

## **BROKER-DEALER**

### **SEC Extends Compliance Date for Regulation NMS Changes**

The Securities and Exchange Commission has extended the compliance dates for amendments to Rule 606 of Regulation National Market System (NMS) that were adopted in November 2018.

The amendments to Rule 606 require specific additional disclosures for broker-dealers, including disclosure upon customer request of information relating to a customer's NMS stock orders submitted on a not held basis. The amendments also include public quarterly disclosure of information relating to NMS stock orders submitted on a held basis.

The SEC has extended the compliance date for these amendments to September 30, meaning that the new requirements will apply to trades occurring on or after October 1. The SEC previously set the compliance date as May 20.

The SEC's compliance date amendment is available [here](#).

### **FINRA Issues Warning on Imposter Website Threat**

The Financial Industry Regulatory Authority (FINRA) has issued a notice warning member firms that there appears to be an increase in imposter websites designed to mimic firms' actual websites.

FINRA suggests that member firms take proactive steps to monitor for imposter websites, including registering URL name variations and using monitoring services to watch for imposter websites. FINRA also suggests that member firms take responsive action in event that an imposter website is discovered, including (among other things) calling local law enforcement, the nearest FBI field office and the relevant state's Attorney General.

FINRA's notice is available [here](#).

### **CBOE Proposes Amendments to Rule 6.49A to Eliminate On-Floor Position Transfers Procedures**

CBOE Exchange, Inc. (CBOE) recently filed a proposal to amend its Rule 6.49A to delete the provisions therein related to on-floor position transfers and amend the provision regarding presidential exemptions. Generally, CBOE Rule 6.49(a) requires that transactions of option contracts listed on the exchange for a premium in excess of \$1.00 to be effected on the floor of the exchange or on another exchange. However, Rule 6.49A specifies certain circumstances in which CBOE Trading Permit Holders (TPHs) may nonetheless effect transfers of positions, both on and off the trading floor. CBOE proposes to eliminate entirely the procedure for on-floor position transfers, as it is administratively burdensome on the exchange and is not widely utilized. The proposed amendments would make no changes to the procedures for permissible off-floor position transfers.

The rule filing is available [here](#).

## **CBOE Proposes Changes to Its Processes and Rules Concerning Investigative and Disciplinary Matters**

CBOE Exchange, Inc. (CBOE) has proposed amendments to Chapter 17 of the *CBOE Options Rules* regarding investigative and disciplinary matters involving CBOE Trading Permit Holders (TPHs) and their associated persons. In particular, the amendments reflect updates to CBOE's rules and processes related to:

- complaints and investigations;
- expedited proceedings;
- the issuance of charges (and answers thereto);
- hearings (including decisions made pursuant to a hearing and the review of decisions);
- summary proceedings;
- settlements;
- judgment and sanctions;
- service of notice;
- reporting to the Central Registration Depository; and
- imposition of fines for minor rule violations.

The amendments are designed, among other things, to harmonize (to a significant extent) CBOE's investigative and disciplinary processes with those of CBOE's affiliate exchanges (CBOE BZX Exchange, Inc., CBOE BYX Exchange, Inc., CBOE EDGX Exchange, Inc., and CBOE EDGA Exchange, Inc.) and to adopt new roles for CBOE's Business Conduct Committee and Chief Regulatory Officer.

Interested parties are invited to submit comments regarding the proposal. All comments should be submitted within 21 days from the publication of the proposal in the *Federal Register*.

The rule filing is available [here](#).

## **DERIVATIVES**

*See "CFTC Approves Proposed Rule Regarding Certain Swap Data Repository and Data Reporting Requirements," "CFTC Proposes Amendments to DCO Regulations" and "CFTC's Division of Clearing and Risk and Office of the Chief Economist Issue Clearinghouse Supervisory Stress Test Report" in the CFTC section.*

## **CFTC Chair Proposes Relief for Phase 5 Initial Margin Implementation**

On April 29, Commodity Futures Trading Commission Chairman Chris Giancarlo sent a letter to Randy Quarles, the Vice Chair for Supervision of the Board of Governors of the Federal Reserve System, in which he proposed that the US regulators responsible for the administering the margin rules for uncleared swaps should collaborate in providing some relief to non-dealer swap market participants who may become subject to initial margin requirements in 2020. The specific relief would be the issuance of the same guidance issued by the Basel Committee on Banking Supervision (BCBS) and the International Organization of Securities Commissions (IOSCO) in March (for more information, see the March 8, 2019 edition of [Corporate & Financial Weekly Digest](#)), which stated that in-scope parties do not have to put in place compliant documentation and custodial relationships if there is no expectation that the exposure associated with their swaps will actually exceed the regulatory threshold for posting initial margin (\$50 million for the United States).

