

REPORTS SECTION

U.S. SECURITIES AND EXCHANGE COMMISSION (SEC) 2009 & 2010 FINAL RULES¹ AT A GLANCE

SEC Final Rule Name	Description
<p>SEC Final Rule: Risk Management Controls for Brokers or Dealers with Market Access; Effective Date: 60 days from the date of Publication in the Federal Register</p>	<p>The SEC voted unanimously to adopt a new rule 15c3-5 under the Securities Exchange Act of 1934 (“Exchange Act”) that would prohibit brokers or dealers with market access from providing their customers with “unfiltered” or “naked” access to an exchange or alternative trading system (ATS). The new rule would require brokers to put in place risk management controls and supervisory procedures that could help prevent erroneous orders and ensure regulatory compliance.</p>
<p>SEC Final Rule: Removal from Regulation FD (Fair Disclosure) of the Exemption for Credit Rating Agencies; Effective Date: 10/04/2010</p>	<p>The SEC revised Regulation FD (17 CFR 243.100) to remove from the rule the exemption for entities whose primary business is the issuance of credit ratings. Regulation FD provides that when an issuer, or person acting on its behalf, discloses material non-public information to securities market professionals and holders of the issuer's securities who may trade on the basis of the information, it must also make public disclosure of that information. However, one of the exceptions to the public disclosure rule was that the issuer or person acting on the issuer's behalf need not make the public disclosure if the disclosure of the material non-public information is made to a credit rating agency that makes its credit ratings publicly available or to a nationally recognized statistical rating organization (NRSRO). The SEC deleted the aforesaid exception from the Regulation FD in order to implement section 939B of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the “Act”) that required the SEC to make the change.</p>
<p>SEC Final Rule: Rescission of Rules Pertaining to the Payment of Bounties for Information Leading to the Recovery of Civil Penalties for Insider Trading; Effective Date: 09/21/2010</p>	<p>The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”) repealed former Section 21A(e) of the Securities Exchange Act of 1934 (the “Exchange Act”), which had authorized the SEC to make monetary awards to persons who provided information leading to the recovery of civil penalties for insider trading violations; hence, the SEC rescinded the rules promulgated to</p>

¹ SEC’s Final Rules are the official regulations adopted by the SEC that governs the securities industry in the U.S. The SEC adopts the rules under the Code of Federal Regulations (CFR) and any reference to “rule” would mean the regulation adopted by the SEC under the CFR.

	<p>administer the program. The Dodd-Frank Act created a new and broader program for making monetary awards to whistleblowers, codified as Section 21F of the Exchange Act.</p>
<p>SEC Final Rule: Facilitating Shareholder Director Nominations; Effective Date: 11/15/2010 (currently under the Stay Order of the SEC)</p>	<p>The SEC adopted changes to the federal proxy rules to facilitate the rights of shareholders to nominate directors to a company's board. The new rules require that a company's proxy materials will provide shareholders with information about, and the ability to vote for, a long-term shareholder's, or group of shareholders' nominees for director, alongside the management's nominees. This "proxy access" is designed to facilitate the ability of shareholders to exercise their traditional rights under state law to nominate and elect members to company boards of directors. Under the rules, shareholders will be eligible to have their nominees included in the proxy materials if they own at least 3 percent of the company's shares continuously for at least the prior 3 years. The new rule applies only where, among other things, relevant state or foreign laws do not prohibit shareholders from nominating directors.</p> <p>The SEC's approval of the new measures follows enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which provided the SEC with explicit authority to make rules addressing shareholder access to company proxy materials. The ability of the shareholders to effectively participate in the nomination and election of directors enables them to hold boards accountable and influence matters of corporate policy.</p> <p>The SEC issued a stay of its proxy access rule. The U.S. Chamber of Commerce and the Business Roundtable jointly filed a law suit challenging the SEC's proxy access rule on the grounds that they are arbitrary and capricious. Hence, the new rules are currently under judicial review and would become effective only after they survive the judicial review.</p>
<p>SEC Final Rule: Political Contributions by Certain Investment Advisers; Effective Date: 09/13/2010</p>	<p>On June 30, 2010 the SEC voted unanimously to adopt Rule 206(4)-5 (the "Pay to Play Rule" or the "Rule") under the Investment Advisers Act of 1940 (the "Act") addressing "pay to play" practices by investment advisers. The SEC generally uses the term "pay to play" to refer to certain practices employed by investment advisers by making political contributions and other related payments to government</p>

officials who may be in a position to influence the selection of such advisers to manage public funds' (such as pension plans) investment accounts. Additionally, the Rule directly affects public retirement systems that employ placement agents and/or investment advisers to invest and manage their portfolios. This Rule will help to ensure that the investment firms selected to manage the retirement money of public employees are chosen based on performance, rather than anything else.

