March 3, 2014

Investment Services Regulatory Update

New Rules, Proposed Rules and Guidance

Division of Investment Management Issues Guidance Regarding Unbundling of Proxy Proposals with Respect to Fund Charter Amendments

In February 2014, the Staff of the Division of Investment Management of the SEC published a Guidance Update in response to inquiries regarding amendments to fund charters in light of the "unbundling" requirements of Rule 14a-4 under the Exchange Act. Rule 14a-4, in relevant part, requires a form of proxy to identify clearly and impartially each separate matter to be acted upon, whether or not related to or conditioned on the approval of other matters and to provide separate boxes for shareholders to choose between approval, disapproval or abstention with respect to each matter intended to be acted upon.

The Guidance Update reiterates the Staff's long-time position that a matter should be voted upon separately if the 1940 Act, state law or a fund's organizational documents (charter and/or by-laws) require a matter under consideration to be submitted to shareholders. The Guidance Update further states that proposed amendments to the charters of funds should be "unbundled" for each proposed material amendment. The Staff acknowledged that, while there is no bright-line test for determining materiality in the context of Rule 14a-4, funds should consider whether a matter substantively affects the rights of shareholders. The Guidance Update provides the following examples of material amendments to fund charters that should be presented separately: (1) amending shareholder voting rights and preferences; (2) authorizing a fund to involuntarily redeem small account balances; (3) authorizing a fund to invest in other funds; and (4) authorizing the board to terminate a fund, merge with another fund or to make future amendments to the charter without a shareholder vote.

The Guidance Update further notes that Rule 14a-4 does not prohibit a fund from "bundling" non-substantive charter amendments with a single material amendment or from conditioning effectiveness of any proposal on the adoption of one or more other proposals.

The Guidance Update is available at: www.sec.gov/divisions/investment/guidance/im-guidance-2014-02.pdf

Division of Investment Management Issues Guidance Regarding Risk Management for Fixed Income Funds

In January 2014, the Staff of the Division of Investment Management of the SEC published a Guidance Update suggesting certain risk management and disclosure practices investment advisers of fixed income funds may consider implementing given changing market conditions and the potential for future market volatility. The Guidance Update discusses the fixed income market volatility experienced in 2013 as the Federal Reserve tapered "quantitative easing" and interest rates rose, and noted that these conditions, together with the changing bond market size and structure, provide a timely reminder of the importance of sound risk management practices. The Staff highlights five particular actions investment advisers may consider given the market uncertainty.

- *Assess and Stress Test Liquidity*: Advisers may consider assessing fund liquidity needs during normal and stressed environments, including the sources of liquidity.
- *General Stress-Tests/Scenario Analyses*: Advisers may consider other potential threats, beyond liquidity,

such as interest rate hikes, widening spreads and price shocks to fixed income products.

- *Risk Management Evaluation*: Given the outcomes of the assessments and analyses, advisers may consider what risk management strategies are most appropriate during periods of market volatility, including decisions involving portfolio composition, concentration and diversification.
- *Communication with Fund Boards*: Advisers may consider what information should be provided to fund directors so that they are informed of fund risk exposures and liquidity positions.
- *Shareholder Communications*: Advisers may consider the adequacy of fund prospectus and shareholder report disclosure given the recent market volatility and potential impact of shifting market size and structure.

The Guidance Update further suggests that boards of fixed income funds discuss the actions their investment advisers are taking to address historical volatility and evolving nature of the fixed income market.

The Guidance Update is available at: www.sec.gov/divisions/investment/guidance/im-guidance-2014-1.pdf

SEC Adopts Rule and Form Amendments to Remove Credit Rating References

On December 27, 2013, the SEC adopted amendments to Rule 5b-3 under the 1940 Act and Forms N-1A, N-2 and N-3 in response to the requirements of the Dodd-Frank Act that any references to or requirements regarding credit ratings in the SEC's regulations be removed and replaced with other standards of creditworthiness.

Rule 5b-3 generally permits funds to treat the acquisition of a repurchase agreement as an acquisition of the underlying securities in certain circumstances. Rule 5b-3 has been amended to remove references to credit ratings with respect to securities collateralizing repurchase agreements and replace them with alternative standards of creditworthiness. As amended, Rule 5b-3 requires a fund's board or its delegate to determine, at the time the repurchase agreement is entered into, that any collateral consisting of non-government securities is issued by an issuer that has "an exceptionally strong capacity to meet its financial obligations" and is "sufficiently liquid that [it] can be sold at approximately [its] carrying value in the ordinary course of business within seven calendar days."

