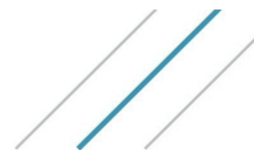
SECURITIES OPERATIONS

REGULATORY UPDATE



December 1, 2019

For more information, contact info@mediantonline.com.

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SEC Announces Conference on Macroeconomic and Structural Trends and Dynamics Affecting the Capital Markets

On November 20, 2019, the Securities and Exchange Commission ("SEC" or "Commission") announced that it will host a conference on December 4, 2019 entitled "The State of Our Securities Markets." The conference will bring together current and former government officials and experts from different areas of the private sector to explore and discuss the ever-changing economic, risk and market environment and what those changes mean for the structure and function of the securities markets.

Information about the event:

- Date: December 4, 2019
- Time: 9:30 a.m. – 2:30 p.m.
- Location: SEC Headquarters, Washington DC

Press Release:
https://www.sec.gov/news/press-release/2019-240

Agenda:
https://www.sec.gov/dera/agenda-conference-state-our-securities-markets

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SEC PROPOSES AMENDMENTS TO EXEMPTIONS FROM PROXY RULES FOR PROXY VOTING ADVICE

On November 5, 2019, the SEC published for comment amendments to its rules governing proxy solicitations. The proposed amendments would amend Exchange Act Rule 14a-1(l), which defines the terms "solicit" and "solicitation," to specify the circumstances when a person who furnishes proxy voting advice will be deemed to be engaged in a solicitation subject to the proxy rules. The proposed amendment would also codify the Commission's view that voting advice provided in response to an unprompted request would not constitute a solicitation. The proposed amendments would revise Rule 14a-2(b), which provides exemptions from the information and filing requirements of the proxy rules. Under the proposed amendments, proxy voting advice businesses relying on these exemptions would be subject to the following conditions: (1) they must include disclosure of material conflicts of interest in their proxy voting advice; (2) registrants and certain other soliciting persons must be given an opportunity to review and provide feedback on proxy voting advice before it is issued (with the length of the review period dependent on the number of days between the filing of the definitive proxy statement and the date of the shareholder meeting); and (3) registrants and certain other soliciting persons may request that proxy voting advice businesses include in their voting advice a hyperlink or analogous electronic medium directing the recipient of the advice to a written statement that sets forth the registrant's or soliciting person's views on the proxy voting advice. The proposed amendments would permit proxy voting advice businesses to require registrants and other soliciting persons to enter into confidentiality agreements for materials exchanged during the review and feedback period and would allow proxy voting advice businesses to rely on the exemptions where failure to comply with the new conditions was immaterial or unintentional. The proposed amendments would modify Rule 14a-9 to include examples of when the failure to disclose certain information in the proxy voting advice could, depending upon the particular facts and circumstances, be considered misleading within the meaning of the rule.

Comments Due: 60 days after publication in the Federal Register
Notice Release: https://www.sec.gov/rules/proposed/2019/34-87457.pdf
Press Release: https://www.sec.gov/news/press-release/2019-231

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SEC PROPOSES AMENDMENTS TO PROCEDURAL REQUIREMENTS AND RESUBMISSION THRESHOLDS UNDER THE SHAREHOLDER-PROPOSAL RULE

On November 5, 2019, the SEC published for comment a proposal to amend certain procedural requirements and the provision relating to resubmitted proposals under the shareholder-proposal rule. The proposed amendments to the procedural requirements would: (1) replace the current ownership requirements with a tiered approach that would provide three options for demonstrating an ownership stake through a combination of amount of securities owned and length of time held; (2) require certain documentation to be provided when a proposal is submitted on behalf of a shareholder-proponent; (3) require shareholder-proponents to state when they would be able to meet with the company in person or via teleconference to engage with the company with respect to the proposal; and (4) provide that a person may submit no more than one proposal, directly or indirectly, for the same shareholders' meeting. The proposed amendments to the resubmission thresholds would: (i) raise the current resubmission thresholds of 3, 6 and 10 percent to 5, 15 and 25 percent, respectively; and (ii) add a new provision that would allow companies to exclude proposals under certain circumstances where shareholder support for the matter has declined.