The Rule is modeled on rules G-37 and G-38 of the Municipal Securities Rulemaking Board ("MSRB"), which addresses "pay to play" issues in municipal markets. The adoption of the Rule follows the SEC's August 3, 2009 proposal and several widely publicized "pay to play" scandals. It should be noted that the proposed version of the Rule aimed at completely banning the use of placement agents, but in light of the public comments, the SEC rescinded from its earlier position and allowed for the use of registered placement agents subject to the SEC's Pay to Play restrictions. However, the SEC chair has indicated that if the SEC determines that the placement agents continue to inappropriately influence the selection of investment advisers for government clients - even under the enhanced rules - the SEC will consider imposing a full ban on the use of placement agents. Some of the key elements of the new Rule are as follows:

- a) It prohibits an investment adviser from providing advisory services for compensation for two years, if the adviser or certain of its executives or employees make a political contribution to an elected official who is in a position to influence the selection of the adviser.
- b) It prohibits an advisory firm and certain executives and employees from soliciting or coordinating campaign contributions from others for an elected official who is in a position to influence the selection of the adviser. It also prohibits solicitation and coordination of payments to political parties in the state or locality where the adviser is seeking business.
- c) It prohibits an adviser from paying a placement agent or third party solicitor to solicit a

	<p>government client on behalf of the investment adviser, unless that placement agent is an SEC registered investment adviser or broker-dealer subject to similar “Pay to Play” restrictions.</p>
<p>SEC Final Rule: Amendments to Municipal Securities Disclosure; Effective Date: 06/10/2010 and 08/09/2010</p>	<p>On May 27, 2010 the SEC voted unanimously to approve amendments to Rule 15c2-12 under the Securities Exchange Act of 1934 (“Exchange Act”) relating to municipal securities disclosure. The amendments seek to improve the qualities and timelines of municipal securities disclosure that would enable investors to make more knowledgeable decisions about municipal securities. The amended rule will make the following changes:</p> <ul style="list-style-type: none"> • Expand the rule to cover additional municipal securities. • The interest earned on municipal bonds are tax exempt, the amended rule will improve the disclosure of events that may adversely affect a bond’s tax exemption treatment. • Strengthen and expand the disclosure of important events by eliminating the materiality determination of the event dictating its disclosure.
<p>SEC Interim Final Temporary Rule: Temporary Registration of Municipal Advisors; Effective Date: 10/01/2010 through 12/31/2011</p>	<p>The SEC has adopted a new Rule 15Ba2-6T under the Securities Exchange Act of 1934 (the “Exchange Act”) as an interim final temporary rule as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the “Dodd-Frank Act”). The Rule requires that municipal advisors who provide advice to state and local governments and other borrowers involved in the issuance of municipal securities must register with the SEC by October 1, 2010, a deadline established by the Dodd-Frank Act. The registration provision is on an interim basis to meet the Act’s deadline and the SEC would propose final rules later. Therefore, the rule makes it unlawful for a municipal advisor to provide advice to or on behalf of a municipal entity with respect to municipal financial products or the issuance of municipal securities, unless the municipal advisor is registered with the SEC.</p> <p>The advice provided by the municipal advisors typically relates to municipal derivatives, guaranteed investment contracts, investment strategies or the issuance of municipal securities. Municipal advisors also solicit business from a state or local government for a third party. The new rule will assist the regulators, investors, and state and local</p>

	<p>governments in better understanding the advisors who provide services in the municipal market and lend further transparency to the market.</p> <p>The Dodd-Frank Act provides a definition for municipal advisors that subject to certain exemptions, includes financial advisors, guaranteed investment contract brokers, third-party marketers, placement agents, solicitors, finders, and certain swap advisors that provide municipal advisory services. Municipal advisors can access the SEC website to complete the registration form and provide their identifying and contact information that will be then made available to the public again through the SEC website.</p>
<p>SEC Final Rule: Amendment to Regulation SHO; Effective Date: 5/10/2010</p>	<p>The SEC has adopted amendments to regulation SHO under the Securities Exchange Act of 1934, (the "Exchange Act") referred to by the SEC as the "alternative uptick rule," to preserve investor confidence and promote market efficiency. The rule is designed and armed with a circuit breaker to restrict the price at which a security would be sold short, when a stock experiences significant downward price pressure, also called the "short sale price test." Under the alternative uptick rule, the following measures designed by the SEC would be instituted:</p> <ul style="list-style-type: none"> • Short Sale related circuit breaker: A circuit breaker would be triggered for a security listed on the national security exchange, if the price of the security declines by 10 percent or more from the prior day's closing price in an intra-day trading. • Duration of the Price Test Restriction: Once the circuit breaker is triggered, the short sale price test would be invoked, applicable to short sale orders in that security for the remainder of the day as well as the following day. The alternative uptick rule will prevent the short sellers from selling that particular security at or below the national best bid while the circuit breaker is in effect. • Securities covered by Price Test Restriction: The alternative uptick rule would generally apply to equity securities that are listed on the national securities exchange, whether traded on an exchange or in the over-the-counter market. • Implementation: The rule requires trading centers to establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent the execution or display of a prohibited short sale. This

