

BROKER-DEALER

FINRA Proposes Rule Change Related to the Content of the Securities Industry Essentials Examination

On January 12, the Financial Industry Regulatory Authority (FINRA) filed with the Securities and Exchange Commission a proposed rule change outlining the content and selection specifications for FINRA's new general knowledge examination, the Securities Industry Essentials Examination (SIE) (For additional information related to the SIE, please see the [July 14, 2017 edition](#) of the *Corporate & Financial Weekly Digest*.) The rule change proposes that the SIE be divided into the following four sections:

1. Knowledge of Capital;
2. Understanding Products and their Risks;
3. Understanding Trading, Customer Accounts and Prohibited Activities; and
4. Overview of the Regulatory Framework.

FINRA believes that the proposed outline streamlines the general securities knowledge that is currently covered on the representative-level examinations. Pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934, as amended, and Rule 19b-4 thereunder, the rule change was effective upon filing. The implementation date for the SIE will be October 1, 2018, which coincides with the implementation of the restructured representative-level examination program.

The text of the rule change is available [here](#).

DERIVATIVES

See *"CFTC's Market Risk Advisory Committee Releases Agenda for Upcoming Public Meeting"* in the CFTC section and *"FCA Publishes Position Limits on the Swiss Baseload Power Contract"* in the UK Developments section.

CFTC

CFTC's Market Risk Advisory Committee Releases Agenda for Upcoming Public Meeting

The Commodity Futures Trading Commission has released the agenda for the Market Risk Advisory Committee (MRAC) public meeting that will be held on January 31.

The public meeting will feature four different panels, in addition to opening remarks from Rostin Behnam, MRAC Sponsor and Commissioner; J. Christopher Giancarlo, CFTC Chairman; and Brian D. Quintenz, a CFTC Commissioner. The panels will discuss the following topics:

1. the statutory framework and regulatory process related to the listing of new products through self-certification on CFTC-regulated designated contract markets (DCMs) and swap execution facilities;
2. the CFTC's authority and surveillance of new products from a risk perspective;

3. the self-certification process from the perspective of DCMs and derivatives clearing organizations; including product design, the governance process for listing and clearing new products, and oversight; and
4. the regulatory, legal and policy issues with respect to novel products.

Members of the public can attend the meeting in person or listen to the panels via conference call.

The agenda for the MRAC public meeting is available [here](#).

UK DEVELOPMENTS

Application Window for Cohort 4 of the Regulatory Sandbox Is Open Until the End of January

The application window for businesses to be part of cohort 4, the latest cohort, of the UK Financial Conduct Authority's (FCA) regulatory sandbox is open until January 31. Businesses such as authorized firms, unauthorized firms that require authorization and technology businesses can apply to each cohort of the FCA's sandbox.

To qualify for the sandbox, firms need to meet the FCA's Eligibility Criteria, which includes standards such as whether or not the innovation appears to be intended for the UK market and if it will lead to a better deal for consumers. Firms that meet the Eligibility Criteria will need to complete the sandbox application form and submit it to the FCA by email.

Once accepted by the FCA into each cohort of the sandbox, businesses are allowed to test innovative products, services, business models and delivery mechanisms in the real market, with real customers. The sandbox seeks to provide firms with:

1. the ability to test products and services in a controlled environment;
2. reduced time-to-market at potentially lower costs;
3. support with identifying appropriate consumer protection safeguards to build into new products and services; and
4. better access to finance.

The sandbox offers tools such as restricted authorization, individual guidance, informal steers, waivers and no enforcement action letters.

After January 31, the FCA will assess each sandbox application against the FCA's Eligibility Criteria before deciding to accept the applications.

The FCA's webpage on the sandbox is available [here](#).

The FCA's Eligibility Criteria for the sandbox is available [here](#).

FCA Publishes Statement on PRIIPs KIDs

On January 24, the UK Financial Conduct Authority (FCA) published a statement relating to performance scenarios in key information documents (KIDs) provided in accordance with the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation.

The PRIIPs Regulation has applied since January 1 and, since then, PRIIPs manufacturers have had to prepare and publish KIDs, which are stand-alone and standardized documents, for each of their PRIIPs. KIDs detail risks, performance scenarios, costs and other pre-contractual information and must be accurate, fair, clear and not misleading. The PRIIPs regulatory technical standards (RTSs) set out how information provided in the KID should be calculated.

The FCA points out in the statement that its rules also require firms to ensure that their communications with clients more generally are fair, clear and not misleading. They are also required to act honestly, fairly and professionally, in accordance with the best interests of their clients.

The FCA goes on to state that it understands that some firms are concerned that, for a minority of PRIIPs, the performance scenario information required in the KID may appear too optimistic and so has the potential to mislead consumers. There could be a number of reasons for this, including the strong past performance of certain markets, the way the calculations in the RTSs must be carried out or calculation errors.

The FCA states that where a PRIIP manufacturer is concerned that performance scenarios in a KID are too optimistic, such that they may mislead investors, the FCA is comfortable with the PRIIP manufacturer providing additional explanatory materials to put the calculation in context and to set out their concerns for investors to consider.

For those firms that do not manufacture PRIIPs but provide KIDs to their clients, the FCA states that they should consider how to address the issue of KIDS that they believe may mislead investors. For example, such firms could also provide additional explanation as part of their communications with their clients.

The statement is available [here](#).

FCA Publishes Position Limits on the Swiss Baseload Power Contract

On January 25, the UK Financial Conduct Authority (FCA) published position limits on a further commodity derivative contract that is traded on a UK trading venue.

Further to the FCA's last publication of position limits (as covered in the *Corporate & Financial Weekly Digest edition of January 5, 2018*), the limits will apply from March 31 to positions held for the bespoke Swiss Baseload Power contract (Ch Phy BLSws), which is traded on GFI Brokers Ltd., an organized trading facility. The spot month single limit proposed is 4,557 (3,281,350) (22.5%) and the other month limit proposed is 11,827 (8,515,350) (29.0%).

The FCA has explained that it has published the limits in advance of the required publication by the European Securities and Markets Authority (ESMA) of opinions on the limits. Therefore, the limits may change in light of an opinion by ESMA, or if the FCA decides a change is necessary.

The FCA's webpage on position limits for commodity derivative contracts is available [here](#).

EU DEVELOPMENTS

BaFin Publishes Additional Indicative MiFID II Position Limits

On January 16, the German federal regulator, Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin), updated its Database of Position Limits and published additional indicative position limits for the following contracts:

- Phelix Power DE Future (Peak): traded on the European Energy Exchange (EEX), this contract has been added to the Database of Position Limits, but the actual limits have not yet been published;
- PXE Czech Financial Future (Base): traded on EEX, the actual limits for this contract have not yet been published; and
- Phelix Power DE Future (Base) and Phelix Power DE Option (Base): traded on EEX, this contract has a proposed limit of 46,000 381 MWh for the spot month and a position limit of 825 477 708 MWh for other months.

Any comments regarding the proposed position limits can be emailed to BaFin by February 5.

BaFin's Database of Position Limits can be found in German [here](#) and in English [here](#).

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

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UK/EU DEVELOPMENTS

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