

Wenchi Hu PLLC
Regulatory Recap
August 15, 2024

Notable Developments:

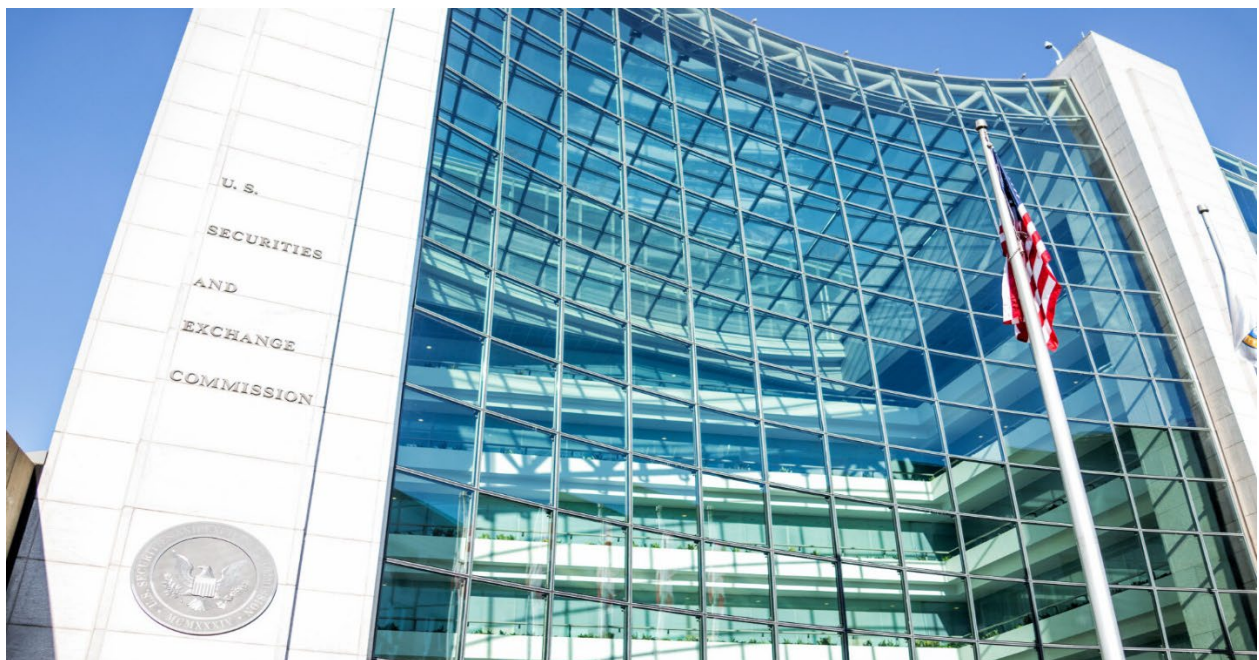
- **House Representatives Ask for Basel III Withdrawal and Reconsideration**
- **SEC Proposes Joint Data Standards**

SEC Enforcement:

- **J.P. Morgan Securities LLC Fined for Reliance on Stale Market Data**
- **The Pacific Financial Group, Inc. Settles SEC Proceedings for Violations of Marketing Rule**
- **SEC Charges OTC Link LLC with Failing to File Suspicious Activity Reports**

In Case You Missed It:

- **Cantor Fitzgerald to Launch Bitcoin Financing Business**
- **FINRA Revises Interpretation of Margin Rules**
- **Parties Agree to FINRA Settlement with HB Securities, LLC and Seung Hoon Kang for Acting as Unregistered Control Person**
- **CBoE Exchange, Inc. Withdraws Proposed Rule Change to List and Trade Options on ETPs That Hold Bitcoin**



Notable Developments:

House Representatives Ask for Basel III Withdrawal and Reconsideration

House representatives, in a [letter](#) to Fed Chair Jerome Powell, called for the immediate withdrawal of the Basel III Endgame proposal and urged the Federal Reserve to submit "any new change through a new notice of proposed rulemaking."

In their letter, the House representatives, including House Financial Services Committee Chair Patrick McHenry (R-NC), criticized the proposal for lacking "necessary evidence and analysis to completely overturn the current methods used for calculating risk-based capital requirements." In the signatories' opinion, the proposal fails to harmonize the interrelationship between risk-based capital requirements and stress capital requirements, leading to potential regulatory inconsistencies. They also criticized the proposal's move to limit or eliminate the use of internal models for calculating credit, operational and market risks.

The representatives insisted on a full withdrawal and re-proposal to be the only course of action, to ensure compliance with the Administrative Procedure Act's requirements for public engagement and transparency, and due to the "widespread structural" flaws of the proposal.

SEC Proposes Joint Data Standards

The SEC [proposed](#) joint data standards under the Financial Data Transparency Act of 2022 that would establish technical standards for data submitted to certain financial regulatory agencies. Eight additional agencies have proposed or are expected to propose joint standards: the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Financial Protection Bureau, the Department of the Treasury, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

The proposed joint standards would promote uniform formatting of financial regulatory data across the agencies by establishing common identifiers for entities, geographic locations, dates, certain products and currencies. In addition, the proposal would establish a standard with respect to data transmission, schema and taxonomy formats, which would enable financial institutions to submit high-quality, machine-readable data to the agencies.