Comments Due: 60 days after publication in the Federal Register
Notice Release: https://www.sec.gov/rules/proposed/2019/34-87458.pdf
Press Release: https://www.sec.gov/news/press-release/2019-232

SEC PROPOSES RULE CHANGES TO INVESTMENT ADVISER ADVERTISEMENTS AND COMPENSATION FOR SOLICITATIONS

On November 4, 2019, the SEC published for comment proposed amendments under the Investment Advisers Act of 1940 (the "Advisers Act" or the "Act") to the rules that prohibit certain investment adviser advertisements and payments to solicitors. The Commission also proposed amendments to Form ADV that are designed to provide the Commission with additional information regarding advisers' advertising practices. Finally, the Commission proposed amendments under the Advisers Act to the books and records rule, to correspond to the proposed changes to the advertising and solicitation rules. The proposed amendments to the advertising rule would replace the current rule's broadly drawn limitations with principles-based provisions. The proposed approach would also permit the use of testimonials, endorsements, and third-party ratings, subject to certain conditions, and would include tailored requirements for the presentation of performance results based on an advertisement's intended audience. The proposed amendments to the solicitation rule would expand the current rule to cover solicitation arrangements involving all forms of compensation, rather than only cash, subject to a new de minimis threshold. They also would update other aspects of the rule, such as who is disqualified from acting as a solicitor under the rule.

Comments Due: 60 days after publication in the Federal Register
Notice Release: https://www.sec.gov/rules/proposed/2019/ia-5407.pdf
Press Release: https://www.sec.gov/news/press-release/2019-230

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FINRA SEEKS TO PUBLISH OR DISTRIBUTE AGGREGATED TRANSACTION INFORMATION AND STATISTICS ON US TREASURY SECURITIES

On November 14, 2019, the SEC published for comment a proposed rule change by Financial Industry Regulatory Authority, Inc. ("FINRA") to FINRA Rule 6750.01 to provide that FINRA may publish or distribute aggregated transaction information and statistics on U.S. Treasury Securities to provide investors and market participants with insight into aggregate trading volume for U.S. Treasury Securities. For example, after discussions with staff at the SEC and the Treasury Department, FINRA intends to publish weekly volume information aggregated by U.S. Treasury Security subtype (e.g., bills, floating rate notes, treasury inflation-protected securities, and nominal coupons). Further, the volume information may be grouped within dealer-to-customer, ATS and dealer-to-dealer, remaining years to maturity, or other categories. FINRA notes that any aggregated U.S. Treasury Security data published would not identify individual market participants or transactions. In addition, FINRA would not publish aggregated transaction information and statistics by individual U.S. Treasury Security, except for the category of on-the-run U.S. Treasury Securities because there is for each week often one on-the-run security for each subtype and maturity.

Comments Due: December 11, 2019
Notice Release: https://www.sec.gov/rules/sro/finra/2019/34-87540.pdf

FINRA PROPOSES TO FURTHER EXTEND IMPLEMENTATION DATE OF CERTAIN AMENDMENTS TO RULE 4210

On November 1, 2019, the SEC published for comment and granted immediate effectiveness to a FINRA proposed rule change to extend to March 25, 2021 the implementation date of the amendments to FINRA Rule 4210 (Margin Requirements) pursuant to SR-FINRA-2015-036, other than the amendments pursuant to SR-FINRA-2015-036 that were implemented on December 15, 2016. The proposed rule change would not make any changes to the text of FINRA rules.

Notice Release: https://www.sec.gov/rules/sro/finra/2019/34-87441.pdf

NASDAQ PROPOSES TO ADOPT NEW RULE 5704 AND OTHER RELATED AMENDMENTS

On November 18, 2019, the SEC published for comment a Nasdaq Stock Market LLC ("Nasdaq") proposal to adopt new Nasdaq Rule 5704 to list and trade shares of securities issued by an exchange-traded fund as defined herein, as well as amendments to Nasdaq Rule 4120 (Limit Up-Limit Down Plan and Trading Halts) and Nasdaq Rule 5615 (Exemptions from Certain Corporate Governance Requirements), and to discontinue the quarterly reports currently required with respect to Managed Fund Shares under Nasdaq Rule 5735(b).