Forms N-1A, N-2 and N-3 contain the requirements for shareholder reports of mutual funds, closed-end funds and certain insurance company separate accounts that offer variable annuities, respectively. Prior to these amendments, the Forms required shareholder reports to include certain information with respect to portfolio holdings by category, and if credit quality was depicted, the ratings assigned by a single nationally recognized statistical rating organization (NRSRO) was required. The Forms have been amended to permit a fund to depict the credit quality of portfolio holdings using (1) alternative categorizations not based on NRSRO credit ratings; (2) the ratings assigned by different NRSROs (for split-rated securities); or (3) ratings provided by credit rating agencies that are not NRSROs. If depicted, funds will be required to describe how the credit quality of its holdings was determined and, if credit ratings are used, how they were identified and selected.

These amendments were proposed in March 2011, along with proposals to remove references to credit ratings in Rule 2a-7 under the 1940 Act and Form N-MFP with respect to money market funds. However, the SEC noted that it will address the references to credit ratings in Rule 2a-7 and Form N-MFP in a separate rulemaking.

The amendments to Rule 5b-3 and Forms N-1A, N-2 and N-3 became effective February 7, 2014 and compliance is required by July 7, 2014.

Volcker Rule Adopted by Regulatory Agencies to Limit Certain Bank Activities

On December 10, 2013, final rules were adopted by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Commodity Futures Trading Commission and the SEC in order to implement Section 619 of the Dodd-Frank Act, commonly referred to as the "Volcker Rule." The Volcker Rule generally prohibits banking entities from engaging in proprietary trading or owning, sponsoring or having other certain relationships with hedge funds and private equity funds, i.e. "covered funds."

The Volcker Rule was proposed in October 2011, and the agencies received more than 18,000 comment letters. Among the comment letters submitted was a letter from the Investment Company Institute (ICI) which voiced certain concerns that portions of the rule as proposed could have potential negative consequences on the registered fund industry. The final rule as adopted was revised in light of some of the ICI's concerns.

In its comment letter, the ICI expressed concern with the definition of covered fund under the proposed rule, noting that, as defined, covered funds could include registered investment companies. As adopted, the final Volcker Rule includes a specific exclusion from the definition of covered fund for all SEC-registered investment companies and certain non-U.S. public funds.

The ICI also expressed its concern that a registered investment company could fall under the definition of "banking entity" in certain situations, and consequently be subject to all the prohibitions and restrictions of the Volcker Rule. Specifically, for funds sponsored by a banking entity, when substantially all of the fund's shares are owned by the fund's sponsor immediately following the launch of a new fund, it could be considered a subsidiary or affiliate of the banking entity. Under the Bank Holding Company Act, a subsidiary or affiliate of a banking entity would be considered a banking entity itself. However, rather than provide an express exclusion for registered investment companies from the definition of banking entity, the adopting release reiterated that a registered investment company would not be considered an affiliate of a banking entity solely by virtue of being advised, organized, sponsored or managed by a banking entity.

Finally, the ICI's comment letter also noted that the Volcker Rule may impact banking entities' ability to act as authorized participants (APs) for ETFs due to the prohibition on proprietary trading, which may have a negative impact on the ETF marketplace. In its comment letter, the ICI suggested certain revisions to the proposed rule. However, the adopting release notes that the activities of APs should be evaluated under the market-making exemption included in the rule.

The Volcker Rule becomes effective April 1, 2014, and the compliance deadline is July 21, 2015.

Other News

SEC Staff Member Comments on Recent Sub-Transfer Agency Examinations

On February 10, 2014, *Fund Action* reported on recent statements made by Doug Scheidt, Chief Counsel of the Division of Investment Management, about the SEC's ongoing examinations of sub-transfer agency payments. According to the article, Mr. Scheidt stated that the sub-transfer agency examinations had raised particular concerns about illegal distribution payments through omnibus accounts and, accordingly, he saw three courses of action open to the SEC: (1) enforcement actions in "extreme cases"; (2) guidance "in other cases"; or (3) a new distribution rule based on "current issues of the day." As noted in the article, Mr. Scheidt did not detail the contents of a potential rule, but has said that the SEC does have statutory authority to make brokers tell funds what they are paying for and, while the SEC does not have statutory authority over non-broker intermediaries that use omnibus accounts, it could prohibit funds from making payments to these other intermediaries.

