

Regulatory & Compliance Update

February 2018

ROUTING

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The Regulatory & Compliance Update is published by Renaissance Regulatory Services for its clients' legal, compliance, senior management, and supervisory personnel.

This memorandum is distributed to RRS clients at no charge and includes "hot topics" of focus by regulators and of interest to compliance professionals. The document is intended to provide reminders of regulatory matters that were released or issued during the previous month.

The information contained in this publication was compiled from various regulatory releases and is believed to be true and correct as of the date of distribution. Many regulatory issues are subject to interpretations that can change as industry rules and regulations change, and as compliance issues evolve. Readers are cautioned to consider their individual situations and are encouraged to contact RRS staff for guidance on any issues. The information is not intended as legal or accounting advice, which can only be provided by a duly qualified attorney or certified public accountant.

HOT TOPICS

Events

- **DEADLINE: Monthly FOCUS filing due March 23rd, 2018**
- **DEADLINE: Monthly SIS filing due March 28th, 2018**

Items in This Edition

- **SEC** – SEC Office of Compliance Inspections and Examinations announces 2018 examination priorities – **Page 2**
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SERVICES SPOTLIGHT: Supervisory Controls

RRS provides a full range of services to assist with your firm's compliance with FINRA Rules 3110, 3120 and 3130, including:

- Comprehensive Risk Assessment
- Review of Supervisory Structure
- Written Supervisory and Supervisory Control Procedures Gap Analysis
- Transactional and forensic testing of the written supervisory procedures
- Report Preparation
- Draft CEO Certification
- Annual Compliance Meetings
- Compliance Program Testing Training
- Ongoing Compliance Support

Contact:

John Pinto (202) 463 - 6575

JohnPinto@RRSCompliance.com

Renaissance Regulatory Services

1515 South Federal Highway • Suite 306 • Boca Raton, FL 33432
(561) 368-2245

www.RRSCompliance.com
Washington, DC

SEC

SEC Announces:

Agenda for Investor Advisory Committee Meeting. [\(Link\)](#)

SEC Charges:

Former Bitcoin-Denominated Exchange and Operator with fraud. [\(Link\)](#)

Firm overcharging retirement account customers for Mutual Fund Shares. [\(Link\)](#)

SEC Halts:

Ongoing fraud by purported hedge fund manager [\(Link\)](#)

List of No Action Letters:

Investment Company Act of 1940 – Section (3)(5)(c) Great Ajax Funding LLC. [\(Link\)](#)

Securities Act of 1933 – Rule 486(b) Eagle Point Credit Company Inc. [\(Link\)](#)

SEC Events:

SEC Office Of Compliance Inspections And Examinations Announces 2018 Examination Priorities

THE SEC Office of Compliance Inspections and Examinations announced its 2018 examination priorities. OCIE publishes its exam priorities annually to improve compliance, prevent fraud, monitor risk, and inform policy. [\(Link\)](#)

RRS Compliance Administrator

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JohnPinto@RRSCompliance.com

Investor Protection, Capital Formation And Market Integrity Are Top Priorities In Sec Budget Request

Securities and Exchange Commission announced a \$1.658 billion budget request for fiscal year 2019 to support its core mission and expand oversight and enforcement in emerging areas such as financial innovation, market structure and cybersecurity. [\(Link\)](#)

SEC Launches Share Class Selection Disclosure Initiative To Encourage Self-Reporting And The Prompt Return Of Funds To Investors

The Division of Enforcement of the Securities and Exchange Commission announced a self-reporting initiative that seeks to protect advisory clients from undisclosed conflicts of interest and return money to investors. [\(Link\)](#)

SEC To Hold National Compliance Outreach Seminar For Investment Companies And Investment Advisers

The Securities and Exchange Commission announced the opening of registration for its compliance outreach program's national seminar for investment companies and investment advisers. [\(Link\)](#)

Alleged Perpetrator Of Ski Slope Investment Scheme Agrees To Pay Back Investor Money, Surrender Properties

The Securities and Exchange Commission announced that the Miami-based businessman behind an alleged scheme involving investments in a Vermont-based ski resort has agreed to pay back more than \$81 million of investor money that he used illegally. [\(Link\)](#)