Comments Due: 21 days after publication in the Federal Register
Notice Release: https://www.sec.gov/rules/sro/nasdaq/2019/34-87559.pdf

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NASDAQ PROPOSES AMENDMENT TO RULE 4759 RELATED TO USE OF SIP DATA

On November 7, 2019, the SEC published for comment and granted immediate effectiveness to a Nasdaq proposal to amend Rule 4759, which lists the proprietary and network processor feeds that Nasdaq utilizes for the handling, routing, and execution of orders, as well as for the regulatory compliance processes related to those functions. Presently, Nasdaq's trading system utilizes proprietary market data as the primary source of quotation data for the following markets that provide a reliable direct feed: NYSE American, Nasdaq BX, CBOE EDGA, CBOE EDGX, CHX, NYSE, NYSE Arca, Nasdaq, Nasdaq PSX, CBOE BYX, and CBOE BZX. For each of these markets, Nasdaq uses SIP data as the secondary source of quotation data. For other markets, namely NYSE National, FINRA ADF, and IEX, Nasdaq utilizes SIP data as the primary source; there is no secondary source for those markets. Nasdaq proposes to amend Rule 4759 to state that going forward, Nasdaq will utilize SIP data, rather than a direct feed, as its primary source of data for CHX (now known as NYSE Chicago), with no secondary source utilized for that data. Nasdaq proposes this amendment to reflect the fact that NYSE Chicago is migrating to a new technology platform and that, after November 1, 2019, it has announced that it will cease offering the NYSE Chicago Book Feed that currently serves as its direct feed to Nasdaq. Although Nasdaq understands that NYSE Chicago plans to offer new data feeds to replace the NYSE Chicago Book Feed, Nasdaq has yet to decide whether it will utilize them.

Comments Due: 21 days after publication in the Federal Register
Notice Release: https://www.sec.gov/rules/sro/nasdaq/2019/34-87491.pdf

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NASDAQ PROPOSES RULE CHANGE RELATING TO ETP OFFICIAL CLOSING PRICE

On November 7, 2019, the SEC published a notice soliciting comments and granting approval on an accelerated basis of a Nasdaq proposed rule change relating to how the Nasdaq Official Closing Price ("NOCP") will be determined for a Nasdaq-listed security that is an exchange-traded product ("ETP"). Currently, for a Nasdaq-listed ETP that participates in the Nasdaq closing cross, the closing cross price will be the NOCP. For a Nasdaq-listed ETP that does not have a closing cross, the Nasdaq last sale price will be the NOCP. According to Nasdaq, thinly-traded ETPs are less likely to have a closing cross, which can result in a closing price that is based on a stale price that is no longer reflective of the value of the security. Specifically, if an ETP is thinly traded, it is possible that the NOCP would be based on a Nasdaq last sale price that may not necessarily reflect the current value of the security. Nasdaq now proposes to amend Nasdaq Rule 4754(b)(4) to amend how it would determine the NOCP for a Nasdaq-listed ETP that does not have a closing cross. Under proposed Nasdaq Rule 4754(b)(4)(A), the NOCP for a Nasdaq-listed ETP that does not have a closing cross would be the time-weighted average midpoint ("T-WAM") of the national best bid and national best offer ("NBBO"), with certain parameters. Specifically, the TWAM price would be a time-weighted average midpoint value calculation that uses eligible quotes during the time period of 3:58:00 p.m. to 3:59:55 p.m., based on quotes observed every second. The T-WAM calculation would only use eligible quotes, and an eligible quote would be defined as a quote whose spread is no greater than a value of 10% of the midpoint price. Quoted spreads within the T-WAM time period that are greater than 10% of the midpoint price would be excluded from the T-WAM calculation. Crossed NBBO markets would also be excluded from the T-WAM calculation. Other scenarios where there are no eligible quotes to use in the T-WAM calculation are also discussed.

Notice Release: https://www.sec.gov/rules/sro/nasdaq/2019/34-87486.pdf

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SEC PUBLISHES ORDER TO INSTITUTE PROCEEDINGS ON AMENDMENT TO NASDAQ IPO CROSS