The public comment period for the proposed joint standards will remain open for 60 days following publication in the Federal Register.

SEC Enforcement:

J.P. Morgan Securities LLC Fined for Reliance on Stale Market Data

J.P. Morgan Securities LLC ("JP Morgan Securities") [settled](#) FINRA charges for failing to adhere to standards on the routing of intermarket sweep orders ("ISOs") and for failing to maintain an adequate supervisory system.

According to the FINRA letter of acceptance, waiver and consent, JP Morgan Securities experienced significant delays in order routing due to increased message activity, partly caused by its migration to a new exchange trading platform. FINRA stated that these delays led to the use of outdated market data snapshots, resulting in 6,682 orders being routed at untimely prices. As a result, FINRA concluded that JP Morgan Securities failed to take reasonable steps to ensure that the ISOs it routed met the requirements of Reg. NMS Rule 600(b)(31).

FINRA also determined that despite JP Morgan Securities corrective measures, the firm's supervisory system was inadequate because it did not have a process, including WSPs, to verify the accuracy of market data snapshots used for routing ISOs, thus violating FINRA Rules 3110 and 2010 and Reg. NMS Rules 600(b)(31) and 611(c). Additionally, NYSE Chicago found that the firm violated their respective rules pertaining to ISOs.

The firm also settled a [proceeding](#) brought by NYSE Chicago relating to the same activity.

The Pacific Financial Group, Inc. Settles SEC Proceedings for Violations of Marketing Rule

The SEC accepted The Pacific Financial Group's offer of settlement concerning violations of marketing rules applicable to Investment Advisors. According to the SEC's [order](#), the published communications on its public website that constituted "advertisements" because the communications offered the firm's investment advisory services with regard to securities to prospective clients and offered new investment advisory services with regard to securities to current clients. The advertisements "included hypothetical performance that consisted of performance derived from model portfolios."

In addition, according to the SEC's order, while advertising hypothetical performance the firm failed to adopt and implement policies and procedures reasonably designed to ensure that the performance was relevant to the likely financial situation and investment objectives of the intended audience. As a result of these failures, Pacific Financial disseminated hypothetical performance in advertisements to a mass audience rather than presenting hypothetical relevant to the likely financial situation and investment objectives of the

intended audience. As a result, the SEC concluded that the firm violated Section 206(4) of the Investment Advisers Act and Rule 206(4)-1(d) thereunder.

SEC Charges OTC Link LLC with Failing to File Suspicious Activity Reports

The SEC brought [charges](#) against OTC Link LLC, a New York-based broker-dealer, for failing to file numerous reports of suspicious financial transactions, known as Suspicious Activity Reports (SARs), for a period of more than three years.

The SEC's order finds that, from March 2020 through May 2023, OTC Link failed to adopt or implement reasonably designed anti-money laundering (AML) policies and procedures to surveil transactions conducted through its Alternative Trading System platforms for possible red flags of suspicious activity. As a result, OTC Link did not file a single SAR over this time period, in violation of Section 17(a) of the Exchange Act and Rule 17a-8 thereunder. The SEC's order also directs OTC Link to continue its engagement of a compliance consultant to review and recommend changes to the firm's AML policies and procedures.

In Case You Missed It:

Cantor Fitzgerald to Launch Bitcoin Financing Business

The financial services firm Cantor Fitzgerald announced [plans](#) to launch a Bitcoin financing business to provide leverage to investors who hold Bitcoin. The firm will launch with \$2 billion in initial financing. To launch the effort, Cantor Fitzgerald plans to partner with select Bitcoin custodians.

FINRA Revises Interpretation of Margin Rules

FINRA issued [a long list](#) of new and revised interpretations to its rules on margin requirements ("Rule 4210").

The revisions consolidated interpretations that had been set out in different releases or disclosed through different sources. FINRA also canceled or replaced interpretations that had been superseded by new laws. Additionally, a number of interpretations incorporated definitions from other regulators. The details concerning the specific updates are available at the link herein.

Parties Agree to FINRA Settlement with HB Securities, LLC and Seung Hoon Kang for Acting as Unregistered Control Person

HB Securities, LLC and an associated person, Seung Hoon Kang, [settled](#) FINRA charges over Kang's involvement in a principal capacity for the firm.

According to FINRA's letter of acceptance, waiver and consent, Kang participated in a management committee that had control over the firm's management decisions. FINRA found that Kang exerted control over the committee's finances and operating budget as well as the firm's personnel decisions. FINRA further found that Kang "directed key aspects of the firm's securities business" including "collection efforts on outstanding accounts" and "key operating decisions made by the firm, such as how to comply with Regulation Best Interest and how to exit the retail brokerage business." According to FINRA, the firm knew Kang was not registered with FINRA, but allowed him to "actively engage in the management of the firm's securities business."

FINRA determined that the firm and Kang violated FINRA Rules 1210, 8311 and 2010 as well as Article III, Section 3(b) of FINRA's By-Laws.

CBoE Exchange, Inc. Withdraws Proposed Rule Change to List and Trade Options on ETPs That Hold Bitcoin

CBoE Exchange Inc. had published a Proposed Rule Change to list and trade options on ETPs that hold Bitcoin on January 25, 2024. The SEC had twice extended the comment period with respect to the proposed rule change. On August 8, 2024, CBoE [withdrew](#) the proposed rule change.