Katten
KattenMuchinRosenman LLP

Corporate & Financial
Weekly Digest

March 24, 2017 Volume XII, Issue 11

SEC / CORPORATE

SEC Adopts Amendment to Shorten Settlement Cycle for Securities Transactions

On March 22, the Securities and Exchange Commission adopted an amendment to Rule 15c6-1(a) that shortens the standard settlement cycle for most broker-dealer securities transactions from three business days (known as T+3) to two business days (or T+2). Specifically, the rule, as amended, would prohibit a broker-dealer from entering into a contract for or effecting the purchase or sale of securities in which payment for and delivery of the securities occurs later than T+2, unless the parties agree otherwise at the time of the transaction or the transaction involves exempted securities or other securities to which Rule 15c6-1(a) does not apply (e.g., government securities and commercial paper). Bolstered by technological improvements that support a shorter settlement cycle, the amended rule is intended to decrease counterparty default risk, market risk, liquidity risk, credit risk and overall systemic risk and reduce inefficiencies in the movement of capital from investors to companies. Investors and broker-dealers must comply with the amended rule starting on September 5.

In a statement about the amendment, SEC Commissioner Kara Stein indicated that the staff will prepare a report, by no later than September 5, 2020, on the changes resulting from the movement to a T+2 settlement cycle and make recommendations for further improvements.

To assist in the preparation for the implementation of a T+2 settlement cycle, interested persons may submit inquiries to SEC staff at T2settlement@sec.gov.

Many outstanding warrants, convertible notes and similar instruments permit settlement based on the T+3 standard. Investors who rely on warrants and other convertible securities to settle trades would be well-served to evaluate the implications of the shorter settlement period on this strategy, including how to address the reduced settlement period, if any, for securities they already hold.

The full text of the press release is available here and the adopting release is available here. Commissioner Stein's statement about the amendment is available here.

BROKER-DEALER

See "SEC Adopts Amendment to Shorten Settlement Cycle for Securities Transactions" in the SEC/Corporate section.

FINRA Seeks Comment on Engagement Programs

The Financial Industry Regulatory Authority has issued a notice requesting public comment on how to improve industry and public engagement. The notice focuses on various engagement processes and programs, including advisory, *ad hoc* and district committees, FINRA's rulemaking process, member relations programs, education and compliance programs and reporting on FINRA operations. The notice is part of FINRA's FINRA360 initiative, which is a comprehensive review of its operations and programs.

FINRA is requesting comment on its review of industry and public engagement by May 5.

The notice is available here.

BREXIT / UK DEVELOPMENTS

Anti-Money Laundering: FCA Releases Draft Guidance on PEPs for Consultation

On March 16, the Financial Conduct Authority (FCA) released draft guidance (Guidance) for consultation (Consultation) on the treatment of politically exposed persons (PEPs).

Section 333U of the UK' s Financial Services and Markets Act (FSMA) requires the definition of PEPs in the Guidance be in line with the Money Laundering and Transfer of Funds (Information on the Payer) Regulations 2017 and be consistent with the requirements of when and how to conduct transactions or business relationships with PEPs.

The Guidance clarifies who should be considered a PEP, a family member of a PEP or "known close associates," and provides indicators for when a PEP is low or high risk, together with the measures that a firm should take in each scenario.

The Consultation closes on April 18.

The Guidance is available here.

HM Government to Create Office for Professional Body Anti-Money Laundering Supervision

On March 15, HM Treasury unveiled plans to create a new UK watchdog for tackling potential weaknesses in the supervisory system that criminals and terrorists may be trying to exploit.

The new "Office for Professional Body Anti-Money Laundering Supervision" (OPBAS) will focus its work on accountancy and legal sectors with the goal of helping to improve the overall standards of supervision and ensure that supervisors (such as the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA)) and law enforcement work together more effectively.

The Treasury states that OPBAS will complement the updated Money Laundering Regulations, published in draft on March 15, which seek to make the UK's anti-money laundering and counter financing for terrorism regimes consistent with the latest international standards.

OPBAS will operate within the FCA's existing governance arrangements. It will be funded through a new fee on the professional body of anti-money laundering supervisors and legislated for by the end of the year. OPBAS should be operational by the start of 2018. The changes are being introduced in response to the "Call for Information on the AML Supervisory Regime and the Cutting Red Tape Review of the UK's Anti-Money Laundering and Counter Financing of Terrorism Regime," first published in April 2016.

The "Call for Information" and press release announcing the establishment of OPBAS are available here and here.

Anti-Money Laundering: JMLSG Opens Consultation on Proposed Revisions to Part I of Its Guidance

On March 21, the UK's Joint Money Laundering Steering Group (JMLSG) opened a consultation on (Consultation), and published proposed revisions (Proposal) to, Part I of its guidance on the prevention of money laundering and the financing of terrorism for the UK financial services industry (Guidance).