SEC Increases Focus on Cyber Security

At a Compliance Outreach Program hosted by the SEC in January 2014, senior SEC staff members discussed the SEC's increased focus on cyber security matters. David Grim, Deputy Director of the SEC's Division of Investment Management, told program attendees that cyber security is one of the top areas of concern communicated to him from industry participants. Jane Jarcho, National Associate Director of the Investment Adviser/Investment Company examination program in the Office of Compliance Inspections and Examinations, noted that the SEC is ramping up its examiners' focus on cyber security, with a planned 2014 review of the policies that asset managers have in place to prevent, detect and respond to cyber attacks. In exams to be conducted this year, Ms. Jarcho said that examiners will review what resources firms and advisers are dedicating toward information security and the strength of policies in place to ensure regular assessment of cyber security risks. Ms. Jarcho added that examiners also will review policies designed to detect and respond to cyber attacks, deal with identity theft, and monitor vendors' cyber security policies, as well as business continuity plans after attacks, IT training policies and in-house and third-party access to information.

Ms. Jarcho also indicated that SEC examiners are planning to confirm that asset managers are reporting "material" cyber events to regulators.

In addition, the SEC recently announced that it will host a roundtable on March 26, 2014 at the SEC's headquarters in Washington, DC to discuss cyber security, the issues and challenges it raises for market participants and public companies, and how those concerns are being addressed. In a speech at the annual SEC Speaks conference in February 2014, SEC Commissioner Luis Aguilar mentioned that he had recommended the convening of this roundtable because the observed increase in cyber security threats on businesses strongly suggests that the SEC needs to develop a better understanding of the related issues facing both market participants and issuers. With regard to transfer agents specifically, Commissioner Aguilar expressed concern that a cyber attack could result in the misappropriation of confidential shareholder information, the "hijacking" of public company shells and microcaps, or outright theft. He also suggested that the pending Regulation SCI, which covers tech security requirements for self-regulatory organizations, might be expanded to include transfer agents.

OCIE Issues Risk Alert on Investment Adviser Due Diligence Processes for Selecting Alternative Investments

On January 28, 2014, the SEC's Office of Compliance Inspections and Examinations (OCIE) issued a Risk Alert summarizing its observations on the due diligence practices of investment advisers who recommend alternative investments, such as hedge funds and private equity funds to their clients.

The Risk Alert compares current industry trends and practices in advisers' due diligence processes observed over the past six years to prior observation periods and notes certain deficiencies. In general, OCIE observed that advisers have enhanced and expanded the scope of the alternative investment due diligence processes. Specifically, OCIE noted that advisers are seeking more information directly from the managers of alternative investments, while using third-parties to supplement and validate the data provided. OCIE also noted that advisers are performing additional quantitative analyses and risk assessments to detect aberrations in investment returns and evaluate how closely a manager implements its stated investment strategy.

OCIE also identified certain deficiencies in some advisers' due diligence processes. Specifically, the Risk Alert observed that some advisers omitted alternative investment due diligence policies and procedures from their annual compliance review and/or provided clients and potential clients with potentially misleading information about the depth and breadth of their due diligence process.

The Risk Alert is available at: www.sec.gov/about/offices/ocie/adviser-due-diligence-alternative-investments.pdf

SEC Staff Releases 2014 Examination Priorities

On January 9, 2014, the SEC staff released its examination priorities for 2014. The examination priorities address the entire market, including investment advisers, investment companies and broker-dealers, and are meant to communicate areas that the staff perceives to have heightened risk. The staff disclosed several market-wide examination initiatives, including fraud detection and prevention; corporate governance, conflicts of interest and enterprise risk management; technology controls; issues posed by the convergence of broker-dealer and investment adviser businesses; compliance with new rules and regulations, including solicitation practices under Rule 506(c) under the 1933 Act; and examinations of sales practices related to retirement investments and rollovers. The SEC staff also highlighted examination priorities specific to investment advisers, investment companies and broker-dealers.