Bank To Repay Mised Customers

The SEC's investigation found that traders and salespeople made false and misleading statements while negotiating sales of commercial mortgage-backed securities (CMBS). [\(Link\)](#)

Associate Director In The Office Of International Affairs, To Retire From SEC

The Securities and Exchange Commission announced that the associate director in the Office of International Affairs, will retire later this month after 28 years of public service. [\(Link\)](#)

Associate Director Of Division Of Corporation Finance, To Leave Agency After 23 Years Of Service

As an Associate Director overseeing the Division’s disclosure review program, also led the Division’s selective review of transactional and periodic filings by issuers in a range of industries, including real estate, commodities, insurance and life sciences. ([Link](#))

SEC Suspends Trading In Three Issuers Claiming Involvement In Cryptocurrency And Blockchain Technology

The Securities and Exchange Commission suspended trading in three companies amid questions surrounding similar statements they made about the acquisition of cryptocurrency and blockchain technology-related assets. ([Link](#))

SEC Votes To Modify Compliance Date For Open-End Fund Liquidity Classification

The Securities and Exchange Commission voted to extend by six months the deadline by which open-end funds must comply with certain elements of the Commission’s liquidity risk management program rule. ([Link](#))

SEC Files Charges Seeking To Halt Recidivist And Associates In Scheme To Defraud Small Businesses

SEC charged three-time recidivist with operating an unregistered broker-dealer, facilitating an unregistered securities offering, and defrauding small businesses, while promising to help them raise money from investors. ([Link](#))

FINRA

Regulatory Notices:

[18-05](#) FINRA Requests Comment on the Application of Certain Rules to Government Securities and to Other Debt Securities More Broadly

[18-06](#) FINRA Requests Comment on Proposed Amendments to Its Membership Application Program to Incentivize Payment of Arbitration Awards

[18-07](#) Extension of Time Requests Relating to FINRA Rule 4210

[18-08](#) FINRA Requests Comment on Proposed New Rule Governing Outside Business Activities and Private Securities Transactions

Information Notices:

2018 Holiday Trade Date, Settlement Date and Margin Extensions Schedule ([Link](#))

FINRA Fines:

FINRA Fines \$1.5 Million For Customer Protection, Net Capital Rule Violations And Related Failures

The SEC Customer Protection Rule creates requirements to protect customers’ funds and securities. To ensure that customers could recover their assets in the event of the broker-dealer’s insolvency, the rule requires the broker-dealer, which maintains custody of customer securities, to obtain and maintain physical possession or control over certain of those securities. ([Link](#))

Supervisory Controls

RRS’ provides a full range of services to assist with your firm’s compliance with FINRA Rules 3110, 3120 and 3130, including:

- Comprehensive Risk Assessment
- Review of Supervisory Structure
- Written Policies and Procedures Gap Analysis
- Compliance Program Testing
- Report Preparation
- Draft CEO Certification
- Annual Compliance Meetings and Training
- Ongoing Compliance

For more information contact us at (561) 368-2245

FINRA Conference & Events:

New FINRA Rules Take Effect To Protect Seniors And Vulnerable Adults From Financial Exploitation

Two FINRA rule changes took effect addressing the financial exploitation of seniors and vulnerable adults, putting in place the first uniform, national standards to protect senior investors. ([Link](#))

Finra Announces Comprehensive Changes To Advisory Committees, Including Creation Of Two New Committees requests Comment On Proposed Changes To Expungement Of Customer Dispute Information

FINRA announced a series of changes to its advisory committees – including the addition of two new committees focused on the specialized issues surrounding clearing firms and capital acquisition brokers – as part of a comprehensive effort to improve opportunities for firms to provide input on key issues. ([Link](#))

FINRA Releases Paper Providing Perspectives On Customer Recovery

FINRA released a paper providing perspectives on customer recovery of judgments and awards in the financial services industry, with a particular focus on the arbitration forum operated by FINRA. ([Link](#))

FINRA Foundation Announces New Appointments To Board Of Directors

FINRA is dedicated to investor protection and market integrity. It regulates one critical part of the securities industry – brokerage firms doing business with the public in the United States. ([Link](#))