On November 1, 2019, the SEC published for comment and instituted proceedings on whether to approve or disapprove a Nasdaq-proposed rule change which amended and superseded a previously proposed rule change as originally filed. Currently, a security that is traded in the OTC market immediately prior to listing on Nasdaq is released for initial trading on Nasdaq by utilizing the Opening Cross pursuant to Rule 4752(d). Nasdaq proposes to amend Rule 4120 to permit Nasdaq to declare a regulatory halt in a security that traded in the OTC market prior to its initial pricing on Nasdaq. Nasdaq also proposes to amend Rules 4120 and 4753 to allow for the initial pricing on Nasdaq of such a security through the IPO Cross (described in Rules 4120(c)(8) and 4753) if a broker-dealer serving in the role of financial advisor to the issuer is willing to perform the functions under Rule 4120(c)(8) that are performed by an underwriter in an initial public offering. If the issuer does not retain a financial advisor, the initial pricing on Nasdaq of such a security will continue to be effected through the Opening Cross. Moreover, Nasdaq proposes to adopt Rules 4753(a)(3)(A)(iv)(e) and 4753(b)(2)(D)(v) to provide that, in the case of the initial pricing of a security that traded in the OTC market pursuant to FINRA Form 211 immediately prior to its initial pricing, the fourth tie-breaker used in calculating each of the Current Reference Price disseminated in the Nasdaq Order Imbalance Indicator for purposes of the IPO Cross and the price at which the IPO Cross will occur will be the price that is closest to the most recent transaction price in the OTC market. Nasdaq stated that its proposal would facilitate a more orderly start to trading by permitting Nasdaq to declare a regulatory halt in a security that traded in the OTC market prior to its initial pricing on the Exchange, before trading on the Exchange begins, which the Exchange believes would avoid potential price disparities or anomalies that may occur during any unlisted trading privileges (“UTP”) trading before the first transaction on the primary listing exchange.

Notice Release: https://www.sec.gov/rules/sro/nasdaq/2019/34-87445.pdf

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NYSE PROPOSES RULE CHANGE TO AMEND THE STEP UP TIER 2 ADDING CREDIT IN TAPE A SECURITIES

On November 15, 2019, the SEC published for comment and granted immediate effectiveness to a New York Stock Exchange LLC ("NYSE") proposal to amend its Price List to revise the Step Up Tier 2 Adding Credit in Tape A securities. The proposed changes respond to the current 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 NYSE. The proposed fee change is designed to attract additional order flow to NYSE by lowering the adding requirement in order for member organizations to qualify for the November 2019 Step Up Tier 2 Adding Credit, thereby incentivizing member organizations to step up their liquidity-providing orders on the NYSE on all tapes. NYSE proposes to lower the Adding Average Daily Volume ("ADV") requirement for the billing month of November 2019. Specifically, in order to qualify for the Step Up Tier 2 Adding Credit of $0.0029 for the current billing month, a member organization would need to have an Adding ADV, excluding any liquidity added by a Designated Market Maker, that is at least 0.35% of NYSE Consolidated Average Daily Volume ("CADV") over that member organization's July 2019 Adding ADV taken as a percentage of NYSE CADV. The other requirements for qualifying for the Step Up Tier 2 Adding Credit and the additional credit would remain unchanged. Finally, NYSE proposes the non-substantive change of deleting the Adding ADV requirements for the October 2019 billing month from the rule.

Comments Due: December 12, 2019
Notice Release: https://www.sec.gov/rules/sro/nyse/2019/34-87552.pdf

NYSE AMERICAN PROPOSES AMENDMENTS TO ITS ANNUAL LISTING FEES FOR EQUITY SECURITIES

On November 15, 2019, the SEC published for comment and granted immediate effectiveness to a New York Stock Exchange American LLC ("NYSE American") proposal to amend its annual listing fees for equities set forth in Section 141 of the NYSE American Company Guide (the "Company Guide") in effect from the beginning of the calendar year commencing on January 1, 2020. These amendments only reflect changes in the amounts charged on an annual basis for listed securities and do not reflect any change in the services provided to the issuer in connection with such listing. NYSE American proposes to increase the annual fee for issues of 50 million shares or fewer from $45,000 to $50,000. In addition, it proposes to charge $70,000 for all issues with more than 50 million shares outstanding (i.e., an increase of $10,000 for issues with more than 50 million shares and not more than 75 million shares outstanding and no increase with respect to any issue with more than 75 million shares outstanding).