For investment advisers and investment companies, the staff identified the following ongoing risks and new and emerging issues as examination priorities for 2014:

Ongoing Risks

- *Safety of Assets and Custody*. Examinations will continue to include asset verifications to confirm the safety of client assets and compliance with custody requirements, paying particular attention to those instances where advisers fail to realize they have custody.

- *Conflicts of Interest Related to Certain Investment Adviser Business Models*. Examinations will focus on conflicts of interest inherent in certain investment adviser business models, including the following:
  - Adviser compensation arrangements, with a particular focus on undisclosed compensation arrangements and their effect on recommendations made to clients;
  - Allocation of investment opportunities;
  - Controls and disclosure associated with side-by-side management of performance-based and purely asset-based fee accounts;
  - Risk controls and disclosure, particularly for illiquid investments and leveraged investment products and strategies; and
  - Higher risk products of strategies targeted to retail (and especially retired or elderly) investors.
- *Marketing/Performance*. Examinations will focus on the accuracy of investment objectives and performance, compliance oversight of marketing, and, where applicable, marketing efforts related to the JOBS Act.

New and Emerging Issues

- *Never-Before Examined Advisers*. Examinations will conduct focused, risk-based examinations of advisers that have been registered for more than three years but have not yet been examined.
- *Wrap Fee Programs*. Examinations will focus on whether advisers are fulfilling their fiduciary and contractual obligations to clients and will review the processes in place for monitoring wrap fee programs recommended to advisory clients, related conflicts of interest, best execution, trading away from the sponsor and disclosures.
- *Quantitative Trading Models*. The staff will examine advisers with substantial reliance on quantitative portfolio management and trading strategies and assess, among other things, whether these firms have adopted and implemented compliance policies and procedures tailored to the performance and maintenance of their proprietary models.
- *Presence Exams*. The staff will continue the 2012 initiative to examine a significant percentage of the advisers registered since the effective date of Section 402 of the Dodd-Frank Act. The five key focus areas of these examinations are marketing, portfolio management, conflicts of interest, safety of client assets and valuation.
- *Payments for Distribution in Guise*. Examinations will continue to focus on the variety of payments made by advisers and funds to distributors and intermediaries, the adequacy of disclosure made to fund boards about these payments and fund boards' oversight of the same.
- *Fixed Income Investment Companies*. The staff will monitor the risks associated with a changing interest rate environment and the impact this may have on bond funds and related disclosures of risks to investors.

For broker-dealers, the staff identified the following ongoing risks and new and emerging issues as examination priorities for 2014:

Ongoing Risks

- Examinations will continue to focus on identifying fraud in connection with sales practices, supervision issues, trading risk areas, internal controls, customer protection and net capital rules and anti-money laundering compliance.

New and Emerging Issues

- The staff continued to identify appropriate application of the Market Access Rule as a priority in 2014 as well as the suitability of variable annuity buybacks. Examinations will also focus on a number of issues in the fixed income market, including factors that may impact the quality of execution in the fixed income market, such as market structure and the use of alternative trading systems.

Litigation and Enforcement Actions

Complaint Filed Against BlackRock Alleges Excessive Advisory Fees

On February 21, 2014, two shareholders of the BlackRock Global Allocation Fund, Inc. filed a shareholder derivative action against BlackRock Advisors, LLC, the fund's investment adviser, and BlackRock Investment Management, LLC and BlackRock International Limited, the fund's sub-advisers (collectively, BlackRock), in the U.S. District Court for the District of New Jersey, alleging that BlackRock violated its fiduciary duty to the fund under Section 36(b) of the 1940 Act by receiving advisory fees from the fund so disproportionately large that they bear no reasonable relationship to the value of the services provided to the fund and could not have been the product of arm's-length bargaining.

To support the excessive fee claim, the plaintiffs assert that BlackRock serves as sub-adviser to three non-BlackRock funds, to which it provides substantially the same investment advisory services as it provides to the fund at advisory fee rates up to 109% less than the fund's advisory fee rate. The plaintiffs allege that this difference in advisory fee rates is not explained by the additional administrative and other services that BlackRock provides to the fund under the fund's investment management agreement that are not also provided to the sub-advised funds. The plaintiffs claim that, in addition to fees payable to BlackRock under the investment management agreement, the fund pays separate accounting services and call center fees to BlackRock as well as administrative fees to State Street, the fund's third-party administrator. The plaintiffs allege that the majority of the additional services BlackRock purports to provide to the fund under the investment management agreement are actually provided under these separate arrangements for additional compensation.

