SECURITIES OPERATIONS

REGULATORY UPDATE

A PUBLICATION OF mediant

June 1, 2020

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IN THIS ISSUE

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Announcements and Updates of Upcoming Roundtables, Meetings, and Virtual Conferences

In light of ongoing restrictions to public gatherings as a result of the novel coronavirus ("COVID-19") pandemic, the Securities and Exchange Commission ("SEC" or "Commission") continues to allow meetings to be held virtually. Find information on how to join events virtually in the individual press releases below for each event.

- SEC Issues Agenda for June 1 Meeting of the Fixed Income Market Structure Advisory Committee
- SEC Announces Virtual Conference on Municipal Securities Disclosure
- SEC Announces 2020 Small Business Forum to be Held Virtually
- SEC Staff to Host July 9 Roundtable on Emerging Markets

SEC MODIFIES FINANCIAL DISCLOSURE REQUIREMENTS REGARDING ACQUIRED AND DISPOSED BUSINESSES

On May 20, 2020, the SEC adopted amendments to its rules and forms to improve for investors the financial information about acquired or disposed businesses, facilitate more timely access to capital, and reduce the complexity and costs to prepare the disclosure. The amendments are intended to improve determinations of whether a subsidiary or an acquired or disposed business is significant and to improve the disclosure requirements for financial statements relating to acquisitions and dispositions of businesses, including real estate operations and investment companies. Specifically, the amendments include changes to the requirements for financial statements in Regulation S-X Rules 3-05 and 3-14, the special instructions for real estate operations to be acquired; Article 11, Pro Forma Financial Information; and other related rules and forms. The SEC also adopted new Rule 6-11 and amendments to Form N-14 to specifically govern financial reporting for acquisitions involving investment companies.

Effective Date: January 1, 2021
Notice Release: https://www.sec.gov/rules/final/2020/33-10786.pdf
Press Release: https://www.sec.gov/news/press-release/2020-118
Public Statement: https://www.sec.gov/news/public-statement/lee-statement-financial-disclosures-about-acquired-disposed-businesses

SEC ADOPTS CHANGES TO NMS PLAN GOVERNING THE CONSOLIDATED AUDIT TRAIL

On May 15, 2020, the SEC adopted amendments to the National Market System ("NMS") Plan governing the Consolidated Audit Trail ("CAT"). Specifically, the amendments to the CAT NMS Plan require the participants to develop a complete implementation plan containing a detailed timeline with objective milestones to achieve full CAT implementation ("Implementation Plan"). The amendments require the Implementation Plan to be filed with the SEC and made publicly available after approval by a Supermajority Vote of the Operating Committee. Prior to the Operating Committee's vote, the proposal requires the Operating Committee to submit the Implementation Plan to the chief executive officer ("CEO"), president, or an equivalently situated senior officer of each participant. The amendments also require the participants to file with the SEC and publicly publish quarterly progress reports approved by at least a Supermajority Vote of the Operating Committee. Again, prior to the Operating Committee's vote, the amendments require the Operating Committee to submit each report to the CEO, president, or an equivalently situated senior officer of each participant. Finally, the amendments establish target deadlines for implementation of both Objective and Financial Accountability Milestones as defined in the release, including reducing the amount of fee recovery available to participants if target deadlines are missed.

Effective Date: June 21, 2020
Notice Release: https://www.sec.gov/rules/final/2020/34-88890.pdf
Press Release: https://www.sec.gov/news/press-release/2020-114

FINRA ADOPTS TEMPORARY AMENDMENTS TO CERTAIN PROCEDURAL REQUIREMENTS IN FINRA RULES

On May 20, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, a Financial Industry Regulatory Authority ("FINRA")-proposed rule change to amend certain procedural requirements in FINRA rules during the outbreak of COVID-19. FINRA proposed to temporarily amend FINRA Rules 1012, 1015, 6490, 9132, 9133, 9146, 9321, 9341, 9349, 9351, 9522, 9524, 9525, 9559, and 9630 primarily to provide FINRA with temporary relief from certain timing, method of service and other procedural requirements during the period in which FINRA's operations are impacted by the outbreak of COVID-19. Specifically, FINRA employees, with limited exceptions, have been directed to work remotely and restrict certain in-person activities, consistent with the recommendations of public health officials. FINRA faces challenges meeting certain procedural requirements and performing certain functions in this remote work environment. In particular, working remotely makes it exceedingly difficult to send and receive hard copy mail and conduct in-person meetings and hearings. The rule changes related to the temporary relief are described in detail in the release. As proposed, these changes will be in place through June 15, 2020.