FINRA Warns Investors Of 'Regulator' Imposter Scams

FINRA issued an Investor Alert warning investors to beware of financial scams in which con artists are posing as regulators to make fraudulent investment pitches. ([Link](#))

MSRB

MSRB Regulatory Notices for February 2018:

[2018-03](#) Request for Input on Draft Frequently Asked Questions Regarding Rule G-42 and the Making of Recommendations

MSRB Upcoming Events:

MSRB Chicago Town Hall: Hosted in coordination with the Municipal Bond Club of Chicago. ([Link](#))

MSRB Press Releases:

MSRB Seeks Input On A Compliance Resource To Help Distinguish Advice And Recommendations

MSRB requested input from municipal market participants and the public on a draft compliance resource about core requirements for municipal advisors related to providing advice on, and making recommendations of, municipal securities transactions or municipal financial products.. ([Link](#))

MSRB Publishes Annual Fact Book Of Municipal Securities Market Data

The MSRB's annual FACT BOOK provides comprehensive and historical statistics on municipal market trading patterns, primary market and continuing disclosures among other data, and serves as a resource for analysts, policymakers and others interested in disclosure and trading trends. ([Link](#))

NASAA

Rise Of Fintech Raises New Concerns For Securities Regulators

A new survey of securities regulators by the NASAA, underscores why regulators, the industry and investors, especially Millennials, must step up to be vigilant amid the rapid pace of development spurred by advances in financial technology (fintech). ([Link](#))

FINOP Support Services

RRS provides multiple levels of **FINOP support** for your financial reporting obligations. From preparation of full books and records to net capital reviews and FOCUS filing with **FINRA** and the **NFA**, RRS professional staff can help.

RRS services include:

- General Ledger and trial balance preparation.
- Net capital computation with supporting schedules.
- Monthly or quarterly FOCUS filings.
- Net capital interpretive guidance.

For more information contact Bart McDonald at (561) 368-2245 or BartMcDonald@RRSCompliance.com

NASDAQ/NASDAQ TRADER/OTCBB

Equity Regulatory Alert:

[2018 – 1](#) Nasdaq Announces Regulation SCI BC/DR Testing

Equity Trader Alert:

[2018 – 11](#) Nasdaq Background Check Service

[2018 – 12](#) U.S. Market Holiday Reminder: President's Day

[2018 – 13](#) Information Regarding Halt of VelocityShares Daily Inverse VIX Short-Term ETN (XIV)2017 – 191

[2018 – 14](#) Nasdaq to Begin Listing new Brandes Value NextShares on Thursday, February 15th, 2018

[2018 – 15](#) Nasdaq to Begin Listing New NextShares on Wednesday, February 21, 2018

[2018 – 16](#) Nasdaq to Begin Listing New NextShares on Wednesday, February 21, 2018

[2018 – 17](#) Nasdaq to Begin Listing New VictoryShares ETF

Data Technical News:

[2018 – 2](#) UPDATE: The Nasdaq Options Market (NOM) Announces ITTO Market Data Feed Update

Options Trader Alert:

[2018 – 7](#) Nasdaq Background Check Service

[2018 – 8](#) Nasdaq ISE Market Maker Plus Program Calculation Change

[2018 – 9](#) Nasdaq ISE, BX Options, and NOM Introduce Monday Weekly Expirations For SPY Options

[2018 – 10](#) Nasdaq Options Market Updated Pricing

Options Regulatory Alert:

[2018 – 5](#) Nasdaq Announces Regulation SCI BC/DR Testing

IA Compliance Programs

RRS provides a full range of services to assist with your firm's compliance with SEC Rule 206(4)-7, including:

- Comprehensive risk assessment
- Written policies and procedures assessment
- Document review and forensic testing
- Supervisory controls examinations
- Financial statement review
- Best practices assessment
- Implementation assistance
- Ongoing compliance support

For more information contact us at (561) 368-2245

NYSE/EURONEXT/AMEX

NYSE Weekly Program-Trading Data Releases:

NYSE's Record-Breaking Across Ipos And Etf's Open 2018

NYSE a leading operator of global exchanges and clearing houses, and a provider of data and listings services. NYSE Group includes exchanges, market data and connectivity services. The equity exchanges trade more U.S. equity volume than any other exchange group. ([Link](#))

Intercontinental Exchange Reports Statistics; Ice Adv Up 12% Y/Y Led By A 28% Increase In Interest Rate Adv & 12% Increase In Natural Gas Adv; Open Interest +12% Y/Y

NYSE: a leading operator of global exchanges and clearing houses and provider of data and listings services, reported trading volume and related revenue statistics, which can be viewed on the company's investor relations website. ([Link](#))

Intercontinental Exchange Announces Record Trading Of NYSE Fang+ Index Futures Contract For Two Consecutive Days

NYSE: a leading operator of global exchanges and clearing houses and provider of data and listings services, announced a record trading week for the NYSE FANG+TM Index futures contract. ([Link](#))

Intercontinental Exchange Reports Fourth Quarter 2017 GAAP Diluted Eps Of \$2.08 On Revenues Of \$1.1 Billion; Fourth Quarter 2017 Adjusted Diluted Eps Of \$0.73

For the full year of 2017 consolidated net income attributable to ICE was \$2.5 billion on \$4.6 billion of consolidated revenues less transaction-based expenses. Full year 2017 GAAP diluted EPS were \$4.23. On an adjusted basis, consolidated net income attributable to ICE was \$1.8 billion for the full year of 2017, and diluted EPS were \$2.95. ([Link](#))

Intercontinental Exchange Announces 20% Increase To Its Quarterly Dividend

NYSE: a leading operator of global exchanges and clearing houses and provider of data and listings services, announced board authorization of its first quarter 2018 dividend of \$0.24 per share, up 20% from its previous \$0.20 per share quarterly dividend in 2017. ([Link](#))

Intercontinental Exchange Announces Record Daily Volume In Low Sulphur Gasoil Contract

NYSE: ICE, a leading operator of global exchanges and clearing houses and provider of data and listings services, announced that the ICE Low Sulphur Gasoil contract achieved a daily volume record of 876,011 contracts.. ([Link](#))

NYSE Announces Launch Of NYSE National; Expands Customer Choice With Taker-Maker Market Model

NYSE: announced that NYSE National, an electronic equities exchange, plans to commence trading. ([Link](#))

Intercontinental Exchange And Magellan Midstream Successfully Launch Auction For Short Term Crude Storage Capacity At Magellan East Houston Terminal

NYSE announced the launch of a new auction for a portion of multi-month Permian WTI storage capacity at the Magellan East Houston Terminal. ([Link](#))

FINCEN

Names ABLV Bank Of Latvia An Institution Of Primary Money Laundering Concern And Proposes Section 311 Special Measure

FinCEN, issued a finding and notice of proposed rulemaking (NPRM), pursuant to Section 311 of the USA PATRIOT Act, seeking to prohibit the opening or maintaining of a correspondent account in the United States for, or on behalf of, ABLV Bank. ([Link](#))

FinCen Penalizes U.S. Bank National Association For Violations Of Anti-Money Laundering Laws

FinCEN, in coordination with the Office of the Comptroller of the Currency, and the U.S. Department of Justice, announced the assessment of a \$185 million civil money penalty against U.S. Bank for willful violations of several provisions of the Bank Secrecy Act. ([Link](#))

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PRA

Statements Of Commitment To Market Codes

By issuing these Statements of Commitment, the Bank is demonstrating that it is committed to adhering to the principles of these Codes when acting as a market participant in the relevant markets, and that its internal practices and processes are aligned with the principles of the Codes. The principles of these Codes are important in promoting the integrity and effective functioning of these respective markets. ([Link](#))

Asset Purchase Facility: Gilt Purchases - Market Notice

As set out in the Minutes of the MPC's meeting, the MPC has agreed to make £18.3bn of gilt purchases, financed by central bank reserves, to reinvest the cash flows associated with the maturity, of a gilt owned by the Asset Purchase Facility. ([Link](#))

Exchange Of Letters Between The Governor And The Chancellor Regarding SPI Inflation

