

# HENDERSON & LYMAN

## DERIVATIVES & SECURITIES REGULATORY UPDATE

NOVEMBER 2010

### *Inside this Issue ...*

#### *Derivatives Developments*

<b>Dodd-Frank Act.....</b>	<b>2-3</b>
<b>Forex .....</b>	<b>3-4</b>
<b>Market Structure .....</b>	<b>4-5</b>
<b>CFTC News .....</b>	<b>5-6</b>
<b>NFA.....</b>	<b>6-7</b>

#### *Securities Developments*

<b>Investment Advisers .....</b>	<b>7-8</b>
<b>Hedge Funds .....</b>	<b>8</b>
<b>SEC News .....</b>	<b>9</b>
<b>Enforcement.....</b>	<b>9-10</b>

Since our last newsletter, many significant changes and events have occurred in the financial industry, which we have highlighted and summarized in this update.

On July 21, 2010, Congress passed the comprehensive Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act"). The far-reaching Act includes provisions involving forex regulation (which the CFTC subsequently issued), the Investment Advisers Act, and new registration requirements, among many other significant changes. Additionally, under the Act, the SEC and CFTC are required to adopt new rules and procedures that substantially alter the way businesses in the financial industry operate.

At Henderson & Lyman, we are committed to keeping our clients apprised of these new developments and we welcome the opportunity to assist you and your firm on a wide variety of legal matters.

If you would like to discuss any of the topics mentioned in this newsletter, please call your Henderson & Lyman attorney or (312) 986-6960.

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# *Derivatives Developments*

## **DODD-FRANK ACT**

### **New CFTC Rules Proposed Pursuant to the Act**

On July 21, 2010, Congress passed the comprehensive Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Act”). The Act spans over 2,300 pages and has a profound impact on a wide variety of financial services industries.

To implement its provisions, the Act gives regulators the authority to write and interpret new rules. Specifically, the CFTC is responsible for 61 rulemakings with respect to 30 distinct areas. As a result, the CFTC has released the following six proposed rules:

- Proposed Rule Regarding Prohibition of Market Manipulation;
- Proposed Rule Regarding Removing References to Credit from Commission Regulations;
- Advanced Notice of Proposed Rulemaking on Disruptive Trading Practices;
- Proposed Rules to Implement New Statutory Provisions in the Part 40 Regulations;
- Proposed Rule Regarding Regulations 1.25 and 30.7 Concerning Investment of Customer Funds and Credit Ratings; and
- Proposed Rule on Process of Review of Swaps for Mandatory Clearing.

A 30-day comment period follows the release of each proposed rule.

### **SEC Seeks Public Comments on Regulatory Initiatives**

The Dodd-Frank Act includes provisions that require the SEC to undertake various initiatives, including rulemaking and studies touching on several areas of financial regulation.

Members of the public interested in opining on these matters, even before official comment periods may be opened, are invited to submit their views via email, which is available on the SEC’s

website, or by clicking [here](#). The list below covers the major regulatory topics for which the SEC maintains responsibility:

- Title II – Orderly Liquidation Authority;
- Title III – Transfer of Powers to the Comptroller of the Currency, the Corporation and the Board of Governors;
- Title IV – Regulation of Advisers to Hedge Funds and Others;
- Title VI – Improvements to Regulation of Bank and Savings Associations Holding Companies and Depository Institutions;
- Title VII – Wall Street Transparency and Accountability;
- Title VIII – Payment, Clearing and Settlement Supervision;
- Title IX – Investor Protection and Improvements to the Regulation of Securities; and
- Title XV – Miscellaneous Provisions.

Members of the public who wish to submit official comments on particular rulemaking initiatives should submit comments during the official comment period that starts with publication of the notice of the initiative in the *Federal Register*.

### **Bill Aims for Diversity within Financial Industry**

The recently enacted Dodd-Frank Act contains numerous provisions designed to alter the actions and procedures of financial companies and their regulators.

Section 1801 requires each of the 30 federal financial agencies and departments, including the SEC, to establish an Office of Minority and Women Inclusion (an “Office”) and standards for ensuring that the federal agencies and companies that wish to contract with the agencies have a sufficiently diverse workforce. The vaguely defined powers bestowed upon each Office allow it to boost diversity and increase federal contracting opportunities for minority-and women-owned businesses. Banks and other financial firms deemed to have failed to make “a good-faith effort to include minorities and women in their workforce” could lose their government contracts.

Although the diversity requirements become effective in January, 2011, it could be years before the provisions actually become enforceable, as each agency must draft its own detailed rules on hundreds of provisions.