Comments Due: June 17, 2020
Notice Release: https://www.sec.gov/rules/sro/finra/2020/34-88917.pdf

FINRA APPROVED TO ADD RULE 6800 SERIES TO ITS MINOR RULE VIOLATION PLAN

On May 14, 2020, the SEC published a notice to solicit comments on a FINRA-proposed rule to add industry member compliance rules relating to the CAT to FINRA's Minor Rule Violation Plan ("MRVP"). The proposal was approved on an accelerated basis and became effective on the approval date. The purpose of the MRVP is to provide reasonable but meaningful sanctions for minor or technical violations of rules when the conduct at issue does not warrant stronger, immediately reportable disciplinary sanctions. The inclusion of a rule in FINRA's MRVP does not minimize the importance of compliance with the rule, nor does it preclude FINRA from choosing to pursue violations of eligible rules through an Acceptance, Waiver and Consent ("AWC") or Complaint if the nature of the violations or prior disciplinary history warrants more significant sanctions. Rather, the option to impose an MRVP sanction gives FINRA additional flexibility to administer its enforcement program in the most effective and efficient manner, while still fully meeting FINRA's remedial objectives in addressing violative conduct. For example, MRVP dispositions provide a useful tool for implementing the concept of progressive discipline to remediate misconduct. FINRA adopted its CAT industry member compliance rules in the Rule 6800 Series to implement the CAT NMS Plan. FINRA plans to employ the MRVP for CAT compliance rules the same way FINRA has for its similar existing audit trail-related rules. FINRA is also coordinating with other participants to promote harmonized and consistent enforcement of all the participants' CAT compliance rules.

Comments Due: June 10, 2020
Notice Release: https://www.sec.gov/rules/sro/finra/2020/34-88870.pdf

NASDAQ ELIMINATES INTRADAY INDICATIVE VALUE DISSEMINATION FOR CERTAIN FUND SHARES

On May 22, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, a Nasdaq Stock Market LLC ("Nasdaq")-proposed rule change to eliminate the requirement that the Intraday Indicative Value be disseminated as set forth under Nasdaq Rule 5705(b) ("Index Fund Shares") for certain series of Index Fund Shares and under Nasdaq Rule 5735 ("Managed Fund Shares") for all series of Managed Fund Shares. Additionally, Nasdaq proposed to define the term "Portfolio Holdings" as it pertains to Index Fund Shares. Finally, Nasdaq proposed to amend Nasdaq Rule 4120 (Limit Up-Limit Down Plan and Trading Halts) as it pertains to the dissemination of the Intraday Indicative Value.

Comments Due: June 18, 2020
Notice Release: https://www.sec.gov/rules/sro/nasdaq/2020/34-88932.pdf

NASDAQ MODIFIES IMPLEMENTATION DATE REGARDING DELISTING PROCESS FOR CERTAIN SECURITIES

On May 14, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, a Nasdaq-proposed rule change to modify the implementation date for a previous rule change. Specifically, Nasdaq proposed to modify the implementation date and delisting process for rule changes adopted in SR-Nasdaq-2020-001. In the original rule filing, Nasdaq stated that the rule change would be implemented for companies that first receive notification of noncompliance with the bid price requirement after the date of the SEC's approval of the changes. However, Nasdaq does not believe it is appropriate to implement this new requirement, which would affect low priced stocks, during a time when the U.S. and global equities markets have experienced unprecedented market-wide declines as a result of the ongoing spread of COVID-19 and companies face highly unusual market conditions. Accordingly, Nasdaq is filing this rule change to delay the implementation date and delisting process for the changes adopted in SR-Nasdaq-2020-001 until September 1, 2020.

Comments Due: June 10, 2020
Notice Release: https://www.sec.gov/rules/sro/nasdaq/2020/34-88868.pdf
SR-NASDAQ-2020-001: https://www.sec.gov/rules/sro/nasdaq/2020/34-87982.pdf

