

### SEC Grants Rule 24f-2 Fee Relief for Some Master-Feeder Funds

On May 24, 2012, the Securities and Exchange Commission (“SEC”) issued a no-action letter indicating that enforcement action would not be taken against GMO Trust (“GMO”) for their calculation of registration fees under Rule 24f-2. In its May 24, 2012 letter requesting SEC relief, GMO indicated that it was comprised of 18 feeder funds, part of the GMO Series Trust, which invest substantially all of their assets in master funds that compile the GMO Trust. Both the feeder funds and the master funds are registered under the Investment Company Act of 1940, as amended (“1940 Act”) and the Securities Act of 1933 (“1933 Act”), which subject them to payment of annual registration fees based on net sales under Rule 24f-2 of the 1933 Act. According to Kenneth Earley of GMO in his letter to the SEC, the relief sought to avoid “‘double counting’ of assets on which such registration fees are paid” because “the master funds should be able to exclude from their aggregate sales price the net sales price of shares sold to the Feeder Funds (which themselves will calculate and pay Rule 24f-2 registration fees)”. The SEC granted relief based on GMO’s representations.

**Sources:** Wilcox, Beagan. “SEC Cuts Registration Fees for Some Master-Feeder Funds.” *Ignites*. 4 June, 2012. Web.

GMO Trust, SEC No-Action Letter, 2012 IM Ref. No. 20124301731, (May 24, 2012).

### SEC Issues Policy Statement Concerning Derivatives Regulation

On June 11, 2012, the SEC published a policy statement outlining the sequence in which it anticipates implementing the new regulatory framework to regulate over-the-counter (“OTC”) derivatives. As required under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”), the U.S. Commodity Futures Trading Commission (“CFTC”) will assume regulation over swaps, while correspondingly, the SEC will have jurisdiction over security-based swaps. While the policy statement does not attempt to estimate the timeline for rule finalization, it establishes a phased implementation to avoid potential disruptions. “The policy statement seeks to provide a ‘roadmap’ to market participants and the public on how we expect to implement the various regulatory requirements for this market,” noted SEC Chairman Mary Schapiro. Under the plan outlined in the policy statement, the SEC and CFTC will initially focus on finalizing various swap-related definitions within Title VII of Dodd-Frank. The SEC will then move to determine the cross-border reach of the proposed regulations. Only once the definitions and rule breadth have been sequentially confirmed will the SEC seek to implement regulation requiring swap data warehouse registration. The last steps on the SEC “roadmap” denote the ordering of the mandatory clearing and trading requirements to be implemented under the regulations.

The SEC is currently seeking public comment on the policy statement, which may be found at: <http://www.sec.gov/rules/policy/2012/34-67177.pdf>.

**Sources:** Statement of General Policy on the Sequence of the Compliance Dates for Final Rules Applicable to Security-Based Swaps, Exchange Act and Dodd-Frank Release No. 34, 67177, 17 C.F.R. Part 240 (2012).

“SEC Issues ‘Roadmap’ on Phase in of Derivatives Regulation,” *SEC News Digest* Issue No. 2012-112, SEC Press Release No. 2012-111 (2012).

### SEC Approves Two New Volatility Initiatives

The SEC has approved two new proposals designed to address excessive volatility in both individual securities and the markets as a whole for a one-year pilot period. The initiatives, submitted by the national securities exchanges and the Financial Industry Regulatory Authority (“FINRA”), will be assessed during the pilot period to determine whether modifications are necessary.

#### HIGHLIGHTS

**SEC No-Action Relief  
Regarding Rule 24f-2 Fees**

**SEC Issues Derivatives  
Regulation Roadmap**

**New Initiatives to Address  
Volatility**

**ISDA Prepares for Potential  
Eurozone Departures**

**Pay-to-Play Compliance Date  
Extension**

The first initiative seeks to prevent trades in individual exchange-listed securities from occurring outside of a specified price band in a “limit up-limit down” approach. The second initiative will stop trading in all exchange listed securities throughout the U.S. markets if triggered and will replace the existing market-wide circuit breaker program that is currently in use. The second initiative seeks to shorten the amount of time that trading is halted and lowers the percentage-decline threshold for triggering a market-wide trading halt. Additional measures are also being considered, one such measure would be to establish a consolidated audit trail system to more accurately track and record trades across the securities markets. These changes, implemented in response to the May 2010 “flash-crash,” are scheduled to be implemented by FINRA and the exchanges by February 4, 2013.

**Source:** “SEC Approves Proposals to Address Extraordinary Volatility in Individual Stocks and Broader Stock Market,” SEC Press Release 2012-107.

### ISDA Prepares for Potential Eurozone Departures

The looming possibility that one or more Eurozone members may leave the common currency has prompted the International Swaps and Derivatives Association (“ISDA”) to create a web page for the organization’s contingency planning.

According to an update on their web page, “ISDA is preparing specific advice and protocols that would apply to certain asset classes in anticipation of certain potential issues or developments, which will be published when ready”. The update also suggests that industry participants should review their existing derivatives contracts and “take steps to reduce the risk that Euro-dominated obligations might be subject to redenomination, should a Euro exit occur.”

The ISDA Eurozone Contingency Planning webpage may be accessed at: <http://www2.isda.org/functional-areas/legal-and-documentation/eurozone-contingency-planning/>.

**Source:** Fischer, Eric R., Elizabeth Shea Fries and Jackson B.R. Galloway. “ISDA Prepares for Eurozone Exit.” *Financial Services Alert Vol. 15, No. 44*. Goodwin Proctor, June 12, 2012.

### SEC Extends Compliance Date for Third Party Solicitor Ban under Advisors Act Pay-to-Play Rule

Effective June 11, 2012, the SEC issued a final rule extending the date by which investment advisers must comply with the ban on third party solicitation imposed by Rule 206(4)-5 under the 1940 Act, the so-called “pay-to-play” rule. The deadline has now been extended to nine months following the compliance date for the SEC’s final rules for the registration of municipal advisors (which were initially proposed in December 2010, but have yet to be adopted).

Under the “pay-to-play” rule, investment advisers registered with the SEC (and certain of its employees) are prohibited from paying – either directly or indirectly – for the solicitation of advisory business from any government agency unless that solicitor is itself an SEC-registered investment adviser, broker-dealer or municipal advisor. The term “municipal advisor” is a new classification of SEC registrant that was created by Dodd-Frank. Upon adoption of the final municipal advisor registration rules, the SEC will issue a notice in the Federal Register specifying the new compliance dates for the third-party solicitation ban.

The SEC order may be accessed at:  
<http://www.sec.gov/rules/final/2012/ia-3418.pdf>.

**Source:** Fischer, Eric R., Elizabeth Shea Fries and Jackson B.R. Galloway. *Financial Services Alert Vol. 15, No. 44*. Goodwin Proctor, June 12, 2012.

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