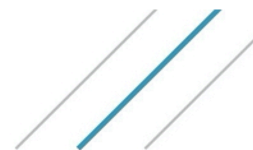
SECURITIES OPERATIONS

REGULATORY UPDATE



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FINRA Issues CAT Small Firm Onboarding Checklist

If your firm is a broker-dealer that is a member of FINRA or a national securities exchange that receives, originates and/or handles orders in National Market System ("NMS") stocks and listed options, and/or OTC equity securities, then your firm has a Consolidated Audit Trail ("CAT") reporting obligation and must register for and obtain access to CAT and prepare for reporting, even if your firm plans to rely on a vendor or clearing firm to report equity and/or option transactions on your behalf. Unlike the Order Audit Trail System ("OATS"), there are no exemptions to CAT reporting.

If your firm handles even one order in CAT-eligible securities, take action now to:

- Review Frequently Asked Questions for Small Firms available at: https://www.finra.org/rules-guidance/key-topics/cat/small-firm-faq
- Download the CAT Onboarding Checklist available at: https://www.finra.org/sites/default/files/2020-02/CAT_Onboarding_Checklist_Final.pdf
- Note Small Firm CAT Set-Up and System Testing Completion Deadlines:
  - Before April 20, 2020 for small industry members currently reporting to OATS
  - Before December 2021 for small industry members not currently reporting to OATS
- Contact the FINRA CAT Helpdesk at 888-696-3348 or help@finracat.com with additional questions.

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SEC COMMISSIONER ROISMAN GIVES PUBLIC SPEECH ON PROXY RULE MODERNIZATION

On January 30, 2020, SEC Commissioner Elad L. Roisman spoke at Catholic University Columbus School of Law regarding so-called “myths and realities” related to the SEC’s recent proposals to update the rules governing the solicitation of proxies and submission of shareholder proposals as previously reported in the SORU on December 1, 2019. In his speech, Roisman stated, “From my perspective, the SEC’s proposals to modernize these rules were not only necessary, but long overdue. Yet the reaction from the loudest voices came swiftly and furiously. Even before the Commission voted on these proposals, the agency was accused of serving as a shill for corporate interests, suppressing shareholder votes, and sheltering CEOs of big corporations from accountability.” Roisman addressed numerous criticisms that the SEC has received since announcing its proposed rules, including that its proposals would: 1) allow company chief executive officers to sue proxy voting advice businesses if they criticize the company, and 2) be so burdensome that they will stifle competition in the proxy voting advice business market. Roisman also voiced a particular concern with the independence of the proxy voting advice business being susceptible to “social arbitrage,” a practice described to him as when a broad array of proxy voting advice business reports are influenced by a small and select group of asset managers with their own motives and objectives.

Roisman’s Speech: https://www.sec.gov/news/speech/roisman-myths-and-realities-2020-01-30

SEC PROPOSES TO MODERNIZE KEY MARKET INFRASTRUCTURE

On February 14, 2020, the SEC announced a proposal to modernize the infrastructure for the collection, consolidation, and dissemination of market data for exchange-listed NMS stocks. The proposal would update and expand the content of NMS market data to better meet the diverse needs of investors in today’s equity markets. The Commission has not significantly updated the rules that govern the content and dissemination of NMS market data since its initial implementation in the late 1970s. The proposal would seek to introduce competitive forces into this component of the NMS for the first time. Currently, the national securities exchanges and FINRA act jointly under three NMS plans to collect, consolidate and disseminate information for NMS stocks. For each NMS stock, the SROs are required to provide specified market data to exclusive securities information processors (“SIPs”). The SIPs then consolidate that information and make it available to the public. The SEC’s proposal is designed to improve the NMS market data infrastructure by reducing the current disparity in content and latency between NMS market data and the proprietary data products that some of the individual exchanges sell directly to market participants. The proposal would replace the “exclusive SIP” model with a decentralized model of “competing consolidators.”

