

# FINANCIAL SERVICES ALERT

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## DOL Issues Final Regulation Under Section 408(b)(2) Regarding Service Provider Fee Disclosure

The Department of Labor issued a [final regulation](#) (the "Final Regulation") under Section 408(b)(2) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), setting forth required fee disclosures by service providers to ERISA-governed plans. The Final Regulation is effective July 1, 2012. More information on the Final Regulation will be included in next week's *Financial Services Alert*.

## ISSUES DURING THE MOST RECENT QUARTER

### November 15, 2011

- SEC and CFTC Adopt Joint Final Rules for Confidential Reporting of Private Fund Information by SEC-Registered Advisers and Certain Jointly Registered Advisers
- Financial Stability Board Announces Policy Measures to Address Global Systemically Important Financial Institutions
- FINRA Issues Guidance on Advertising Issues
- Massachusetts Issues Revised Proposal to Amend Investment Adviser Registration Exemptions
- CFPB to Provide Advance Warning Prior to Most Enforcement Actions
- Federal Savings Associations to be Subject to Standard OCC Appeals Process
- CFTC Adopts Final Rules for Core Principles Governing Derivatives Clearing Organizations

### November 22, 2011

- Federal District Court Refuses to Dismiss Section 11 and Section 12(a)(2) Claims, Rejecting Argument That Decline in Mutual Fund's Net Asset Value Only Results from Changes in Value of Fund Holdings, Not Prospectus Misrepresentations
- Basel Committee Issues Revised Rules on Central Counterparty Exposures and FAQs on Counterparty Credit Risk
- SEC Settles Administrative Proceeding Against Registered Fund Adviser Over Misrepresentations in Board Materials and Shareholder Reports Regarding Subadviser
- Banking Agencies Issue Statement to Clarify Supervisory and Enforcement Responsibilities For Federal Consumer Financial Laws
- GAO Study Recommends Additional Coordination Among Regulators Implementing the Dodd-Frank Act

- FinCEN To Develop Rules Requiring Investment Advisers To Establish Anti-Money Laundering Programs

### **November 29, 2011 – In Depth Analysis**

- Treasury International Capital Reports – An Overview for Private Fund Advisers

### **December 6, 2011**

- SEC Settles with Advisers Over Compliance Program Deficiencies
- OCC Issues Summary of Fee Structure for 2012
- FRB Issues Final Rule Regarding Stress Tests and Capital Requirements for Large Bank Holding Companies
- CFTC Adopts Final Rules on Position Limits Which ISDA and SIFMA Challenge in Federal District Court
- CFTC Issues Proposed Interpretive Guidance Regarding Anti-Fraud Authority in Retail Commodity Transactions

*Comments are due by February 13, 2012.*

### **December 13, 2011**

- OCC Proposes Rule Amendments to Remove References to Credit Ratings and Provides Guidance on Due Diligence Requirements in Determining Whether Investment Securities Are Eligible for Investment
- Federal Bank Regulatory Agencies Seek Comment on Additional Revisions to the Market Risk Capital Rules
- OCC Issues Bulletin Concerning Process of Integrating OTS Policy Guidance
- SEC Extends Comment Period for Proposal Regarding Conflicts of Interest for Certain Securitizations
- SEC Announces Compliance Outreach Program National Seminar for Adviser and Fund CCOs and Senior Officers
- Massachusetts Securities Division Postpones Hearing on Revised Investment Adviser Registration Exemptions and Related Public Hearing
- SEC Announces Charges Against Hedge Fund Managers Arising out of Aberrational Performance Inquiry

### **December 20, 2011**

- FRB Issues Proposed Rule for the Supervision and Regulation of Large Bank Holding Companies and Systemically Important Nonbank Financial Firms

*Comments are due by March 31, 2012.*

- OCC Provides Guidance on Potential Issues with Foreclosed Residential Properties
- CFTC Adopts Restrictions on Permissible Investments for Customer Segregated Accounts

*Compliance with the new restrictions is required beginning June 18, 2012.*

- New ERISA Litigation Update Available
- FDIC Issues Proposed Rule That Would Treat Mutual Insurance Companies as “Insurance Companies” for Purposes of Liquidation and Rehabilitation