Comments Due: December 12, 2019
Notice Release: https://www.sec.gov/rules/sro/nyseamer/2019/34-87555.pdf

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NYSE AMERICAN PROPOSES TO RE-INTRODUCE PREVIOUSLY APPROVED ORDER TYPES AND MODIFIERS

On November 15, 2019, the SEC published for comment an NYSE American proposal to decommission its Delay Mechanism and re-introduce orders and modifiers that were eliminated in connection with launching the Delay Mechanism. To effect these changes, NYSE American proposes to amend Rules 1.1E and 7.29E to eliminate the Delay Mechanism and amend Rule 7.31E and related rules to re-introduce previously approved order types and modifiers. To effect this change, NYSE American proposes to delete the definition of "Delay Mechanism" in Rule 1.1E(y) and delete Rule 7.29E(b), which are the rules that were added in the Delay Mechanism filing to establish the Delay Mechanism. NYSE American also proposes to re-introduce previously approved order types and modifiers that were deleted in anticipation of launching the Delay Mechanism, with specified differences. Specifically, NYSE American proposes to add back rules to support ALO, an instruction for a limit order to be displayed and posted on Global OTC only when the order adds liquidity and it will not be routed to away market centers and will be cancelled if marketable upon acceptance, and related functionality.

Comments Due: December 12, 2019
Notice Release: https://www.sec.gov/rules/sro/nyseamer/2019/34-87550.pdf

NYSE AMERICAN PROPOSES TO DELETE CROSS ORDERS FROM RULE 7.31E

On November 13, 2019, the SEC published for comment and granted immediate effectiveness to an NYSE American proposal to amend Rule 7.31E (Orders and Modifiers) to delete Cross Orders from its rules and make other conforming changes. As defined in Rule 7.31E(g), a Cross Order is a two-sided order with instructions to match the identified buy-side with the identified sell-side at a specified price (the "cross price"). NYSE American offers one type of Cross Order, the Limit IOC Cross Order. As defined in Rule 7.31E(g)(1), a Limit IOC Cross Order is a Cross Order that must trade in full at its cross price, will not route, and will cancel at the time of order entry if the cross price is not between the BBO or would trade through the PBBO. Due to a lack of demand for Cross Orders, NYSE American proposes to discontinue supporting Cross Orders. Specifically, in the last three months, NYSE American has not received any Cross Orders. Subject to effectiveness of this proposed rule change, NYSE American will announce the implementation date of these changes through a Trader Update, which NYSE American anticipates will be in November 2019.

Comments Due: December 10, 2019
Notice Release: https://www.sec.gov/rules/sro/nyseamer/2019/34-87513.pdf

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NYSE AMERICAN PROPOSES TO ALLOW CERTAIN FLEXIBLE EXCHANGE EQUITY OPTIONS TO BE CASH SETTLED

On November 1, 2019, the SEC published for comment a NYSE American proposal to amend Rules 903G and 906G related to Flexible Exchange ("FLEX") Options. FLEX Options are customized equity or index contracts that allow investors to tailor contract terms for exchange-listed equity and index options. NYSE American proposes to amend NYSE American Rule 903G© to allow for cash settlement of certain FLEX Equity Options. Generally, FLEX Equity Options are settled by physical delivery of the underlying security, while all FLEX Index Options are currently settled by delivery in cash. As proposed, FLEX Equity Options would be permitted to be settled by delivery in cash if the underlying security meets prescribed criteria. To permit cash settlement of certain FLEX Equity Options, NYSE American proposes new paragraph ©(3)(ii) to Rule 903G. Proposed Rule 903G©(3)(ii) would provide that the exercise settlement for FLEX Equity Options may be by physical delivery of the underlying security or by delivery in cash if the underlying security, measured over the prior six-month period, has an average daily notional value of $500 million or more and a national ADV of at least 4,680,000 shares. NYSE American also proposes new sub-paragraph (A) to Rule 903G(c)(3)(ii), which would provide that NYSE American will determine bi-annually the underlying securities that satisfy the notional value and trading volume requirements in Rule 903G(c)(3)(ii) by using trading statistics for the previous six months. Proposed new sub-paragraph (B) to Rule 903(c)(3)(ii) would further provide that if NYSE American determines pursuant to the bi-annual review that an underlying security ceases to satisfy the requirements under Rule 903G(c)(3)(ii), any new FLEX Equity Options overlying such security entered into will be required to have exercise settlement by physical delivery and any open positions in cash-settled FLEX Equity Options overlying such security may be traded to only close the position.

