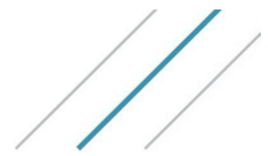
SECURITIES OPERATIONS

REGULATORY UPDATE



A PUBLICATION OF mediant

August 1, 2021

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SEC CHAIR GENSLER ANNOUNCES COMPOSITION OF POLICY TEAM

On July 16, 2021, the U.S. Securities and Exchange Commission ("SEC" or "Commission") announced the appointments of Corey Klemmer, Adam Large, Mika Morse, Sirimal Mukerjee, and Sai Rao to Chair Gensler's policy staff, led by the Policy Director, Heather Slavkin Corzo. Corey Klemmer was appointed to the Corporation Finance Counsel where she will focus on policies designed to ensure that investors are provided with material information to make informed investment decisions, both when a company initially offers its securities to the public and on an ongoing basis as it continues to give information to the marketplace. Sai Rao was appointed to the Trading and Markets Counsel where he will focus on day-to-day oversight of the major securities market participants with a focus on market structure. Adam Large was also appointed to the Trading and Markets Counsel where he will focus on day-to-day oversight of the major securities market participants with a focus on broker-dealers and security-based swaps. Mika Morse was appointed to the Climate Counsel where she will serve as the lead policy advisor on climate-risk finance issues. Sirimal Mukerjee was appointed to the Investment Management Counsel where he will counsel Chair Gensler on matters related to investment companies and investment advisers.

Press Release: https://www.sec.gov/news/press-release/2021-129

SEC APPOINTS ACTING DIRECTOR OF THE DIVISION OF EXAMINATIONS

On July 14, 2021, the SEC announced that Peter B. Driscoll, the Director of the Division of Examinations, will depart the agency effective August 14, 2021. Daniel Kahl, the Division's Deputy Director, was named Acting Director upon Mr. Driscoll's departure. Mr. Kahl joined the SEC in 2001 and has served as a Deputy Director of the Division of Examinations since 2018 and as the Division's Chief Counsel since 2016. Prior to joining the Division of Examinations, he led the Division of Investment Management's Office of Investment Adviser Regulation. Earlier, Mr. Kahl was an attorney at the Investment Adviser Association, the Financial Industry Regulatory Authority ("FINRA"), and the North American Securities Administrators Association.

Press Release: https://www.sec.gov/news/press-release/2021-126

SEC APPOINTS DIRECTOR OF THE OFFICE OF INTERNATIONAL AFFAIRS

On July 22, 2021, the SEC announced the appointment of YJ Fischer as Director of the Office of International Affairs, effective August 2, 2021. Ms. Fischer previously served in various roles at the U.S. State Department during the Obama Administration, including as assistant coordinator for implementation of the Iran nuclear agreement. She also worked closely with European, Asian and Middle Eastern counterparts on sanctions policy as well as with the International Monetary Fund and World Bank to promote fiscally responsible economic policies in the Middle East. Most recently, Ms. Fischer served as the global head of YouTube product policy at Google, where she developed regulatory approaches to promote free expression, preserve public health and safety, and stop forced data localization around the world. She previously worked as Vice President for Government Partnerships at Bird, where she oversaw international market entry and expansion strategy.

Press Release: https://www.sec.gov/news/press-release/2021-137

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FINRA ANNOUNCES UPDATES TO INTERPRETATIONS OF MARGIN RULE

On July 6, 2021, FINRA published Regulatory Notice 21-24, effective immediately, clarifying interpretations of the FINRA margin rule regarding minimum equity requirements in FINRA Rule 4210(b). FINRA Rule 4210(b) provides the amount of initial margin that must be in a customer's account. Rule 4210(b) also limits when withdrawals of cash or securities may be made from the account. Firms have raised questions regarding several aspects, including when the minimum equity amount is not required for fully paid securities and when excess cash in margin accounts that may hold fully paid securities may be withdrawn. FINRA is replacing the Interpretation to Rule 4210(b) with modified interpretations divided into separate topics.

