

## SEC/CORPORATE

### **SEC Decreases Registration Statement Filing Fees for Fiscal Year 2016**

On August 27, the Securities and Exchange Commission announced that, effective October 1, the fees that public companies and other issuers pay to register their securities with the SEC will decrease from \$116.20 per million dollars of securities registered to \$100.70 per million dollars of securities, a decrease of approximately 13 percent. This decrease in the SEC registration statement filing fee follows a decrease in the filing fee from fiscal year 2014 to fiscal year 2015 of approximately 10 percent. This fee rate adjustment applies to the filing fee under Section 6(b) of the Securities Act of 1933 applicable to the registration of securities, the filing fee under Section 13(e) of the Securities Exchange Act of 1934 applicable to the repurchase of securities, and the filing fee under Section 14(g) of the Exchange Act applicable to proxy solicitations and statements in corporate control transactions.

Click [here](#) for the SEC's fee rate advisory.

Click [here](#) for the SEC's order setting the registration fees.

## BROKER-DEALER

### **SEC Issues Risk Alert on Broker-Dealer Controls Regarding Retail Sales of Structured Securities Products**

On August 24, the Securities and Exchange Commission's Office of Compliance Inspections and Examinations' National Examination Program staff (Staff) released a Risk Alert summarizing findings from an examination of 10 broker-dealers (Firms). The Staff evaluated whether the Firms effectively supervised and monitored the risks and activities associated with sales of structured securities products (SSPs) to retail investors.

The examinations revealed significant deficiencies in all of the Firms, including that they failed to maintain and enforce adequate controls to determine suitability of SSP recommendations. The Staff noted that the Firms' written supervisory procedures related to reviews of representatives' determinations of customer suitability were also deficient and the Staff cited all of the examined Firms for such deficiencies.

Click [here](#) to read the Risk Alert.

### **The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Adopt a Kill Switch for NOM**

On August 20, NASDAQ filed a proposed rule change with the Securities and Exchange Commission, which seeks to amend Chapter VI, Section 6, entitled "Acceptance of Quotes and Orders," of the rules governing the NASDAQ Options Market (NOM), by adopting an optional "Kill Switch" protection. The Kill Switch would provide firms with a powerful risk management tool by allowing NOM participants to remove quotes, cancel open orders and prevent new order submissions, giving them immediate control of their quote and order activity. If NOM participants opt to cancel orders by utilizing the Kill Switch, they must send a message to NASDAQ requesting cancellation of the specific orders they would like cancelled.

Though NASDAQ currently offers risk mitigation and management tools, including rapid fire risk controls and order price protections, the Kill Switch offers NOM participants a way to control their exposure that is not dependent on their own systems.

Comments should be submitted on or before September 10.

For more information click [here](#).

### **Anti-Money Laundering Program and Suspicious Activity Report Filing for Investment Advisers**

The Financial Crimes Enforcement Network (FinCEN) issued a notice of proposed rulemaking that would require registered investment advisers to establish anti-money laundering programs and file suspicious activity reports with FinCEN in certain circumstances. FinCEN also is proposing to include investment advisers in the general definition of “financial institution” under the Bank Secrecy Act of 1970 (BSA). This change would subject investment advisers to multiple BSA requirements, including the obligation to file Currency Transaction Reports and to keep records relating to the transmittal of funds.

Comments are due on or before October 26.

Click [here](#) for more information.

## **DERIVATIVES**

### **CPMI and IOSCO Publish Joint Consultative Report on the Global Harmonization of OTC UTI**

On August 19, as part of a response to a request from the Financial Stability Board (FSB), the Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) published a joint consultative report (Report) entitled “Harmonization of the Unique Transaction Identifier.” The Report represents a further stage in the ongoing reform of the over-the-counter (OTC) derivatives market being led by the G20 countries, which, as part of their continued commitment to improve transparency, mitigate systemic risk and protect against market abuse, previously agreed that OTC derivatives transactions should be reported to trade repositories (TRs) and that such data be aggregated to ensure that relevant authorities are able to obtain a comprehensive view of the OTC derivatives market generally and transaction activity specifically.

