The Washington Report

Americas FS Regulatory Center of Excellence

The week ended July 28, 2017

kpmg.com

Contents

1. Safety and soundness

1.1 Federal Reserve issues guidance on procedures to apply for an extension of the "seeding period" for certain funds under the Volcker Rule

On July 24, 2017, the Federal Reserve Board (Federal Reserve) released Supervision and Regulation Letter 17-5 outlining procedures for banking entities that wish to seek an extension of the one-year "seeding period" provided by section 619 of the Dodd-Frank Act, also known as the Volcker Rule, to conform certain investments to the requirements of that rule. Banking entities may receive an extension of up to two-years after submitting an application containing the reasons for the extension and an explanation of the entity's plan to conform the investment to the requirements of section 619, provided the Federal Reserve finds that an extension would be consistent with safety and soundness and in the public interest.

[Press Statement] [Order] [Supervision and Regulation Letters]

1.2 FDIC releases guidance on SEC rule changes to the securities settlement cycle

The Federal Deposit Insurance Corporation (FDIC) issued Financial Institution Letter (FIL) 32-2017 on July 26, 2017, to highlight the need for FDIC-supervised institutions to prepare for the changes made by the Securities and Exchange Commission (SEC) to rules governing the securities settlement cycle. The rules, which impact securities transactions conducted by most broker-dealers, become effective September 5, 2017. In particular, they shorten the regular settlement cycle from T+3 to T+2 for many US securities including equities, corporate bonds, unit investment trusts.

The FDIC cautions institutions to prepare for the impact the change will have on trades related to their securities activities that include the institutions' investment and trading portfolios as well as securities settlement and servicing provided to custody and fiduciary accounts. The FDIC also encourages institutions to consider any risks associated with the rule change that may be posed by the third-party providers they rely on for these securities activities.

[FIL 32-2017]

1.3 Faster Payments Task Force publishes final report

On July 24, 2017, the Federal Reserve Board (Federal Reserve) announced that the Faster Payments Task Force, which was established in May 2015 to find ways to implement faster payments in the United States, has completed its work and published a final report. The report, "A Call to Action," is the second of two parts. The first part was issued in January 2017 and provided a high-level overview of the Task Force's background and processes, the payments landscape, and the benefits of faster payments. The just-released second report, the Federal Reserve states, includes 16 proposed solutions assessed using Task Force-defined effectiveness criteria, a discussion of challenges related to implementing faster payments, and 10 recommendations for ongoing industry collaboration and action. It also includes specific recommendations describing the infrastructure needed to support faster payments and the need to address evolving security threats, meet changing end-user needs, and foster continuous innovation through new technologies.

The Faster Payments Task Force was comprised of more than 300 members representing financial institutions, consumer groups, payment service providers, financial technology firms, merchants, government agencies, and other interested parties.

[Press Statement] [Report Part II] [Report Part I]

2. Capital markets and investment management

2.1 IOSCO reports on thematic review of client asset protection

The International Organization of Securities Commissions (IOSCO) published a report on July 27, 2017, summarizing the findings from a thematic review conducted by its Assessment Committee on the progress jurisdictions have made in adopting legislation, regulation, and other policies related to IOSCO's *Recommendations Regarding the Protection of Client Assets*, which was published in 2014.

In general, the eight principles outline i) the responsibilities of intermediaries holding client assets to comply with rules and regulations governing client assets, including the establishment of risk management systems and internal controls to monitor compliance; ii) the responsibilities of intermediaries to reconcile the client accounts and records placed with a third party; and iii) the responsibility of regulators to supervise the intermediaries' compliance with the applicable domestic rules and maintaining a regime that promotes effective safeguarding of client assets.

The review looked at the progress made by 38 IOSCO members from 36 jurisdictions with implementing IOSCO's principles. Progress varied by jurisdiction and principle. The most fully implemented principles addressed Statements of Accounts, Regulators' Oversight of Compliance, and Information on Foreign Jurisdictions. The least implemented principle addressed Arrangements to Safeguard Client Assets.

[Press Statement] [Report]

2.2 SEC publishes Report of Investigation related to capital raising through distributed ledger and blockchain technology

The Securities and Exchange Commission's (SEC) Divisions of Corporate Finance and Enforcement released a Report of Investigation (Report) on July 25, 2017, relating to an offering by a "decentralized autonomous organization" that used distributed ledger or blockchain technology to raise capital and operate as a "virtual" entity.

The organization sold tokens representing interests in its enterprise to investors in exchange for payment with virtual currency. Investors could hold these tokens as an investment with certain voting and ownership rights or could sell them on web-based secondary market platforms. Based on the facts and circumstances of this offering, the SEC determined the tokens to be securities and subject to federal securities laws.

For clarification, the SEC added that a market participant engaged in offering an investment opportunity that constitutes a security must either register the offer and sale of the security with the SEC or structure it so that it qualifies for an exemption from registration. Market participants in this area must also consider other aspects of the securities laws, such as whether a platform facilitating transactions in its securities is operating as an exchange, whether the entity offering and selling the security could be an investment company, and whether anyone providing advice about an investment in the security could be an investment adviser.