FINRA Regulatory Notice 21-24: https://www.finra.org/rules-guidance/notices/21-24

FINRA ENCOURAGES NOTIFICATION WHEN ENGAGING IN DIGITAL ASSET ACTIVITIES

On July 8, 2021, FINRA published Regulatory Notice 21-25 to continue to encourage firms to keep their risk monitoring analyst informed in writing if the firm, its associated persons, or affiliates, engaged, or intended to engage, in activities related to digital assets, including digital assets that are non-securities. FINRA previously issued related Regulatory Notices 18-20, 19-24 and 20-23. As a reminder, the Notice identifies types of activities of interest to FINRA if undertaken (or planned) by a member, its associated persons, or affiliates, including activities in cryptocurrencies and other virtual coins and tokens (whether or not they meet the definition of "security" for the purposes of the federal securities laws and FINRA rules). If a firm has submitted a continuing membership application regarding its involvement in activities related to digital assets, or has otherwise provided such information to FINRA, additional notice is not requested unless a change has occurred.

FINRA Regulatory Notice 21-25: https://www.finra.org/rules-guidance/notices/21-25

FINRA UPDATES INTERPRETATIONS OF FINOP RULES

On July 22, 2021, FINRA published Regulatory Notice 21-27 announcing updates to interpretations in the Interpretations of Financial and Operational Rules that have been communicated to FINRA by the staff of the SEC's Division of Trading and Markets. The updated Interpretations relate to Securities Exchange Act Rules 15c3-1 and 15c3-3 to include additions, revisions and rescissions as outlined in the Notice.

FINRA Regulatory Notice 21-27: https://www.finra.org/rules-guidance/notices/21-27

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FINRA AMENDS FILING REQUIREMENTS TO INCLUDE RETAIL COMMUNICATIONS ON PRIVATE PLACEMENTS

On July 15, 2021, FINRA published Regulatory Notice 21-26 announcing it had adopted changes to FINRA Rules 5122 (Private Placements of Securities Issued by Members) and 5123 (Private Placements of Securities) to require members to file retail communications that promote or recommend private placement offerings that are subject to those rules' filing requirements. The new filing requirements become effective on October 1, 2021. Prior to these amendments, Rules 5122 and 5123 did not require retail communications governed by FINRA Rule 2210 (Communications with the Public) to be filed. Examples of retail communications to be filed include web pages, slide presentations, pitch decks, one-page "teasers," fact sheets, sales brochures, executive summaries and investor packets. FINRA amended Rules 5122 and 5123 to require firms to file with the FINRA Corporate Financing Department such retail communications in addition to the currently required private placement memorandums, term sheets and other offering documents. The amendments do not apply to any offerings that are currently exempt from filing, such as sales exclusively to institutional accounts. The amendments require a member to file such retail communications no later than the date on which the member must file the private placement offering documents under Rules 5122 and 5123. The rules' requirements that members file material amendments to offering documents also will apply to material amendments to retail communications.

FINRA Regulatory Notice 21-26: https://www.finra.org/rules-guidance/notices/21-26

NASDAQ MODIFIES LISTING RULE IM-5101-2

On July 7, 2021, the SEC published for comment a Nasdaq Stock Market LLC ("Nasdaq") proposal, effective upon filing, to modify Listing Rule IM-5101-2 to permit an acquisition company (also commonly known as a "SPAC") listed under that rule to contribute a portion of the amount held in its deposit account to a deposit account of a new acquisition company and spin off the new acquisition company to its shareholders in certain situations where the new acquisition company will be subject to all of the same requirements as the original acquisition company. The amendments to Listing Rule IM-5101-2 eliminate restrictive conditions related to the percentage of gross proceeds from an initial public offering ("IPO") by a SPAC that must be deposited into a deposit account and the required value of the business combination(s) to be completed as a percentage of the deposited funds. These restrictions created the potential for, among other things, conflicts between multiple SPACs, unnecessary registration filings and periodic reports, and confusion by investors. The amended Rule permits a more efficient structure whereby a SPAC can raise in its IPO the maximum amount of capital it anticipates it may need for a business combination transaction and then "rightsize" itself by contributing any amounts not needed to a new SPAC (the "SpinCo SPAC") and spin off the SpinCo SPAC to its shareholders. The SpinCo SPAC will be subject to all the provisions of IM-5101-2 in the same manner, and subject to the same timeframes, as the original SPAC.