*Comments are due by February 13, 2012.*

- OCC Updates Guidance on Concentrations of Credit

### **December 27, 2011**

- Treasury Form SLT – Reporting of Long-Term Foreign Securities Held by U.S. Residents and Long-Term U.S. Securities Held by Foreign Residents

### **January 3, 2012**

- Basel Committee Proposes Capital Disclosure Requirements
- FSOB Issues Report on Federal Banking Agencies’ Implementation of Prompt Corrective Action
- SEC and FINRA Issue Joint Guidance on Broker-Dealer Branch Inspections
- FinCEN Assesses Civil Money Penalty Against Bank Employee Who Unlawfully Disclosed Filing of SAR to Subject to the SAR
- Federal Agencies Extend Comment Period on Volcker Rule Proposal
- SEC Further Extends Comment Period for Proposal Regarding Conflicts of Interest for Certain Securitizations

*The extended comment period ends February 13, 2012.*

- Basel Committee Issues Principles for the Supervision of Financial Conglomerates
- Basel Committee Clarifies Rules Regarding the Deduction of Derivatives Losses
- Federal Banking Agencies Make Annual CRA Adjustment, Effective January 1, 2012, to Definitions of Small and Intermediate Small Depository Institutions
- SEC Extends Temporary Registration Program for Municipal Advisors

*The interim final temporary rule’s sunset provision is extended to September 30, 2012.*

### **January 10, 2012**

- FRB Introduces Financial Stability Analysis Required by Dodd-Frank Act in PNC-RBC Bank Approval Order
- SEC Staff Issues Guidance on Investment Adviser Use of Social Media
- SEC Adopts Rule Amendments to Reflect Dodd-Frank Act Accredited Investor Standards

*The amendments are effective February 27, 2012.*

- DOL Clarifies Interim Policy on Providing Information via Electronic Media under Participant –Level Fee Disclosure Regulation

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- FinCEN Issues Report on Impact of 2010 Amendments to FinCEN Regulations that Required Mutual Funds to File CTRs Rather than Form 8300
- Federal District Court Rules on Disposition of Cash Proceeds of CLO's Portfolio Collateral Received after Close of Investment Period

**January 17, 2012**

- SEC Staff Grants No-Action Relief with Respect to Purchase by Mutual Funds of Loan Participations
- Banking Agencies Issue Frequently Asked Questions Concerning Interest Rate Risk Management
- CFTC Approves Final Collateral Segregation Rule

*All parties must comply with the Part 22 rules by November 8, 2012. All parties must comply with the Part 190 rules by the 60th day after their publication in the Federal Register.*

- OCC Issues Interpretive Letter Confirming that OCC Lending Limit Rule Regarding Sale of Loan Participations Does Not Require that the Sale of Participations Qualify as a Sale under Applicable Accounting Standards

**January 24, 2012**

- SEC Staff Provides Advisers Act Guidance on Umbrella Registration and SPVs
- FDIC Proposes Rule Requiring Annual Stress Tests of State Nonmember Banks and FDIC-Supervised State Savings Associations with More Than \$10 Billion in Assets  
*Comments are due by March 17, 2012.*
- FDIC Board Approves Final Rule Requiring Insured Depository Institutions with \$50 Billion or More of Total Assets to Submit Resolution Plans to FDIC  
*The Final Rule becomes effective on April 1, 2012.*
- SEC Settles Enforcement Proceeding over Registered Investment Adviser's Failure to Comply with Mutual Fund Pricing Procedures
- SEC Requests Public Comment to Assist Study on Investor Financial Literacy  
*Comments are due by March 23, 2012.*

**January 31, 2012**

- GAO Releases Study Required by Dodd-Frank Act on Implications of Removing Exemption from Definition of "Bank" in BHCA
- FINRA Files Partial Amendment No. 1 to Proposed Rule 5123 Governing Private Placements of Securities by Member Firms  
*Comments are due by February 27, 2012, with comments rebutting the foregoing due by March 12, 2012.*
- FINRA Issues Guidance on Heightened Supervision of Complex Products