

Legal + Market Intelligence

New York State Cybersecurity Regulations: First Milestone in Sight, What Is Next on the Horizon?

Christopher L. LaVigne | Aug 21

Shearman & Sterling LLP - The New York State Department of Financial Services enacted final cybersecurity regulations for NYDFS regulated entities that went into effect on March 1, 2017. The first deadline for compliance under the Regulations is August 28, 2017, by which date covered entities are required to, among other things, create a written cybersecurity policy and appoint a Chief Information Security Officer. The Regulations also require an annual certification by the Chairperson of the covered entity's Board of Directors as to the entity's compliance with the Regulations. [Read More](#)

Retirement of LIBOR - Contractual Consequences

Norton Rose Fulbright LLP Staff | Aug 21

Norton Rose Fulbright LLP - The FCA of the United Kingdom has announced its intention to retire the LIBOR benchmark interest rate setting scheme by 2021. It is not clear what will replace it. According to the FCA, consensus has been reached among derivative market participants on the preferred alternative reference rates. In April 2017, the Risk Free Rate Working Group in the UK selected the Sterling Over Night Index Average as its proposed alternative benchmark, while in June 2017 the Alternative Reference Rates Committee in the US announced its choice of a broad Treasuries repo rate. [Read More](#)

European Commission Adopts Delegated Regulation That Supplements the MiFIR on the Treatment of Package Orders

Isteele . | Aug 21

Orrick, Herrington & Sutcliffe LLP - The European Commission has published the draft text of a Delegated Regulation supplementing the Markets in Financial Instruments Regulation with regard to the treatment of package orders. Currently, Article 9(1)(e) of MiFIR provides that, where certain conditions apply, a waiver is given for both pre- and post-trade transparency requirements for packaged orders. This waiver is, however, limited where the package order is considered "liquid". [Read More](#)

IRS Issues Guidance on Stock/Cash Dividends for REITs and RICs

David J. Goldschmidt | Aug 21

Skadden, Arps, Slate, Meagher & Flom LLP - The Internal Revenue Service released guidance allowing publicly offered real estate investment trusts and regulated investment companies to distribute earnings in a combination of cash and stock as long as shareholders are able to elect to receive cash or stock and the aggregate amount of cash available is at least 20 percent of the total dividend. To the extent shareholders elect to receive more cash than is available, each shareholder who elects to receive all cash must receive a pro rata share of the cash and the rest of the distribution in stock. [Read More](#)

U.S. Banking Agencies Clarify Capital Treatment of Cleared Derivatives With Settled-to-Market Variation Margin

Davis Polk & Wardwell LLP Staff | Aug 21

Davis Polk & Wardwell LLP - Recently, certain derivatives clearinghouses, in particular the Chicago Mercantile Exchange and LCH.Clearnet Limited, have changed their rulebooks to treat daily payments of mark-to market variation margin as settlement payments of the derivatives transactions rather than pledges or transfers of collateral. In response to this trend and industry questions about its effect on regulatory capital requirements, on August 14, 2017 the U.S. banking agencies released interagency guidance clarifying that cleared derivative contracts and netting sets of cleared derivatives contracts for which variation margin represents true settlement payments may, for purposes of calculating the trade exposure amount to central counterparties,

be treated as having a remaining maturity equal to the time between variation margin payments, subject to several important conditions. [Read More](#)

Clifford Chance International Regulatory Update

Christopher Bates | Aug 22

Clifford Chance LLP - This International Regulatory Update includes discussions on the following: IFRS 9: Commission implementing regulation amending CRR ITS on supervisory reporting of institutions published in Official Journal; EBA updates data for identifying G-SIIs; MiFIR: EU Commission adopts Delegated Act on package orders; MiFID2: ESMA publishes opinions on AMF proposals for commodity derivative position limits; FCA consults on fee rates for market infrastructure providers and data reporting service providers. [Read More](#)

This Week in Washington for August 21, 2017

Dina Ellis Rochkind | Aug 21

Paul Hastings LLP - This update covers the following topics: Federal Housing Finance Agency extends Home Affordable Refinance Program; Consumer Financial Protection Bureau finds percentage of borrowers with \$20K in student debt doubled over last decade; Regulators make changes to capital accounting for some derivatives; Public citizen calls on SEC to ban forced arbitration clauses. [Read More](#)

News

Mnuchin Hints at Keeping Carried Interest Tax Break for Some

Sahil Kapur | Aug 22

Bloomberg - U.S. Treasury Secretary Steven Mnuchin said Monday that President Donald Trump may keep the carried interest tax break for firms that create jobs, while eliminating it for hedge fund managers. The so-called carried interest loophole enables investment-fund managers to pay a tax rate as low as 20 percent -- roughly half the top rate for ordinary income -- on much of their income. [Read More](#)

SEC's Policy Tweak on Confidential IPOs Benefits Issuers

Tom Zanki | Aug 21

Law360 - The Securities and Exchange Commission's recently revised guidance freeing confidential filers of initial public offerings from submitting potentially outdated interim financial statements shows the agency is moving incrementally toward becoming more flexible in accommodating the cost concerns of issuers, experts say. [Read More](#)

There Is No Excuse for Failing to Comply With the Fourth AML Directive

Alex Hammond | Aug 21

bobsguide - bobsguide sat down with Global Kompli CEO Jane Jee to discuss the burden the Fourth Anti-Money Laundering Directive places financial services under, how prepared they currently are to comply with it, and what the AML landscape in the UK will look like post-Brexit. [Read More](#)

City Brokers Ramp up Preparations for Regulatory Shake-Up

Hannah Murphy | Aug 21

Financial Times - City broking houses are stepping up their preparations for a regulatory shake-up of European financial markets, trying to allay fears the new rules will badly hit their small and mid-cap services. Groups including Peel Hunt, Numis and Panmure Gordon are throwing increasing resources into their MiFID II preparations in an attempt to retain their customers, with some choosing to invest more in their businesses and hire analysts. [Read More](#)

Deadlines for New Margin Rules Imminent, ISDA Warns Firms

Paige Long | Aug 21

Law360 - The International Swaps and Derivatives Association said on Monday that the derivatives market is in

a much better position to comply with new variation margin documentation than in March, when regulators were forced to extend the initial deadline. [Read More](#)

Global Funds Expanding Into Massive Chinese Investment Market

Evelyn Cheng | Aug 21

CNBC - As China's financial markets mature, major non-Chinese financial firms increasingly want to open funds in the country and tap the multitrillion-dollar institutional investor market there. This summer, UBS Asset Management received a license for private fund management in mainland China, and BlackRock said it plans to set up its first private fund in the country. Vanguard launched a subsidiary in Shanghai in late May, while Fidelity International announced in January it became the first global asset manager to receive a Chinese license for a private fund. [Read More](#)

Counting Munis as Liquid Even if Markets Are Dry

Kristy Westgard | Aug 21

Bloomberg - Municipal bonds historically have been an investment that lets you sleep easy. Their low-risk reputation has been tested in the last decade by some high-profile bankruptcies, with Puerto Rico and Detroit's being the most prominent. But in recent years, big banks have been scooping up more state and local debt than ever before. Now Congress is pushing to make the sector more even attractive to banks. The magic charm would be qualifying certain municipal bonds as High-Quality Liquid Assets, or HQLA. [Read More](#)