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BROKER-DEALER

SEC Releases Statement on Expiration of Tick Size Pilot

On September 10, the Securities and Exchange Commission announced the early expiration of its Tick Size Pilot Program. Under the program, the minimum quoting and trading increments (tick sizes) for stocks of certain smaller companies was widened. The program was intended to expire on October 2. However, due to concerns relating to a mid-week shifting in quoting and trading requirements and in response to several requests, the SEC issued exemptions to exchanges and to the Financial Industry Regulatory Authority to allow for the end of such requirements on September 28. Data collection and reporting requirements will continue for six months after the end of the program.

The SEC's press release is available here.

CFTC

NFA Issues Notice of Effective Date for Amendments to Security Futures Contracts' Risk Disclosure Statement

On September 12, the National Futures Association issued Notice I-18-15, announcing that the amendments to NFA's Interpretive Notice entitled NFA Compliance Rule 2-30(b): Risk Disclosure Statement for Security Futures Contracts (Interpretive Notice) will become effective on October 12.

NFA Compliance Rule 2-30(b) requires members and associates who are registered as brokers or dealers under Section 15(b)(11) of the Securities Exchange Act of 1934 to provide a risk disclosure statement for security futures products (SFP) to a customer at or before the time the member approves the account to trade SFPs. This statement describes the characteristics and risks of SFPs.

The amendments to the Interpretive Notice were submitted to the Commodity Futures Trading Commission on June 7 and August 21. The June 7 amendment changes the normal clearance and settlement cycle for securities transactions from three (3) business days to two (2) business days with respect to clearing a broker's settlement with the National Securities Clearing Corporation. The August 21 amendment changes the cash portion of a customer's account that the Securities Investor Protection Corporation (SIPC) will cover from $100,000 to $250,000. The SIPC covers assets of its customer's members, up to $500,000, in the event that the broker-dealer holding those assets becomes insolvent.

Notice I-18-15 is available here.

The June 7 proposed amendment is available here.

The August 21 proposed amendment is available here.

CFTC and Monetary Authority of Singapore Sign Arrangement To Cooperate on FinTech Innovations

On September 13, the Commodity Futures Trading Commission issued Release 7784-18, announcing that the CFTC and the Monetary Authority of Singapore signed the Cooperation Arrangement on Financial Technology Innovation (FinTech Arrangement) on September 13. The FinTech Arrangement supports both authorities' efforts to facilitate FinTech development and innovation in their respective markets by focusing on information sharing on FinTech market trends and developments. This includes sharing insights derived from each authority's relevant FinTech sandbox, proofs of concept and innovation competitions. The FinTech Arrangement also facilitates referrals of FinTech companies interested in entering the other's market. This will help FinTech companies better understand and navigate the regulatory regime and capitalize on opportunities in each jurisdiction.

Release 7784-18 is available here.

UK/BREXIT DEVELOPMENTS

FCA Releases New Video on Senior Managers and Certification Regime

On September 10, the UK Financial Conduct Authority (FCA) released a video focused on the Senior Managers and Certification Regime (SM&CR).

The video emphasizes the importance of clarity of responsibilities and maintaining high standards under the SM&CR. For further details on the SM&CR, see the July 28, 2017 edition of *Corporate & Financial Weekly Digest*.

The FCA's video can be viewed here.

FCA Publishes Approach to Becoming UK-Recognized Overseas Investment Exchange

On September 14, the UK Financial Conduct Authority (FCA) published a statement and direction clarifying how a market operator based in the European Economic Area (EEA) may make an application to become a recognized overseas investment exchange (ROIE), following the United Kingdom's departure from the European Union (Brexit).

The FCA has made the direction in order to enable the participation of an EEA exchange in UK markets, should they no longer be able to rely on passport rights under the revised Markets in Financial Instruments Directive (MiFID II) after Brexit.

The statement accompanying the direction explains that HM Treasury is not planning a temporary recognition regime for EEA market operators in the event the United Kingdom leaves the European Union without a deal without an implementation period. This is in contrast to the approach taken in relation to other EEA market participants, who may be able to rely on a planned temporary permissions regime to carry on regulated activities in the United Kingdom following the withdrawal (for further details, see the July 27 edition of *Corporate & Financial Weekly Digest*).

EEA market operators who currently make use of passport rights may, therefore, wish to apply to be recognized as an ROIE. EEA market operators who do not maintain a permanent place of business in the UK may be able to rely on the overseas persons exclusion, following the UK's withdrawal from the European Union, to the extent that they would otherwise be deemed to be carrying on a regulated activity in the United Kingdom. However, the statement advises that EEA market operators who cannot rely on such exclusion and who undertake regulated activities in the United Kingdom should seek appropriate FCA permissions, such as recognition as an ROIE.

The direction itself clarifies the FCA's expectations of EEA market operators when applying for recognition as an ROIE. The FCA notes that it has streamlined the application requirements where possible, considering that EEA market operators are subject to MiFID II.

FCA's statement is available here.

The direction is available here.

EU/BREXIT DEVELOPMENTS

ESMA Releases Latest Double Volume Cap Data Under MiFID II

On September 7, the European Securities and Markets Authority (ESMA) updated its public register with the latest set of double volume cap (DVC) data under the revised Markets in Financial Instruments Directive (MiFID II). The DVC public register was last updated in July (for further details, see the July 13 edition of *Corporate & Financial Weekly Digest*).

ESMA has identified a total of 142 new breaches. Instruments in breach of the caps will be suspended from being traded under waivers between September 12, 2018 and March 1, 2019. Due to corrected data received by ESMA, four instruments previously identified as being in breach were incorrectly identified, and the relevant suspensions of trading under the waivers should be lifted.

As of September 7, a total of 674 instruments have been suspended.

ESMA's announcement in relation to the updated DVC register is available here.

Joint Committees of ESAs Recommend Action To Address Risks and Uncertainties in EU Financial System

On September 11, the Joint Committee of the European Supervisory Authorities (ESAs) published a report on risks and vulnerabilities in the EU financial system, which sets out recommendations for policy action.

The report highlights the following risks as potential sources of instability:

- Abrupt yield increases could generate substantive asset price volatility and lead to losses across asset classes;
- Repricing of risk premia and potentially increasing interest rates could affect financial institutions and may bring with them a risk of contagion between different sectors; and
- Uncertainties around the terms of the UK's withdrawal from the European Union and the need to prepare for a no-deal scenario, as well as trade policy uncertainties and wider geo-political risks.

In light of the ongoing risks and uncertainties, the ESAs recommend the following policy actions by financial institutions and by EU and national competent authorities:

- **Stress tests**. Against the backdrop of rising interest rates and the potential for sudden risk premia reversals, it remains crucial to conduct and develop further stress test exercises across all sectors.
- **Risk appetite**. Supervisory authorities need to pay continued attention to the risk appetite of all market participants. Banks should accelerate addressing their stocks of non-performing loans and adapt business models to sustainably improve profitability, and financial institutions need to carefully manage their interest rate risk.
- **Contagion risks**. Macro and micro prudential authorities should contribute to addressing possible contagion risks, including continuing their efforts in monitoring lending standards and asset quality.
- **Brexit**. It is essential that EU financial institutions and their counterparties, as well as investors and retail consumers, plan appropriate mitigating actions to prepare for the UK's withdrawal from the European Union.

The report is available here.

For additional coverage on financial and regulatory news, visit *Bridging the Week*, authored by Katten's Gary DeWaal.

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UK/EU/BREXIT DEVELOPMENTS

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