NASDAQ AMENDS CERTAIN INTERNAL CROSS-REFERENCES IN GENERAL 5, DISCIPLINE

On May 11, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, a Nasdaq-proposed rule change to amend certain internal cross-references in General 5, Discipline. As a result of Nasdaq relocating its rules into a new Rulebook shell in 2019, several rules referenced within the 8000 and 9000 Series Rules contained in General 5, Discipline have been relocated under a new rule number. With this rule proposal, Nasdaq has updated certain internal cross-references within General 5, Discipline. Specifically, Nasdaq updated internal cross-references within Rules 8120 (Definitions), 9110 (Application), 9268 (Decision of Hearing Panel or Extended Hearing Panel), 9269 (Default Decisions), 9270 (Settlement Procedure), 9311 (Appeal by Any Party; Cross-Appeal), 9312 (Review Proceeding Initiated By the Nasdaq Review Council), 9351 (Discretionary Review by Nasdaq Board), 9360 (Effectiveness of Sanctions), 9524 (Nasdaq Review Council Consideration), 9552 (Failure to Provide Information or Keep Information Current), 9553 (Failure to Pay Nasdaq Dues, Fees and Other Charges), 9554 (Failure to Comply with an Arbitration Award or Related Settlement or an Order of Restitution or Settlement Providing for Restitution), 9555 (Failure to Meet the Eligibility or Qualification Standards or Prerequisites for Access to Services), 9556 (Failure to Comply with Temporary and Permanent Cease and Desist Orders), 9557 (Procedures for Regulating Activities Under Rules 4110A and 4120A Regarding a Member Experiencing Financial or Operational Difficulties), 9558 (Summary Proceedings for Actions Authorized by Section 6(d)(3) of the Act), 9559 (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series), and 9810 (Initiation of Proceeding).

Comments Due: June 5, 2020
Notice Release: https://www.sec.gov/rules/sro/nasdaq/2020/34-88852.pdf

NASDAQ ELIMINATES EXPIRED TRANSITIONAL RULE RELATED TO GLOBAL MARKETS ENTRY FEES

On May 8, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, a Nasdaq-proposed rule change to eliminate a transitional rule that has expired. Nasdaq modified Rule 5910(a)(1) to remove a transitional rule that is no longer applicable to any companies. This transitional rule was adopted in connection with changes to the entry fees for the Nasdaq Global and Global Select Markets. These changes to the entry fees were fully phased in on July 1, 2019.

Comments Due: June 4, 2020
Notice Release: https://www.sec.gov/rules/sro/nasdaq/2020/34-88838.pdf

NASDAQ MODIFIES THE OPERATIVE DATE FOR REOPENING PROTECTIONS

On May 5, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, a Nasdaq- proposed rule change to modify the operative date of a proposed rule change to establish reopening protections for Nasdaq-listed securities following a Level 1 or Level 2 market-wide circuit breaker trading halt initiated under Rule 4121. The original proposed rule change indicated that the operative date of the reopening protections would be during April 2020. Nasdaq has since modified the operative date and delayed implementation of this functionality to July 2020. Nasdaq will issue an Equity Trader Alert notifying members prior to implementing the functionality. Due to the recent market volatility resulting from the COVID-19 pandemic, Nasdaq has been adjusting its systems testing schedule and assessing any risks to the operation of its systems that could potentially be introduced by implementing new functionality during this time. The extension provides Nasdaq with flexibility and additional time to adjust its systems testing schedule, and to develop and test this new functionality to safeguard against any such risk. Furthermore, the extension allows Nasdaq to implement the halt reopening changes after the Russell Rebalance, a significant market event occurring in June 2020.

Notice Release: https://www.sec.gov/rules/sro/nasdaq/2020/34-88813.pdf

NASDAQ PROVIDES TEMPORARY EXCEPTION FROM CERTAIN SHAREHOLDER APPROVAL REQUIREMENTS

On May 4, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, a Nasdaq-proposed rule change to provide a temporary limited exception from certain shareholder approval requirements. Specifically, Nasdaq adopted Listing Rule 5636T to provide a limited temporary exception to the shareholder approval requirements in Listing Rule 5635(d) (Transactions other than Public Offerings) and, in certain narrow circumstances, a limited attendant exception to Listing Rule 5635(c) (Equity Compensation). While an exception is currently available within Nasdaq's rules for companies in financial distress where the delay in securing stockholder approval would seriously jeopardize the financial viability of the company, that exception is not helpful in most situations arising from the COVID-19 pandemic. In view of the above, Nasdaq created a new temporary exception from the shareholder approval requirements in Listing Rule 5635(d), accompanied by a limited exception from Listing Rule 5635(c) by adopting Listing Rule 5636T. This exception is available until and including June 30, 2020. Nasdaq notes that to rely on this exception, the company must execute a binding agreement governing the issuance of the securities, submit the notices required by Listing Rules 5636T(b)(5)(A) and (e), and obtain the required approval from Nasdaq under Listing Rule 5636T(b)(5)(B)(ii) (if applicable), as described in the rule proposal, no later than June 30, 2020. Under Listing Rule 5636T(b), the exception is limited to circumstances where the delay in securing shareholder approval would (i) have a material adverse impact on the company's ability to maintain operations under its pre-COVID-19 business plan; (ii) result in workforce reductions; (iii) adversely impact the company's ability to undertake new initiatives in response to COVID-19; or (iv) seriously jeopardize the financial viability of the enterprise.

