

### CFTC Approves Phase-In of Dodd-Frank Clearing Requirements

On July 24, 2012, the U.S. Commodity Futures Trading Commission (“CFTC”) approved final regulations providing for the phase-in of the mandatory clearing requirements imposed on market participants under the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”). The phase-in compliance schedule is based on three (3) categories of market participants:

- Category 1 includes swap dealers, security-based swap dealers, major participants, majority security-based swap participants and active funds, and imposes compliance within 90 days after the CFTC issues any final clearing requirement.
- Category 2 includes commodity pools, private funds, banks and inactive funds and imposes compliance within 180 days after the CFTC issues any final clearing requirement.
- Category 3 includes all other market participants including ERISA plans and imposes compliance within 270 days after the CFTC issues any final clearing requirement.

The CFTC has provided extended compliance phase-in scheduling to Categories 2 and 3 as these entities are unregistered with the CFTC, are likely to require more time to comply, are infrequent participants in the market, and may be inexperienced.

**Source:** “CFTC Approves Regulations to Phase in Compliance with Clearing Requirements of the Dodd-Frank Act”. CFTC Pressroom, General Release, 23, July 2012. ([www.cftc.gov/PressRoom/PressReleases/pr6312-12](http://www.cftc.gov/PressRoom/PressReleases/pr6312-12)).

### SEC Issues Recommendations for the Municipal Securities Market

On July 31, 2012, the U.S. Securities and Exchange Commission (“SEC”) published a report recommending improved disclosures in the municipal securities market for the protection of investors (the “Report”). The Report was undertaken in response to concerns raised by market participants and the SEC’s limited authority over the municipal securities market. Among other recommendations, the Report specifically advocates:

- Disclosure standards and audited financial statements.
- A safe harbor from liability for the forward-looking statements of repeat municipal issuers who have met certain requirements.
- The sharing of financial information derived by the Internal Revenue Service from returns, audits and examinations of municipalities to assist SEC investigations in cases of potential securities fraud.
- Requirements to ensure that issuers continuously comply with disclosure requirements.

The SEC has previously undertaken to improve disclosure within the municipal securities market and to better inform investors by enacting an amendment to Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (“Rule 15c2-12”). Rule 15c2-12 prohibits a broker, dealer or municipal securities dealer (each an “Underwriter”) from buying

#### HIGHLIGHTS

CFTC approves phase-in clearing requirements compliance schedule for market participants

SEC recommends improved municipal securities disclosure

Pfizer charged under Foreign Corrupt Practices Act

Boston Fed data reveals at least 21 MMMFs would have “broken the buck” without support from sponsoring firms, parents and affiliates

or selling municipal securities in an aggregate principal amount of \$1,000,000 or more unless the Underwriter has: (i) reasonably determined that the issuer of a municipal security has entered into a written agreement for the benefit of bondholders to provide event notices and certain annual financial information to national and state municipal information repositories; and (ii) has procedures in place that reasonably ensure the receipt of event information from the municipal issuer.

**Source:** "SEC Recommends Improvements to Help Investors in Municipal Securities Market". SEC News Room. Press Releases, July 31, 2012. 2012-147. ([www.sec.gov/news/press/2012/2012-147.htm](http://www.sec.gov/news/press/2012/2012-147.htm)).

SEC Release, Release No. 34-34961; File No. S7-5-94, 10, November, 1994. ([www.sec.gov/rules/final/adpt6.txt](http://www.sec.gov/rules/final/adpt6.txt))

### **SEC Charges Major Pharmaceutical Company with FCPA Violations**

On August 7, 2012, the SEC charged Pfizer Inc. ("Pfizer") with violating the Foreign Corrupt Practices Act ("FCPA"). FCPA was enacted in 1977 and made it unlawful for certain persons and entities to make payments or to provide anything of value directly or indirectly to foreign government officials for the purpose of securing or retaining business. As amended in 1998, FCPA also applies to non-U.S. persons and entities that act to further such an unlawful payment within the United States or any of its territories.

In its complaint filed with the U.S. District Court for the District of Columbia, the SEC alleges that certain of Pfizer's European and Asian subsidiaries made payments to foreign government officials in order to obtain pharmaceutical approvals for Pfizer's products distributed in those countries, and to enhance prescriptions written. Payments were made through a "bonus" or "point" program whereby a percentage of the value of Pfizer products purchased or points accumulated based on the number of Pfizer prescriptions written, could then be redeemed or converted to cash and various gifts. The SEC further claims that Pfizer willfully attempted to conceal these payments through false accounting entries. According to Kara Brockmeyer, Chief of the SEC Enforcement Division's Foreign Corrupt Practice Act Unit, "[t]hese charges illustrate the pitfalls that exist for companies that fail to appropriately monitor potential risks in their global operations."

**Source:** "SEC Charges Pfizer with FCPA Violations". SEC News Room. Press Releases, 7, August, 2012. 2012-152. (<http://www.sec.gov/news/press/2012/2012-152.htm>).

The Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd-1, et seq.

### **Boston Fed: 78 Money Market Funds Received Sponsor Support Between 2007 and 2011**

On August 13, 2012, the Federal Reserve Bank of Boston (the "Boston Fed") released its findings from a comprehensive review of the audited financial statements filed with the SEC for 341 prime money market mutual funds from 2007 to 2011. Over the five year period of review, the Boston Fed found that a total of 78 money market funds received cash contributions or purchases of securities in excess of fair market value from their sponsors totaling at least \$4.4 billion.

The findings indicated that of the 78 funds identified as having received sponsor support, at least 21 funds would have "broken the buck" had such support not been provided. For each of the 21 identified cases, the sponsorship support exceeded 0.5% of the respective fund's assets under management.

Sources:

<http://www.bostonfed.org/news/press/2012/pr081312.htm>

<http://www.bostonfed.org/bankinfo/qau/wp/2012/qau1203.pdf>

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