SECURITIES OPERATIONS

REGULATORY UPDATE

A PUBLICATION OF

April 1, 2020

For more information please contact info@mediantonline.com

IN THIS ISSUE

Take Action Now.....2

SEC Amends Rule Concerning Guaranteed Securities 3

SEC Modernizes Disclosure Requirements for Variable Annuity and Life Insurance Contracts 4

SEC Revises Definitions for Accelerated and Large Accelerated Filers.....5

Update by Chairman Clayton on CAT Relating to COVID-19 and Cybersecurity Risk 6

SEC Approves Joint Industry Plan Regarding Covered Regulation NMS and CAT Rules.....7

SEC Re-Opens Comment Period for New NMS Plan Regarding Equity Market Data 7

Joint Industry Filing of the Twentieth Amendment to the NMS Plan to Address Extraordinary Market Volatility.....8

FINRA Proposes Changes Regarding the FINRA/NYSE Trade Reporting Facility Fees.....8

FINRA Proposes Changes in Response to Regulation Best Interest 9

FINRA Amendment to Membership Application Program Approved 9

FINRA Seeks to Extend Pilot Program for FINRA Rule 11892.....9

Nasdaq Proposes to Shorten the Holding Period Requirements for M-ELO Orders.....10

Nasdaq Adopts Amendments for the Resumption of Trading Following a MWCB Halt 11

Review Period Extended on NYSE and NYSE American Proposed Changes to Offer Users Access to the NMS Network 12

Review Period Extended on NYSE and NYSE American Proposed Changes to Amend Rules 6800 Series, 47 and 75, and Add New Rule 46B 13

NYSE Proposes Pre-Trade Risk Controls for Entering and Clearing Firms..... 14

NYSE Temporarily Adopts Ability to Facilitate a Trading Halt Following a MWCB Halt 15

NYSE Suspends Listing Requirement for Average Global Market Capitalization as a Result of COVID-19..... 16

NYSE Adopts Temporary Changes Until the Earlier of the Reopening of the Trading Floor Facilities or May 15, 2020 17

NYSE Proposes Change to How Orders Are Re-priced 17

DTC Adds New Fee for Institutional Transaction Status Information to its Fee Guide.....18

OCC Changes Deadline for Submitting a Late Exercise Notice on Non-Expiration Dates and Modifies Fees 18

Notable Enforcement Actions.....19

Take Action Now

SEC Provides Guidance to Promote Continued Shareholder Engagement, Including at Virtual Annual Meetings, for Companies and Funds Affected by COVID-19

On March 13, 2020, the Securities and Exchange Commission ("SEC" or "Commission") announced that its staff published guidance to assist public companies, investment companies, shareholders, and other market participants affected by COVID-19 with their upcoming annual shareholder meetings. The guidance is designed to facilitate the ability of companies to hold these important meetings, including using technology, and engage with shareholders while complying with the federal securities laws. The spread of COVID-19 has affected the ability to hold these in-person meetings due to health, transportation, and other logistical issues. In light of these difficulties, the Commission staff guidance provides regulatory flexibility to companies seeking to change the date and location of the meetings and use new technologies, such as "virtual" shareholder meetings that avoid the need for in-person shareholder attendance, while at the same time ensuring that shareholders and other market participants are informed of any changes. Under the guidance, the affected parties can announce in filings made with the SEC the changes in the meeting date or location or the use of "virtual" meetings without incurring the cost of additional physical mailing of proxy materials. The guidance also encourages companies to provide shareholder proponents with alternative means, such as by telephone, to present their proposals at the annual meetings considering the difficulties that shareholder proponents face due to COVID-19.

- Public Statement – https://www.sec.gov/news/press-release/2020-62
- SEC Coronavirus (COVID-19) Response - https://www.sec.gov/sec-coronavirus-covid-19-response

SEC Extends Conditional Exemptions from Reporting and Proxy Delivery Requirements for Public Companies, Funds, and Investment Advisers Affected by COVID-19

On March 25, 2020, the SEC announced that it is extending the filing periods covered by its previously enacted conditional reporting relief for certain public company filing obligations under the federal securities laws, and that it is also extending regulatory relief previously provided to funds and investment advisers whose operations may be affected by COVID-19.

The following link to Commissioner Elad Rolsman's speech on March 10, 2020 provides a helpful summary of changes to the rules that govern the proxy system:

https://www.sec.gov/news/speech/speech-roisman-cii-2020-03-10

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

SEC AMENDS RULE CONCERNING GUARANTEED SECURITIES

On March 2, 2020, the SEC issued an order approving a rule change to amend financial disclosure requirements for guarantors and issuers of guaranteed securities registered or being registered, and issuers' affiliates whose securities collateralize securities registered or being registered in Regulation S-X to improve those requirements for both investors and registrants. Under the proposed amendments, the rules would continue to permit the omission of separate financial statements of subsidiary issuers and guarantors when certain conditions are met and the parent company provides supplemental financial and non-financial disclosure about the subsidiary issuers and/or guarantors and the guarantees. The final rule: (i) modifies the proposed requirement to be more specific by requiring disclosure of additional information about each guarantor that would be material for investors to evaluate the sufficiency of the guarantee consistent with existing Rule 3-10; (ii) permits the amended supplemental financial and non-financial disclosure about the subsidiary issuers and/or guarantors and the guarantees to be provided outside the footnotes to the parent company's audited annual and unaudited interim consolidated financial statements in all cases rather than only in the proposed circumstances; (iii) eliminates the requirement to provide pre-acquisition financial statements of recently acquired subsidiary issuers and guarantors as proposed, but requires, in certain instances, pre-acquisition Summarized Financial Information about significant recently acquired subsidiary issuers and guarantors; and (iv) reflects other modifications from the proposed amendments.

