

## BROKER-DEALER

### **FINRA Requests Comment on Rules Governing Employees' Outside Business Activities**

On May 15, as part of a new review, the Financial Industry Regulatory Authority requested public comment on the effectiveness and efficiency of its rules governing the outside business activities and private securities transactions of employees of FINRA member firms.

FINRA is seeking feedback on various specified questions concerning the effectiveness and economic impact of the rules and the challenges of complying with them. Members of the public can submit their ideas and comments by emailing [pubcom@finra.org](mailto:pubcom@finra.org) or mailing FINRA's Office of the Corporate Secretary. Comments must be received by June 29.

FINRA Regulatory Notice 17-20 is available [here](#).

## DERIVATIVES

*See "CFTC's Division of Clearing and Risk Extends No-Action Relief for Shanghai Clearing House" in the CFTC section.*

## CFTC

### **CFTC Launches LabCFTC as Major FinTech Initiative**

On May 17, the Commodity Futures Trading Commission announced the creation of LabCFTC, a new initiative aimed at promoting responsible FinTech innovation to improve the quality, resiliency, and competitiveness of the markets the CFTC oversees. The core components of LabCFTC are: (1) GuidePoint, which will serve as a dedicated point of contact for FinTech innovators to engage with the CFTC, learn about the CFTC's regulatory framework, and obtain feedback and information on the implementation of innovative technology ideas for the market; and (2) CFTC 2.0, an initiative to foster and help initiate the adoption of new technology within the CFTC through collaboration with FinTech industry and CFTC market participants.

LabCFTC is based in the CFTC's New York offices; its director is Jeffrey Bandman, who previously served as Acting Director of the Division of Clearing and Risk, among other positions at the CFTC.

More information and the news release are available [here](#).

### **CFTC's Division of Clearing and Risk Extends No-Action Relief for Shanghai Clearing House**

On May 16, the Commodity Futures Trading Commission's Division of Clearing and Risk (DCR) issued No-Action Letter 17-26, which extends relief previously granted to the Shanghai Clearing House under CFTC No-Action Letter 16-56. CFTC No-Action Letter 16-56 is effective until (and excluding) May 31.

In its earlier letter, DCR stated that it would not recommend the CFTC take enforcement actions against the Shanghai Clearing House (SHCH) for failure to register as a derivatives clearing organization (DCO) in light of SHCH's pending petition for an exemption from registration as a DCO. Pursuant to the relief, SHCH is permitted to clear certain swaps subject to mandatory clearing in the People's Republic of China (PCR) for the proprietary trades of SHCH clearing members that are US persons or affiliates of US persons.

DCR granted the extension because it is not ready to make a recommendation to the CFTC regarding SHCH's petition for exemption. In this regard, DCR noted that it has not yet received assurances that the existing regulatory and oversight regime in the PRC permits SHCH to provide to the CFTC the full scope of information that would be required under an exemption order. DCR also needs to understand the scope of the PRC's Cybersecurity Law, which takes effect on June 1. That law may also prevent SHCH from fully complying with some or all of the reporting requirements that would be included in an order of exemption.

The extension will last until the earlier of November 30 or the date on which the CFTC exempts SHCH from registration as a DCO.

CFTC Letter No. 17-26 is available [here](#).

CFTC Letter No. 16-56 is available [here](#).

## INVESTMENT COMPANIES AND INVESTMENT ADVISERS

### **SEC Issues Risk Alert in Response to WannaCry Ransomware Attack**

On May 17, the Securities and Exchange Commission Office of Compliance Inspections and Examinations (OCIE), issued a Risk Alert in response to the widespread ransomware attack known as WannaCry, WCry, or Wanna Decryptor that started on May 12. The attack infected computers and servers of various organizations in more than 100 countries. The Risk Alert encourages broker-dealers and investment management firms (collectively, "Firms") to review the May 12 alert published by the US Department of Homeland Security's Computer Emergency Readiness Team and evaluate whether applicable patches for their operating systems are properly and timely installed.

The Risk Alert also references OCIE's recently conducted examination of 75 SEC registered Firms to assess industry practices and legal, regulatory and compliance issues related to cybersecurity practices. The OCIE examination found that 26 percent of investment advisers did not conduct periodic risk assessment of critical systems, and 57 percent of investment management firms did not conduct penetration tests and vulnerability scans on critical systems. In addition, a much smaller number of Firms had a significant number of critical and high-risk security patches that were missing important updates. The Risk Alert indicates that in addressing cybersecurity risks and preparedness, Firms should consider (1) implementing periodic cybersecurity risk assessments and a process for ensuring the regular installation of software patches; and (2) conducting penetration tests and vulnerability scans.

The US Department of Homeland Security's alert is available [here](#).

The SEC Risk Alert is available [here](#).

## BANKING

### **CFPB Requests Information Regarding the Small Business Lending Market**

On May 10, the Consumer Financial Protection Bureau (CFPB) held a field hearing and issued a notice and request for information related to the small business lending market. Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended the Equal Credit Opportunity Act to require "financial institutions" (as defined in Section 1071) to compile, maintain and report information concerning credit applications made by women-owned, minority-owned and small businesses. The purpose of the data collection is to facilitate enforcement of fair lending laws and to enable communities, governmental entities and creditors to identify

business and community development needs and opportunities of women-owned, minority-owned and small businesses.

Specifically, the CFPB is seeking to learn more about the institutions, credit products, recording systems, underwriting approaches, distribution channels and types of applicants in the small business lending market, in order to inform its rulemaking implementing Section 1071. The CFPB also is seeking more information regarding the business lending data that financial institutions currently use and maintain in connection with credit applications made by small businesses, including women-owned and minority-owned small businesses, and the potential complexity and cost of small business data collection and reporting. The CFPB is soliciting comment from the public regarding privacy concerns related to the disclosure purposes of Section 1071, including controls that must be in place to ensure the protection of the data collected.

To this end, the CFPB has distributed questions based on five categories of interest: (1) the definition of a small business; (2) what data points the CFPB should require to be collected; (3) what lenders should be included in the data collection; (4) what kinds of financial products and credit are offered to small businesses; and (5) privacy concerns related to the data collection. Comments are due 60 days after the filing is published in the *Federal Register*.

The CFPB also published a white paper summarizing its preliminary research on the key dimensions of the small business lending landscape, which is available [here](#).

The notice and request for information is available [here](#).

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

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\* Click [here](#) to access the *Corporate & Financial Weekly Digest* archive.

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