Notice Release: https://www.sec.gov/rules/sro/nasdaq/2021/34-92344.pdf

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NASDAQ ESTABLISHES ENTRY AND ALL-INCLUSIVE ANNUAL LISTING FEES FOR COMPANIES UNDER IM-5101-2

On July 7, 2021, the SEC published for comment a Nasdaq proposal, effective on filing, to amend Listing Rule 5910 to establish Entry and All-Inclusive Annual Listing Fees for companies listing under Listing Rule IM-5101-2 (companies whose business plan is to complete one or more acquisitions "Acquisition Companies") on the Nasdaq Global Market. Nasdaq revised the fees for Acquisition Companies listing on the Nasdaq Global Market so that fees for these Companies seeking to list on that market tier will be competitive with other markets where they can list. Nasdaq believes that this fee change is appropriate because Acquisition Companies listed on the Nasdaq Global Market ("Global Market Acquisition Companies") receive the same services as Acquisition Companies listed on the Nasdaq Capital Market ("Capital Market Acquisition Companies"). Accordingly, the amendment to Listing Rule 5910 establishes Entry and All-Inclusive Annual Listing Fees for Global Market Acquisition Companies that are identical to the fees currently charged Capital Market Acquisition Companies. As amended, Rule 5910(a)(1) includes a new entry fee schedule applicable to Global Market Acquisition Companies as outlined in the proposal, which is based on the number of shares outstanding and Rule 5910(b)(2) includes the All-Inclusive Annual Fee schedule applicable to Global Market Acquisition Companies as outlined in the proposal, based on the number of shares outstanding.

Notice Release: https://www.sec.gov/rules/sro/nasdaq/2021/34-92345.pdf

NASDAQ AMENDS TRANSACTION CREDITS AT EQUITY 7

On July 16, 2021, the SEC published for comment a Nasdaq proposal, effective on filing, to amend Nasdaq's schedule of credits, at Equity 7, Section 118(a). Specifically, the amendments make the three following changes with respect to Nasdaq's schedule of credits for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity: (1) to add a new credit of $0.0028 per share executed; (2) to amend the criteria for an existing credit of $0.0029 per share executed; and (3) to eliminate an existing credit of $0.0029 per share executed. The amendments also add two new non-cumulative supplemental credits to members for displayed quotes/orders (other than Supplemental Orders) that provide liquidity of $0.0001 and $0.00015 per share executed, respectively.

Notice Release: https://www.sec.gov/rules/sro/nasdaq/2021/34-92433.pdf
Comments Due: August 12, 2021

NYSE REFORMATS THE SUPPLEMENTAL LIQUIDITY PRICE LIST

On July 1, 2021, the SEC published for comment a New York Stock Exchange LLC ("NYSE") proposal, effective upon filing, to reformat the section of the NYSE Price List setting forth credits applicable to Supplemental Liquidity Providers ("SLPs") without making any substantive changes. To add clarity and transparency to the Price List, non-substantive changes were made to reorganize and enhance the presentation of the Price List making it easier to navigate. The requirements and credits are unchanged.

Notice Release: https://www.sec.gov/rules/sro/nyse/2021/34-92308.pdf

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NYSE AMENDS ITS PRICE LIST

On July 7, 2021, the SEC published for comment a NYSE proposal, effective upon filing, to amend its Price List to modify the requirements to qualify for SLP Tier 5. The NYSE proposed to lower the Adding Average Daily Volume("ADV") requirements to qualify for the SLP Tier 5. Specifically, the NYSE proposed that a SLP add liquidity for all assigned SLP securities in the aggregate (including shares of both an SLP-Prop and an SLMM of the same or an affiliated member organization) of an ADV of more than 0.60% of Tape A Consolidated ADV ("CADV"). For SLPs that are also Designated Market Makers ("DMMs") and subject to Rule 107B(i)(2)(A), the requirement would be more than 0.60% after a discount of the percentage for the prior quarter of Tape A CADV in DMM assigned securities as of the last business day of the prior month. In addition, the NYSE would require an Adding ADV, including non-SLP Adding ADV but excluding any liquidity added by a DMM, that is at least 0.80% of Tape A CADV. The remaining requirements for qualifying for SLP Tier 5 and the existing credits would remain unchanged. The proposed changes were in response to the competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for member organizations to send additional displayed liquidity to the NYSE.