Comments Due: 60 days after publication in the Federal Register
Proposed Rule: https://www.sec.gov/rules/proposed/2020/34-88216.pdf
Press Release: https://www.sec.gov/news/press-release/2020-34

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SEC, FOUR OTHER U.S. FEDERAL AGENCIES PROPOSE CHANGES TO VOLKER RULE

On January 30, 2020, five federal agencies, including the SEC, published for comment a proposal to modify regulations implementing the Volcker Rule's general prohibition on banking entities investing in or sponsoring hedge funds or private equity funds, known as "covered funds." Since the regulations implementing the Volcker Rule were finalized in 2013, the rule has created compliance uncertainty and imposed limits on certain banking services and activities that the Volcker Rule was not intended to restrict. To address these concerns, the agencies simplified requirements for the proprietary trading restrictions in November 2019. The joint agency proposal would improve and streamline the covered funds portion of the rule, address the treatment of certain foreign funds, and permit banking entities to offer financial services and engage in other permissible activities that do not raise concerns that the Volcker Rule was intended to address. In addition to the SEC, the proposed changes were jointly developed by the Federal Reserve Board, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

Comments Due: April 1, 2020
Proposed Rule: https://www.sec.gov/rules/proposed/2020/bhca-8.pdf
Press Release: https://www.sec.gov/news/press-release/2020-24

SEC PROPOSES TO MODERNIZE AND ENHANCE FINANCIAL DISCLOSURES

On January 30, 2020, the SEC voted to propose amendments to modernize, simplify and enhance certain financial disclosure requirements in Regulation S-K. The proposed amendments would eliminate duplicative disclosures and modernize and enhance Management's Discussion and Analysis disclosures for the benefit of investors, while simplifying compliance efforts for companies. The Commission also announced that it is providing guidance on key performance indicators and metrics in Management's Discussion and Analysis. "The proposal and the guidance we are releasing today, which reflect the staff's wealth of experience, would improve the quality and accessibility of registrants' presentation of financial results and performance metrics," said Chairman Jay Clayton. "The improved disclosures would allow investors to make better capital allocation decisions, while reducing compliance burdens and costs without in any way adversely affecting investor protection."

Comments Due: 60 days after publication in the Federal Register
Proposed Rule: https://www.sec.gov/rules/proposed/2020/33-10750.pdf
SEC Interpretive Guidance: https://www.sec.gov/rules/interp/2020/33-10751.pdf
Press Release: https://www.sec.gov/news/press-release/2020-25

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SEC UPDATES "PAUSE" LIST OF FIRMS USING INACCURATE INFORMATION TO SOLICIT INVESTORS

On February 24, 2020, the SEC announced that it updated its Public Alert: Unregistered Soliciting Entities ("PAUSE") by adding 25 soliciting entities and four fictitious regulators. Additionally, the SEC is announcing enhancements to the PAUSE website, where the SEC provides the list of entities that falsely claim to be registered, licensed, and/or located in the United States, as well as entities that impersonate genuine U.S.-registered securities firms and fictitious regulators, governmental agencies or international organizations. The entities on the PAUSE list have been the subject of investor complaints. The latest additions are firms that SEC staff found were providing inaccurate information about their affiliation, location or registration to solicit primarily non-U.S. investors. Under U.S. securities laws, firms that solicit investors generally are required to register with the SEC and meet minimum financial standards and disclosure, reporting and recordkeeping requirements.

PAUSE List: https://www.sec.gov/enforce/public-alerts
Latest Additions to Pause List: https://www.sec.gov/enforce/pause-list-update-022420.pdf
Press Release: https://www.sec.gov/news/press-release/2020-39

FINRA POSTS "TOP FIVE" CYBERSECURITY STORIES FROM THE 2020 FINRA CYBERSECURITY CONFERENCE

On January 14, 2020, more than 270 attendees in person and approximately 75 firms via the web saw presentations at the 2020 FINRA Cybersecurity Conference covering a broad range of topics, including: 1) using the National Institute of Standards and Technology Cybersecurity Framework to develop a strong program; 2) preventative measures firms can take to control access to their systems, protect data and educate contractors and staff about sound practices; 3) monitoring for cyber threats and detecting cyber events, attacks and security breaches; 4) how to respond to and recover from a cyber-attack or security breach; and 5) what regulators are seeing during examinations. On February 19, 2020, FINRA posted video clips of the "top five" real life cybersecurity stories presented at the conference. A full replay of the conference is available to FINRA member firms and Certified Regulatory and Compliance Professional Program graduates on the 2020 Cybersecurity Conference Page.