Coincident with the release of the Report, the SEC's Office of Investor Education and Advocacy released an Investor Bulletin on Initial Coin Offerings outlining risks to investors related to the sale of virtual coins as well as the federal securities laws that could apply to these investments in some cases.

[Press Statement] [Investor Bulletin]

2.3 SEC Whistleblower awards

On July 25, 2017, the Securities and Exchange Commission (SEC) announced a whistleblower award of approximately $2.5 million to an employee of a domestic government agency whose whistleblower tip helped launch an SEC investigation. On July 27, 2017, the SEC also announced a whistleblower award of more than $1.7 million to a company insider who provided the agency with critical information to help stop investor harm and ultimately return money to victims.

2.4 Enforcement actions

The Financial Industry Regulatory Authority (FINRA) and the Commodity Futures Trading Commission (CFTC) announced the following enforcement actions in the past week:

- FINRA announced that, along with three exchanges, it had fined four firms a total of $4.75 million for violations of various provisions of Rule 15c3-5 of the Securities Exchange Act of 1934, commonly known as the Market Access Rule, and related exchange supervisory rules. The Market Access Rule requires broker-dealers to implement financial and regulatory risk management controls and procedures to

monitor for errors and risks that can be harmful to the integrity of the securities markets. However, FINRA and the exchanges found that the firms failed to comply with one or more provisions of the Market Access Rule. The firms neither admitted nor denied the charges but consented to the findings.

— The CFTC issued an Order charging and simultaneously settling with an individual to address the CFTC's findings the individual, trading for his personal account, engaged in thousands of incidences of "spoofing" in multiple futures markets. The Order requires the individual to pay civil money penalties of $635,000 and imposes permanent bans from trading in any market regulated by the CFTC and from applying for registration or claiming exemption from registration with the CFTC in any capacity.
.

3. Financial crimes

3.1 FinCEN takes action against a money transmitter

The Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) announced on July 27, 2017 that it had assessed an internet-based, foreign money transmitter more than $110 million in civil money penalties for willfully violating U.S. anti-money laundering laws. Working in coordination with the Internal Revenue Service-Criminal Investigation Division, Federal Bureau of Investigation, United States Secret Service, and Homeland Security Investigations, FinCEN found the company, acting as a currency exchanger of fiat currency and convertible virtual currencies, facilitated transactions involving ransomware, computer hacking, identity theft, tax refund fraud schemes, public corruption, and drug trafficking. In a related action, FinCEN assessed a $12 million penalty against one of the operators of the company for his role in the violations.

Contact us

This is a publication of KPMG's Financial Services Regulatory Risk Practice and KPMG's Americas FS Regulatory Center of Excellence

Amy Matsuo, Principal, National Leader, Financial Services Regulatory Risk Practice	amatsuo@kpmg.com
Ken Albertazzi, Partner and National Lead, Financial Services Safety & Soundness	kalbertazzi@kpmg.com
Kari Greathouse, Principal and National Lead, Enterprise and Consumer Compliance	cgreathouse@kpmg.com
Tracy Whille, Principal and National Lead, Capital Markets and Investment Management	twhille@kpmg.com
Deborah Bailey, Managing Director, Americas FS Regulatory Center of Excellence	dpbailey@kpmg.com

To subscribe to the Americas FS Regulatory Center of Excellence, please visit the following Web page:

http://info.kpmg.us/subscribe-to-kpmg-us-fs-coe.html

Subscription inquiries may be directed to the Americas FS Regulatory Center of Excellence:

regulationfs@kpmg.com

Earlier editions of The Washington Report are available at:

https://home.kpmg.com/us/en/home/insights/2016/04/washington-reports.html

Additional Contacts

Asset Management, Trust, and Fiduciary
Bill Canellis wcanellis@kpmg.com

Bank Regulatory Reporting
Brett Wright bawright@kpmg.com

Capital Markets Regulation
Stefan Cooper stefancooper@kpmg.com

Capital/Basel II and III
Paul Cardon pcardon@kpmg.com

Commodities and Futures Regulation
Dan McIsaac dmcisaac@kpmg.com

Consumer & Enterprise Compliance
Stacey Guardino sguardino@kpmg.com

Cross-Border Regulation & Foreign Banking Organizations
Paul Cardon pcardon@kpmg.com

Financial Crimes
Terry Pesce tpesce@kpmg.com

Insurance Regulation
Matthew McCorry memccorry@kpmg.com

Investment Management
Larry Godin lgodin@kpmg.com

Safety & Soundness, Corporate Licensing & Governance, and ERM Regulation
Greg Matthews gmatthews1@kpmg.com

FS Regulatory Center of Excellence
Karen Staines kstaines@kpmg.com

kpmg.com/socialmedia

kpmg.com/app