5 Things To Watch For As SEC Decides Money Market Rules

By **Ed Beeson, Law360 [subscription required]**

Law360, New York (July 22, 2014, 8:06 PM ET) -- A day of reckoning is upon the $2.6 trillion money market fund industry, as the U.S. Securities and Exchange Commission holds a meeting Wednesday to finalize new rules to prevent future investor runs on these securities.

But while many will watch how the SEC acts on the instrument's bedrock feature — the stable net asset value — attorneys and experts say a host of other things will grab their attention, from tax issues to how the commission's vote breaks down.

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In the past six years, the SEC has faced enormous pressure to reshape how these cash-like securities operate, mainly by doing away with the concept of fixed net asset value, which essentially has let investors trust they can get a dollar of principal back for every dollar they put into a fund.

However, the agency has been besieged by complaints that such a move will kill the appeal of money market funds to corporate treasurers and the other big players who make up roughly a third of the market.

"This is a cash management product," said Niels Holch, executive director of the Coalition of Mutual Fund Investors. "You can't stomach a fluctuation in principal."

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The other major prong expected out of the SEC's rule-making is a provision to allow fund directors to impose fees and erect gates on retail investors seeking to pull their money out of a fund during times of market distress.

While this approach has been more palatable to industry officials than a floating NAV, industry watchers will be looking at how the SEC addresses technical questions around this and other aspects of the proposals. For example, the SEC may look to adopt industry recommendations around identifying retail investors by their Social Security numbers.

"Those that have been meeting with the commission felt that this is a more workable solution," Crane said.

Holch said the treatment of retail customers that come into money market funds through omnibus accounts, as opposed to those who invest directly through a fund complex, is another key consideration when ensuring redemption fees are fairly apportioned.

“They mention the problem in the proposal, but it doesn’t really address how to solve the problem,” he said. “It’s a do-the-best-you-can approach.”