FINRA "Top Five" Cybersecurity Stories: https://www.finra.org/media-center/blog/cybersecurity-five-top-stories-from-finras-2020-conference
FINRA's Cybersecurity Conference Replay: https://www.finra.org/events-training/conferences-events/2020-finra-cybersecurity-conference
FINRA's Cybersecurity Page: https://www.finra.org/rules-guidance/key-topics/cybersecurity

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FINRA TO EXTEND THE EFFECTIVE DATE FOR ELIMINATING CTCI FOR TRACE REPORTING

On January 29, 2020, the SEC published for comment a FINRA proposal to provide members with additional time to migrate their trade reporting processes to connect to FINRA's Trade Reporting and Compliance Engine ("TRACE") through a permissible means other than Computer-to-Computer Interface ("CTCI"). On October 4, 2018, the SEC approved FINRA's amendment to FINRA Rule 7730 to remove CTCI as a technological means of connectivity for reporting transactions to TRACE. FINRA recently has become aware that some firms have experienced trade rejects after migrating from CTCI to FIX protocol. FINRA understands that the cause of these rejects is related to the validations done on a FIX port to prevent duplicate trade reports from being submitted to the system. These validations are specific to FIX messaging and, as such, were not anticipated by certain firms migrating from CTCI to FIX. This issue is impacting the successful migration of member firms whose activity, in the aggregate, account for a significant percentage of TRACE reports. Accordingly, FINRA is proposing to extend the effective date of the CTCI-elimination filing until March 16, 2020, which will allow firms adequate time to perform the required coding changes and testing.

Notice Release: https://www.sec.gov/rules/sro/finra/2020/34-88077.pdf

FINRA TO ELIMINATE TRANSACTION CREDITS AND TRADE REPORTING FEES APPLICABLE TO RETAIL PARTICIPANTS THAT USE THE FINRA/NASDAQ TRF

On February 6, 2020, the SEC published for comment a FINRA proposal to amend FINRA Rules 7610A and 7620A to eliminate transaction credits and trade reporting fees applicable to retail participants that use the FINRA/Nasdaq Trade Reporting Facility Carteret (the "FINRA/Nasdaq TRF Carteret") and the FINRA/Nasdaq Trade Reporting Facility Chicago (the "FINRA/Nasdaq TRF Chicago") (collectively, the "FINRA/Nasdaq TRF"). Currently, the FINRA/Nasdaq TRF has a special pricing program that offers transaction credits and fee discounts to participants if substantially all of a participant's trade reporting activity on the FINRA/Nasdaq TRF comprises retail orders. The proposed change would eliminate all fees for trade reporting to the FINRA/Nasdaq TRF for retail participants and, as a result, would also eliminate the transaction credits for retail participants.

Comments Due: March 4, 2020
Notice Release: https://www.sec.gov/rules/sro/finra/2020/34-88135.pdf

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NASDAQ AMENDS PROPOSAL REGARDING LISTING AND TRADING OF SECURITIES ISSUED BY ETFs

On February 13, 2020, the SEC published for comment the first amendment to a proposal by The Nasdaq Stock Market LLC ("Nasdaq") to adopt new Nasdaq Rule 5704 to list and trade shares of securities issued by an exchange-traded fund ("ETF") 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). The proposal, as amended, would establish generic listing standards that permit the listing and trading of shares of ETFs that meet the criteria established by the Commission in its adoption of Rule 6c-11 under the Investment Company Act of 1940 (the "1940 Act"), as amended, to operate without obtaining an exemptive order from the SEC under the 1940 Act. Nasdaq's amendment replaces and supersedes in its entirety the original proposal filed on November 8, 2019. In the notice filing, the SEC announced that it had instituted proceedings to determine whether to approve or disapprove Nasdaq's proposal, as modified by the amendment.