Notice Release: https://www.sec.gov/rules/sro/nasdaq/2020/34-88805.pdf

NYSE EXTENDS COMMENTARY PERIOD FOR RULES 7.35, 7.35A, 7.35B, AND 7.35C

On May 26, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, a New York Stock Exchange LLC ("NYSE")-proposed rule change to add Commentary .05 to Rule 7.35A to provide that, for a temporary period that begins May 26, 2020, and ends on the earlier of a full reopening of the Trading Floor facilities to DMMs or after NYSE closes on June 30, 2020, the NYSE will (1) permit a DMM limited entry to the Trading Floor or (2) provide a DMM remote access to Floor-based systems, for the purpose of effecting a manual Trading Halt Auction for reopening a security following a regulatory halt issued under Section 2 of the Listed Company Manual. Previously on May 4, 2020, the NYSE filed with the SEC, a similar proposed rule change to add Commentary .02 to Rule 7.35B to provide that, for a temporary period that began on May 6, 2020 and ended on the earlier of the reopening of the Trading Floor facilities or after the NYSE closed on May 15, 2020, the NYSE would make available specified Closing Auction Imbalance Information to member organizations beginning one hour before the end of Core Trading Hours. On May 15, 2020, the NYSE proposed to extend the temporary period for Commentaries to Rules 7.35, 7.35A, 7.35B, and 7.35C to end on the earlier of the reopening of the Trading Floor facilities or after NYSE closed on May 22, 2020. On May 22, 2020, NYSE proposed a rule change to extend the temporary period for specified commentary on Rules 7.35, 7.35A, 7.35B, and 7.35C until the earlier of the reopening of the Trading Floor facilities or after NYSE closes on June 30, 2020.

Comments Due: 21 days after publication in the Federal Register
Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88950.pdf
File No. SR-NYSE-2020-47: https://www.sec.gov/rules/sro/nyse/2020/34-88933.pdf
File No. SR-NYSE-2020-45: https://www.sec.gov/rules/sro/nyse/2020/34-88891.pdf
File No. SR-NYSE-2020-41: https://www.sec.gov/rules/sro/nyse/2020/34-88829.pdf

NYSE PROVIDES TEMPORARY EXCEPTION FROM CERTAIN SHAREHOLDER APPROVAL REQUIREMENTS

On May 14, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, an NYSE-proposed rule change to provide a temporary limited exception from certain shareholder approval requirements. Specifically, NYSE is adopting Section 312.03T to provide a limited, temporary exception to the shareholder approval requirements in Section 312.03(c) and, in certain narrow circumstances, a limited exception to Section 312.03(b) and the requirements with respect to equity compensation set forth in Sections 312.03(a) and 303A.08 of the NYSE Listed Company Manual.

Comments Due: June 10, 2020
Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88875.pdf

NYSE AMENDS ITS PRICE LIST TO FURTHER INCENTIVIZE LIQUIDITY

On May 14, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, an NYSE-proposed rule change to offer further incentives for member organizations to send additional displayed liquidity to the NYSE. The proposed changes also respond to the current volatile market environment that has resulted in unprecedented average daily volumes and the temporary closure of the Trading Floor, which are both related to the ongoing spread of COVID-19. The NYSE is amending its Price List to (1) revise the ADV requirement for the second way to qualify for the Tier 3 Adding Credit; (2) adopt a new Step Up Tier 3 Adding Credit; (3) adopt a new Incremental Rebate Per Share for DMMs in most active securities; (4) revise the adding liquidity requirement in Tape B and C securities for the SLP Tape A adding tiers; and (5) extend the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations to May 2020 in connection with the temporary closing of the Trading Floor. The fee changes took effect May 1, 2020.

Comments Due: June 10, 2020
Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88874.pdf

NYSE WITHDRAWS ITS PROPOSAL TO LIST AND TRADE EXCHANGE-TRADED PRODUCTS

On May 13, 2020, the SEC published a notice of withdrawal of a NYSE-proposed rule change to list and trade exchange-traded products.