Effective Date: January 4, 2021
Final Rule: https://www.sec.gov/rules/final/2020/33-10762.pdf
Press Release: https://www.sec.gov/news/press-release/2020-52
Public Statement: https://www.sec.gov/news/public-statement/statement-lee-amendments-registered-debt-disclosure-2020-03-02

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

SEC MODERNIZES DISCLOSURE REQUIREMENTS FOR VARIABLE ANNUITY AND LIFE INSURANCE CONTRACTS

On March 11, 2020, the SEC issued an order approving a rule change to amend its rules and forms to help investors make informed investment decisions regarding variable annuity and variable life insurance contracts. The amendments modernize disclosures by using a layered disclosure approach designed to provide investors with key information relating to the contract's terms, benefits, and risks in a concise and more reader-friendly presentation, with access to more detailed information available online and electronically or in paper format upon request. New Rule 498A under the Securities Act of 1933 ("Securities Act") will permit a person to satisfy prospectus delivery obligations under the Securities Act for a variable annuity or variable life insurance contract by sending or giving a summary prospectus to investors and making the statutory prospectus available online. The rule also will consider a person to have met prospectus delivery obligations for any portfolio companies associated with a variable annuity or variable life insurance contract if the portfolio company prospectuses are posted online. To implement the new disclosure framework, the SEC is also amending the registration forms for variable annuity and variable life insurance contracts to update and enhance the disclosures to investors in these contracts, and to implement the proposed summary prospectus framework, and adopting amendments to their rules that will require variable contracts to use the Inline eXtensible Business Reporting Language format for the submission of certain required disclosures in the variable contract statutory prospectus. The SEC is also taking the position that if an issuer of a discontinued contract that is discontinued as of July 1, 2020 that provides alternative disclosures does not file post-effective amendments to update a variable contract registration statement and does not provide updated prospectuses to existing investors, this would not provide a basis for enforcement action so long as investors are provided with the alternative disclosures as described in the adopting release. The SEC is also adopting certain technical and conforming amendments to its rules and forms and rescinding certain related rules and forms.

Effective Date: July 1, 2020
Notice Release: https://www.sec.gov/rules/final/2020/33-10765.pdf
Press Release: https://www.sec.gov/news/press-release/2020-57

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

SEC REVISES DEFINITIONS FOR ACCELERATED AND LARGE ACCELERATED FILERS

On March 12, 2020, the SEC issued an order approving a proposal to amend the accelerated filer and large accelerated filer definitions to more appropriately tailor the types of issuers that are included in those categories of filers and to promote capital formation, preserve capital, and reduce unnecessary burdens for certain smaller issuers while maintaining investor protections. The amendments exclude from the accelerated and large accelerated filer definitions an issuer that is eligible to be a smaller reporting company and that had annual revenues of less than $100 million in the most recent fiscal year for which audited financial statements are available. The amendments also include a specific provision excluding business development companies from the accelerated and large accelerated filer definitions in analogous circumstances. In addition, the amendments increase the transition thresholds for accelerated and large accelerated filers becoming non-accelerated filers from $50 million to $60 million, and for exiting large accelerated filer status from $500 million to $560 million. Further, the amendments add a revenue test to the transition thresholds for exiting from both accelerated and large accelerated filer status. Finally, the amendments add a check box to the cover pages of Forms 10-K, 20-F, and 40-F to indicate whether an internal control over financial reporting ("ICFR") auditor attestation is included in the filing. As a result of the amendments, certain low-revenue issuers will remain obligated, among other things, to establish and maintain ICFR and have management assess the effectiveness of ICFR, but they will not be required to have their management's assessment of the effectiveness of ICFR attested to, and reported on, by an independent auditor.

Effective Date: April 27, 2020
Notice Release: https://www.sec.gov/rules/final/2020/34-88365.pdf
Press Release: https://www.sec.gov/news/press-release/2020-58
Public Statement: https://www.sec.gov/news/public-statement/statement-clayton-accelerated-filer-2020-03-12

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

UPDATE BY CHAIRMAN CLAYTON ON CAT RELATING TO COVID-19 AND CYBERSECURITY RISK

On March 17, 2020, the Chairman of the SEC, Jay Clayton, issued a public statement containing updates on the Consolidated Audit Trail ("CAT"), which is intended to facilitate cross-market regulatory oversight and analysis. According to the approved CAT National Market System ("NMS") Plan, broker-dealers were to start reporting to the CAT by November 2018. While the Self-Regulatory Organizations ("SROs") were unable to establish an operational CAT by November 2018, the SROs have made progress with respect to testing in advance of broker-dealer reporting including opening the test environment for broker-dealer reporting in December 2019 and continued roll-out of functionality into that environment earlier this year. COVID-19's impact on market participants, including necessitating SROs and broker-dealers to implement their business continuity plans, has placed stress on their information technology infrastructure and required the deployment of significant resources, including to implement and adapt business continuity plans. To allow firms to maintain focus on operational readiness and reduce operational risk, SEC staff has issued a no-action letter regarding the SROs' enforcement of their CAT compliance rules through May 20, 2020 so that personnel who are working on CAT matters but are important to maintaining critical operations and implementing business continuity plans can focus their attention on those immediate needs. While the SEC staff has provided a temporary no-action letter with respect to certain CAT compliance rules in response to COVID-19's impact on market participants, the SEC remains committed to establishing a fully operational CAT. A critical step towards doing so is ensuring the protection of sensitive information submitted to the CAT, particularly retail investors' personally identifiable information. This issue has been, and will remain, of paramount importance. To that end, today the Commission issued relief that exempts the SROs from collecting or retaining certain retail customer data (link below), including (1) individual social security numbers or individual tax payer identification numbers (collectively, "SSNs"); (2) dates of birth and (3) account numbers. Additionally, Chairman Clayton asked the Commission staff to prepare a recommendation for the Commission on improving the data security requirements in the CAT NMS Plan this year recognizing developments in data systems and cybersecurity since the 2016 adoption of the CAT NMS Plan.

Comments Due: 21 days after publication in the federal register
Public Statement: https://www.sec.gov/news/public-statement/statement-clayton-cat-covid-19-nal-cybersecurity-2020-03-17
No Action: https://www.sec.gov/divisions/marketreg/mr-noaction/2020/consolidated-audit-trail-reporting-031620.pdf
Order Granting Exemptive Relief: https://www.sec.gov/rules/exorders/2020/34-88393.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

SEC APPROVES JOINT INDUSTRY PLAN REGARDING COVERED REGULATION NMS AND CAT RULES

On March 12, 2020, the SEC issued a notice approving and declaring effective an amendment to Section 17d-2, which permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. The primary purpose of the amendment is to: (i) add Rule 613 under the Exchange Act and the rules of each participating organization related to Rule 613 listed on Exhibit A to the Plan ("SRO Covered CAT Rules"); and (ii) to reflect the name change of Nasdaq PHLX, Inc. to Nasdaq PHLX LLC.