## **FOREX**

### **CFTC Issues Final Forex Rules**

On August 30, 2010, the CFTC issued the final rules regulating off-exchange retail foreign exchange transactions (the "Final Rules"). The Final Rules create a comprehensive regulatory framework, and were designed with the principles guiding the CFTC's regulation of exchange-traded instruments. In other words, retail forex transaction will be subject to significant regulation, comparable to that of futures and options.

Key provisions of the Final Rules, which became effective October 18, 2010, are summarized below:

- A new Part 5 to the CFTC's Regulations, which is devoted exclusively to retail forex transactions.
- New registration requirements:
  - A dealer in retail forex transactions must register as a retail foreign exchange dealer ("RFED").
  - A person who solicits or accepts orders for a RFED, an FCM, or an affiliate of an FCM, must register as an IB.
  - A person who exercises discretionary trading authority over retail forex accounts must register as a CTA..
  - A person who operates or solicits funds or property for a pooled instrument vehicle must register as a CPO.
  - An associated person of the foregoing must register as an AP.
- New leverage requirements:
  - 2 percent security deposit in the case of major currencies (50:1 leverage); and
  - 5 percent of the notional value of the trans-

action for all other currencies (20:1 leverage).

- New examination requirements mandating the Series 3 exam and the newly-created Series 34 exam for individuals who solicit retail forex business or who supervise such activity.

Notably, the Final Rules did not include certain controversial proposed rules:

- The proposed rule requiring that all IBs and all applicants for registration as IBs conducting retail forex transactions enter into a guarantee agreement with an RFED or an FCM. Under the Final Rules, there is no guaranteed requirement so long as the IB meets the minimum net capital requirements.
- The proposed rule imposing a 10:1 leverage ratio. The Final Rules impose a 50:1 leverage ratio for all major currencies and a 20:1 leverage ratio for all other currencies.

For a more comprehensive analysis of the CFTC's Final Rules, please click [here](#) for a section-by-section analysis.

### **NFA Registration of Forex Firms and Individuals Under the CFTC's Final Rules**

Under the Final Rules, all forex firms and individuals must comply with new registration and forex requirements prior to conducting any forex business.

With respect to the registration requirements, the following firms and individuals must have registered with NFA's online registration system by October 18, 2010, or are prohibited from conducting any retail forex business:

- Any currently-registered FCM, IB, CTA or CPO who is conducting forex business must also register as a "forex firm";
- Individuals who are associated persons of the foregoing must register as forex APs;
- Persons or entities who solicit or accept orders for a retail foreign exchange dealer ("RFED"), an FCM, or an affiliate of an FCM must register as IBs;
- The Final Rules do not require forex firm

IBs to be guaranteed. However, if a forex firm IB is guaranteed, the IB can only have one guarantor. Therefore, an IB cannot be guaranteed by an FCM for futures business and a different RFED for forex business.

- Persons or entities who exercise discretionary trading authority over forex accounts must register as CTAs;
- Persons or entities who operate or solicit funds or property for a pooled investment vehicle that invests in forex must register as CPOs;
- Retail foreign exchange dealers are required to register as RFEDs;
- FCMs engaged in forex business and not “primarily or substantially” engaged in traditional FCM business must register as RFEDs; and
- FCM-affiliated entities that serve as retail forex counterparties must register as RFEDs, subject to limited exceptions.

### **FAST FACT**

**Rulemakings Mandated by the Act:**  
**CFTC – 61 Rulemakings (30 distinct areas)**  
**SEC – 95 Rulemakings (17 distinct areas)**

The CFTC’s Final Rules also mandate that all individuals who solicit retail off-exchange forex business or who supervise such activity must pass the Series 3 and Series 34 exams. The Series 34 exam is a new exam focusing exclusively on forex-related questions. Individuals who were registered as APs, sole proprietors or floor brokers on May 22, 2008, need not take the Series 34 exam unless there has been a two-year gap in their registration since that date.

Additionally, every approved forex firm (*i.e.*, a RFED, FCM, IB, CPO or CTA) must have at least one principal who is approved as a forex AP and registered as either an AP or a floor broker. Every RFED branch office must have a branch office manager who has taken the Series 30 exam and is an approved forex AP. Finally, registered firms may not conduct any retail forex business with unregistered firms that are required to be

registered.

## **MARKET STRUCTURE**

### **CFTC Begins Publishing Large-Trader Report**

In an effort to add further transparency to the financial futures market, the CFTC has begun publishing a new large-trader report titled Traders in Financial Futures (“TFF”).

The new TFF reports are released weekly along with the CFTC’s Commitments of Traders (“COT”) reports, which consist of aggregated large-trader position data to clarify the changing composition of the markets. The TFF reports use the same data that appears in the COT reports, but separates large traders into four categories: Dealer/Intermediary; Asset Manager/Institutional; Leveraged Funds; and Other Reportables.