No**tice Release:** https://www.sec.gov/rules/sro/nyse/2020/34-88863.pdf

NYSE AND NYSE AMERICAN EXTEND WAIVER OF CO-LOCATION "HOT HANDS" FEE

On May 27, 2020, the SEC published for comment and granted immediate effectiveness to NYSE and NYSE American LLC ("NYSE American")-proposed rule changes to once again, extend the temporary waiver of the co-location "Hot Hands" fee. The exchanges are extending the temporary waiver of the co-location "Hot Hands" fee through the earlier of the reopening of the Mahwah, New Jersey data center or June 30, 2020. The waiver of the "Hot Hands" fee recently expired on May 15, 2020.

Comments Due: 21 days after publication in the Federal Register
Notice Release: https://www.sec.gov/rules/sro/nyseamer/2020/34-88956.pdf

NYSE EXCHANGES HAVE PROCEEDINGS INSTITUTED FOR ACTION ON WIRELESS DATA CONNECTIONS

On May 18, 2020, the SEC published an order instituting proceedings to determine whether to approve or disapprove NYSE, NYSE American, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively "NYSE Exchanges")-proposed rule changes to establish a schedule of Wireless Connectivity Fees and Charges listing available wireless connections between the Mahwah, New Jersey data center and other data centers.

Comments Due: June 12, 2020
Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88901.pdf

NYSE AND OTHER NYSE EXCHANGES RECEIVE APPROVAL TO OFFER ACCESS TO THE NMS NETWORK

On May 7, 2020, the SEC published an order granting approval of NYSE, NYSE National, Inc., NYSE Arca, Inc., and NYSE American-proposed rule changes to offer co-location services users access to the NMS Network. On August 22, 2019, NYSE, NYSE National, Inc., and NYSE Arca, Inc. each filed with the SEC a proposed rule change to: (i) amend their co-location services to offer co-location users access to the "NMS Network"—a new alternate, dedicated network providing connectivity to data feeds for the NMS Plans for which Securities Industry Automation Corporation is engaged as the exclusive securities information processor ("SIP"); and (ii) establish associated fees. NYSE American LLC filed with the SEC a substantively identical filing on August 23, 2019.

Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88837.pdf

NYSE EXCHANGES APPROVED FOR RULE CHANGE REGARDING RE-PRICING DEPTH-OF-BOOK ORDERS

On May 1, 2020, the SEC published an order granting approval of proposed rule changes by NYSE Exchanges regarding their rules on the re-pricing of orders in certain market situations and related rules relevant to each exchange. Each Exchange's current rules provide that, if an away market updates its Protected Best Bid and Offer and crosses not only the Best Bid and Offer ("BBO") of the exchange, but also displayed orders in the exchange's book not represented in the BBO, (i.e., depth-of-book orders), and then the exchange's BBO cancels or trades, the exchange will not disseminate its next-best priced depth-of-book order as its new BBO to the SIP. Instead, each exchange will reprice such order before it is disseminated to the SIP.

Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88793.pdf

NYSE AMERICAN ADDS NEW RULE ON PRE-TRADE RISK CONTROLS

On May 14, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, an NYSE American-proposed rule change to add new Rule 7.19E (Pre-Trade Risk Controls) to establish a set of pre-trade risk controls by which Entering Firms and their designated Clearing Firms (as defined below) may set credit limits and other pre-trade risk controls for an Entering Firm's trading on the NYSE American and authorize the NYSE American to take action if those credit limits or other pre-trade risk controls are exceeded. For purposes of this proposed rule change, the NYSE American proposed to define the term "Entering Firm" to mean an Equity Trading Permit Holder ("ETP Holder") that either has a correspondent relationship with a Clearing Firm whereby it executes trades and the clearing function is the responsibility of the Clearing Firm or clears for its own account and to define the term "Clearing Firm" to mean an ETP Holder that acts as principal for clearing and settling a trade, whether for its own account or for an Entering Firm.

Comments Due: June 10, 2020
Notice Release: https://www.sec.gov/rules/sro/nyseamer/2020/34-88878.pdf

NYSE AMERICAN OFFERS NEW CREDITS TO ETP HOLDERS

On May 14, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, a NYSE-American proposed rule change to modify its price list. NYSE American amended its price list to offer a new tier of credits that would apply to displayed orders, Mid-Point Liquidity orders, and orders setting a new NYSE American BBO, if such orders have an Adding ADV of at least 2,500,000 shares. The proposed change responds to the current competitive environment where order flow providers have a choice of where to direct orders by offering further incentives for ETP Holders to send additional displayed liquidity to the NYSE American.

