

FINANCIAL SERVICES ALERT QUARTERLY

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ISSUES DURING THE MOST RECENT QUARTER

[February 11, 2009 – Special Edition](#)

- Treasury Secretary Geithner Announces Financial Stability Plan

[February 17, 2009](#)

- Stimulus Act Modifies Executive Compensation Restrictions of Financial Institutions Participating in the TARP
- U.S. Court of Appeals for the Seventh Circuit Affirms Dismissal of 401(k) Excessive Fee Litigation
- DOL Final Regulation and Exemption for Investment Advice is Delayed
- Reminder: IRS Reporting Obligations for Businesses and Individuals Regarding Foreign Bank and Financial Accounts

U.S. persons subject to this reporting obligation must file Form TD F 90.22-1 by June 30, 2009.

- Comptroller Criticizes Congressional Oversight Fund Report on Regulatory Reform on Discussion of Effects of Federal Preemption
- Goodwin Procter Issues Client Alert Discussing Modifications to Massachusetts Data Security Regulations Including Postponed Compliance Date
- SEC Issues Adopting Release for Rules Requiring Mutual Funds to Provide Risk/Return Summary Information in Interactive Data Format

The new requirements, which became effective March 31, 2009, are mandatory for any initial registration statement or any post-effective amendment that is an annual update to an effective registration statement, that becomes effective after January 1, 2011.

- SEC Publishes Release for Final Rules Regarding Use of Interactive Data in Financial Statements for Operating Companies
- SEC Extends Comment Period for Concept Release on the Use of International Financial Reporting Standards by U.S. Issuers

The first filers required to comply with the new requirements as they are phased in, will do so with their first quarterly report for fiscal periods ending on or after June 15, 2009.

- SEC Publishes Releases for Final Rules and Proposed Rulemaking Affecting NRSROs

The compliance date for the amended Rule 240.17g-2(d) is August 10, 2009. (Other rule changes adopted by the SEC were effective April 10, 2009.)

- FDIC Extends Temporary Liquidity Guarantee Program

The Debt Guarantee Program under the Temporary Liquidity Guarantee Program was extended through October 2009.

February 24, 2009

- Obama Administration Announces Homeowner Affordability and Stability Plan
- Reminder: March 16, 2009 Marks Start of Mandatory Electronic Filing of Revised Form D and Due Date for Form D Amendments for Certain Ongoing Private Offerings
- SEC Publishes Adopting Release for Rules That Require Mutual Funds to Submit Risk/Return Summaries in Interactive Data Format and Modify Voluntary Interactive Data Program to Allow Submission of Portfolio Holdings

A mutual fund must begin submitting its risk/return summary in interactive data format in its initial registration statement if that registration statement becomes effective after January 1, 2011; otherwise, it must do so beginning with its first post-effective amendment that is an annual update and becomes effective after January 1, 2011. Investment companies may begin submitting tagged portfolio holdings information as part of the voluntary XBRL program at any time after July 15, 2009.

- U.S. District Court Dismisses Excessive Fee Suit Brought Against Mutual Fund's Adviser and Distributor Regarding 12b-1 Fees
- Senator Dodd Provides Views on the Certification and 'Say on Pay' Provisions of the ARRA of 2009

February 25, 2009 – Special Edition

- Treasury Unveils the Capital Assistance Program

March 3, 2009 – In-Depth Analysis

- Buyer Beware: Risks and Considerations in Purchasing Residential Mortgage Loans

March 10, 2009

- Supreme Court to Review Seventh Circuit Decision Rejecting Gartenberg Analysis in Excessive Fee Suit Against Mutual Fund Adviser
- US District Court Finds Private Right of Action under Section 13(a) of 1940 Act in Ruling on Motion to Dismiss Shareholder Suit Alleging Index Fund's Investments in Non-Agency CMOs Violated Fund's Investment Objective and Concentration Policies

- FDIC Adopts Interim Final Rule on Mandatory Convertible Debt under the Temporary Liquidity Guarantee Program
- FRB Issues Guidance on Dividends, Stock Redemptions and Stock Repurchases
- ICI Publishes White Paper on Financial Services Regulatory Reform
- NYSE Proposes to Eliminate Broker Discretionary Voting for Director Elections Except as to Registered Investments Companies
- US Court of Appeals for the Seventh Circuit Affirms Dismissal of Mutual Fund Investors' Breach of Contract Claim against Investment Adviser over Best Execution
- FinCEN Proposes Guidance and Regulations on Sharing SARs with Affiliates and the Scope of Confidentiality Requirements for SARs

Comments are due by June 8, 2009.