Notice Release: https://www.sec.gov/rules/sro/nyse/2021/34-92343.pdf

NYSE AMENDS RULES 7.35, 7.35A AND 7.35C

On July 9, 2021, the SEC published for comment a NYSE proposal, as modified by Amendment No. 2, and granted accelerated approval, to amend NYSE Rule 7.35C (Exchange-Facilitated Auctions) to provide that certain DMM Interest would not be cancelled following an Exchange-facilitated Auction. The proposed changes are currently in place on a temporary basis, as described in Commentary .03 to Rule 7.35C. On July 12, 2021, the SEC published for comment a NYSE proposal, modified by Partial Amendment No. 2, and granted accelerated approval, to amend Rule 7.35 regarding dissemination of Auction Imbalance Information if a security is an IPO or Direct Listing and has not had its IPO Auction or Direct Listing Auction, and to amend Rule 7.35A regarding DMM consultations in connection with an IPO or Direct Listing Auction. On July 23, 2021, the SEC published for comment a NYSE proposal, modified by Amendment No. 2, and granted accelerated approval, to make permanent Commentaries .01(a) and (b) and .06 to Rule 7.35A (DMM - facilitated Core Open and Trading Halt Auctions) and Commentaries .01 and .03 to Rule 7.35B (DMM - Facilitated Closing Auctions), and to make related changes to Rules 7.32 (Order Entry), 7.35C (Exchange - Facilitated Closing Auctions), 46B (Regulatory Trading Official), and 47 (Floor Officials - Unusual Situations). The Commission has received no comment letters on the proposed rule change.

Approval Order (July 9, 2021): https://www.sec.gov/rules/sro/nyse/2021/34-92374.pdf
Approval Order (July 12, 2021): https://www.sec.gov/rules/sro/nyse/2021/34-92373.pdf
Comments Due: 21 days after publication in the Federal Register
Approval Order (July 23, 2021): https://www.sec.gov/rules/sro/nyse/2021/34-92480.pdf
Comments Due: 21 days after publication in the Federal Register

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NYSE PROPOSES ADOPTION OF PILOT PROGRAM FOR MARKET-WIDE CIRCUIT BREAKERS

On July 16, 2021, the SEC published for comment a NYSE proposal to adopt on a permanent basis the pilot program for Market-Wide Circuit Breakers ("MWCB") in Rule 7.12. The MWCB rules, including the NYSE's Rule 7.12, are designed to slow the effects of extreme price declines through coordinated trading halts and to promote stability and investor confidence during periods of significant stress across cash equity and equity options securities markets. The Pilot Rules provide for trading halts in all cash equity securities during a severe market decline as measured by a single-day decline in the S&P 500 Index ("SPX"). Under the Pilot Rules, a market-wide trading halt will be triggered if SPX declines in price by specified percentages from the prior day's closing price of that index. The triggers are set at three circuit breaker thresholds: 7% (Level 1), 13% (Level 2), and 20% (Level 3). A market decline that triggers a Level 1 or Level 2 halt after 9:30 a.m. and before 3:25 p.m. would halt market-wide trading for 15 minutes, while a similar market decline at or after 3:25 p.m. would not halt market-wide trading. (Level 1 and Level 2 halts may occur only once a day.) A market decline that triggers a Level 3 halt at any time during the trading day would halt market-wide trading for the remainder of the trading day. In late 2019, Commission staff requested the formation of a MWCB Task Force ("Task Force") to evaluate the operation and design of the MWCB mechanism. The Task Force included representatives from the SROs, the Commission, CME, the Commodity Futures Trading Commission, and the securities industry, and conducted several organizational meetings in December 2019 and January 2020. In September 2020, the Director of the Commission's Division of Trading and Markets asked the SROs to conduct a more complete study of the design and operation of the Pilot Rules, which was conducted by a MWCB Working Group. After evaluation and analysis, the Working Group reached five key conclusions. The NYSE adopts and agrees with these conclusions and accordingly believes that the MWCB rules should be made permanent. The conclusions and factual support for each conclusion are included in the proposal. The NYSE understands that upon approval of this proposal, the other cash equities exchanges and FINRA will also submit substantively identical proposals to the SEC.