If inflation moves away from the target by more than 1 percentage point in either direction, the Governor is required to send an open letter to the Chancellor explaining why inflation has moved away from target and what action the Bank is taking to bring inflation back to target. ([Link](#))

Bank Rate Maintained At 0.50%

The MPC's latest projections for output and inflation are set out in detail in the accompanying February Inflation Report. The global economy is growing at its fastest pace in seven years. The expansion is becoming increasingly broad-based and investment driven. ([Link](#))

Economics Should Be Accessible To Schoolchildren

In response to the Government consultation in schools, the support of teaching economics is the central aim of building greater understanding of the Bank and its policies and helping people to make better informed decisions. ([Link](#))

Global Liquidity Management (GLM) Workshop Minutes

The Bank of England has established a programme to renew its Real Gros Settlement (RTGS) service. As a part of this programme, the Bank invited members of the payments community to participate in a workshop on Global Liquidity Management. ([Link](#))

Anti-money Laundering Programs

RRS provides a comprehensive suite of services to aid in AML compliance, AML Program development, testing, training and surveillance for broker-dealers, investment advisers, and other financial institutions.

- Program Development
- Customer Identification
- Enhanced Due Diligence
- OFAC Compliance
- BSA Compliance
- Suspicious Activity Surveillance
- SAR/CTR Reporting
- Program Testing
- Training Plans and Presentations

For more information contact us at (561) 368-2245

Results of the Semi-Annual FX Turnover Survey

Financial institutions active in the UK foreign exchange market participated in the twenty-sixth published semi-annual turnover survey for the Foreign Exchange Joint Standing Committee. ([Link](#))

The Bank Of England's Supervision Of Financial Market Infrastructures - Annual Report 2018

The Bank of England's supervision of financial market infrastructures – Annual Report, now published, sets out how the Bank has exercised its responsibilities in respect of supervising financial market infrastructure over the past year. ([Link](#))

Foreign Currency Reserves 2018 - Market Notice

As part of the monetary policy framework, the Bank of England holds its own foreign exchange reserves in support of its monetary policy objective. These reserves are separate from the Government's own foreign exchange reserves, which the Bank manages as the Treasury's agent ([Link](#))

Did you know? IA AML Obligations...

Investment Advisers (including registered and unregistered hedge funds) should keep in mind that although the Patriot Act does not specifically apply to them, they are responsible if one of their clients is on any of the SDN or OFAC lists. OFAC has jurisdiction over any individual, regardless of citizenship, who is physically located anywhere in the US, and American citizens and permanent resident aliens located anywhere in the world. If a hedge fund opens an account for a person or firm sanctioned by the US or residing in a country sanctioned by the US, the Fund would be violating US laws. Therefore, such firms need to have robust OFAC procedures even though they are not specifically subject to the AML requirements under the Patriot Act (yet).

Minutes Of The Working Group On Sterling Risk-Free Reference Rates New Member Induction Event

The Working Group on Sterling Risk-Free Reference Rates, which is made up of experts from major sterling swap dealers, discusses the development of sterling risk-free reference rates. ([Link](#))

The Darwin £10 Is Almost Extinct

We will withdraw legal tender status of the paper £10 note featuring Charles Darwin. We are encouraging anyone who still has any to use them in the next week. Put end to end, that's enough notes to retrace almost half of Darwin's journey on HMS Beagle. ([Link](#))

The Bank of England and Financial Times School Blog Competition

Financial Times are looking for blogs up to 500 words in length with up to two relevant charts or infographics. You can write on any theme related to the future world economy but arguments should be grounded in data, trends or applied economic theory. ([Link](#))

FCA

FCA Seeks Feedback On Non-Workplace Pensions

The FCA estimates that non-workplace pensions, also known as individual private pensions, collectively represent around £400bn assets under management. This is more than double the amount invested in contract-based Defined Contribution (DC) workplace pension schemes. ([Link](#))

FCA Publishes Report On The Supervision Of Algorithmic Trading

Automated technology brings significant benefits to investors, including increased execution speed and reduced costs. However, it can also amplify certain risks. ([Link](#))