- CFTC Proposes Modifications to Period Account Statements and Annual Financial Reports for CPOs
- SIPC Announces Increase in Annual Member Firm Assessments

March 11, 2009 – Special Edition

- Mutual Funds Should Consider Accelerating Filings in Advance of Substantial Increase in SEC Registration Fee Rate

March 17, 2009

- Massachusetts Supreme Judicial Court Issues Decision Limiting Banks' Liability in Check Collection Process
- US Senator Introduces Bill to Stop Perceived Abuses of Tax Havens and Off-Shore Entities
- Basel Committee Announces Increased Capital Initiative
- OCC Issues Letter Concerning Treatment of TLGP Debt under OCC Investment Securities Regulations
- Second Circuit Affirms Dismissal of Securities Fraud Claims against Brokers over Shelf Space Payments Relating to Mutual Fund Sales
- SEC Staff Provides No-Action Relief for Purchasers of Liquidity Protected Preferred Shares from 1940 Act Restrictions on Transactions with Affiliates
- FDIC Issues Letter Cautioning against the Use of Volatile Funding Sources by Financial Institutions that are in a Weakened Condition

March 24, 2009

- Treasury Releases Details on Public-Private Investment Program Targeted at Troubled Assets
- FASB Proposals Offer New Guidance on Distressed Sales and Impaired Assets
- Documentation Issues and Risks in Purchasing Residential Mortgage Loans
- FRB Delays Effective Date of Rule Limiting BHCs' Risk-Based Capital Calculations
The effective date was delayed until March 31, 2011.
- FDIC Extends the Debt Guarantee Component of the Temporary Liquidity Guarantee Program
- FINRA Identifies 2009 Broker-Dealer Examination Priorities
- OCC Issues Interpretive Letter Permitting National Banks to Engage in Derivative Transactions on Longevity Indices

March 31, 2009

- National Association of Insurance Commissioners Mandates Climate Change-Related Disclosures
- Treasury Announces Extension of Temporary Money Market Funds Guarantee Program through September 18, 2009
- FINRA Provides Guidance on its Enforcement Process
- Client Advisory on Opportunities for Real Estate Funds in Troubled Assets Program
- ERISA Litigation Update

April 7, 2009 – In-Depth Analysis

- The Next Chapter in the Financial Services Crisis: The Developing Regulatory Reform Framework in the US and Europe
- FASB Revises, Adopts, Two Pivotal Staff Positions on Fair Value Determinations and Other-Than-Temporary Impairments

April 14, 2009

- Eighth Circuit Reverses District Court Dismissal of Mutual Fund Excessive Fee Suit
- Basel Committee Responses to Financial Crisis
- Big Bang Protocol for Credit Derivatives Becomes Effective

- FinCEN Issues SAR Guidance Regarding Loan Modification/Foreclosure Rescue Scams
- Treasury Releases Capital Purchase Program Term Sheets for Mutual Holding Companies
- FASB Formally Adopts Staff Positions on Fair Value

The FSPs are effective for interim and annual periods ending after June 15, 2009, with early adoption permitted for the interim and annual periods ending after March 15, 2009.

- TARP Expected to be Expanded to Include Life Insurance Companies

April 21, 2009

- SEC Reopens Comment Period on Model Privacy Notice

The reopened comment period ends May 20, 2009.

- IRS Issues Guidance on Application of Section 382 to Treasury's Acquisition of Instruments Issued by Recipients of TARP Funds
- FRB Grants 23A Waiver for Transfer of MBS Paid for by Dutch Government
- Treasury Releases Capital Purchase Program Term Sheets for Mutual Banks and Savings Association
- OCC Publishes Interpretive Letter Regarding Issuance of Common Stock Below Par

April 28, 2009

- FRB Issues Interpretive Letters Concerning Minority Investments in Banking Institutions
- SEC Settles Enforcement Proceeding with Investment Adviser over Failure to Adhere to Advertised Due Diligence Procedures and Failure to Adequately Investigate "Red Flags" Related to Hedge Fund Recommendations
- FRB Releases Methodology for Capital Assistance Program Stress Test
- ICI Recommends New Regulatory and Oversight Standards for Money Market Funds
- Policy Change Regarding Massachusetts Tax on Non-Filing Financial Institutions Having Economic Nexus with Massachusetts
- SEC Approves FINRA Amendments to NASD Rule 2821 Governing Variable Annuity Sales and Exchanges

May 5, 2009

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- Enforcement of FTC Red Flags Identity Theft Rule Delayed until August 1, 2009
- FRB Releases Terms for Commercial Mortgage-Backed Securities Eligible to Serve as Collateral under the Term Asset-Backed Securities Loan Facility
- FDIC Issues Guidance on Risk Management of Investments in Structured Credit Products
- SEC Staff Announces Adviser/Fund CCO Regional Seminars
- OCC Issues Interpretive Letter Regarding Affiliate Lease of Aircraft
- Mutual Fund Directors Forum Issues Report on Director Oversight of Sub-Advisers
- FDIC Releases Guidance on Classification for High Loan to Value Refinancing Loans
- Sales under Section 363 of Federal Bankruptcy Code May Provide Significant Opportunities for Private Equity Firms

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