The need for this relief is a result of the phase-in level for initial margin requirements dropping to zero in 2020. That change is likely to bring many financial end-user swap parties ("Phase 5 Parties") into scope for initial margin because they trade with swap dealers and have material swaps exposure of \$8 billion or more. The proposed guidance would simplify life for any Phase 5 Party that has a relatively low risk swap portfolio and save such parties from having to negotiate new initial margin and custody documents. The guidance would have no effect on Phase 5 Parties that do expect to have more than \$50 million in aggregate swap exposure for initial margin purposes. A Phase 5 Party that benefits from such relief would have to monitor its exposures carefully, however, and be ready to satisfy all applicable requirements if it ever exceeds the posting threshold.

Since the Federal Reserve is only one of the five banking regulators responsible for the margin rules applicable to swap dealers that are subject to prudential regulation (i.e., bank swap dealers), this proposal can only come to

fruition if it is also agreed to by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Farm Credit Administration and the Federal Housing Finance Agency.

The letter is available [here](#).

## CFTC

### **CFTC Approves Proposed Rule Regarding Certain Swap Data Repository and Data Reporting Requirements**

On April 25, the Commodity Futures Trading Commission approved a proposed rule intended to improve the quality of swap data and update and streamline regulations related to the operations and governance of swap data repositories (SDRs) (Rule Proposal). Among other items, the Rule Proposal is intended to update requirements related to the following: 1) the verification by SDRs of swap data with reporting counterparties; 2) the correction of swap data errors and omissions for SDRs, reporting counterparties, and other market participants; and 3) the availability of swap data to the CFTC and the public (as required by the Commodity Exchange Act). Additionally, the Rule Proposal is intended to update SDR governance regulations for purposes of streamlining SDR requirements. The comment period for the Rule Proposal will end 75 days after its publication in the *Federal Register*.

The Rule Proposal is available [here](#).

### **CFTC Proposes Amendments to DCO Regulations**

On April 29, the Commodity Futures Trading Commission proposed a series of amendments to regulations that apply to derivatives clearing organizations (DCOs) under Part 39 of the CFTC's regulations, which implements the statutory core principles for DCOs (Rule Proposal). The Rule Proposal is intended, among other things, to streamline the DCO registration and reporting process, address certain risk management and reporting obligations, and add new requirements regarding default procedures and event-specific reporting in response to recent events. The Rule Proposal is intended to align with the CFTC's Project KISS, which is an agency-wide initiative to make CFTC rules, regulations and practices less burdensome, less costly and more transparent to all market participants. The comment period for the Rule Proposal will end 60 days after its publication in the *Federal Register*.

The Rule Proposal is available [here](#).

### **CFTC's Division of Clearing and Risk and Office of the Chief Economist Issue Clearinghouse Supervisory Stress Test Report**

On May 1, the Commodity Futures Trading Commission's Division of Clearing and Risk and Office of the Chief Economist jointly issued, *CCP Supervisory Street Tests: Reverse Stress Test and Liquidation Stress Test* (Stress Test), which is a two-part report covering the results of 1) a reverse stress test of central counterparties (CCPs) or clearinghouses resources; and 2) an analysis of stressed liquidation costs.

The purpose of the Stress Test was to identify combinations of market shocks and clearing member (CM) defaults which would consume pre-funded resources. The results of the Stress Test indicated that CME Clearing and LCH Ltd., the two tested CCPs, would have sufficient pre-funded resources to cover losses even if all CMs with losses defaulted under certain extreme historic 1-day scenarios. The Stress Test also evaluated whether sufficient pre-funded resources would have been available in the event that the actual costs of hedging and auctioning the portfolio of a defaulting member exceeded CCP estimates. Results suggested pre-funded resources would have been sufficient to cover extreme but plausible market losses plus liquidation expenses for two house accounts. Such resources were found to be sufficient even if the actual liquidation costs were double the amount of the liquidation margin add-on.

The results of the Stress Test are available [here](#).

## EU DEVELOPMENTS

### **EMIR REFIT: What Non-EU Asset Managers Should be Doing Now**

Although the pending reforms to the European Market Infrastructure Regulation (EMIR), commonly referred to as EMIR REFIT, have not yet gone into effect, US and other non-EU managers of non-EU alternative investment funds (AIFs) should start determining now whether they will be affected, and, if so, commence preparations for compliance. Any non-EU AIF that is currently classified as a third-country non-financial counterparty (NFC) that is below the applicable EMIR clearing thresholds (NFC-) is likely to be affected.

For more information, see Katten's advisory, "[EMIR REFIT: What Non-EU Asset Managers Should be Doing Now](#)."

For additional coverage on financial and regulatory news, visit [Bridging the Week](#), authored by Katten's [Gary DeWaal](#).

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EU DEVELOPMENTS

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\* Click [here](#) to access the *Corporate & Financial Weekly Digest* archive.

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