

BROKER-DEALER

FINRA Proposes Changes to Its Inter-Dealer Quotation System for OTC Equity Securities

The Financial Industry Regulatory Authority has proposed changes to its inter-dealer quotation system referred to as the “OTC Bulletin Board Service.” Specifically, FINRA is proposing to rename the service as the “Over-the-Counter Display Facility,” or “ODF.” The ODF will be expanded to include any over-the-counter equity security instead of limiting the service to securities from “reporting company” issuers.

The proposal also would allow FINRA to disseminate inside bid-ask quotations where there is a single one-sided priced quote or where there is only one market maker displaying a two-sided priced quote. (The current rule provides that a bid-ask calculation is accessible only where the security has at least two market makers displaying two-sided priced quotes.) FINRA also is proposing to eliminate the current position fee applicable to quoting on the service.

Under the proposal, member firms that are deemed “active market participants” would be required to participate in testing with the FINRA quotation facility. For these purposes, an “active market participant” would include any member firm that, on average, displays quotations in at least 500 symbols per day in aggregate across member inter-dealer quotation systems during a six-month period.

More information is available [here](#).

DERIVATIVES

See “CFTC Finalizes System Safeguards Testing Requirements” and “CFTC Issues Comparability Determination for Japan Uncleared Swap Margin Rules” in the CFTC section.

CFTC

CFTC Finalizes System Safeguards Testing Requirements

On September 8, the Commodity Futures Trading Commission approved amendments to its rules relating to system safeguards for derivatives clearing organizations, designated contract markets, swap execution facilities and swap data repositories (collectively, registered entities). The rules clarify existing obligations and enhance cybersecurity testing requirements.

The amended rules require registered entities to conduct regular, periodic and objective testing and review of certain system safeguards as a part of its risk analysis and oversight of its operations and automated systems. The rules require five types of testing: (1) vulnerability testing; (2) penetration testing; (3) controls testing; (4) security incident response plan testing; and (5) enterprise technology risk assessment. Additionally, the rules include test frequency requirements, identify tests that independent third parties should conduct, and discuss the appropriate scope of testing.

The rules also focus on categories of risk that oversight should address, recordkeeping, internal reporting, review of testing results, and remediation of vulnerabilities and deficiencies.

The final rules will be published in the *Federal Register*. A CFTC fact sheet is available [here](#).

CFTC Issues Comparability Determination for Japan Uncleared Swap Margin Rules

On September 8, the Commodity Futures Trading Commission approved a comparability determination permitting substituted compliance with certain Japanese margin requirements for uncleared swaps. As discussed in the [Corporate and Financial Weekly Digest](#) edition for May 27, the CFTC permits certain non-US swap dealers and major swap participants to comply with the margin rules of another jurisdiction if the CFTC determines the foreign requirements are comparable to the CFTC requirements.

The CFTC found the margin requirements for uncleared swaps under Japanese law to be comparable to those under the Commodity Exchange Act and CFTC regulations, except for the treatment of inter-affiliate swaps.

The CFTC fact sheet summarizing the comparability determination is available [here](#).

CFTC Signs MOU With Two Mexican Authorities Regarding Cross-Border Supervision

On August 31, the Commodity Futures Trading Commission Chairman Timothy Massad signed a Memorandum of Understanding (MOU) with the Comisión Nacional Bancaria y de Valores and the Banco de México. The MOU creates a plan for cooperation and the exchange of information to supervise central counterparties, trade repositories and certain other persons, operating on a cross-border basis in the United States and Mexico.

The MOU does not create any legally binding obligations, confer any rights or supersede domestic laws.

The MOU is available [here](#).

The CFTC announcement is available [here](#).

UK DEVELOPMENTS

FCA Launches New Website on MiFID II Market Data Processing

On September 5, the UK Financial Conduct Authority (FCA) launched a new webpage dedicated to market data reporting and the development of its new market data processor system (MDP system). The MDP system is being developed for the FCA in response to data reporting requirements under the amended and restated Markets in Financial Instruments Directive and Markets in Financial Instruments Regulation (together, MiFID II). The MDP system will apply to submitting entities, which include approved reporting mechanisms, consolidated tape providers, approved publication arrangements, regulated markets, operators of multilateral trading facilities, operators of organized trading facilities, systematic internalizers, other UK MiFID investment firms, UK branches of third-country firms, and European Economic Area data reporting service providers, trading venues or investment firms. Submitting entities will submit MiFID II market data to the MDP system in the form of transaction reports, instrument reference data, transparency reports, double volume cap reports and commodity derivative position reports. The FCA plans to initiate onboarding for those entities in scope through the course of this month, with industry testing of the system taking place from July 1, 2017, to December 31, 2017, ready for the MiFID II “go-live” date of January 3, 2018.

The FCA’s new webpage on the MDP system can be accessed [here](#).

EU DEVELOPMENTS

European Commission Re-Publishes Q&A Papers on EU Financial Services Legislation

On September 2, the European Commission (EC) re-published links on its website to key questions and answers (Q&As) that previously had been published by the European Banking Authority, European Securities and Markets Authority, and European Insurance and Occupational Pensions Authority (together, ESAs). The EC had deleted the links to the Q&As in August and has not explained why they have been reinstated. The Q&As cover the Markets in Financial Instruments Directive (MiFID), Capital Requirements Directive (CRD), Payment Services Directive (PSD), second Electronic Money Directive (2EMD) and Alternative Investment Fund Managers Directive (AIFMD).

The ESAs' Q&As can be found [here](#).

For additional coverage on financial and regulatory news, visit [Bridging the Week](#), authored by Katten's [Gary DeWaal](#).

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