Comments Due: June 10, 2020
Notice Release: https://www.sec.gov/rules/sro/nyseamer/2020/34-88869.pdf

NYSE AMERICAN MODIFIES ITS PROFESSIONAL STEP-UP INCENTIVE PROGRAM FEE

On May 7, 2020, the SEC published a notice to solicit comments on, and granted immediate effectiveness to, a NYSE American-proposed rule change to modify the Fee Schedule regarding the Professional Step-Up Incentive program and rebates for initiating a Customer Best Execution ("CUBE") auction, in both Single-Leg and Complex CUBE transactions. The proposed changes are designed to encourage ATP Holders to increase their Electronic volume in the "Professional" range as well as to submit initiating CUBE Orders. Specifically, NYSE American modified the Professional Step-Up Incentive, which offers discounted rates on monthly Professional volume, and to expand the type of volume on which a rebate on initiating CUBE volume would apply from customer-only to all account types. NYSE American implemented the rule changes on May 1, 2020.

Effective Date: May 1, 2020
Notice Release: https://www.sec.gov/rules/sro/nyseamer/2020/34-88834.pdf

DTC, FICC, AND NSCC TO MODIFY CLEARING AGENCY MODEL RISK MANAGEMENT FRAMEWORK

On May 20, 2020, the SEC issued an order granting approval of proposed rule changes to the Depository Trust Company's, Fixed Income Clearing Corporation's, and National Securities Clearing Corporation's (collectively the "Clearing Agencies") model risk management framework. Each clearing agency has established a Model Risk Management Framework ("Framework") to help it identify, measure, monitor, and manage the risks associated with the design, development, implementation, use, and validation of quantitative models. The proposed rule changes amend the Framework to (i) modify certain roles and governance arrangements set forth within the Framework, (ii) incorporate a description of and references to the "Model Risk Tolerance Statement," and (iii) make other technical and clarifying changes to the text of the Framework.

Notice Release: https://www.sec.gov/rules/sro/dtc/2020/34-88911.pdf

MSRB PROPOSES RULE CHANGE TO ALIGN WITH REG BI

On May 6, 2020, the SEC published a notice to solicit comments on a Municipal Securities Rulemaking Board ("MSRB")-proposed rule change consisting of amendments to MSRB Rule G-8, on books and records, MSRB Rule G-9, on preservation of records, MSRB Rule G-19, on suitability of recommendations and transactions, MSRB Rule G-20, on gifts, gratuities, non-cash compensation and expenses of issuance, MSRB Rule G-48, on transactions with Sophisticated Municipal Market Professionals and the deletion of an interpretation of MSRB Rule G-20. The proposed rule change would align MSRB rules to the SEC's recently adopted Rule 151-1 under the Exchange Act ("Regulation Best Interest"). The effective date of all of the amendments to MSRB rules included in the proposed rule change will be the compliance date for Regulation Best Interest.

Notice Release: https://www.sec.gov/rules/sro/msrb/2020/34-88828.pdf

Notable Enforcement Actions

This month's enforcement actions demonstrate the importance of accurate disclosures and reporting obligations to the SEC and FINRA.

A firm was fined $5 million for providing misleading information to clients in its retail wrap fee programs regarding trade execution services and transaction costs. According to the SEC's order, the firm marketed its wrap fee accounts as offering clients professional investment advice, trade execution, and other services within a "transparent" fee structure. From at least October 2012 until June 2017, some of the firm's marketing and client communications gave the impression that wrap fee clients were not likely to incur additional trade execution costs. During that period, however, the order finds that some firm managers routinely directed wrap fee clients' trades to third-party broker-dealers for execution, which in some instances resulted in firm clients paying additional transaction fees that were not visible to them. As a result of the firm's conduct, the order finds that certain firm clients were unable to assess the value of the services received in exchange for the wrap fee paid to the firm. The SEC's order, found that the firm violated provisions of the Investment Advisers Act of 1940, imposes a $5 million penalty, and included a censure and a cease-and-desist order. The order also created a Fair Fund to distribute the penalty paid by the firm to harmed investors. (**SEC File No. 3-19793**)
https://www.sec.gov/news/press-release/2020-109

A firm was fined $5 million for making material misrepresentations and omitting material facts about how the firm handled certain customer trade orders. The SEC's order found that the firm routed certain customer orders – primarily orders entered by customers who paid relatively low commission rates – using an undisclosed arrangement that it referred to internally as the "Low Cost Router." As part of this arrangement, the firm allowed three unaffiliated broker-dealers to determine the venues to which certain customer "immediate-or-cancel" orders would be routed for execution. The firm did not inform affected customers that a significant portion of their orders would be routed by an unaffiliated broker-dealer instead of by the firm. This practice contradicted the firm's marketing materials, which represented that customer orders would be routed by the firm's own "advanced" technology, based on factors such as price and liquidity.
(**SEC File No. 3-19785**)
https://www.sec.gov/litigation/admin/2020/33-10783.pdf

