

### FINRA Announces Public Securities FAQs

On Financial Industry Regulatory Authority, Inc. (“FINRA”) has released a set of frequently asked questions (“FAQs”) with regard to its review of public securities offerings filed on the Public Offering Filing System. FINRA is a private, non-governmental organization, which financially regulates member brokerage firms and exchange markets. After its review of public offerings, FINRA provides firms with regulatory guidance on underwriting agreements. The SEC relies on FINRA to set “reasonable levels of underwriting compensation and adequate disclosure of the underwriting terms and conflicts.” The purpose of the newly released FAQs is to provide firms more clarity on FINRA’s process with respect to its corporate financing rules.

One of the FAQs pertains to lock-up requirements and exemptions. Generally speaking, when underwriters receive valuable items during the 180 days before a public offering, the items are classified as underwriting compensation. However, circumstances exist where such items would not be considered underwriting compensation. In this case, the valuable items are subject to a lock-up period of 180 days after the public offering. The FAQs set out circumstances in which FINRA will consider exemptive relief from this lock-up period.

Other subjects addressed in FINRA’s FAQs include: (1) the right of first refusal; (2) disclosure requirements with respect to underwriting fees and expenses; (3) conflicts of interest; and (4) the direct participation program with respect to closed-end funds; and unlisted real estate investment trusts.

The public securities offerings FAQs from FINRA may be accessed at:

<http://www.finra.org/Industry/Compliance/RegulatoryFilings/PublicOfferingSystem/FAQ/>.

### Distribution Fees a Top Priority for SEC Examinations

The staff of the National Examination Program of the U.S. Securities and Exchange Commission’s (the “SEC”) Office of Compliance Inspections and Examinations has published its examination priorities for 2013. Mutual fund distribution fees and service payments will be among the top priorities of the SEC’s Investment Adviser-Investment Company Exam Program. The staff will assess if such payments are made in compliance with Rule 12b-1 under the Investment Company Act of 1940, as amended, and will focus on the following areas:

- 12b-1 fees paid by the fund to the distributor;
- revenue-sharing agreements where the advisor pays the distributor;
- funds paying shareholder servicing fees to a distributor; and
- conference support fees, where an advisor pays a distributor for access to conferences.

The number of mutual funds being sold through distributors has increased along with required fees paid by advisors and funds to distributors. The SEC’s examinations will focus on the oversight of these fees and the adequacy of disclosures made to a fund’s board regarding these payments. The SEC hopes to better understand industry trends, board oversight, and how information is disclosed to investors.

The SEC’s National Exam Program Priorities for 2013 may be accessed at:

<http://www.sec.gov/about/offices/ocie/national-examination-program-priorities-2013.pdf>.

### HIGHLIGHTS

**FINRA releases public securities FAQs**

**SEC’s National Examination Program to assess distribution fee compliance**

**Tafara to leave SEC on March 31**

**SEC announces regulatory priorities for 2013**

## SEC Director of International Affairs Steps Down

On February 15, 2013, the U.S. Securities and Exchange Commission (the “SEC”) announced that Ethiopis Tafara will leave the SEC at the end of March 2013 after thirteen years of service. Tafara currently serves as the Director of the Office of International Affairs (the “OIA”) at the SEC, which discusses regulatory issues with authorities abroad and provides counsel to the SEC with regard to cross-border enforcement and regulatory matters.

“Cross-border cooperation has become essential to the SEC’s work in protecting investors and facilitating capital-raising in the U.S. and across the globe,” commented Tafara. “I have been privileged to spend the last 13 years promoting international cooperation along with OIA’s deeply talented and committed staff.”

During his career with the SEC, Tafara has focused his leadership on: (1) global regulatory concerns; (2) safeguarding the due process of the International Accounting Standards Board; (3) expansion of international enforcement assistance; and (4) monitoring legal and regulatory developments abroad.

After Tafara’s March 31 departure, Deputy OIA Director Robert Fisher will become Acting Director of the OIA.

SEC Announcement 2013-22 may be accessed at: <http://www.sec.gov/news/press/2013/2013-22.htm>.

## SEC Identifies 2013 Regulatory Priorities

In a continued effort to protect investors and promote integrity in the marketplace, the United States Securities and Exchange Commission (the “SEC”) has identified several initiatives that will receive the most attention and resources of the SEC and its staff based on areas that affect the largest number of industry participants and investors.

Norm Champ, the new Director of the Division of Investment Management of the SEC, spoke at the Practicing Law Institute’s conference, “The SEC Speaks in 2013,” held on February 22, 2013, in Washington, DC and addressed the SEC’s top regulatory initiatives for 2013.

Each initiative was prioritized by importance and classified as either a short-term high-priority project or a less high-priority long-term project. The short-term high-priority projects are designed to proactively identify high-risk areas that require further examination and investigation. Through the use of targeted approaches, the SEC will be able to better detect links and patterns suggesting misconduct in areas such as Money Market Fund Reform, Identity Theft Red Flags, and Valuation Guidance. Each initiative has a stated goal of presenting rule proposals, final rules or formal guidance for full SEC action.

Long-term projects will involve: (1) developing summary prospectus rules that currently benefit mutual funds to variable annuity accounts, (2) creating a proposed ETF Rule to monitor index-based exchange-traded funds, (3) proposing guidance on the use of derivatives by investment companies, and (4) simplifying reporting forms in order to produce more meaningful data for SEC staff, which will in turn influence future rule-making, risk analysis and statutory and rule guidance.

The SEC’s Examination Priorities for 2013 may be accessed at:

<http://www.sec.gov/about/offices/ocie/national-examination-program-priorities-2013.pdf>.

For more information, please speak to your relationship manager or visit [jpmorgan.com/wss](http://jpmorgan.com/wss).

---

*Regulatory Alert is a publication of J.P. Morgan Worldwide Securities Services, intended to inform our clients and friends of developments in the industry and to provide information of general interest. It is not intended to constitute accounting, legal or tax advice and should not be relied upon as such. This publication contains a summary of the subject matter (and is subject to change without notice) and is provided solely for general information purposes. J.P. Morgan does not make any representation or warranty, whether expressed or implied, in relation to the completeness, accuracy, currency or reliability of the information contained in this publication nor as to the legal, regulatory, financial or tax implications of the matters referred herein. This brochure does not constitute a solicitation in any jurisdiction in which such a solicitation is unlawful or to any person to whom it is unlawful. Issued and approved for distribution in the United States by JPMorgan Chase Bank, N.A. and regulated by the Office of the Comptroller of the Currency.*

---