	<p>combination of the alternative uptick rule with a circuit breaker would ensure that unscrupulous and potentially manipulative short sellers who use shorting as a tool to exacerbate a declining market are kept at bay. This rule would also preserve legitimate short selling benefits by applying the alternative uptick rule only to a limited number of securities undergoing a significant downward price pressure rather than to all securities at all times.</p>
<p>SEC Final Rule: Money Market Fund Reform; Effective Date: 5/5/2010</p>	<p>The SEC has adopted amendments to its Money Market Fund Rules under the Investment Company Act of 1940, which will have substantial benefits and protection for the investors by enabling the money market funds to better withstand market turmoil and are a step forward in strengthening the money market regime in general. The amendments will tighten the risk-limiting conditions of rule 2a-7 by, among other things, requiring the funds to improve liquidity, maintain a higher credit quality of its portfolio securities, shorter maturity limits of its portfolio holdings, enhance disclosure of its portfolio holdings to the commission, and permit a fund that has “broken the buck” (re-priced its securities below \$1.00 per share) or is at imminent risk of breaking the buck, to suspend redemptions and to allow for the orderly liquidation of fund assets.</p>
<p>SEC Final Rule: Custody of Funds or Securities of Clients by Investment Advisers; Effective Date: 3/12/2010</p>	<p>The SEC has adopted amendments to the custody and recordkeeping rules under the Investment Advisers Act of 1940 (the “Act”) and related forms. The amendments were designed to provide additional safeguards under the Act when a registered adviser has custody of client funds or securities by requiring such an adviser, among other things: to undergo an annual surprise examination by an independent public accountant to verify client assets; and unless client assets are maintained by an independent custodian (i.e., a custodian that is not the adviser itself or a related person), to obtain, or receive from a related person, a report of the internal controls relating to the custody of those assets from an independent public accountant that is registered with and subject to regular inspection by the Public Company Accounting Oversight Board (PCAOB).</p>

<p>SEC Final Rule: Proxy Disclosure Enhancements; Effective Date: 02/28/2010</p>	<p>The SEC adopted rules to enhance the information provided to shareholders, so they are better able to evaluate the leadership of public companies. The new rules will improve corporate disclosure regarding compensation policies that present material risks to the company, stocks and option awards of executives and directors, director and nominee qualifications, board leadership structure, the board's role in risk oversight and other corporate governance matters when voting decisions are made. The new rules will also require quicker reporting of shareholder voting results.</p>
<p>SEC Final Rule: Interactive Data to Improve Financial Reporting; Effective Date: 04/13/2009</p>	<p>The SEC has adopted rules requiring companies to provide financial statement information in a form that is intended to improve its usefulness to investors. In this format, financial statement information could be downloaded directly into spreadsheets, analyzed in a variety of ways using commercial off-the-shelf software, and used within investment models in other software formats. The rules will apply to public companies and foreign private issuers that prepare their financial statements in accordance with U.S. Generally Accepted Accounting Principles (GAAP) and foreign private issuers that prepare their financial statements using International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB).</p>

SEC 2010 PROPOSED RULES² AT A GLANCE

SEC Proposed Rule Name	Description
<p>SEC Proposed Rule: Implementing the Whistleblower Provisions of the Securities and Exchange Act of 1934; Publish Date: 11/03/2010</p>	<p>The SEC voted unanimously to propose a whistleblower program to reward individuals with enhanced monetary awards, subject to certain limitations, who voluntarily provide the SEC with original information that lead to successful enforcement actions. The rule has been proposed pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 implementing section 21F of the Securities Exchange Act of 1934 and is entitled “Securities Whistleblower Incentives and Protection.”</p>
<p>SEC Proposed Rule: Prohibition against Fraud, Manipulation, and Deception in Connection with Securities-Based Swaps; Publish Date: 11/03/2010</p>	<p>The SEC voted unanimously to propose a new rule under the Securities Exchange Act of 1934 intended to prevent fraud, manipulation, and deception in connection with the offer, purchase or sale of any security-based swap. The rule would also ensure that security-based swaps are subject to the same anti-fraud provisions that apply to all securities. The rule is proposed under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which authorizes the SEC to regulate security-based swaps.</p>
<p>SEC Proposed Rule: Reporting of Proxy Votes on Executive Compensation and other Matters; Publish Date: 10/18/2010</p>	<p>The SEC is proposing rule and form amendments under the Securities Exchange Act of 1934 and the Investment Company Act of 1940 that, if adopted, would require an institutional investment manager that is subject to Section 13(f) of the Securities Exchange Act to report annually how it voted proxies relating to executive compensation matters as required by Section 14A of the Securities Exchange Act, which was added by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.</p>
<p>SEC Proposed Rule: Short-term Borrowing Disclosure; Publish Date: 9/17/2010</p>	<p>The SEC voted unanimously to propose measures that would require public companies to disclose additional information to investors about their short-term borrowing arrangements. Many financial institutions and companies engage in short-term borrowing in order to fund operations. These financing arrangements can take various forms like commercial papers, letters of credit and promissory notes and can be critical for assessing a company’s prospects for the future. Investors could potentially benefit from additional transparency about companies’ short-term borrowings as they happen instead of</p>

² The SEC publishes a detailed formal rule proposal for public comment and typically provides between 30 to 60 days for review and comment.

	receiving them only at the end of reporting periods, which is the current standard.
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