Notice Release: https://www.sec.gov/rules/sro/nyseamer/2019/34-87444.pdf

NYSE AMERICAN PROPOSES RULE CHANGE REGARDING THE APPLICABILITY AND FUNCTIONALITY OF CERTAIN ORDER TYPES ON THE EXCHANGE

On November 1, 2019, the SEC published for comment an NYSE American proposal to amend Rule 900.3NY (Orders Defined) to clarify the applicability and functionality of certain order types. Specifically, NYSE American proposes to amend the definitions of stop orders, stop limit orders and all-or-none ("AON") orders, as set forth in Rule 900.3NY(d), which describes contingency orders or working orders. NYSE American is not proposing to change or alter any obligations, rights, policies or practices enumerated within its rules. Rather, this proposal is designed to reduce any potential investor confusion as to the functionality and applicability of certain order types presently available on NYSE American.

Notice Release: https://www.sec.gov/rules/sro/nyseamer/2019/34-87442.pdf

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DTC PROPOSES AMENDMENTS TO REDEMPTIONS GUIDE RELATING TO CALL LOTTERY PROCESS FOR PARTIAL REDEMPTIONS

On November 13, 2019, the SEC published for comment a Depository Trust Company ("DTC") proposed rule change to the procedures set forth in the DTC Corporate Actions Redemptions Service Guide ("Redemptions Guide") relating to DTC's call lottery process for the processing of partial redemptions ("Partial Calls"), specifically with respect to allocations made for odd lot positions in a called security held by a participant. Pursuant to the proposed rule change, DTC would implement a revision of the call lottery process to prevent creating new odd lot positions for CUSIPs with minimum increments principal amount of $5,000 or less. For purposes of running the lottery, participants with odd lot positions would have their positions adjusted down to nearest value that is divisible by the minimum incremental value. However, the participant would continue to hold the securities reduced from its position for this purpose in its account. Therefore, the participant with the initial odd lot position would continue to maintain an odd lot position after the lottery is run, but no new odd lot positions would be created.

Comments Due: December 10, 2019
Notice Release: https://www.sec.gov/rules/sro/dtc/2019/34-87526.pdf

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Notable Enforcement Actions

This month's enforcement actions demonstrate the importance of filing timely and accurate reports with FINRA.

On September 24, 2019, a firm was fined $700,000 by the National Adjudicatory Council ("NAC") for using unbalanced and misleading communications with the public. An officer used his firm email address to send emails concerning a biotechnology company that he co-founded to persons involved with, or having invested in, biotechnology companies. The firm and officer collectively owned more than 60 percent of the company's common stock. The emails did not provide a sound basis for evaluating the claims made therein, contained false or misleading claims, were not fair and balanced, included baseless performance predictions and misleading forecasts, and did not disclose the name of the firm and its relationship with the company. In these emails, the domain name of the officer's email address was the only indication of their association with the firm. The emails did not disclose the firm and officer's ownership interest in the company or that the firm had raised approximately $13 million in capital for the company and earned more than $1 million in compensation since the company's inception. The findings also stated that the firm created and maintained inaccurate books and records. The firm reimbursed the employee and another senior officer for more than $60,000 in personal expenses that they charged to their corporate and personal credit cards. Although there is no allegation that the reimbursements were improper, the firm inaccurately recorded them in its general ledger as business expenses rather than employee compensation. This caused the firm to underreport employee compensation in its Financial and Operational Combined Uniform Single (FOCUS) reports and annual audited reports for two years. The findings also included that the firm failed to report to FINRA statistical and summary information regarding written customer complaints it received, and reported statistical and summary information for other written complaints it received more than a year late. The firm permitted the officer and the other senior officer to submit only the first page of their credit card statements that stated the total monthly charges, but did not itemize or differentiate business and personal expenses. The firm's WSPs did not address how supervisors were to select electronic correspondence for review, how they were to review it, the frequency of such reviews and the manner in which to document reviews, nor did the firm maintain records of its supervisory review of electronic correspondence. In addition, FINRA found that the firm failed to establish and maintain a reasonable system of supervisory controls. The firm's system of supervisory controls failed to reasonably explain how the firm would identify producing managers, review the customer account activities of those managers, or determine if those managers were in need of heightened supervision because they generated 20 percent or more of the revenue of the business units supervised by the manager's supervisor. The firm's system of supervisory controls also failed to reasonably discuss how it would review and monitor transmittals of customer funds and securities. (**FINRA Case #2010020954501**)
https://www.finra.org/sites/default/files/fda_documents/2010020954501%20Meyers%20Associates%20LP%20CRD%2034171%20NAC%20sl%20%282019-1563335363028%29.pdf