Comments Due: March 12, 2020
Rebuttal Comments Due: March 26, 2020
Notice Release: https://www.sec.gov/rules/sro/nasdaq/2020/34-88207.pdf

NASDAQ AMENDS PROPOSAL TO MODIFY RULES REGARDING INITIAL PRICING OF SECURITIES

On January 29, 2020, the SEC published for comment the second amendment to a Nasdaq proposal to modify Nasdaq Rules 4120 and 4753 to permit a regulatory halt in a security that traded in the over-the-counter ("OTC") market prior to its initial pricing on Nasdaq, allow for the initial pricing of such a security through the IPO cross, and establish a new tie-breaker for determining the current reference price and the cross price for such a security. Currently, a security that 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 Nasdaq Rule 4752(d). Nasdaq's proposal to allow for the initial pricing on Nasdaq of an OTC security through the IPO cross would depend on whether a broker-dealer serving in the role of financial advisor to the issuer is willing to perform the functions under Nasdaq 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 of the OTC security on Nasdaq would continue to be affected through the opening cross. The second amendment to Nasdaq's proposal supersedes and amends Nasdaq's prior proposal, which had been previously amended on September 19, 2019.

Notice Release: https://www.sec.gov/rules/sro/nasdaq/2020/34-88078.pdf

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NYSE TO ESTABLISH A SCHEDULE OF WIRELESS CONNECTIVITY FEES AND CHARGES

On February 11, 2020, the SEC published for comment a proposal by the New York Stock Exchange LLC ("NYSE") to establish a schedule of wireless connectivity fees and charges with wireless connections between the Mahwah, New Jersey data center and three data centers that are owned and operated by third parties unaffiliated with the NYSE: 1) Carteret, New Jersey, 2) Secaucus, New Jersey, and 3) Markham, Canada (collectively, the "Third Party Data Centers"). Market participants that purchase such a wireless connection will be charged an initial and monthly fee. The NYSE expects the proposed change to become operative 60 days after the effectiveness of its filing.

Comments Due: March 10, 2020
Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88168.pdf

NYSE TO MODIFY PRICE LIST

On February 11, 2020, the SEC published for comment a NYSE proposal to eliminate its Step Up Tier 2 Adding Credit, a volume-based credit for market participants that add liquidity to the NYSE and meet certain requirements, because it has not encouraged member organizations to increase their liquidity-providing activity in order to qualify for the tier. The NYSE does not know how much order flow member organizations choose to route to other exchanges or to off-exchange venues, but has nonetheless observed that few members have received this credit, with little associated volume, and it has not served to meaningfully increase activity on the NYSE or improve market quality. In fact, the NYSE stated in its filing that no member organization currently qualifies for the credit.

Comments Due: March 10, 2020
Notice Filing: https://www.sec.gov/rules/sro/nyse/2020/34-88165.pdf

SEC DESIGNATES LONGER PERIOD FOR DECISION ON NYSE PROPOSAL TO ESTABLISH PRE-TRADE RISK CONTROLS

On January 29, 2020, the SEC announced that it had designated a longer period within which to approve, disapprove, or institute proceedings regarding a NYSE proposal to add Rule 7.19 to establish a set of pre-trade risk controls by which firms would have the option to set credit limits and other pre-trade risk controls for a firm's trading on the NYSE. As previously reported, on December 11, 2019, the SEC published the NYSE's proposal for comment. As proposed, the new rule would authorize the NYSE to take action if the credit limits or other pre-trade risk controls set by the rule are exceeded. The optional controls would allow firms to define different pre-set risk thresholds and to choose the automated action the NYSE would take if those thresholds are breached, which would range from notifying the firm that a limit has been breached, blocking new orders, or canceling orders until the firm has been reinstated to trade on the NYSE. The SEC announced that it had received two comment letters regarding the proposal and designated March 16, 2020 as the date by which it will take further action.

Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88080.pdf

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NYSE AMERICAN AMENDS PROPOSAL TO ALLOW CERTAIN FLEXIBLE EQUITY OPTIONS TO BE CASH SETTLED

On February 5, 2020, the SEC published for comment the first amendment to a proposal by the NYSE American LLC ("NYSE American") to modify NYSE American Rules 903G and 906G to allow certain Flexible Exchange ("FLEX") equity options to be cash settled. The proposal, as modified by its first amendment, would allow FLEX equity options to be cash settled where the underlying security is an ETF that meets prescribed criteria. FLEX equity options permit investors to specify certain options' contract terms, within parameters set forth in the NYSE American's FLEX rules, such as exercise style, expiration date, and exercise prices. Currently, FLEX equity options are settled by physical delivery of the underlying security. The NYSE's proposal would allow a FLEX equity option overlying an ETF to be settled by delivery in cash or by physical delivery of the underlying security.