Notice Release: https://www.sec.gov/rules/sro/nyse/2021/34-92428.pdf
Comments Due: August 12, 2021

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NYSE EXCHANGES TO AMEND FEE SCHEDULE TO ADD MEET-ME-ROOM

On July 9, 2021, the SEC issued an order instituting proceedings to determine whether to approve or disapprove proposed rule changes by NYSE and NYSE American LLC ("NYSE American"), NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. (collectively the "NYSE Exchanges") to amend the fee schedule to set forth several "Meet-Me-Room" (or "MMR") connectivity services available at the data center in Mahwah, New Jersey, and associated fees, and establish procedures for the allocation of cabinets and power to MMR customers should availability become limited. The NYSE Exchanges state the proposal is solely because of their determination that the SEC interprets the definitions of the terms "exchange" and "facility" under the Securities Exchange Act of 1934 ("1934 Act") to apply to the proposed connectivity services that are offered by entities other than the NYSE Exchanges. The NYSE Exchanges state that they disagree with the SEC's interpretations, deny the services covered in the proposal are offerings of an "exchange" or a "facility" thereof, and have sought review of the SEC's interpretations as expressed in the Wireless Approval Order in the Court of Appeals for the District of Columbia Circuit.

NYSE Notice Release: https://www.sec.gov/rules/sro/nyse/2021/34-92368.pdf
Rebuttal Comments Due: August 19, 2021

NYSE AMERICAN LIMITS SHORT TERM OPTION SERIES INTERVALS

On July 7, 2021, the SEC published for comment a NYSE American proposal, effective on filing, to amend Rule 903 (Series of Options Open for Trading) in connection with limiting the number of strikes listed for Short Term Option Series which are available for quoting and trading on NYSE American. The amendments to Rule 903 widen the intervals between strikes to limit the number of strikes listed for multiple-listed equity options classes (excluding options on exchange-traded funds ("ETFs") and Section 107 Securities) within the Short Term Option Series program that have an expiration date more than 21 days from the listing date. NYSE American's proposal modifies the listing of weekly series of options by adopting new Rule 903 Commentary .10(e), which widens the permissible intervals between strikes, thereby limiting the number of strikes listed. Additionally, the proposal also adopts Rule 903, Commentary .07(e)(3), which provides that options that are newly eligible for listing pursuant to Rule 915 and designated to participate in the Short Term Option Series program pursuant to Rule 903, Commentary .10(e) will not be subject to subparagraph (e) (as proposed) until after the end of the first full calendar quarter following the date the option class was first listed for trading on any options market. NYSE American is permitted to list options on newly eligible listings, without having to apply the wider strike intervals, until the end of the first full calendar quarter after such options were listed. The proposal thereby permits the NYSE American to add strikes to meet customer demand in a newly listed options class. NYSE American will announce the implementation date of the rule change by Trader Update to be published no later than 30 days following the operative date of the proposed rule. NYSE American will issue a Trader Update to its ATP Holders whenever it is the first to list a class as eligible for Short Term Option Series pursuant to Rule 903, Commentary .10(e).

Notice Release: https://www.sec.gov/rules/sro/nyseamer/2021/34-92336.pdf

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Notable Enforcement Actions

This month's enforcement actions highlight inadequate written supervisory procedures, improper disclosures, and inaccurate and late reporting obligations.

On July 13, 2021, the SEC announced that a firm will pay $97 million to settle charges of inaccurate and misleading statements and a failure to adequately disclose conflicts of interest to thousands of participants in record-kept employer-sponsored retirement plans ("ESPs") in violation of Section 206(2) of the Investment Advisers Act of 1940 ("1940 Act") and Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933. From January 1, 2013, through March 30, 2018, the firm and its Wealth Management Advisers ("WMAs") did not adequately disclose the full nature and extent of their conflicts of interest in recommending to clients that they roll over their retirement assets into a managed account program called "Portfolio Advisor." The SEC order found that the firm failed to adequately disclose compensation practices that incentivized the firm and its WMAs to recommend Portfolio Advisor for reasons other than a client's particular investment needs. Further, the firm trained its WMAs to make, and its WMAs made, representations that they offered "objective" and "non-commissioned" advice, "put the client first," and acted in the client's best interest while holding themselves out as fiduciaries. This was misleading because the firm's financial incentives for WMAs rendered their advice non-objective and did not ensure that WMAs' recommendations were, in fact, in the best interest of its clients. The firm simultaneously applied continual pressure to compel WMAs to prioritize the rollover of ESP assets into Portfolio Advisor over lower cost alternatives. The order also found that the firm failed to adopt and implement written policies and procedures reasonably designed to prevent violations of the Investment Advisers Act in connection with rollover recommendations.
Press Release: https://www.sec.gov/news/press-release/2021-123
SEC Order: https://www.sec.gov/litigation/admin/2021/33-10954.pdf

