

### SEC to Hold National Broker-Dealer Compliance Event in Washington, D.C. on April 9

On April 9, 2013, the U.S. Securities and Exchange Commission (the “SEC”) Office of Compliance Inspections and Examinations, in conjunction with both the SEC’s Division of Trading and Markets and the Financial Industry Regulatory Authority (“FINRA”) will hold the National Compliance Outreach Program for Broker-Dealers at the SEC headquarters in Washington, D.C. The event, which is free to participants, will provide an open forum for broker-dealers with a focus on incorporating ethics and compliance standards into the framework of organizations to protect business values and brands while enhancing communication amongst compliance professionals.

Attendance is limited to 500 people on a first-come, first-serve basis registration. There is a registration limit of ten individuals per firm. For those unable to attend in person, the event will be webcast on the SEC website.

Registration may be completed on the SEC website by following the link herewith: <http://www.sec.gov/info/complianceoutreach-bd.htm>. Additionally, the agenda for the event may be found at: <http://www.sec.gov/info/complianceoutreach-bd/national-compliance-outreach-program-bd-2013.pdf>

### SEC Charges Texas Trader in Investment Scheme Targeting Lebanese and Druze Communities

On January 29, 2013, the U.S. Securities and Exchange Commission (the “SEC”) filed a complaint in the U.S. District Court for the Southern District of Texas, Houston Division against Firas A. Hamdan, individually and doing business as FAH Capital Partners (“Hamdan”), for an alleged trading scheme whereby Hamdan defrauded 33 investors through high-frequency, day-trading. Pooling an alleged amount of \$6.1 million into a brokerage account, Hamdan guaranteed his investors a fixed return of at least 30% through the use of his proprietary trading algorithm. The SEC maintains Hamden misleadingly touted his historical performance with the aid of falsified brokerage documents.

The SEC alleges that Hamden lost almost \$1.5 million between 2007 and 2011, and holds that Hamdan stopped paying a return to investors by October 2011. The SEC seeks penalties against Hamdan for violations of Section 17(a) of the Securities Act of 1933, and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder.

The SEC Announcement 2013-13 can be accessed at: <http://www.sec.gov/news/press/2013/2013-13.htm> and the complaint can be viewed here: <http://www.sec.gov/litigation/complaints/2013/comp-pr2013-13.pdf>

### SEC Approves NYSE and NASDAQ Proposed Listing Rules Modifications

On January 17, 2013, the U.S. Securities and Exchange Commission (the “SEC”) approved the proposed changes to the listing rules for compensation committees governing the New York Stock Exchange (the “NYSE”) and the NASDAQ Stock Market LLC (“NASDAQ”). Pursuant to Rule 10C-1 under the Securities Exchange Act of 1934, as amended (“Rule 10C-1”), and Section 952 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, national securities exchanges are required to establish listing standards whereby each member of a listed issuer’s compensation committee must be an independent member of the board of directors as defined therein. Notably, the SEC opted to uphold its continued exemption for open-end and closed-end funds as the “exemption is reasonable

#### HIGHLIGHTS

SEC broker-dealer program to focus on ethics and compliance standards

SEC alleges trader concealed \$1.5 million loss from investors

Section 952 of Dodd-Frank implemented through SEC Rule 10C-1

Plaintiffs allege defendants approved disproportionate compensation arrangements

because the Investment Company Act [of 1940, as amended] already assigns important duties of investment company governance, such as approval of the investment advisory contract, to independent directors.”

The Investment Company Act release may be accessed at the following link: [http://www.ici.org/my\\_ici/memorandum/memo26894](http://www.ici.org/my_ici/memorandum/memo26894).

### **Directors Sued Over Securities Lending Fees**

On January 18, 2013, the Laborers’ Local 265 Pension Fund and Plumbers and Pipefitters Local No. 572 Pension Fund (the “Pension Plans” or “plaintiffs”) filed a complaint for breach of fiduciary duty in U.S. District Court for the Middle District of Tennessee against the independent directors of iShares Trust (“iShares”), along with its affiliate BlackRock Institutional Trust Company (“BTC”), a wholly-owned subsidiary of BlackRock, Inc. (“BlackRock”) (iShares, BTC and BlackRock, collectively, the “defendants”). According to the complaint, the Pension Plans allege that the defendants approved disproportionate compensation arrangements for securities lending services in direct violation of Rules 36(a), 36(b), 17(d) and 17(e) of the Investment Company Act of 1940, as amended (the “Investment Company Act”). Plaintiffs allege that BlackRock, the agent for the securities lending program, received substantially higher fees than what an independent agent would typically receive for similar services. The excessive securities lending fees benefited the mutual fund managers who received approximately 40% of securities lending revenues for themselves at the expense of investors.

Rule 36(b) of the Investment Company Act (“Rule 36(b)”) specifically imposes fiduciary duties on advisers in connection with the receipt of fees from the funds they manage. Specifically, Rule 36(b) provides that “the investment adviser of a registered investment company shall be deemed to have a fiduciary duty with respect to the receipt of compensation for services” and provides that claims for excessive fees may be brought by either the U.S. Securities and Exchange Commission or the shareholders.

The full complaint may be accessed at: [http://www.mfdfs.org/images/uploads/about\\_files/Laborers\\_Local\\_265\\_v\\_iShares.pdf](http://www.mfdfs.org/images/uploads/about_files/Laborers_Local_265_v_iShares.pdf).

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