Notice Release: https://www.sec.gov/rules/sro/17d-2/2020/34-88366.pdf

SEC RE-OPENS COMMENT PERIOD FOR A NEW NMS PLAN REGARDING EQUITY MARKET DATA

On March 6, 2020, the SEC issued a notice re-opening the comment period for a proposed order directing the participants in the existing NMS plans governing the public dissemination of real-time, consolidated equity market data for NMS stocks to propose a single, new equity plan.

Comments Due: March 20, 2020
Notice Release: https://www.sec.gov/rules/sro/nms/2020/34-88340.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

JOINT INDUSTRY FILING OF THE TWENTIETH AMENDMENT TO THE NMS PLAN TO ADDRESS EXTRAORDINARY MARKET VOLATILITY

On March 17, 2020, the SEC published for comment an amendment to the NMS Plan ("the NMS Plan") to address extraordinary market volatility. On February 13, 2020, NYSE Group, Inc., on behalf of the following parties to the NMS Plan to Address Extraordinary Market Volatility: Cboe BZX Exchange, Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Chicago Stock Exchange, Inc. ("Chicago Stock Exchange"), the Financial Industry Regulatory Authority, Inc. ("FINRA"), Investors Exchange LLC, Long-Term Stock Exchange ("LTSE"), NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC ("Nasdaq"), New York Stock Exchange LLC ("NYSE"), NYSE Arca, Inc. ("NYSE Arca"), NYSE National Inc. ("NYSE National"), and NYSE American LLC (NYSE American") (collectively, the "Participants") filed with the SEC pursuant to Section11A(a)(3) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 608 thereunder, a proposal to amend the Plan ("Twentieth Amendment"). The proposal reflects changes unanimously approved by the Participants. The Twentieth Amendment proposes to: (i) amend Section II.B of Appendix B, concerning the quarterly reports provided by the Operating Committee to the Commission; and (ii) amend the Plan to reflect the name change of the Chicago Stock Exchange to NYSE Chicago, Inc.

Comments Due: 21 days after publication in the federal register
Notice Release: https://www.sec.gov/rules/sro/nms/2020/34-88406.pdf
FINRA Notice Release: https://www.sec.gov/rules/sro/finra/2020/34-88425.pdf
Nasdaq Notice Release: https://www.sec.gov/rules/sro/nasdaq/2020/34-88383.pdf
NYSE Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88402.pdf
NYSE American Notice Release: https://www.sec.gov/rules/sro/nyseamer/2020/34-88407.pdf

FINRA PROPOSES CHANGE REGARDING THE FINRA/NYSE TRADE REPORTING FACILITY FEES

On March 5, 2020, the SEC published for comment a FINRA-proposed rule change that has been granted immediate effectiveness. FINRA is proposing to amend FINRA Rule 7620B (FINRA/NYSE Trade Reporting Facility Reporting Fees) to modify the trade reporting fees applicable to participants that use the FINRA/NYSE Trade Reporting Facility ("FINRA/NYSE TRF"). Currently, the monthly fee for use of the FINRA/NYSE TRF is calculated using a tiered fee structure based on the reporting member's trading activity reported to the FINRA/NYSE TRF and, for some tiers, the reporting member's count of tape reports to the FINRA/NYSE TRF ("Trade Report Count"). NYSE Market (DE) proposes to (a) change the tier structure, such that all the tiers take into account the reporting member's Trade Report Count, while only some of the tiers take into account the reporting member's trading activity reported to the FINRA/NYSE TRF, and the number of fee tiers increases from nine to 13; and (b) exclude certain Participants from the fee. If there were no changes in reporting to the FINRA/NYSE TRF, such that Participants' reporting volume stayed the same as it was in the final quarter of 2019, under the proposed fee schedule the total monthly subscriber fees paid to the FINRA/NYSE TRF would decrease. FINRA is proposing to amend FINRA Rule 7620B (FINRA/NYSE Trade Reporting Facility Reporting Fees).

Comments Due: April 1, 2020
Notice Release: https://www.sec.gov/rules/sro/finra/2020/34-88324.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

FINRA PROPOSES CHANGES IN RESPONSE TO REGULATION BEST INTEREST

On March 19, 2020, the SEC published for comment a FINRA proposal to amend FINRA Rules 2111 (Suitability), 2310 (Direct Participation Programs), 2320 (Variable Contracts of an Insurance Company), 2341 (Investment Company Securities), and 5110 (Corporate Financing Rule – Underwriting Terms and Arrangements), and Capital Acquisition Broker (CAB) Rule 211 (Suitability). The proposed rule change would: (i) amend the FINRA and CAB suitability rules to state that the rules do not apply to recommendations subject to Regulation Best Interest ("Reg BI"), and to remove the element of control from the quantitative suitability obligation; and (ii) conform the rules governing non-cash compensation to Reg BI's limitations on sales contests, sales quotas, bonuses and non-cash compensation.

Comments Due: April 15, 2020
Notice Release: https://www.sec.gov/rules/sro/finra/2020/34-88422.pdf

FINRA AMENDMENT TO MEMBERSHIP APPLICATION PROGRAM APPROVED

On March 26, 2020, the SEC issued an order granting approval for a FINRA-proposed rule change to amend FINRA's Membership Application Program ("MAP") rules to help further address the issue of pending arbitration claims, as well as arbitration awards and settlement agreements related to arbitrations that have not been paid in full in accordance with their terms.

Comments Due: 21 days after publication in the federal register
Notice Release: https://www.sec.gov/rules/sro/finra/2020/34-88482.pdf

FINRA SEEKS TO EXTEND PILOT PROGRAM FOR FINRA RULE 11892

On March 27, 2020, the SEC published for comment and granted immediate effectiveness a FINRA proposal that proposed to extend the current pilot program related to FINRA Rule 11892 (Clearly Erroneous Transactions in Exchange-Listed Securities) until October 20, 2020.

