SECURITIES AND EXCHANGE COMMISSION
(Release No. SIPA-169; File No. SIPC-2010-01)

November 30, 2010

Securities Investor Protection Corporation; Notice of Filing of a Proposed Bylaw Change Relating to SIPC Fund Assessments on SIPC Members

Pursuant to Section 3(e)(1) of the Securities Investor Protection Act of 1970 ("SIPA"), 15 U.S.C. 78ccc(e)(1), notice is hereby given that on October 8, 2010, the Securities Investor Protection Corporation ("SIPC") filed with the Securities and Exchange Commission ("Commission") a proposed bylaw change. The Commission is publishing this notice to solicit comments on the proposed bylaw change from interested persons.

I. Description of Proposed Bylaw Change

Section 4(c)(2) of SIPA requires SIPC to impose assessments upon its member broker-dealers deemed necessary and appropriate to establish and maintain a broker-dealer liquidation fund administered by SIPC (the "SIPC Fund") and to repay any borrowings by SIPC used to liquidate a broker-dealer. Pursuant to this authority, SIPC collects an annual assessment from its members. The amount of the annual assessment is prescribed by SIPA and the SIPC bylaws. For example, if SIPC has an outstanding loan from the Commission, SIPA provides that SIPC assess its member broker-dealers ½ of 1% of the gross revenues from their securities business.[1] In addition, if the SIPC Fund aggregates or is likely to aggregate less than $2.5 billion for six months or more, SIPC must raise each member's assessment to ¼ of 1% of net operating revenues.[2] When the SIPC Fund is at its targeted level, SIPC collects a minimum assessment as provided for in SIPA. The current target level for the SIPC Fund is $2.5 billion.

[1] 15 U.S.C. 78ddd(d)(1)(A)(ii).
[2] SIPC Bylaws, Article 6, Section (a)(1)(C)(i).

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act") amended SIPA to change the minimum assessment from an amount not to exceed $150 to an amount not to exceed 0.02 percent of the gross revenues from the securities business of the SIPC member.[3] Under Article 6 of the SIPC bylaws, SIPC must assess its members a minimum amount ($150) unless certain conditions apply. Because in some cases an assessment of $150 would exceed 0.02 percent of the gross revenues, the SIPC Assessment bylaw must be amended to be consistent with the Dodd-Frank Act. First, SIPC has proposed to amend Article 6, Section 1(a)(1)(B) of the SIPC bylaws by replacing "$150" with the term "0.02 percent of the net operating revenues from the securities business." This amendment clarifies that the minimum assessment for members, once the SIPC Fund reaches its target, is 0.02 percent of a member's net operating revenues, not $150. Second, SIPC has proposed deleting Section 1(a)(3) of Article 6, which stated that $150 was the minimum assessment a SIPC member would be required to pay in any calendar year. These amendments were approved by SIPC's Board of Directors on September 16, 2010.

As indicated above, SIPC's bylaw changes refer to "net operating revenues" instead of "gross revenues." Since 1991, when assessing on a percentage basis (i.e., not a flat $150 minimum assessment), SIPC has based the assessment amount on a percentage of net operating revenues, not gross revenues, from the securities business. In 1991, a SIPC Task Force study found that securities firms no longer structured their business on a gross revenue basis but instead used a net operating revenue basis, which excludes interest expense and dividend expense in accounting for revenue. SIPC bases its assessment on the net revenues associated with that business, which it believes is consistent with SIPA. Basing the assessment on net operating revenues as opposed to gross revenues will decrease the amount of the assessment in

[3] The Dodd Frank Act, Section 929V.

most situations. However, under SIPA, SIPC may adjust the basis for collecting assessments and the amount of assessments as long as the assessments are within the parameters prescribed in SIPA.[4] Using a minimum assessment of 0.02 percent of net operating revenues would not cause the amount of the assessment to exceed the maximum amount permitted for the minimum assessment under Section 4(d)(1)(C) of SIPA, as amended by the Dodd-Frank Act.

In 1991, when SIPC changed its assessment methodology from gross revenues to net operating revenues, the Commission published notice of the proposed change and requested comment.[5] The comments received were in support of the proposed change, which made the assessments more consistent with how industry revenues are calculated.[6]

II. Need for Public Comment

Section 3(e)(1) of SIPA provides that SIPC must file with the Commission a copy of proposed bylaw changes. That section further provides that bylaw changes shall take effect 30 days after filing, unless the Commission either; (i) disapproves the change as contrary to the public interest or the purposes of SIPA, or (ii) finds that the change involves a matter of such significant public interest that public comment should be obtained. Thus, under Section 3(e)(1) of SIPA, a proposed bylaw change does not have to be noticed for public comment. However, under Section 3(e)(1)(B) of SIPA, the Commission can find that "such proposed change involves a matter of such significant public interest that public comment should be obtained," in which case, the Commission may, after notifying SIPC in writing of such finding, require that the proposed bylaw change be considered by the same procedures as a proposed rule change

[4] 15 U.S.C. 78ddd(c)(2) and 78lll(9).
[5] Securities Investor Protection Corporation; Notice of Proposed Bylaw Change Relating to SIPC Fund Assessments on SIPC Members, Rel. No. SIPA-156, 56 FR 51952 (Oct. 16, 1991).
[6] Securities Investor Protection Corporation; Order Approving Proposed Bylaw Change Relating to SIPC Fund Assessments on SIPC Members, Rel. No. SIPA-157, 56 FR 60145 (Nov. 27, 1991).

including, among other things, publication in the Federal Register and opportunity for public comment.

The SIPC Fund, which is built from assessments on its members and the interest earned on the fund, is used for the protection of customers of members liquidated under SIPA to maintain investor confidence in the securities markets. In light of this fact and that the bylaw change provides for a new minimum assessment methodology, the Commission finds, pursuant to Section 3(e)(1)(B) of SIPA, that the proposed bylaw change involves a matter of such significant public interest that public comment should be obtained and that the procedures applicable to proposed SIPC rule changes in Section 3(e)(2) of SIPA should be followed. As required by Section 3(e)(1)(B) of SIPA, the Commission has notified SIPC of this finding in writing.

III. Date of Effectiveness of the Proposed Bylaw Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register, or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SIPC consents, the Commission will: (A) By order approve such proposed bylaw change, or (B) Institute proceedings to determine whether the proposed bylaw change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/other.shtml); or

- Send an e-mail to rule-comments@sec.gov. Please include File Number SIPC-2010-01 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SIPC-2010-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (http://www.sec.gov/rules/other.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SIPC-2010-01 and should be submitted on or before December 27, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon
Deputy Secretary

---

[7] 17 CFR 200.30-3(f)(2)(i).