaul of systems.

Or take the SEC's proposed cybersecurity risk-management rule. The commission is trying to force fund managers to get telecommunications and internet providers to follow SEC-specified processes around risk assessments, information protection and record keeping. The SEC isn't a cybersecurity specialist agency, but it wants funds to compel service providers to rewrite thousands of contracts regardless. Perhaps the SEC should first speak to the Federal Communications Commission, which directly regulates the providers.

It doesn't end there. The SEC has proposed an unworkable expansion of the rule regarding fund names. It is demanding that funds reduce subjective investment strategies, like growth and value, into a handful of words in a name, supported by an 80% investment policy rather than being recognized as an overall fund portfolio-management objective. This would require funds to redesign systems, purchase new data, rework system interfaces and hire staff to monitor compliance with that 80% investment policy.

The commission itself admits that this system would be outrageously expensive to implement, with its own economistsestimating an individual fund would need to pay anywhere from $50,000 to $500,000 to comply with the rule. These costs would be passed on to investors in the more than 10,000 funds across the U.S.

History has shown that an expert SEC can protect investors and enhance our capital markets. We need today's SEC to show it still has the expertise to develop rules that address real problems and work in the real world. An SEC that treats regulation as an academic exercise, in which benefits are theoretical and costs are irrelevant, is a danger to all of us.

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