

Corporate & Financial Weekly Digest

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SEC Addresses Disclosure of Short-Term Borrowing

Co-authored by [Jonathan D. Weiner](#)

At a September 17 open meeting, the Securities and Exchange Commission, by a unanimous vote, approved the publication for comment of proposed rules that would require enhanced disclosure of short-term borrowings by registrants. The SEC also approved the publication of guidance regarding enhanced disclosure of short-term borrowing under existing rules requiring disclosure of an issuer's liquidity and capital resources.

The proposed rules would require the issuer's Management Discussion and Analysis (MD&A) to include quantitative and qualitative disclosure regarding short-term borrowing during the period reported. Current rules require issuers to disclose short-term borrowing as of the end of the period reported. The proposed rules would require issuers to disclose, among other things, the average and maximum amount of short-term borrowing during the period reported as well as the weighted average interest rates for all classes of short-term borrowing. So-called "Financial Companies" (as such term will be defined in the proposed rules) will be required to provide such averages and maximum borrowings on a daily basis, while other issuers will be required to provide such information on a monthly basis.

The SEC also approved interpretive guidance intended to remind issuers that current rules regarding disclosure of liquidity and capital resources as part of MD&A do not permit the use of financial structures to mask an issuer's financial condition. In that regard, the guidance will clarify that financial ratios presented in periodic reports may not be presented in a way that obscures an issuer's financial condition. Lastly, the guidance will address the presentation of information in an issuer's table of contractual obligations.

According to the SEC, the new rules are primarily intended to address concerns that a "snapshot" of an issuer's financial condition as of the end of a period may not shed light on an issuer's need for short-term borrowing or fully inform investors of the risks or capital requirements for the company.

The text of the proposed rules and interpretive guidance was not available at press time, but a press release is expected to be posted to the SEC's website.