On July 26, 2021, the SEC announced that 21 investment advisers and six broker-dealers agreed to settle charges that they failed to timely file and deliver their client or customer relationship summaries – known as Form CRS – to their retail investors. On June 5, 2019, the SEC adopted Form CRS and required SEC-registered investment advisers and SEC-registered broker-dealers to file their respective Forms CRS with the SEC, begin delivering them to prospective and new retail investors by June 30, 2020, and deliver them to existing retail investor clients or customers by July 30, 2020. The SEC also required firms to prominently post their current Form CRS on their website if they had one. According to the SEC's orders, each of the firms charged missed those regulatory deadlines. The orders for each firm, links to which are included in the SEC Press Release, find that none of the firms filed or delivered its Form CRS, or posted it to its website, until being twice reminded of the missed deadlines by their regulators—in the case of investment advisers, by the SEC's Division of Examinations, and in the case of broker-dealers, by the Financial Industry Regulatory Authority. The SEC's orders find that the investment advisers violated Section 204 of the 1940 Act and Advisers Act Rules 204-1 and 204-5, and that the broker-dealers violated Section 17(a)(1) of the 1934 Act and Exchange Act Rule 17a-14.
Press Release: https://www.sec.gov/news/press-release/2021-139

A firm was censured and fined $310,000 for failing to establish, maintain, and enforce a supervisory structure, including written supervisory procedures ("WSPs") reasonably designed to achieve compliance with rules prohibiting manipulative trading activity, such as wash and pre-arranged trades, layering and

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spoofing. The WSPs included a list of real-time monitoring features and post-trade reports available to the firm but did not describe how it should use the reviews to identify potentially manipulative conduct. The firm's reliance on manual reviews of trade blotters to detect potentially manipulative conduct were unreasonable given the number of orders the firm routed. The firm's market access controls and supervisory procedures with respect to establishing, monitoring, and amending customer credit limits were also found to be unreasonable. The supervisory procedures were not reasonably designed to systematically limit the firm's financial exposure resulting from its market access business. While the firm had credit limits for each client, the WSPs did not require sufficient information regarding a customer's business, financial condition or trading patterns, nor documentation of the firm's review, to support the credit limits. The firm's chief compliance officer and/or chief operating officer were to review limits on a quarterly basis by comparing the limit thresholds to clients' actual daily credit utilization. However, the WSPs failed to provide reasonable guidance regarding how such review and analysis should be conducted, or the standards that would lead the firm to amend a customer credit limit following a quarterly review. The firm also did not have a process for documenting amendments to an initial credit limit, nor did the WSP include the process for seeking an intraday change to a credit limit or the factors reviewed to determine whether such a change was appropriate. The findings also included that the firm did not conduct a documented review required under Rule 15c3-5(e)(1) of the 1934 Act or maintain evidence of what was reviewed as part of the chief executive officer certification process required under Rule 15c3-5(e)(2). FINRA found that the firm transmitted inaccurate information to the Order Audit Trail System ("OATS") by submitting reports with incorrect codes in certain fields and failed to enforce its written procedures to achieve compliance with FINRA Rule 7450 by failing to conduct the reviews of its OATS submissions described in its WSPs, resulting in submitted reports to OATS with incorrect codes. **(FINRA Case # 2014043627501)**
https://www.finra.org/sites/default/files/fda_documents/2014043627501%20SpeedRoute%20LLC%20CRD%20104138%20AWC%20jlg%20%282021-1623284427533%29.pdf

A firm was censured, fined $250,000, ordered to pay $472,007.20, plus interest, in restitution to customers and required to retain an independent consultant to conduct a comprehensive review of the adequacy of its compliance with FINRA Rules 3110(a), 2111 and 2010 for failing to establish and maintain a supervisory system reasonably designed to achieve compliance with its suitability obligations in connection with sales of non-traditional and volatility-linked exchange traded products ("ETPs"). Sales of volatility-linked ETPs were not addressed in the firm's written procedures, exception reporting, or training. The firm did not conduct suitability reviews or establish written suitability guidelines required under its procedures, and its supervisors did not regularly review all non-traditional ETP transactions. During an examination, the firm represented to FINRA that it had restricted trading in non-traditional ETPs, although it had not, that it had implemented a non-traditional ETP disclosure document, which they only sporadically provided, and that it would require all its registered representatives to undergo training in exchange-traded funds, although they did not provide such training. Supervisors failed to review every non-traditional ETP transaction as required by the firm procedures, in part, due to the lack of adequate systems to identify non-traditional ETPs. The firm also lacked a reasonable supervisory system for monitoring non-traditional ETP holding periods, although the products are typically not suitable for long-term investments. The firm made unsuitable recommendations to purchase non-