A firm was fined $3.5 million for violating a conflict of interest rule designed to separate credit ratings and analysis from sales and marketing efforts. The SEC's order found that from mid-2015 through September 2016, credit rating analysts in the firm's asset-backed securities (ABS) group engaged in sales and marketing to prospective clients. According to the order, the firm's head of business development instructed analysts to identify business targets and pursue them through marketing calls, meetings, and offers to provide indicative ratings. For example, the order found that one ABS analyst at the firm wrote a commentary specifically aimed at a potential client issuer and sent it to the issuer for the purpose of obtaining the business of the issuer, and the firm was eventually hired to rate a securitization by the issuer.
(**SEC File No. 3-19802**)
https://www.sec.gov/litigation/admin/2020/34-88880.pdf

A firm was fined $300,000 and ordered to certify in writing, within 60 days, that it has reviewed its systems, policies and procedures, written and otherwise, governing its trade reporting of fixed income securities and as of the date of the certification, it has established and implemented systems, policies, and procedures, written and otherwise, governing the trade reporting of fixed income securities that are reasonably designed to achieve compliance with FINRA Rule 6730(a) and MSRB Rule G-14. The firm consented to the sanctions and to the entry of findings that it failed to timely report fixed income transactions, a majority of which qualified as large block transactions, to the Trade Reporting and Compliance Engine ("TRACE®") or the Real-time Transaction Reporting System ("RTRS"). The findings stated that the untimely reports had several causes, including manual errors by firm employees and untimely amendments or corrections made to TRACE reports, and the improper set-up of relevant CUSIPs in the firm's reporting system. In addition, a coding error in the firm's TRACE reporting system caused prices in certain agency debt transactions to be reported to five decimal points instead of the required six decimal points. These trade reports failed to match with counter-party trade reports and were rejected by TRACE. The firm manually corrected the rejected trade reports but failed to do so within the specified timeframe.
(**FINRA Case #2015047758201**)
https://www.finra.org/sites/default/files/fda_documents/2015047758201%20Morgan%20Stanley%20Smith%20Barney%20LLC%20CRD%20149777%20AWC%20va%20%20%282020-1587860370444%29.pdf

A firm was fined $160,000 for failing to transmit Reportable Order Events ("ROEs") to the Order Audit Trail System ("OATS") and improperly submitted route reports to OATS that it was not required to report. The findings stated that the firm submitted new order reports to OATS that did not require submission and transmitted ROEs that contained inaccurate, incomplete or improperly formatted data to OATS. Additionally, the firm submitted corresponding trade reports to FINRA's transaction reporting facility ("TRF") and over-the counter reporting facility ("OTCRF") that failed to include execution timestamps in milliseconds when the firm's system captured time in milliseconds. The findings also included that the firm failed to establish and maintain a supervisory system reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules relating to OATS and trade reporting, including the failure to conduct supervisory reviews designed to detect whether it was submitting trade reports to OATS, the TRF and the OTCRF with timestamps in milliseconds.
(**FINRA Case #2015046601401**)
https://www.finra.org/sites/default/files/fda_documents/2015046601401%20%20Citigroup%20Global%20Markets%20Inc.%20CRD%207059%20AWC%20jlg%20%282020-1587341968882%29.pdf

A firm was fined $75,000 for failing to prevent certain registered and associated persons who had been terminated from the firm from continuing to access customer records and information, including non-public personal information, in violation of the SEC's Regulation S-P. The findings stated that a FINRA member firm acquired from its parent insurance company failed to ensure that access to a third-party system was limited to only those former representatives of the acquired firm for whom access was agreed to be given. As a result, additional former representatives and associated persons of the acquired firm had access to the third-party system after the acquisition.