Comments Due: March 3, 2020
Notice Release: https://www.sec.gov/rules/sro/nyseamer/2020/34-88131.pdf

NYSE AMERICAN TO MODIFY FEE SCHEDULE RELATED TO CO-LOCATION SERVICES

On February 18, 2020, the SEC published for comment a proposal by the NYSE American to amend its equity price list and options fee schedule to include a reference to NYSE Chicago, Inc. ("NYSE Chicago"), one of NYSE American's affiliates. Currently, the NYSE American's equity price list and options fee schedule provide that a market participant that incurs co-location fees for a particular co-location service would not be subject to co-location fees for the same co-location service charged by the NYSE, NYSE Arca, Inc., and NYSE National, Inc, three of NYSE American's affiliates that offer co-location services. The proposal to add NYSE Chicago to NYSE American's list of affiliates in the equity price list and options fee schedule comes after NYSE Chicago established its co-location services in late 2019.

Comments Due: March 16, 2020
Notice Release: https://www.sec.gov/rules/sro/nyseamer/2020/34-88229.pdf

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Notable Enforcement Actions

Many of this month's enforcement actions focus on supervisory and operational failures, and reinforce the importance of designing robust systems and implementing procedures to test those systems for compliance in these critical areas of business.

A firm agreed to pay more than $586,000 to settle charges of improper handling of "pre-released" American Depositary Receipts ("ADRs"). The SORU has reported on multiple regulatory actions against other firms for the same infraction. ADRs are U.S. securities that represent foreign shares of a foreign company and require a corresponding number of foreign shares to be held in custody at a depositary bank. The practice of "pre-release" allows ADRs to be issued without the deposit of foreign shares, provided the broker receiving the ADRs has an agreement with a depositary bank and the receiving broker or its customer owns a number of foreign shares that corresponds to the number of shares the ADRs represent. In the instant case, the firm improperly borrowed pre-released ADRs from other brokers when it should have known that those brokers did not own the foreign shares needed to support those ADRs. The order also finds that the firm failed to reasonably supervise its securities lending desk personnel concerning the borrowing of pre-released ADRs from these brokers. Without admitting or denying the findings against it, the firm agreed to return more than $326,000 of ill-gotten gains and pay a $179,353 penalty plus $80,970 in prejudgment interest.
(**SEC File No. 3-19693**)
https://www.sec.gov/litigation/admin/2020/34-88139.pdf

A firm was censured and fined $300,000 for failing to comply with short interest reporting requirements concerning the reporting of certain foreign-listed securities. The findings state that the firm experienced a system-related coding issue that resulted in the exclusion of certain foreign-listed securities from its short interest submissions to its regulator. In addition, the firm inaccurately reported short interest positions. Upon being notified of the reporting deficiencies, the firm identified and corrected the coding issue. The findings also state that the firm failed to establish and maintain a supervisory system to ensure that it was in fact including all reportable positions in its submissions, including reportable positions it held in foreign-listed securities. (**FINRA Case #2015044806901**)
https://www.finra.org/sites/default/files/fda_documents/2015044806901%20Nomura%20Securities%20International%2C%20Inc.%20CRD%204297%20AWC%20jlg%20%282020-1578269980558%29.pdf