Comments Due: April 15, 2020
Notice Release: https://www.sec.gov/rules/sro/finra/2020/34-88495.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

NASDAQ PROPOSES TO SHORTEN THE HOLDING PERIOD REQUIREMENTS FOR M-ELO ORDERS

On March 4, 2020, the SEC published for comment a Nasdaq proposal to amend Rules 4702(b)(14) and (15) of its Rulebook to shorten the holding period requirements for its Midpoint Extended Life Order ("M-ELO") and Midpoint Extended Life Order Plus Continuous Book ("M-ELO+CB") order types. After examining the historical effects of shorter holding periods of between 10 milliseconds and 400 milliseconds, Nasdaq determined that a reduction of the M-ELO holding period to as short as 10 milliseconds would have caused an average impact on mark-outs of only 0.10 basis points (across all symbols). In other words, compared to the execution price of an average M-ELO with a one-half second holding period, Nasdaq found that a M-ELO with a 10 millisecond holding period would have had an average post-execution impact that was only a tenth of a basis point per share – a difference in protective effect that is immaterial. Thus, Nasdaq determined that shortening the holding periods to 10 milliseconds for M-ELOs and M-ELO+CBs would increase the efficacy of the mechanism while not undermining the power of those order types to fulfill their underlying purpose of minimizing market impacts. At the same time, Nasdaq determined that a reduction in the holding periods to 10 milliseconds would dramatically add to the circumstances in which M-ELOs and M-ELO+CBs would be useful to participants. Accordingly, Nasdaq proposes to amend Rules 4702(b)(14) and (15) to decrease to 10 milliseconds the length of the holding periods for M-ELOs and M-ELO+CB, along with the length of the corresponding resting period for Midpoint Orders on the Continuous Book that are eligible to interact with M-ELO+CBs. Nasdaq intends to make the proposed change effective for M-ELOs and M-ELO+CBs in the second quarter of 2020. Nasdaq will publish a Trader Alert at least 14 days in advance of making the proposed change effective.

Notice Release: https://www.sec.gov/rules/sro/nasdaq/2020/34-88320.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

NASDAQ ADOPTS AMENDMENTS FOR THE RESUMPTION OF TRADING FOLLOWING A MWCB HALT

On March 11, 2020, the SEC issued an order approving a proposal by Nasdaq to amend Rule 4121(b) concerning the resumption of trading following a Level 3 trading halt due to extraordinary market volatility. Currently, if a Level 3 market decline occurs, Nasdaq would halt trading for the remainder of the trading day and would not resume trading until the primary listing market opens the next trading day. Thus, if the primary listing market is Nasdaq, Nasdaq would resume trading in its listed securities at 4:00 a.m. ET on the next trading day, which is the beginning of Nasdaq's Pre-Market Session. Effectively, Nasdaq would open its listed securities for trading following a Level 3 halt the same as a regular trading day under its current Market-wide Circuit Breaker ("MWCB") Level 3 re-opening procedures. For non-Nasdaq listed securities, however, Nasdaq would resume trading once the primary listing market has re-opened the security for trading, which time may currently vary depending on the primary listing market. Nasdaq now proposes that a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS stocks no differently from any other trading day. To effect this change, Nasdaq proposes to delete the language in Rule 4121(b)(ii) requiring Nasdaq to wait until the primary listing exchange opens the next trading day following a Level 3 market decline, and specify that Nasdaq will halt trading for the remainder of the trading day. The proposed rule change would allow Nasdaq to resume trading in all securities the next trading day following a Level 3 halt no differently than any other trading day, which for Nasdaq would be at the beginning of the Pre-Market Session at 4:00 a.m. ET under its current rules. Nasdaq also expects that the primary listing exchanges will facilitate this change by sending resume messages to the applicable SIP to lift the Level 3 trading halt message in all securities. The resumption messages will be disseminated after the SIP has started on the next trading day and before the start of the earliest pre-market trading session of all exchanges. If a security is separately subject to a regulatory halt that has not ended, the primary listing exchange would replace the Level 3 halt message with the applicable regulatory halt message.

Approval Order: https://www.sec.gov/rules/sro/nasdaq/2020/34-88360.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

REVIEW PERIOD EXTENDED ON NYSE AND NYSE AMERICAN PROPOSED CHANGES TO OFFER USERS ACCESS TO THE NMS NETWORK

On March 4, 2020, the SEC designated a longer time period within which to approve or disapprove substantively identical NYSE and NYSE American (collectively the "Exchanges") proposed rule changes so that it has sufficient time to consider the proposed rule changes (and Amendments) along with any comments received. The Exchanges propose to amend their Equities Price Lists and Fee Schedules ("Price Lists") and their Options Fee Schedules ("Fee Schedules") to extend for one year a fee discount for the Partial Cabinet Solution ("PCS") bundles offered in connection with their co-location services. There are four PCS bundles, each of which includes a partial cabinet; access to the Liquidity Center Network ("LCN") and internet protocol ("IP") network; the local area networks available in the data center; two fiber cross connections; and connectivity to one of two-time feeds. The Exchanges offer users that purchased a PCS bundle on or before December 31, 2019, a 50% reduction in the monthly recurring charges ("MRC") for the first 24 months. The Exchanges propose to extend the 50% fee reduction to those users that purchase a PCS bundle on or before December 31, 2020. The Exchanges do not propose to amend the length of the discount period. The proposed change would apply to all PCS bundles and would not apply differently to distinct types or sizes of market participants. Rather, it would apply to all users equally. As is currently the case, the purchase of any co-location service, including PCS bundles, is completely voluntary and the Price List and Fee Schedule are applied uniformly to all users.

