Investment Management Industry News Summary - December 2010

DECEMBER 31, 2010

This Summary, which draws from a wide range of sources, endeavors to condense important investment management regulatory news of the preceding week into one, easily digestible source. This Summary is not intended as legal advice. Readers should not act upon information contained in this Summary without professional legal counsel. This Summary may be considered advertising under the rules of the Supreme Judicial Court of Massachusetts.

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SEC Approves Sweeping Changes to FINRA's Regulatory Reporting Rules

December 6, 2010 11:25 AM

The SEC recently approved the adoption of new FINRA Rule 4530 ("Rule"), which requires members to report to FINRA certain internal and external findings of violative conduct and quarterly statistical and summary customer complaint information. The Rule replaces National Association of Securities Dealers Rule 3070 in its entirety and most of the provisions of New York Stock Exchange Rule 351.

For more information, please see WilmerHale's client alert at http://www.wilmerhale.com/publications/whPubsDetail.aspx?publication=9663

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SEC Approves Ban on "Stub Quotes"

December 6, 2010 11:04 AM

On November 8, 2010, the SEC approved new rules proposed by certain exchanges and the Financial Industry Regulatory Authority ("FINRA") to revise the minimum quoting standards for market makers, thereby effectively banning so-called "stub quotes" by market makers in U.S. equity markets.According to the SEC's press release, a stub quote occurs when there is an offer to buy or sell a stock at a price that is extremely different from the prevailing market price and is not intended to be executed. The SEC's press release further noted that market makers may use stub quotes to comply with their obligation to maintain a two-sided quotation when they do not intend to actively provide liquidity.

Under the new rules, market makers in exchange-listed equities are required to maintain continuous two-sided quotations during regular market hours that are within a certain percentage range of the national best bid and offer ("NBBO"). The range varies based on the following:

§ For securities subject to the circuit breaker pilot program, market makers must enter quotes that are not more than 8% away from the NBBO.

§ For the periods near the opening and closing where the circuit breakers are not applicable, such as before 9:45 a.m. and after 3:35 p.m., market makers in these securities must enter quotes no further than 20% away from the NBBO.

§ For exchange-listed equities that are not included in the circuit breaker pilot program, market makers must enter quotes that are no more than 30% away from the NBBO.

§ In each of these cases, a marker maker’s quote will be allowed to “drift” an additional 1.5% away from the NBBO before the market maker must adjust its quote to comply with the applicable range.

The new rules became effective on Dec. 6, 2010.

For more information, please see http://www.sec.gov/news/press/2010/2010-216.htm and http://www.sec.gov/rules/sro/bats/2010/34-63255.pdf

SEC Proposes Extension of Temporary Rule Permitting Certain Principal Transactions

December 1, 2010 10:30 AM

On December 1, 2010, the SEC proposed to extend the date on which Rule 206(3)-3T will sunset from December 31, 2010 to December 31, 2012. The SEC expects to consider the issues raised by principal trading, including the restrictions in Section 206(3) and the SEC's experiences with, and observations regarding, the operation of Rule 206(3)-3T. The SEC will not, however, complete the consideration of these issues before December 31, 2010, and therefore extended the expiration date. Comments must be received on or before December 20, 2010.

For more information, please see http://www.sec.gov/rules/proposed/2010/ia-3118.pdf.