The plaintiffs also allege that economies of scale realized by BlackRock in providing advisory services to the fund have not been passed on to the fund. The plaintiffs assert that under the fund's current breakpoint schedule, very large increases in fund assets have resulted in very small decreases in the rate of advisory fees paid by the fund. For example, the plaintiffs note that while the fund's assets under management increased from $45.7 billion on October 31, 2010 to $52.4 billion on October 31, 2011, the fund's effective advisory fee rate decreased only one basis point during this period, from 0.68% to 0.67%. In addition, the plaintiffs compared the fund's breakpoint schedule to the breakpoint schedule of one of the sub-advised funds, noting that under the sub-advised fund's breakpoint schedule, a 12-basis-point fee reduction takes effect at $100 million in assets, whereas, under the fund's breakpoint schedule, a similar 12-basis-point fee reduction does not take effect until $30 billion in assets.

Finally, the plaintiffs allege that the fund's board of directors has approved the investment management agreement with BlackRock each year, upon information and representations provided by BlackRock, without devoting the time and attention necessary to independently assess the fees paid or to effectively represent the interests of fund shareholders.

The plaintiffs request a declaration that BlackRock violated Section 36(b); that BlackRock be permanently enjoined from further violations of Section 36(b); that BlackRock pay compensatory damages, including repayment of unlawful and excessive advisory fees, lost investment returns on those amounts and interest; and that the fund's investment management agreement be rescinded.

SEC Settles Charges Against Credit Suisse for Providing Unregistered Services to U.S. Clients

On February 21, 2014, the SEC settled charges against Zurich-based Credit Suisse Group AG for violating the federal securities laws by providing cross-border brokerage and investment advisory services to U.S. clients without first registering with the SEC. According to the SEC's order, Credit Suisse provided cross-border securities services to thousands of U.S. clients and realized approximately $82 million in pre-tax income from these services without adhering to the registration provisions of the federal securities laws. During the relevant period, Credit Suisse relationship managers traveled to the U.S. to solicit clients, provide investment advice, and induce securities transactions, but the relationship managers were not registered to provide brokerage or advisory services, nor were they affiliated with a registered entity. The relationship managers also communicated with clients in the U.S. through e-mails and phone calls.

According to the SEC's order, it was not until after a much-publicized civil and criminal investigation into similar conduct by Swiss-based UBS that Credit Suisse began to take steps in October 2008 to exit the business of providing cross-border advisory and brokerage services to U.S. clients. Although the majority of U.S. client accounts were closed or transferred by 2010, it took Credit Suisse until mid-2013 to completely exit the cross-border business as the firm continued to collect broker-dealer and investment adviser fees on some accounts.

The SEC's order found that Credit Suisse willfully violated Section 15(a) of the Exchange Act and Section 203(a) of the Advisers Act. Credit Suisse admitted the facts in the SEC's order, acknowledged that its conduct violated the federal securities laws, accepted a censure and a cease-and-desist order and agreed to retain an independent consultant. Credit Suisse also agreed to pay $82 million in disgorgement, $64 million in prejudgment interest, and a $50 million penalty.

SEC Sanctions Investment Adviser and President/Chief Compliance Officer for False and Misleading Advertisements

On January 30, 2014, the SEC filed an order imposing remedial sanctions and a cease-and-desist order on Navigator Money Management, Inc. (NMM), a New York-based investment adviser, and Mark A. Grimaldi, NMM's president, majority owner and chief compliance officer, for issuing false and misleading advertisements in violation of Section 17(a) of the 1933 Act, Section 206 of the Advisers Act and Section 34(b) of the 1940 Act. The SEC's order alleged that NMM and Mr. Grimaldi "selectively touted" the past performance of an NMM-managed fund, as well as specific securities recommendations to clients, "cherry-picking the best recommendations and ignoring less favorable recommendations." The order also alleged that the "misrepresentations and omissions were made possible, in part, by NMM's failure to adopt and implement written policies and procedures reasonably designed" to prevent them.