NYSE Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88319.pdf
NYSE American Notice Release: https://www.sec.gov/rules/sro/nyseamer/2019/34-87841.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

REVIEW PERIOD EXTENDED ON NYSE AND NYSE AMERICAN PROPOSED CHANGES TO AMEND RULES 6800 SERIES, 47 AND 75, AND ADD NEW RULE 46B

On March 5, 2020, the SEC designated a longer time period within which to take action on substantively identical proposed rule changes by NYSE and NYSE American so that the Commission has sufficient time to consider the proposed rule changes along with any comments received. The proposed rule changes would amend the Rule 6800 Series, the Exchanges' compliance rule regarding the NMS Plan Governing the CAT NMS Plan to be consistent with certain proposed amendments to, and exemptions from, the CAT NMS Plan as well as to facilitate the retirement of certain existing regulatory systems. The proposed rule change would make the following changes to the compliance rule: (i) revise data reporting requirements for the Firm Designated ID; (ii) add additional data elements to the CAT reporting requirements for industry members to facilitate the retirement of Order Audit Trail System ("OATS"); (iii) add additional data elements related to Over-the-Counter ("OTC") equity securities that FINRA currently receives from Alternative Trading Systems ("ATS") that trade OTC equity securities for regulatory oversight purposes to the CAT reporting requirements for Industry Members; (iv) implement a phased approach for industry member reporting to the CAT; (v) revise the CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers; (vi) revise the time stamp granularity requirement to require industry members to record and report Industry Member Data to the Central Repository with time stamps in such finer increment up to nanoseconds; (vii) revise the reporting requirements to address circumstances in which an industry member uses an established trading relationship for an individual customer (rather than an account) on the order reported to the CAT; and (viii) revise the CAT reporting requirements so industry members would not be required to report to the Central Repository dates of birth, SSNs or account numbers for individuals.

On March 11, 2020, the SEC designated a longer time period within which to take action on a NYSE-proposed rule change so that it has sufficient time to consider the proposed rule change. The proposed rule change would create a new Rule 46B to permit the appointment of Regulatory Trading Officials and corresponding Rules 47 and 75 to permit the Regulatory Trading Officials to review whether a bid or offer was verbalized at the point of sale in time to be eligible for inclusion in the Closing Auction.

NYSE Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88329.pdf
NYSE American Notice Release: https://www.sec.gov/rules/sro/nyseamer/2020/34-88331.pdf
Proposed Rule: https://www.sec.gov/rules/sro/nyse/2020/34-88033.pdf
Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88357.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

NYSE PROPOSES PRE-TRADE RISK CONTROLS FOR ENTERING AND CLEARING FIRMS

On March 12, 2020, the SEC published for comment a NYSE proposal to create new Rule 7.19 (Pre-Trade Risk Controls) to establish a set of pre-trade risk controls by which Entering Firms and their designated Clearing Firms, as defined in the proposal, may set credit limits and other pre-trade risk controls for an Entering Firm's trading on the NYSE and authorize the NYSE to take action if those credit limits or other pre-trade risk controls are exceeded. Proposed Rule 7.19(a) would set forth the definitions that would be used for purposes of the Rule. Proposed Rule 7.19(b) would set forth the Pre-Trade Risk Controls that would be available to Entering Firms and Clearing Firms. Proposed Rule 7.19(c) would set forth the actions the NYSE would be authorized to take when a Pre-Trade Risk Control set by an Entering Firm or a Clearing Firm is breached, which would be referred to as "Automated Breach Actions." Proposed Rule 7.19(d) concerns how an Entering Firm's ability to enter orders and order instructions would be reinstated after a "Block Only" or "Cancel and Block" Automated Breach Action has been triggered. In such case, proposed Rule 7.19(d) provides that the NYSE would not reinstate the Entering Firm's ability to enter orders and order instructions on the NYSE (other than instructions to cancel one or more orders, including Auction-Only Orders, in full) without the consent of (i) the Entering Firm, and (ii) the Clearing Firm, if the Entering Firm has designated that the Clearing Firm's consent is required. Finally, proposed Rule 7.19(e) would set forth "kill switch" functionality, which would allow an Entering Firm or its designated Clearing Firm to direct the NYSE to take certain bulk Kill Switch Actions with respect to orders.

Comments Due: April 15, 2020
Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88376.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

NYSE TEMPORARILY ADOPTS ABILITY TO FACILITATE A TRADING HALT FOLLOWING A MWCB HALT

On March 18, 2020, the SEC published for comment a NYSE proposal that has been granted immediate effectiveness. The NYSE proposed to amend Rule 7.35C to provide the NYSE with discretion to facilitate a Trading Halt Auction following a Level 1 or Level 2 trading halt due to extraordinary market volatility under a Rule 7.12 MWCB halt if a security has not reopened by 3:30 p.m. Eastern Time. To facilitate the fair and orderly reopening of securities following a MWCB Halt, the NYSE proposed that it have discretion to facilitate a Trading Halt Auction in one or more securities under the procedures described in Rule 7.35C if a security is not reopened by 3:30 p.m. The NYSE continues to believe that DMM-facilitated Trading Halt Auctions following a MWCB Halt provide the greatest opportunity for fair and orderly reopenings of securities and would therefore continue to provide DMMs an opportunity to reopen securities before effectuating an NYSE-facilitated Trading Halt Auction. The proposal provided the NYSE with another tool during volatile markets to reopen securities before 3:50 p.m. for continuous trading to resume leading into the close by granting the CEO of the NYSE or his or her designee the authority to determine that the NYSE would facilitate a Trading Halt Auction in one or more securities under the procedures set forth in Rule 7.35C if a security has not reopened by 3:30 p.m. For any NYSE-facilitated Trading Halt Auction, the NYSE proposed to widen the Auction Collars. Currently, the Auction Collar for an NYSE-facilitated Trading Halt Auction would be based on a price that is greater than $0.15 or 5% away from the Auction Reference Price for the Trading Halt Auction. The NYSE proposed that, if it facilitates a Trading Halt Auction following a MWCB Halt pursuant to proposed Commentary .01, the Auction Collars would be the greater of $0.15 or 10% away from the Auction Reference Price. Because the reasons for these market declines and related triggers of MWCB Halts are related to the extraordinary ongoing uncertainty regarding how COVID-19 will impact the global economy and daily life, the NYSE proposed to adopt these proposed rule changes on a temporary basis, until May 15, 2020. If uncertainty continues and the NYSE believes that the period for this proposed rule change should be extended, it will file a separate proposed rule change.