Because the firm was unaware that these additional representatives and associated persons had access to the third-party system after the acquisition, it did not notify the parent insurance company when those representatives and associated persons ceased to be associated with the firm. As a result, the parent insurance company did not timely shut off these former firm representatives' and associated persons' access to the third-party system.
(**FINRA Case #2015047758201**)
https://www.finra.org/sites/default/files/fda_documents/2017056520301%20MML%20Investors%20Services%2C%20LLC%20CRD%2010409%20AWC%20jlg%20%282020-1587341969059%29.pdf

A firm was fined $67,000 for failing to properly qualify and register its chief compliance officer ("CCO") as a Securities Trader Principal with FINRA. The findings stated that the CCO, who was a firm principal by virtue of her position as an officer of the firm, had supervisory responsibility over the securities trading activities of the firm's securities traders. The findings also stated that the firm's market access controls and supervisory procedures were unreasonable. Specifically, the firm failed to establish risk management controls reasonably designed to prevent the entry of orders that exceeded appropriate preset credit thresholds in the aggregate for each customer by rejecting orders if such orders would exceed the applicable credit thresholds. The firm relied solely on customers' trading activity in selecting customer credit thresholds. The thresholds the firm implemented, however, were not reasonably related to customers' actual trading activity. The firm also failed to establish risk management controls and supervisory procedures reasonably designed to prevent the entry of erroneous orders, by rejecting orders that exceeded appropriate price or size parameters, on an order-by-order basis or that indicated duplicative orders. Additionally, the findings included that the firm failed to publish accurate and complete reports regarding its routing of customer orders and failed to conduct supervisory reviews of the reports. The firm also failed to notify its customers in writing at least annually of the availability of the firm's order routing statistics.
(**FINRA Case #2017053082701**)
https://www.finra.org/sites/default/files/fda_documents/2017053082701%20Bay%20Crest%20Partners%2C%20LLC%20CRD%2039944%20AWC%20sl%20%282020-1587255569331%29.pdf

A firm was fined $50,000 for failing to establish, document and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory and other risks related to the firm having market access and providing its customers with access to an alternative trading system ("ATS"). The findings stated that the firm's customers routed equity orders to its traders, who then routed certain of those trades directly to the ARCA or NASDAQ market. For those trades that the firm routed directly to the market, it used a third-party order management system ("OMS") to manage the equity trading. In addition, the firm operated the ATS where interested buys and sells were matched. The firm's WSPs for its market access rule compliance for those trades that it directed to the market through the OMS consisted only of off-the-shelf risk management controls available through the OMS. In addition, the firm's market access WSPs specific to the ATS contained only a description of available controls that customers subscribing to it could set. While the firm subsequently revised its WSPs for both the trades directed to the market through the OMS as well as for the ATS, those revisions included

only general market access rule requirements and failed to document the firm's own system of risk management controls and supervisory procedures specifically tailored to those systems. In addition, the firm established a daily trading capital limit for its equity trading but failed to document the basis or rationale for that determination. The findings also stated that the firm failed to establish risk management controls and supervisory procedures reasonably designed to prevent the entry of orders that exceeded appropriate pre-set credit thresholds in the aggregate for each of its customers. The firm failed to implement systematic pre-trade credit limits for its non-broker-dealer customers in the ATS. The findings also included that the firm failed to conduct an annual review one year to assure the overall effectiveness of its risk management controls and supervisory procedures with respect to the ATS, and failed properly to complete the required certification for that year that such risk management controls and supervisory procedures complied with appropriate rules.
(**FINRA Case #2015048311501**)
https://www.finra.org/sites/default/files/fda_documents/2015048311501%20GFI%20Securities%20LLC%20CRD%2019982%20AWC%20sl%20%282020-1586650771040%29.pdf

A firm was fined $45,000 for failing to develop and implement an anti-money laundering ("AML") compliance program (AMLCP) reasonably designed to achieve and monitor its compliance with requirements of the Bank Secrecy Act and the implementing regulations thereunder. The findings stated that the firm failed to establish and implement policies and procedures that could be reasonably expected to detect and cause the reporting of potentially suspicious activity related to low-priced securities transactions. The firm's AML manual failed to explain how to identity or investigate suspicious trading activity, failed to list some of the most common red flags of suspicious activity, failed to address the process for identifying and assessing potential red flags associated with the sale of low-priced securities and did not provide guidance about how to utilize the reports and tools the firm had at its disposal to monitor for suspicious trading. The findings also stated that firm registered representatives had customer accounts that engaged in a pattern of trading shares in a particular low-priced security that comprised a significant volume of the total trading in the stock. The firm failed to take reasonable steps to identify, investigate and address numerous red flags, and because of these failures, the firm failed to detect the suspicious trading in the low-priced security. The findings also included that the firm failed to conduct annual independent testing on a calendar-year basis of its AML Compliance Program.
(**FINRA Case #2016048256701**)
https://www.finra.org/sites/default/files/fda_documents/2016048256701%20Arive%20Capital%20Markets%2C%20LLC%20CRD%208060%20AWC%20va%20%282020-1587946768854%29.pdf