According to the SEC's order, Mr. Grimaldi used newsletters he controlled to advertise and promote the Sector Rotation Fund, a mutual fund managed by NMM. One issue of The Money Navigator asserted that the fund was ranked first out of 375 comparable funds tracked by Morningstar without disclosing that such claim was true only for the time period from October 13, 2010 through October 12, 2011 and that the fund had poorer relative performance for other periods (for example, at least 100 comparable mutual funds had better performance for the period from January 1, 2011 through November 30, 2011, the day before the newsletter was published). The same article claimed that the Sector Rotation Fund produced an average annual return of 10.25% from August 31, 2002 through October 31, 2011 when, in reality, the fund did not exist prior to December 30, 2009 (10.25% was actually the hypothetical return of a similarly named model in another newsletter controlled by Mr. Grimaldi). The SEC's order describes numerous similarly misleading claims allegedly made by NMM and Mr. Grimaldi through the newsletters, the firm's website and Mr. Grimaldi's Twitter account.

Pursuant to a settlement with the SEC, NMM and Mr. Grimaldi agreed to establish internal procedures and controls reasonably designed to ensure the accuracy of future performance representations and retain an independent consultant to perform annual reviews of such procedures and controls for a period of three years. NMM also agreed to post the SEC's order on its website and mail or e-mail an updated Form ADV, including disclosure of the order, to existing advisory clients. In addition, Mr. Grimaldi agreed to pay a $100,000 fine.

SEC Charges Investment Adviser with Violations of the Federal Securities Laws

On January 27, 2014, the SEC issued two orders instituting administrative and cease-and-desist proceedings against Western Asset Management Co., an investment adviser headquartered in Pasadena, California.

The first SEC order alleges that, due to a coding error in the firm's compliance system, in 2007, Western Asset allocated to its ERISA client accounts a restricted private placement that the issuer had deemed non-ERISA eligible. The order further alleges that, upon discovering the coding error, Western Asset identified the affected client accounts but did not immediately notify the clients or correct the error, in violation of Western Asset's compliance policies and procedures and, in particular, its error correction policy. Rather, Western Asset, based on the factual investigation and legal analysis of inside and outside counsel, determined that there had been no breach of client guidelines and no "prohibited transactions" under ERISA, and therefore, did not notify its affected clients or offer to make the clients whole for any losses attributable to the security. The order states that, by the time Western Asset sold all of the holdings in the private placements in 2009, the sales prices were "materially lower" than the purchase prices, and Western Asset did not notify its clients that it had erroneously purchased the security until 2010, by which time Western Asset was aware of the SEC investigation. The SEC's order alleges that Western Asset's conduct resulted in violations of Sections 206(2) and (4) of the Advisers Act and Rule 206(4)-7 thereunder.

The second SEC order alleges that between 2007 and 2010, Western Asset effected improper cross trades between its advisory clients, including mutual fund and ERISA accounts, whereby dealers purchased fixed-income securities from certain Western Asset clients and then resold the same securities to other Western Asset clients. The order alleges, in particular, that (1) Western Asset favored its buying clients over its selling clients and failed to seek best execution for its selling clients as a result of it executing sale transactions at the highest current independent bid price rather than at an average between the highest bid and ask prices, (2) Western Asset executed the repurchase transactions at a small markup over the sale price and paid the markup to dealers to compensate them for their costs in the transactions, and (3) both such practices caused Western Asset's mutual fund clients unknowingly to violate Section 17 of the 1940 Act. The order also stated that such cross trades were inconsistent with Western Asset's compliance policies and procedures, and since its cross trade compliance policies were published in its Form ADV, Western Asset's Forms ADV filed in 2007–2010 contained materially false statements regarding Western Asset's cross trading. The SEC's order alleges that Western Asset's conduct resulted in violations of Sections 206(2), 206(4) and 207 of the Advisers Act and Rules 206(4)-7 and 206(4)-8(a)(2) thereunder, and, as a result of Western Asset's conduct, it willfully aided and abetted and caused certain of its mutual fund clients to violate Sections 17(a)(1) and 17(a)(2) of the 1940 Act.

With respect to both orders, without admitting or denying the SEC's findings, Western Asset agreed to settlements, pursuant to which, it was censured and ordered to cease and desist from committing or causing any further such violations, to make compensatory payments to affected clients of approximately $17.4 million in the aggregate and to pay penalties to the SEC and the Department of Labor of approximately $3.6 million in the aggregate.

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This Regulatory Update is only a summary of recent information and should not be construed as legal advice.

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