Comments Due: April 14, 2020
Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88413.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

NYSE SUSPENDS LISTING REQUIREMENT FOR AVERAGE GLOBAL MARKET CAPITILIZATION AS A RESULT OF COVID-19

On March 20, 2020, the SEC published and granted immediate effectiveness to a NYSE-proposed rule change to suspend until June 30, 2020 the application of its continued listing requirement that companies must maintain an average global market capitalization over a consecutive 30 trading-day period of at least $15 million (the "Market Capitalization Standard"). The U.S. and global equities markets have experienced unprecedented market-wide declines as a result of the ongoing spread of COVID-19. As a consequence, since the commencement of the current market turbulence in the last week of February 2020, the NYSE has experienced an unusually high number (as compared to historical levels) of listed companies that are in imminent danger of immediate suspension and delisting under Section 802.01B of the NYSE Listings Manual for failure to comply with the Market Capitalization Standard. In response to the conditions described above, the NYSE proposed to suspend, until June 30, 2020, the application of the Market Capitalization Standard. The extreme volatility and the precipitous decline in trading prices of many securities experienced in the U.S. and global equities markets could lead to a high number of securities being immediately suspended from trading and delisted during a short period of highly volatile markets. The proposed suspension of the Market Capitalization Standard until June 30, 2020 will provide temporary relief to these companies and their shareholders in response to these extraordinary market conditions. The proposed suspension of the Market Capitalization Standard will not affect the status of any company that has been formally notified for noncompliance with the Market Capitalization Standard and is currently in the NYSE's delisting appeal process prior to the date of this filing. Instead, under the proposed suspension of the NYSE's Market Capitalization Standard, companies would not be notified of new events of noncompliance with the Market Capitalization Standard during the suspension period. Following the temporary rule suspension, any new events of noncompliance with the NYSE's Market Capitalization Standard would be determined based on a consecutive 30 trading-day period commencing on or after July 1, 2020.

Comments Due: April 16, 2020
Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88441.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

NYSE ADOPTS TEMPORARY CHANGES UNTIL THE EARLIER OF THE REOPENING OF THE TRADING FLOOR FACILITES OR MAY 15, 2020

On March 20, 2020, the SEC published and granted immediate effectiveness to a NYSE-proposed rule change to amend Rules 7.35A, 7.35B, and 7.35C for a temporary period that begins March 23, 2020 and ends on the earlier of the reopening of the Trading Floor facilities or after the NYSE closes on May 15, 2020. The NYSE proposed that when the Trading Floor facilities will have been closed pursuant to Rule 7.1(c)(3), and upon the earlier of the reopening of the Trading Floor facilities or after the NYSE closes on May 15, 2020, to: (i) suspend the current price and volume parameters set forth in Rules 7.35A and 7.35B restricting DMMs from effecting a Core Open, Trading Halt, or Closing Auction; (ii) widen the percentage price parameters for when a DMM may effect a Core Open, Trading Halt, or Closing Auction electronically to 10%; (iii) suspend the requirement to publish pre-opening indications; and (iv) establish the Auction Collars for an NYSE-facilitated Trading Halt Auction following a Level 1 or Level 2 market-wide circuit breaker halt at the greater of 10% or $0.15. The NYSE proposed these changes only for the period when the NYSE Trading Floor has temporarily closed as a precautionary measure to reduce the spread of COVID-19. The NYSE also proposed a non-substantive amendment to correct rule cross references in Rule 7.35B(j)(1)(A) and (B).

Comments Due: April 14, 2020
Notice Release: https://www.sec.gov/rules/sro/nyse/2020/34-88444.pdf

NYSE PROPOSES CHANGE TO HOW ORDERS ARE RE-PRICED

On March 12, 2020, the SEC published a NYSE American-proposed rule change relating to how orders are repriced. Specifically, NYSE American proposes to amend Rule 7.31E (Orders and Modifiers) relating to how orders are repriced and make related changes to Rules 7.35E, 7.36E, and 7.38E. NYSE American proposes to amend its rules to conform how it reprices orders in the scenario described in the rule proposal to how other exchanges function. To affect the proposed rule change, the Exchange proposes to delete Rule 7.31E(a)(2)(C) in its entirety and any reference to this Rule. First, NYSE American proposes rule changes to specify that previously displayed orders at any price stand their ground and remain eligible to be quoted or traded at their last-displayed price, even if locked or crossed by an Away Market, non-displayed orders do not. NYSE American proposes to specify this principal generally for all displayed orders by amending Rule 7.36E(b) to add new subparagraph (4) that would provide that if an Away Market locks or crosses the BBO, NYSE American would not change the display price of any Limit Order ranked Priority 2 - Display Orders and any such orders would be eligible to be disseminated as the NYSE American's BBO. Second, NYSE American proposes to specify how NYSE American would process orders following either a UTP Regulatory Halt in a UTP Security or an Auction that is not preceded by continuous trading. Third, NYSE American proposes to apply the proposed processing of orders, described above, to odd-lot orders. Because of technologies changes associated with the rule change, NYSE American will announce the implementation date by Trader Alert; implementation is expected to be spring of 2020.

Comments Due: April 8, 2020
Notice Release: https://www.sec.gov/rules/sro/nyseamer/2020/34-88363.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

DTC ADDS NEW FEE FOR INSTITUTIONAL TRANSACTION STATUS INFORMATION TO ITS FEE GUIDE

On March 13, 2020, the SEC published and granted immediate effectiveness to a Depository Trust Company ("DTC")-proposed rule change. The proposed rule change amended the Guide to the DTC Fee Schedule ("Fee Guide") to add a fee and other charge relating to the provision of status information ("Status Information") for institutional transactions in Eligible Securities ("Institutional Transactions") to an entity providing a matching service ("Matching Utility"). Pursuant to the proposed rule change, DTC amended the Fee Guide to implement the following fee and other charge, as follows: (i) to cover the cost of providing a Matching Utility with Status Information, DTC would amend the Fee Guide to add the Status Information Fee in the amount of $90,000 per year; and (ii) to add the Status Information Development Charge. The proposed Status Information Fee is structured to use a flat annual fee rather than a volume-based fee, because DTC's ongoing estimated support costs relating to providing Status Information to a Matching Utility are fixed and are not expected to fluctuate based on message volume. The Status Information Development Charge will be listed in the Fee Guide as a one-time charge, charged "At cost", and will be billed to a Matching Utility in the amount to cover the reasonable cost to DTC to develop a Non-Submitting Matching Utility Interface for the Matching Utility that agrees in writing to pay the Status Information Development Charge and subscribes to receive Status Information.