FCA and PRA appoint new Chair of the FSCS

The FCA and PRA announced the appointment of Marshall Bailey as Chair of the Financial Services Compensation Scheme Ltd. ([Link](#))

FCA Launches Call For Input On The Use Of Technology To Achieve Smarter Regulatory Reporting

The Financial Conduct Authority (FCA) has announced that it is seeking views on how technology can make it easier for firms to meet their regulatory reporting requirements and improve the quality of the information they provide. ([Link](#))

New Credit Card Rules Introduced By The FCA

The changes will provide more protection for credit card customers in persistent debt or at risk of financial difficulties. The changes are being introduced following a comprehensive study of the credit card market. The study analysed the accounts of 34 million credit card customers over a period of five years, and surveyed almost 40,000 consumers ([Link](#))

Resource Links*

Government

- U.S. Securities & Exchange Commission – WWW.SEC.GOV
- North American Securities Administrators Association - WWW.NASAA.ORG
- FINCEN - WWW.FINCEN.GOV
- Commodity Futures Trading Commission – WWW.CFTC.GOV
- Financial Conduct Authority - WWW.FCA.GOV.UK
- Prudential Regulatory Authority – WWW.BANKOFENGLAND.CO.UK

SRO

- FINRA - WWW.FINRA.ORG
- NASDAQ - WWW.NASDAQ.COM
- New York Stock Exchange - WWW.NYSE.COM
- Municipal Securities Rulemaking Board - WWW.MSRB.ORG
- National Futures Association WWW.NFA.FUTURES.ORG

Industry

- Alternative Investment Management Association “AIMA” – WWW.AIMA.ORG
- Bank Insurance & Securities Association “BISA” – WWW.BISANET.ORG
- Complinet – WWW.COMPLINET.COM
- Florida Securities Dealers Association “FSDA” – WWW.FLORIDASECURITIES.COM
- Financial Market Association “FMA” – WWW.FMAWEB.ORG
- Financial Services Institute “FSI” – WWW.FINANCIALSERVICES.ORG
- Investment Adviser Association “IAA” – WWW.INVESTMENTADVISER.ORG
- Investment Company Institute “ICI” – WWW.ICI.ORG
- Managed Funds Association “MFA” – WWW.MANAGEDFUNDS.ORG
- National Society of Compliance Professionals “NSCP” – WWW.NSCP.ORG
- Securities Industry and Financial Markets Association “SIFMA” – WWW.SIFMA.ORG

*This list is provided for information purposes only. RRS does not specifically endorse any group noted.

Reader Survey

“Find It - Before the Regulators”

The RRS staff continually strives to ensure that the services and support we provide to our clients are the most up to date and comprehensive available. Frequently, we are able to forecast regulatory trends based on our extensive regulatory experience and the information our clients provide regarding new products, services or marketing trends. This “Find It - Before the Regulators” insight enables us to develop customized compliance solutions so that our clients can address any regulatory deficiencies before the regulators do. If you have question or suggestions, please speak with your account representative or call us at (561) 368-2245.

READER SURVEY FAX RESPONSE

TO: Louis Dempsey

Fax: (561) 807-5442

LouisDempsey@RRSCompliance.com

Name: _____

Firm: _____ IA: _____ BD: _____ Other: _____

Phone: _____ Fax: _____

In order for us to better serve the industry with this publication we ask that you provide feedback on this issue.

- Do you read the RCU each month?
- What topics interest you the most?
- What do you find most useful?
- What would you like to see in future editions?
- Are you a current client of RRS?
- Are you interested in receiving information or a call from our Staff to discuss the products and services offered by RRS?

(Please include your phone number or E-mail address to schedule a conference)

Thank you for your time and effort

BOTTOM LINE - WE WANT TO KNOW!

We want to know how we are doing. If you have any comments, complaints or suggestions then please do not hesitate to call (561) 368-2245 or email:

LOUIS DEMPSEY, PRESIDENT

LOUISDEMPSEY@RRSCOMPLIANCE.COM

BART McDONALD, EXECUTIVE VICE PRESIDENT

BARTMCDONALD@RRSCOMPLIANCE.COM