The JMLSG states that the Proposal:

- reflects the provisions of the proposed new Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017 (Regulations), which were published by HM Treasury on March 15;

- makes extensive changes to the material on electronic verification in chapter 5 of the Guidance. (This is to address concerns that the present text is not even-handed enough and does not reflect modern practices in the electronic/digital world);
- reorders material in chapter 4 of the Guidance, to present the separate text on risk assessment and the risk based approach more clearly. In light of the introduction in the new Regulations of a formal legal obligation to carry out a risk assessment, the JMLSG felt it was appropriate to improve the presentation of the supporting material in the Guidance; and
- is believed to be consistent with the as yet unpublished Risk Factor Guidelines, to be issued by the European Supervisory Authorities.

The Consultation closes on April 28, and the Proposal is available here.

UK Government Responds to House of Lords EU Committee Report on Brexit and Financial Services

On March 20, the UK government published its response (Response) to the House of Lords EU Sub-Committee on Financial Affairs report on Brexit and financial services (Report).

In the Report, which was published in December 2016, the Committee set out recommendations for the government relating to financial services, covering issues such as transitional arrangements and market access.

In the Response, the government considers each of the Committee's recommendations in turn, repeating information provided in the February 2017 white paper on Brexit (further information on the white paper can be found in the *Corporate & Financial Weekly Digest* edition of February 3, 2017). In particular, the government states that it intends to pursue the "freest possible market access" within the UK's future relationship with the European Union and to agree a phased process of implementation with the aim of avoiding a "disruptive cliff-edge" when the United Kingdom leaves the European Union.

The government confirms that HM Treasury will lead on the negotiations relating to financial services, including ongoing business as usual negotiations, while the Department for Exiting the European Union has responsibility for overseeing negotiations to leave the EU and establishing the future relationship. The Response also suggests that it is unclear whether, post-Brexit, the European Central Bank would be permitted under single market rules to require euro-denominated instruments to be cleared inside the Eurozone.

The Report and Response are available here and here.

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

For more information, contact:

SEC/CORPORATE		
Mark J. Reyes	+1.312.902.5612	mark.reyes@kattenlaw.com
Mark D. Wood	+1.312.902.5493	mark.wood@kattenlaw.com
FINANCIAL SERVICES		
Janet M. Angstadt	+1.312.902.5494	janet.angstadt@kattenlaw.com
Henry Bregstein	+1.212.940.6615	henry.bregstein@kattenlaw.com
Kimberly L. Broder	+1.212.940.6342	kimberly.broder@kattenlaw.com
Wendy E. Cohen	+1.212.940.3846	wendy.cohen@kattenlaw.com
Guy C. Dempsey Jr.	+1.212.940.8593	guy.dempsey@kattenlaw.com
Gary DeWaal	+1.212.940.6558	gary.dewaal@kattenlaw.com
Kevin M. Foley	+1.312.902.5372	kevin.foley@kattenlaw.com
Jack P. Governale	+1.212.940.8525	jack.governale@kattenlaw.com
Arthur W. Hahn	+1.312.902.5241	arthur.hahn@kattenlaw.com
Christian B. Hennion	+1.312.902.5521	christian.hennion@kattenlaw.com
Carolyn H. Jackson	+44.20.7776.7625	carolyn.jackson@kattenlaw.co.uk
Fred M. Santo	+1.212.940.8720	fred.santo@kattenlaw.com
Christopher T. Shannon	+1.312.902.5322	chris.shannon@kattenlaw.com
James Van De Graaff	+1.312.902.5227	james.vandegraaff@kattenlaw.com
Robert Weiss	+1.212.940.8584	robert.weiss@kattenlaw.com
Lance A. Zinman	+1.312.902.5212	lance.zinman@kattenlaw.com
Krassimira Zourkova	+1.312.902.5334	krassimira.zourkova@kattenlaw.com
BREXIT/UK DEVELOPMENTS		
David A. Brennand	+44.20.7776.7643	david.brennand@kattenlaw.co.uk
Carolyn H. Jackson	+44.20.7776.7625	carolyn.jackson@kattenlaw.co.uk
Neil Robson	+44.20.7776.7666	neil.robson@kattenlaw.co.uk
Nathaniel Lalone	+44.20.7776.7629	nathaniel.lalone@kattenlaw.co.uk

* Click here to access the *Corporate & Financial Weekly Digest* archive.

Katten

Katten Muchin Rosenman LLP www.kattenlaw.com

AUSTIN | CENTURY CITY | CHARLOTTE | CHICAGO | HOUSTON | IRVING | LONDON | LOS ANGELES | NEW YORK | ORANGE COUNTY | SAN FRANCISCO BAY AREA | SHANGHAI | WASHINGTON, DC

Katten refers to Katten Muchin Rosenman LLP and the affiliated partnership as explained at kattenlaw.com/disclaimer.