Comments Due: 21 days after publication in the federal register
Notice Release: https://www.sec.gov/rules/sro/dtc/2020/34-88380.pdf

OCC CHANGES DEADLINE FOR SUBMITTING A LATE EXERCISE NOTICE ON NON-EXPIRATION DATES AND MODIFIES FEES

On March 2, 2020, the SEC published an order granting approval for an Options Clearing Corporation ("OCC")-proposed rule change to modify the fee imposed for submitting a late exercise notice and change the deadline by which such a notice must be submitted on a non-expiration date. OCC's rules required Clearing Members to submit option exercise notices within the timeframes prescribed by OCC. OCC's rules provided for an exception process to accommodate exercise notices submitted outside of such timeframes solely for the purpose of correcting a bona fide error on the part of a Clearing member or customer. OCC's process for accommodating late exercise notices included, among other things, a late filing fee and a final deadline by which any such notice must be received by OCC. OCC proposed to amend its Rules 801 and 805 to modify the fees for exercise notices submitted after the deadlines by which all option exercise notices must be submitted and to change the deadline for submitting a late exercise notice on non-expiration dates.

Notice Release: https://www.sec.gov/rules/sro/occ/2020/34-88310.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

Notable Enforcement Actions

This month's enforcement actions demonstrate the importance of proper disclosures to customers and the accuracy of reports to FINRA.

On December 31, 2019, a firm was fined $250,000 and required to provide a written certification within 90 days that it has completed a review of its systems and procedures regarding SEC Rule 10b-16(a)(1), and as of the date of the certification, the firm's policies, systems and procedures are reasonably designed to achieve compliance with the rule. The findings state that it failed to establish procedures reasonably designed to ensure that introduced 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 SEC Rule 10b-16(a)(1). The findings stated that the firm provided its introducing firms with a Margin Disclosure Statement document, which it understood its introducing firms provided to customers prior to the firm opening a margin account for the customer. While the firm had a process in place to ensure that the Margin Disclosure Statement was provided by the introducing firm, the statement did not disclose the introducing firm-specific margin interest rate. Some of the firm's introducing firms did not make margin interest rate disclosures at the time of account opening. As the broker extending credit, the firm was responsible for establishing procedures to ensure that the margin rates were disclosed to customers at the time they opened margin accounts. The firm did not have procedures to ensure that introduced customers received margin interest disclosures at the time of account opening. Certain customers of the firm's introducing firms did not receive the initial disclosure stating the annual rate or rates of margin interest that could be imposed. (**FINRA Case #2019061642801**)
https://www.finra.org/sites/default/files/fda_documents/2019061642801%20Apex%20Clearing%20Corporation%20CRD%2013071%20AWC%20va.pdf

On January 2, 2020, a firm was fined $90,000 for transmitting inaccurate Reportable Order Events ("ROEs") to OATS, primarily due to the failure to append the correct special handling code to directed orders. The findings state that these inaccuracies resulted from various causes, including the firm's misunderstandings of the application of certain codes, logic flaws within its own systems, logic flaws within a third-party execution and order management system and the misclassification of a client account. The findings also stated that the firm's supervisory system was not reasonably designed to achieve compliance with respect to applicable securities laws and regulations, and FINRA rules, concerning OATS. The firm's supervisory system focused on correcting OATS issues that either impacted the ability to submit ROEs or were identified by FINRA, but was not reasonably designed to identify situations in which ROEs contained inaccurate information that would not result in rejects, mismatches, out-of-sequence events, etc. In this regard, while the firm reviewed a small number of orders on a monthly and semi-annual basis to ensure the ROEs submitted for those orders were accurate, the number of orders reviewed was unreasonably small and not tailored to its business activity. As a result of its supervisory failures, the firm was unaware of its inaccurate OATS submissions until notified by FINRA. (**FINRA Case #2016051474801**)
https://www.finra.org/sites/default/files/fda_documents/2016051474801%20Dash%20Financial%20Technologies%20LLC%20fka%20Dash%20Financial%20LLC%20and%20Electronic%20Brokerage%20Systems%20LLC%20CRD%20104031%20AWC%20va%20%282020-1580602768878%29.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

On January 3, 2020, a firm was fined $150,000 for executing municipal securities transactions with customers in an amount below an issue's minimum denomination without an exception. The findings state that the firm provided evidence to FINRA that it offered to rescind the transactions to all of the customers that continued to hold the position. The findings also state that the firm failed to disclose to its customers all material facts concerning municipal securities transactions at or prior to the time of trade. Specifically, the firm failed to inform its customers, orally or in writing, that the municipal securities transactions were in an amount below the issue's minimum denomination and that this may adversely affect the position's liquidity. (**FINRA Case #2016049250601**)
https://www.finra.org/sites/default/files/fda_documents/2016049250601%20Merrill%20Lynch%2C%20Pierce%2C%20Fenner%20%26%20Smith%20Incorporated%20CRD%207691%20AWC%20va%20%282020-1580689169590%29.pdf

On January 6, 2020, a firm was fined $125,000 and required to revise its written execution methodology for manually executed orders. The findings state that the firm did not maintain a reasonable written methodology governing the execution and priority of all pending orders that it received for handling and execution. The findings state that the firm did not have a written execution methodology for OTC equity securities that were handled manually and executed outside of the firm's automated system or for certain categories of NMS securities that were executed manually. Given the firm's size in the OTC market in terms of trade and share volume, its failure to have a reasonable written methodology document governing order priority for manually executed orders created substantial risk that the firm would not handle manual orders consistently. (**FINRA Case #2013037127501**)
https://www.finra.org/sites/default/files/fda_documents/2013037127501%20Virtu%20Americas%20LLC%20%28fka%20KCG%20Americas%20LLC%29%20CRD%20149823%20%20AWC%20va%20%282020-1580948373656%29.pdf