The ultimate aim of publishing the Report is to help develop relevant parameters for a uniform global unique transaction identifier (UTI)—something that was considered critical by the FSB in its Aggregation Feasibility Study published in September 2014 to uniquely identify each OTC transaction—and in doing so, produce clear guidance on a UTI definition, format and usage that meets the needs of UTI users globally in all jurisdictions and is based on relevant technical standards. The purpose of the Report is to seek comments from interested parties to ensure that any UTI guidance that is implemented in the future meets relevant authorities’ requirements for the UTI, thus enabling consistent global aggregation of OTC derivatives transaction data.

Feedback with respect to the questions raised in the Report is due by September 30 (with final guidance expected in early 2016).

The Report can be found [here](#).

*See “ESMA Publishes Discussion Paper on EMIR Standards Relating to CCP Client Accounts” in the EU Developments section.*

## **CFTC**

### **CFTC Registers ICE Futures Canada and Montreal Exchange as FBOTs**

The Commodity Futures Trading Commission has issued orders granting foreign board of trade (FBOT) registration to ICE Futures Canada, Inc. and Montreal Exchange Inc. The orders of registration permit US market participants to directly access the exchanges’ order entry and trade matching systems. To comply with its

respective order of registration, ICE Futures Canada and Montreal Exchange must adhere to the requirements applicable to FBOTs in Part 48 of the CTFC's Regulations.

The order of registration for ICE Futures Canada is available [here](#).

The order of registration for Montreal Exchange is available [here](#).

### **CFTC Approves NFA's Enhanced Retail Forex Requirements**

The Commodity Futures Trading Commission has approved amendments to National Futures Association's (NFA's) rules and an accompanying interpretive notice governing Forex Dealer Members (FDMs). Specifically, the rule amendments require FDMs to include liabilities owed to eligible contract participant (ECP) counterparties in computing their adjusted net capital. (Previously, FDMs were required to include only liabilities owed to retail customers in computing adjusted net capital.) The amendments additionally require FDMs, for the first time, to collect security deposits for forex transactions from ECP counterparties.

In addition, the amendments and interpretive notice extend to FDMs certain obligations currently imposed on futures commission merchants (FCMs) by CFTC Regulations. Drawing on CFTC Regulation 1.11, FDMs are required to adopt and implement a written risk management program. Similarly, FDMs are required to make available on their websites a firm-specific disclosure statement similar to that required of FCMs under CFTC Regulation 1.55. The disclosure statement must be updated at least annually.

More information is available [here](#).

NFA's rule amendments and related interpretive notice are available [here](#).

## **EU DEVELOPMENTS**

### **PRIIPS – ESMA Publishes Responses to Consultation on Key Information Document**

The European Securities and Markets Authority (ESMA) has published the responses received by ESMA, the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) on the Technical Discussion Paper on Risk, Performance Scenarios and Cost Disclosures In Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPS).

The published responses can be found [here](#).

### **ESMA Publishes Discussion Paper on EMIR Standards Relating to CCP Client Accounts**

On August 27, the European Securities and Markets Authority (ESMA) published a discussion paper (Discussion Paper) on the review of Article 26 of ESMA's Regulatory Technical Standards (153/2013) (RTS) under the European Market Infrastructure Regulation applicable to client accounts of central counterparties (CCPs). The publishing of the discussion paper opens a public consultation on the RTS aimed at the following three stakeholders: (1) CCPs, (2) clearing members of the CCPs, and (3) clients (whether financial or non-financial) of the clearing members of the CCPs (collectively, the stakeholders).

ESMA is seeking commentary on the RTS applicable to client clearing to determine if it is necessary to develop a revised draft to be submitted to the European Commission (EC) for endorsement in the form of an EC Delegated Regulation. Such Delegated Regulation would be legally binding across all member states of the European Union.

The Discussion Paper addresses the fact that to date the EC has not deemed the United States to have a legal and supervisory regime for CCPs that is equivalent to that of the European Union. The fact that the minimum liquidation period for financial instruments other than over-the-counter derivatives for client accounts is one day for US CCPs (applied on a gross basis) and two days for EU CCPs (applied on a net basis) has been viewed by the EC as a critical distinction between the two regimes. The Discussion Paper asks for commentary from the stakeholders as to whether client margins maintained at the CCP level on a gross margining basis with a one-day liquidation period would generally be higher than margins held at the CCP level on a net margining basis with a two-day liquidation period, to aid ESMA in its decision as to whether the RTS should be revised to permit one-day

gross margining for client accounts.

The consultation period for the Discussion Paper ends on September 30.

A copy of the Discussion Paper can be found [here](#).

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