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traditional and volatility-linked ETPs and failed to conduct reasonable diligence to understand the features and risks of the ETPs before allowing representatives to offer them to customers, resulting in many customers holding ETP positions for longer periods of time and incurring losses. The firm also failed to offer retail customers educational materials prior to their first purchases of collateralized mortgage obligations. FINRA found that the firm failed to establish, maintain and enforce a supervisory system, including WSPs, reasonably designed to achieve compliance with FINRA Rule 2216(b)(2). FINRA also found that the firm permitted an individual to supervise a representative, even though the representative determined and paid the supervisor's compensation after hiring and had the authority to determine whether the supervisor remained employed. The firm allowed a non-registered person to engage in the securities business of the firm by accepting and entering customer securities orders. The firm granted the non-registered person access to its systems for customer accounts and securities order entry but did not reasonably supervise him to ensure that he was appropriately registered or exclusively performing tasks that did not require registration. **(FINRA Case #2018060466201)**
https://www.finra.org/sites/default/files/fda_documents/2018060466201%20Calton%20%26%20Associates%2C%20Inc.%20CRD%2020999%20AWC%20va%20%282021-1623975608517%29.pdf

A firm was censured and fined $250,000 for failing to report to FINRA accurate short interest position data. The findings stated that the inaccurate reporting was a result of the firm erroneously reporting positions that were custodied with and already reported by its clearing firm. The findings also stated that the firm failed to establish and maintain a supervisory system, including WSPs, reasonably designed to achieve compliance with FINRA Rule 4560 as related to the accuracy of its reported short interest position data. The firm's supervisory system, including WSPs, governing short interest reporting were operational in nature and failed to include any steps reasonably designed to ensure the accuracy of its short interest reporting by accounting for and excluding positions custodied and reported by its clearing firm. **(FINRA Case #2018059464001)**
https://www.finra.org/sites/default/files/fda_documents/2018059464001%20Cantor%20Fitzgerald%20%26%20Co.%20CRD%20134%20AWC%20va%20%282021-1622938822525%29.pdf

A firm was censured and fined $170,000 for inaccurately marking sell orders as long rather than short. The firm engaged in riskless principal transactions for customers in which it incorrectly entered those orders in the same way it had received them, such that if it received an order to sell long, it would enter a sell long order into an exchange, even if the firm was not actually long. The firm's supervisory system, including its WSPs, were not reasonably designed to achieve compliance with Regulation SHO Rule 200(g). The firm also failed to document compliance with the locate requirement. The firm relied on its clients to attest that they had a locate for short sales and configured its order management system so that when a client entered a short sale order, an electronic window prompt requested that the client attest that it met the locate requirement and allowed the customer to provide related information. If a client did not affirm a locate existed, the trade would not be routed. The firm failed to retain records reflecting the client attestations or other documentation reflecting the reasonable grounds for the client's attestation. The findings also stated that the firm failed to establish and maintain a supervisory system, including WSPs, reasonably designed to achieve compliance with locate requirements. The firm