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A firm was censured and fined $250,000 for failing to create accurate order memoranda on options orders for customers whose orders should have been coded as "professional customers." The findings state that these orders were entered through the firm's internal trading platform and routed to option exchanges through third-party broker-dealers. The firm mismarked approximately 1.5 million options orders with an inaccurate customer origin code, rather than the required professional customer code for those orders, resulting in the execution of approximately 500,000 mismarked options orders. The miscoding caused inaccurate order records and potentially allowed those orders to be given undue priority for execution on the options exchanges, which prioritize customer orders over professional customer orders in execution. The findings also state that the firm failed to maintain a supervisory system reasonably designed to achieve compliance with the laws and rules governing the creation of order memoranda for option orders entered through the firm's trading platform. The firm's supervisory system was not reasonably designed to determine whether its customers' options orders entered through its trading platform were accurately coded. The firm's system for keeping track of the number of options orders entered by its customers through its trading platform did not aggregate orders submitted by the same customer through multiple accounts, and this deficiency caused it to fail to detect that options orders for certain customers were miscoded. Moreover, the firm did not have WSPs for orders executed through its trading platform.
(**FINRA Case #2015045677201**)
https://www.finra.org/sites/default/files/fda_documents/2015045677201%20TD%20Ameritrade%2C%20Inc.%20CRD%207870%20AWC%20jlg%20%282020-1580343565764%29.pdf

A firm was censured and fined $215,000 for failing to establish, maintain and enforce a supervisory system or WSPs reasonably designed to monitor for potential layering or spoofing by its direct market access clients. The findings state that as a result of the firm's supervisory failures, its direct market access clients placed millions of orders per month through the firm without being subjected to supervisory reviews for potential layering or spoofing. Regulatory surveillance identified more than 150,000 instances of potential layering activity associated with the firm's order flow. Upon receiving multiple notifications of the potential layering from an exchange, the firm began to develop a layering surveillance review, but it was not promptly implemented. After implementing its surveillance, the firm identified one particular client as potentially engaging in layering activity and terminated the client. The firm also updated its WSPs to reflect the integration of its layering and spoofing surveillance into its overall supervisory system and reviews.
(**FINRA Case #2014043557401**)
https://www.finra.org/sites/default/files/fda_documents/2014043557401%20Jefferies%20Execution%20Services%2C%20Inc.%20nka%20Jefferies%20LLC%20CRD%20867%20AWC%20%282020-1578874778719%29.pdf

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A firm was censured and fined $200,000 for failing to file amended Uniform Application for Securities Industry Registration or Transfer forms (Form U4s) for 20 of its registered representatives in a timely fashion or, in some cases, at all. The Form U4s included reportable events such as outstanding liens, outstanding judgments, bankruptcies and creditor compromises. The findings state that the firm failed to establish and maintain a system and failed to establish, maintain and enforce written procedures that were reasonably designed to achieve compliance with its obligation to timely file Form U4 amendments to reflect reportable financial events. Until her demotion, the firm's former CCO was the only person at the firm responsible for keeping Form U4s accurate and current, and she failed to do so. The firm failed to supervise the CCO to monitor whether she was fulfilling her responsibilities and timely amending firm representatives' Form U4s, and the disclosure failures continued after the CCO's demotion. The firm failed to clearly communicate who was responsible for amending Form U4s until the CCO's termination, and it had no reasonable supervisory system in place to monitor that the amendments were being timely made.
(**FINRA Case #2017055723502**)
https://www.finra.org/sites/default/files/fda_documents/2017055723502%20First%20Financial%20Equity%20Corporation%20CRD%2016507%20AWC%20va%20%282020-1579393188309%29.pdf

A firm was censured and fined $150,000 for failing to reasonably supervise short-term trading of unit investment trusts ("UITs") and mutual fund Class A shares. The findings state that the firm relied on an automated trade surveillance system as part of its system for identifying potentially unsuitable short-term trading or switch transactions in long-term products. The system generated alerts that required principal review of certain potential mutual fund and UIT switch transactions. However, the firm failed to provide sufficient guidance for principals to follow when an alert was generated. As a result, the firm's principals were inconsistent in following up on the alerts, such as by contacting customers to inquire about the reasons for the transactions to ensure that the customers understood the consequences of such transactions. The lack of sufficient guidance to firm principals allowed at least one of its representatives to engage in unsuitable short-term trading in mutual fund Class A shares. Moreover, the firm's system was unreasonable because it configured the alert only to identify switch transactions and did not have any other electronic system to monitor for other potentially unsuitable short-term trading in mutual fund Class A shares and UITs that did not qualify as a switch transaction. In addition, the firm's quarterly pattern report had many of the same limitations as the alert because it was configured only to identify potentially unsuitable switch transactions, so by extension, it identified only patterns of potentially unsuitable switch transactions. Furthermore, the firm required its Office of Supervisory Jurisdiction supervisors to ensure that customers signed letters to acknowledge switch transactions that triggered the alert. However, the firm did not reasonably enforce its WSPs and these letters were not always sent to customers after their transactions triggered the alert. During branch inspections, the firm failed to identify that, in some cases, supervisors failed to obtain signed switch letters from customers. The findings also state that the firm monitored commissions through an alert in its automated trade surveillance system. However, this system was not reasonably designed to prohibit the charging of excessive commissions because supervisors did not review transactions that triggered that alert unless the trade generated other alerts in addition

