

Regulatory Notice

11-38

Financial Responsibility

Application of the SEC's Financial Responsibility Rules in Response to the Downgrade of U. S. Long-Term Credit Rating by Standard & Poor's

Executive Summary

This *Notice* is being issued in response to the downgrade of the United States long-term credit rating by Standard & Poor's, issued on August 5, 2011, and provides guidance to firms on the application of the Securities and Exchange Commission's (SEC) Net Capital and Customer Protection Rules to United States Treasury securities and other securities issued, or guaranteed as to principal and interest, by the United States or any of its governmental agencies.

Questions concerning this *Notice* may be directed to your firm's Regulatory Coordinator.

Background & Discussion

Following the action taken by Standard & Poor's on August 5, 2011, reducing the long-term credit rating of the United States, FINRA has received inquiries from several member firms regarding the impact of this ratings action to the application of the SEC's Net Capital and Customer Protection rules.

Under SEA Rule 15c3-1, the credit rating assigned to United States Treasury securities or other securities issued, or guaranteed as to principal or interest, by the United States or any of its governmental agencies (government securities), by any credit ratings agency, is not a factor in determining the net capital treatment for such securities. FINRA staff has confirmed with the staff of the SEC that this ratings action by Standard & Poor's does not alter the net capital treatment of these government securities under SEA Rule 15c3-1(c)(2)(vi)(A).

In addition, SEC staff has confirmed that the ratings action by Standard & Poor's does not affect the definition of "qualified security" under SEA Rule 15c3-3(a)(6). Broker-dealers may continue to use securities issued, or securities whose principal and interest is guaranteed, by the United States to meet their deposit requirement under SEA Rule 15c3-3(e)(1).

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Notice Type

- Guidance

Suggested Routing

- Compliance
- Finance
- Legal
- Operations
- Regulatory Reporting
- Senior Management

Key Topics

- Customer Protection
- Financial Responsibility
- Net Capital

Referenced Rules

- SEA Rule 15c3-1
- SEA Rule 15c3-3