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On September 18, 2019, a firm was fined $100,000 for failing to make and keep accurate records of customer confirmation and trade blotters. The findings stated that the firm's fixed income traders in government agency and municipal securities failed to consistently complete the unsolicited/solicited field when entering trades in the order entry system (OES). Although the traders kept contemporaneous records outside the OES that were generally complete and accurate, their failure to fully populate the OES caused trades in municipal securities and government agency securities to be mismarked as unsolicited on the firm's trade blotter. These trades were also inaccurately identified as unsolicited on the transaction confirmations that were provided to the firm's customers. These errors resulted in the mismarking of trades that constituted approximately 90 percent of the trades in municipal and government agency securities affected by the firm. No customers experienced financial harm and no inaccurate information was disseminated to the market as the result of the errors. (**FINRA Case #2016050022401**) https://www.finra.org/sites/default/files/fda_documents/2016050022401%20Wellington%20Shields%20%26%20Co.%2C%20LLC%20CRD%20149021%20AWC%20va%20%282019-1571444395890%29.pdf

On September 23, 2019, a firm was fined $250,000 for failing to establish procedures reasonably designed to assure that customers received initial margin interest rate disclosures and failed to establish, maintain and enforce a supervisory system, including WSPs, reasonably designed to achieve compliance with Rule 10b-16(a)(1). The findings stated that the firm provided its introducing broker-dealers with a customer information brochure that each introducing firm was obligated to provide to each customer opening a margin account. However, the firm's brochure did not provide the current base margin interest rate or explain the relationship of the base rate to any publicly available rate, and the firm did not otherwise assure that the current base rate (or an explanation of how the base rate was calculated) was given to customers seeking to open margin accounts. The firm also did not provide in its brochure the mark-up/mark-down or introducing broker-dealer-specific mark-up, which the firm added to the base rate to determine the margin interest rate it would charge each customer, or otherwise assure that the mark-up/mark-down or introducing broker-dealer-specific mark-up was provided to customers. The findings also stated that many customers did not receive the initial disclosure stating the annual rate or rates of margin interest that could be imposed. (**FINRA Case #2018060195201**)

https://www.finra.org/sites/default/files/fda_documents/2018060195201%20Hilltop%20Securities%20Inc.%20CRD%206220%20AWC%20jm%20%282019-1571962803677%29.pdf

FINRA fined a firm $1.1 million for failing to timely disclose 89 allegations of misconduct that include preventing numerous regulatory investigations and preventing other member firms and public from learning about allegations including misappropriation of funds over a six-year period. Firms must disclose, among other information, allegations involving fraud, wrongful taking of property, or violations of investment-related statutes, regulations, rules or industry standards of conduct. FINRA found that from January 2012 to April 2018, the firm failed to disclose, or timely disclose, 89 internal reviews or allegations of misconduct by its registered representatives and associated persons, including misappropriation of customer and company funds, borrowing from customers, forgery or falsification or alteration of documents, unauthorized trading, making

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unsuitable recommendations, structuring and other suspicious activity. When the firm eventually filed the required information with FINRA, it was, on average, more than two years late. This prevented or delayed FINRA, other regulators, member firms, and the public from learning about the allegations. The firm's delays prevented FINRA from pursuing potential disciplinary action against 30 former firm representatives over whom FINRA's jurisdiction expired before the firm disclosed the allegations. These failures resulted primarily from the firm's failure to establish and maintain reasonably designed written supervisory procedures and supervisory systems to identify all instances when Form U5 disclosures were necessary.

Susan Schroeder, Executive Vice President of FINRA's Department of Enforcement, said, "FINRA member firms have a responsibility to their fellow member firms, to FINRA and other regulators, and to the investing public to disclose allegations of serious misconduct by their registered representatives. Firms must live up to their responsibility as a gatekeeper and disclose allegations in a timely, accurate and complete manner. This disclosure responsibility is essential to providing transparency and maintaining the integrity of our industry." (**FINRA Case #2015047127703**)
https://www.finra.org/sites/default/files/fda_documents/2015047127703%20J.P.%20Morgan%20Securities%2C%20LLC%20CRD%2079%20AWC%20jm%20%282019-1571271587598%29.pdf

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