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to the alert for excess commissions. It was not until later that the firm adjusted its excess to the commission alert. The findings also include that the firm failed to identify and apply available breakpoint discounts for eligible customers. The firm's electronic trade surveillance system had an alert designed to identify potential mutual fund transactions where customers did not receive the benefit of available breakpoints. However, the firm could not demonstrate that its principals consistently reviewed transactions that triggered this alert unless that transaction generated other alerts that collectively met the minimum threshold required for supervisory review.
(**FINRA Case #2017052543601**)
https://www.finra.org/sites/default/files/fda_documents/2017052543601%20Cambridge%20Investment%20Research%2C%20Inc.%20CRD%2039543%20AWC%20jlg%20%282020-1580429973569%29.pdf

A firm was censured and fined $130,000 for effecting customer sale transactions of municipal bonds on a discretionary basis in amounts lower than the minimum denomination of the respective issues. The findings state that the firm generally relied on data it received from third-party vendors to determine whether a transaction was below an issue's minimum denomination, and the violative transactions were primarily attributable to inaccuracies in that vendor data. (**FINRA Case #2017053432301**)
https://www.finra.org/sites/default/files/fda_documents/2017053432301%20Goldman%20Sachs%20%26%20Co.%20LLC%20CRD%20361%20AWC%20sl%20%282020-1579479583509%29.pdf

A firm was censured, fined $120,000 and required to revise its WSPs for failing to comply with the Securities Exchange Act of 1934 Rule 101 of Regulation M by bidding for a covered security and purchasing a covered security during a restricted period while acting as a distribution participant participating in a distribution of securities on behalf of an issuer. The findings state that the firm failed to provide complete and/or timely notifications to its regulator in connection with the distributions as required by rule. The findings also state that the firm failed to establish, maintain and enforce written procedures to supervise the types of business that it engaged in and the activities of its associated persons that were reasonably designed to achieve compliance with applicable rules and regulations.
(**FINRA Case #2014040293001**)
https://www.finra.org/sites/default/files/fda_documents/2014040293001%20Cowen%20and%20Company%2C%20LLC%20CRD%207616%20AWC%20va%20%282020-1579220372194%29.pdf

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A firm was censured, fined $85,000 and required to revise its WSPs for failing to record Not Held terms and conditions on its order memoranda for institutional customers on one of the firm's trading desks, and on order reports transmitted to OATS that failed to contain the Not Held special handling code. The findings state that a default setting in a firm application that optimizes its financial data communications was incorrectly set for orders routed to its portfolio trading system resulting in the firm incorrectly defaulting to Held for OATS reporting purposes. The firm learned about the issue through a regulatory inquiry and fixed the software issue. The findings also state that the firm transmitted reports to OATS that failed to properly report the Market on Close or Limit on Close special handling codes. A software limitation in the firm's system caused these codes to be included in the incorrect section of the firm's reports to OATS, which is the functional equivalent of a failure to report the required special handling codes to OATS. The firm learned about the issue through a regulatory inquiry and began working on a solution to fix the problem. However, given the complexity of the problem, the firm was not able to promptly complete its fix of the software limitation. The findings state that the firm failed to establish and maintain a supervisory system and establish, maintain and enforce WSPs reasonably designed to achieve compliance with applicable rules concerning maintaining accurate books and records, specifically order memoranda, and OATS reporting.
(**FINRA Case #2016050508501**)
https://www.finra.org/sites/default/files/fda_documents/2016050508501%20Oppenheimer%20%26%20Co.%20Inc.%20CRD%20249%20AWC%20sl%20%282020-1579738867302%29.pdf

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