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failed to report or submitted incorrect reports to the FINRA Trade Reporting Facility ("TRF"). The firm failed to submit a regulatory report on the second leg of riskless principal transactions to the TRF, incorrectly reported the execution price in its non-regulatory clearing report to the appropriate TRF, and incorrectly reported the execution price, execution quantity and the special trade code in its non-regulatory clearing report for step out. The firm's supervisory system, including its WSPs, failed to review for compliance with its TRF reporting obligations. Although the firm had WSPs regarding riskless principal transactions, these WSPs centered on determining whether the fees and markups/markdowns charged to clients were appropriate, and not reviewing whether the riskless principal transactions were being accurately reported to the TRF. FINRA also found that the firm failed to meet its OATS reporting obligations pertaining to order data transmission requirements. The firm failed to report the correct routing method code; failed to report the limit price; incorrectly reported the execution timestamp; incorrectly reported an Intermarket Sweep Order, incorrectly reported the route price, and routed order type flag; and failed to report the limit on open special handling instruction. In addition, the firm failed to meet its obligations pertaining to recording and preserving order event information. The firm failed to memorialize the Routed Order ID and order time in milliseconds; failed to memorialize in its order records cancel replace information, route information, or cancellation of the order; failed to memorialize the event times in its order records; failed to memorialize its Order ID in its order records; incorrectly memorialized the event times in its order records and failed to memorialize the Routed Order ID and cancellation of the order; and failed to memorialize the route information in its order records. The firm also failed to establish and maintain a supervisory system, including WSPs, reasonably designed to achieve compliance with OATS reporting requirements. The daily reviews focused only on ensuring that reporting was complete with no rejections or unmatched trades, while the quarterly reviews failed to ensure that its OATS reports contained the information required by applicable FINRA rules. The firm's supervisory system was inadequate in that it failed to ensure that the data recorded and submitted to OATS was based on, and compared to, the source documentation that could be readily obtained and used for verification of accuracy. FINRA also found that the firm failed to disclose all material aspects of its relationship with significant execution venues, including a description of any payment for order flow arrangement between the firm and any such execution venue. The firm failed to disclose specific rebates or rebate information that it received for executing orders on the exchanges. The firm's supervisory system provided no review to assure that the material aspects of its payment for order flow arrangements were disclosed. **(FINRA Case #2018057166105)**
https://www.finra.org/sites/default/files/fda_documents/2018057166105%20Wolverine%20Execution%20Services%2C%20LLC%20CRD%20120719%20AWC%20va%20%282021-1624494009724%29.pdf

A firm was censured and fined $50,000, of which $10,000 is joint and several with a firm principal, who was suspended from association with any FINRA member in any principal capacity, except as a Financial and Operations Principal, for two months. The findings stated that the Firm and the principal failed to establish and maintain a supervisory system, including WSPs, reasonably designed to achieve compliance with FINRA's rules concerning outside business activities ("OBAs"). The principal was responsible for the firm's WSPs and for supervising the firm's registered representatives, including reviewing, approving and documenting their OBAs. The firm's WSPs did not require representatives to provide written notice of their OBAs to the firm and failed to address the requirements that the firm review OBAs to determine

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whether the activity is more properly characterized as a private securities transaction and keep records reflecting the review of OBAs. The firm and the principal failed to reasonably and timely review and evidence the review of OBAs that the firm's representatives engaged in and disclosed, and timely amend representatives' Uniform Application for Securities Industry Registration or Transfer (Forms U4) to disclose OBAs. The principal's analysis of each OBA failed to provide what factors he considered in reviewing the OBAs to determine if it was appropriate for the representatives to engage in them while at the firm, whether specific conditions or limitations should be imposed on the OBAs, and any factors he considered to ensure that the activities were properly characterized as OBAs and not private securities transactions. The findings also included that the firm and the principal failed to establish and maintain a supervisory system, including WSPs, reasonably designed to achieve compliance with due diligence and filing obligations for private placements. FINRA found that the firm and the principal failed to submit a copy of any private placement memoranda, term sheet or other offering document to FINRA within 15 days of the first date of sale of certain private placements. The firm's WSPs did not address FINRA Rule 5123 filing requirements, nor did the firm memorialize how due diligence on private placements was conducted or document their conclusions with respect to the merits of the offerings. **(FINRA Case #2018056458801)**
https://www.finra.org/sites/default/files/fda_documents/2018056458801%20Bradley%20Woods%20%26%20Co.%20Ltd.%20CRD%2013660%20Daniel%20Ripp%20CRD%201398164%20AWC%20sl%20%282021-1623889227390%29.pdf

A firm was censured and fined $50,000 for failing to timely report transactions involving national market system stocks by the close of the FINRA/NASDAQ Trade Reporting Facility (FNTRF) on the trade date. The findings stated that the cause of these reporting violations included isolated system issues and manual reporting delays. The firm has since reported these transactions. The findings also stated that the firm over-reported transactions to the FNTRF due to erroneously reported transactions already reported. **(FINRA Case #2016049001401)**
https://www.finra.org/sites/default/files/fda_documents/2016049001401%20Goldman%20Sachs%20%26%20Co.%20LLC%20CRD%20361%20AWC%20jlg%20%282021-1624839616214%29.pdf

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