On January 13, 2020, a National Adjudicatory Counsel ("NAC") decision became final in which the firm was fined $3,400,000 and ordered to pay disgorgement in the amount of $90,940, plus prejudgment interest. The NAC affirmed the findings in relevant part and modified the sanctions imposed by the OHO. Given that the firm is no longer operating as a broker-dealer, the NAC assessed, but did not impose, a suspension on the firm requiring it to engage an independent consultant who will monitor its supervisory and anti-money laundering procedures related to its microcap securities liquidation business. The sanctions were based on findings that the firm facilitated unregistered and non-exempt customer sales of billions of shares of securities. The findings stated that the firm liquidated approximately 4 billion shares of penny stocks in customer accounts at the firm that were not registered with the SEC, nor were the transactions exempt from registration. The shares sold for the firm's customers yielded total sales proceeds of approximately $2 million and generated over $107,000 in commissions. The firm's failure to carefully scrutinize the transactions is compounded by numerous red flags that suggested the existence of control or an otherwise collusive relationship between its clients and the issuers or called into question whether the securities acquisition transactions were arms-length. The findings also stated that the firm failed to adequately supervise its brokers and ensure that it employed procedures adequate to comply with recordkeeping requirements and its obligation not to participate in unregistered, non-exempt securities offerings. The firm's CCO failed to ensure that it had an effective system in

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

place to retain electronic communications, as the firm's brokers routinely used personal email accounts bypassing any system of surveillance or monitoring the firm utilized. The firm knowingly failed to implement procedures tailored to its business. Instead, the firm uncritically executed customer orders without asking appropriate questions regarding the origin of the stock deposited for liquidation. None of those responsible for supervision at the firm conducted sufficient inquiry into any of the transactions at issue or recognized red flags in the accounts of the customers selling shares. (**FINRA Case #2013035865303)**

https://www.finra.org/sites/default/files/fda_documents/2013035865303%20Spencer%20Edwards%2C%20Inc.%20CRD%2022067%20NAC%20Decision%20sl%20%282020-1579825170979%29.pdf

On January 14, 2020, a firm was fined $225,000 and required to revise its supervisory system and WSPs. The firm consented to the sanctions and to the entry of findings that it effected short sales for its own account without borrowing the security or entering into a bona fide arrangement to borrow the security, and without documenting its compliance with the locate requirement for short sale transactions. The findings stated that the firm's failure to obtain locates for short sales resulted from system issues that failed to recognize short sales when the firm was selling short to facilitate customer orders as principal. The system issues were later resolved. The findings also stated that the firm failed to establish, maintain and enforce written policies and procedures reasonably designed to prevent the execution or display of a short sale order in a covered security subject to a short sale circuit breaker at a price at or below the national best bid. The firm largely relied on compliance filters in its trading platforms to prevent the execution of a short sale order at a price less than or equal to the national best bid during a short sale circuit breaker. However, as the result of separate system issues, the firm executed non-exempt short sale orders subject to circuit breakers at prices at or below the national best bid when it was facilitating customer orders or trading with a firm affiliate. Each of the technology issues related to trades subject to internal executions. The findings also included that the firm failed to report short sale exempt transactions in the NMS stocks to a FINRA trade reporting facility with the appropriate short sale exempt modifier. Each of these instances involved the firm's failure to include the short sale exempt modifier when it reported the non-media legs of riskless principal transactions to the trade reporting facility. The violations were attributable to the firm's misunderstanding of the trade reporting requirements. Moreover, a programming error in one of the firm's trading platforms resulted in the platform's failure to recognize that the firm was selling short when it was acting as the contra party to a customer trade. As a result, the firm erroneously reported short sales to a FINRA trade reporting facility as long sales. FINRA found that the firm's WSPs failed to provide guidance as to how the primary supervisor would conduct his or her review for locate compliance for securities that were not on an easy to borrow list. Moreover, the firm's review process did not call for evidence that reviews were actually conducted. Rather, the WSPs only required documentation for reviews in which the supervisor identified an exception. FINRA also found that the firm's supervisory system, including its WSPs, did not include supervisory reviews for the accurate reporting of short sales to FINRA trade reporting facilities, including whether transactions were short sales or short sale exempt. (**FINRA Case #2015045325201)**

https://www.finra.org/sites/default/files/fda_documents/2015045325201%20Citigroup%20Global%20Markets%20Inc.%20CRD%207059%20%20AWC%20va%20%282020-1581639568074%29.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.

On January 14, 2020, a firm was fined $1,000,000 and required to retain one or more qualified independent consultants not unacceptable to FINRA to conduct a comprehensive review of the adequacy of its compliance with FINRA rules in connection with the violations. The firm consented to the sanctions and to the entry of findings that it disseminated inaccurate information about group variable annuities expense ratios and inaccurate historical performance information about investment options offered in those annuities. The findings stated that the firm disseminated or made available inaccurate information about the third-party ratings for mutual funds underlying those investment options. The inaccurate information included material inaccuracies and was contained in communications for retirement plan participants and of plan sponsors. Moreover, the firm disclosed performance data of money market fund investment options in certain types of client-facing communications, but omitted information regarding those funds' seven-day yield as required by SEC Rule 482(e) under the Securities Act of 1933. The inaccuracies and omissions occurred in nine different types of publications. As a result, sponsors and participants using the inaccurate and/or incomplete communications that the firm provided were not provided with information to enable them to correctly assess or compare the costs associated with different investment options, the historical performance, or the potential return of those investments. Although account statements contained accurate performance returns and accurate participant account values, prospectuses disclosed minimum and maximum expenses, and the firm charged accurate fees, this did not cure the fact that it created the risk that sponsors and participants would make investment decisions based upon the inaccurate and/or incomplete information distributed or made available by the firm. The findings also stated that the firm failed to have a supervisory system, including WSPs, reasonably designed to achieve compliance with the content standards of FINRA's advertising rule. The firm did not implement supervisory controls and procedures reasonably designed to verify the accuracy of the expense ratio, historical performance and rating information it distributed and made available to plan participants and sponsors, or to ensure that it included seven-day yield information in publications regarding money market funds when required. **(FINRA Case #2015047966801)**

https://www.finra.org/sites/default/files/fda_documents/2015047966801%20Prudential%20Investment%20Management%20Serivces%20LLC%20CRD%2018353%20AWC%20sl%20%282020-1581639568116%29.pdf

On January 16, 2020, a firm was fined $90,000 for misreporting its short positions in equity securities that must be reported pursuant to FINRA Rule 4560 by overstating its short positions and the number of accounts with short positions. **(FINRA Case #2017053173601)**

https://www.finra.org/sites/default/files/fda_documents/2017053173601%20Wedbush%20Securities%20Inc.%20CRD%20877%20AWC%20sl%20%282020-1581898769080%29.pdf

Copyright © 2020 Mediant Communications Inc. All Rights Reserved.