

Corporate & Financial Weekly Digest

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SEC Amends Dormant Filing Fee Account Procedures

On May 13, the Securities and Exchange Commission amended its procedures for holding funds in a filing fee account. Under current rules, after 180 days from the last filing fee deposit, withdrawal or other adjustment, funds in an SEC filing fee account are automatically returned to the account holder. The SEC has now amended rule 3a of its Informal and Other Procedures under the Securities Act of 1933 to extend this holding period to three years. After three years of inactivity the Commission will return funds to the account holder automatically, although the account holder may always request a refund of fees at any time. The SEC explained that extending the duration of the 180-day limitation would create greater efficiencies and less administrative burdens for both account holders and the SEC. It pointed out particularly that this amended account-clearing procedure will harmonize with Securities Act Rule 415(a)(5), which permits eligible issuers to conduct primary shelf offerings on an effective registration statement for a period of three years. The three-year account clearing procedure will allow such issuers, and in particular issuers permitted to file automatic shelf registration statements, to coordinate deposits of filing fees with the life of the registration statement. The SEC noted that any additional deposits or withdrawal requests during the three-year period will extend the time period for an additional three years.

Since the SEC has determined that this amendment to its rules relates solely to the agency's procedures, the Administrative Procedure Act notice requirement for proposed rulemaking and public comment period are not applicable. Hence, the amendment to the fee account rule was effective immediately upon publication.

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