### **FIA Calls for Joint Industry-CFTC Cooperation to Develop Ownership and Control Reporting System**

In July, the CFTC proposed new ownership and control rules, which require “reporting entities” such as exchanges to collect ownership and control data from root data sources such as FCMs, and correlate the data to the trade register on a daily basis. To address this cumbersome proposal, 16 financial firms and all U.S. exchanges have joined to form the FIA working group.

The FIA working group’s comment letter to the CFTC reiterated the need for the CFTC to work with the industry and highlighted the significant costs and structural changes that would be necessary to implement the CFTC’s current proposal. The comment letter also stated that the working group intended to design an industry-wide reporting solution that it expected to submit to the CFTC by the end of October.

Although the working group has not yet submitted their solution, it is designed to use data currently available in existing systems. It is also de-

signed to be less costly and less time-consuming to implement.

### **CFTC Issues Letter Regarding ELX EFF Rule**

The CFTC has issued its letter to CME Group in response to the CBOT's Advisory Notice, which stated that CBOT's rules do not permit the execution of exchange of futures for futures ("EFF") transactions. CBOT issued the notice shortly after the CFTC approved an ELX Futures rule authorizing participants on ELX Futures ("ELX") to conduct EFF transactions. Pursuant to the CFTC's letter to CME Group, ELX can continue to offer exchange of futures for futures ("EFF")—a type of futures trade that CME Group contended was illegal.

The CFTC's letter presents its findings that ELX's EFF transactions are not wash sales and are consistent with CFTC precedent. Additionally, the CFTC found that Core Principle 9 (execution of transactions) neither prohibits nor mandates ELX's EFF transactions. Thus, the transactions are not prohibited by the CEA or CFTC regulations. Notably, because the CFTC is not charged with implementing CBOT rules regarding the acceptance of EFFs, CME Group has indicated that it would continue to prohibit the trades.

The CFTC separately analyzed whether CBOT's notice dated October 19, 2009, was consistent with the requirements of CEA Core Principle 18 (antitrust considerations), but has not yet made any determination regarding its analysis.

### **CBOE to Launch C2 Options Exchange**

CBOE Holdings Inc., the biggest U.S. equity options market, will launch its second exchange targeted at high-frequency traders on October 29, 2010.

The new electronic exchange, known as C2, will initially offer options on stocks that are also listed at the nation's eight other options exchanges. Options on the Standard & Poor's 500 Index will be offered starting in the first quarter.

Currently, S&P 500 options only trade on the

floor of the CBOE, and are the exchange's largest revenue producing product. It is anticipated that electronic trading of S&P 500 options may double or even triple the volumes currently traded. Increased trading volumes will provide a new revenue stream for the exchange and may also boost CBOE's market share, which fell to 26.3 percent in October.

The introduction of C2 follows CBOE Holdings' June 15, 2010, initial public offering. CBOE, which began trading on the Nasdaq Stock Market under the symbol CBOE, sold 11.7 million shares at \$29 each, offering the shares at \$27 to \$29. The IPO raised \$339 million.

## **CFTC NEWS**

### **CFTC Adopts Bankruptcy Amendment**

On July 29, 2010, the CFTC adopted an amendment to its regulations regarding the operation of a commodity broker in bankruptcy. Under certain circumstances, as determined by the CFTC, the amendment would permit the trustee of a commodity broker in bankruptcy to operate the business of the broker in the ordinary course, including entering into new commodity contracts on behalf of customers.

Currently, Regulation 190.04(d)(2) prohibits a bankruptcy trustee from processing any new trades on behalf of customers upon commencement of the commodity broker's bankruptcy case. The amendment is designed to better protect customers of a bankruptcy broker in cases where a transfer may be practicable: *e.g.*, where the customer property in segregation is sufficient, and where the broker has sufficient capital to operate. Additionally, the amendment would permit customers to manage their accounts during the bankruptcy.

### **SEC and CFTC Release Findings Regarding the Market Events of May 6, 2010**

On May 6, 2010, the financial markets experienced an alarming drop in prices, falling more than five percent in minutes, only to recover a

short time later. As a result of the unprecedented speed and scope of the decline and rebound of prices in major market indexes and individual securities, the Joint CFTC-SEC Advisory Committee on Emerging Regulatory Issues (the “Committee”) held a series of public meetings to examine this so-called “flash crash.”

### FAST FACT

A new whistleblower rights and rewards program was created by the Act and provides financial incentives for employees to report securities law violations directly to the SEC.

On May 18, 2010, the Committee released a report reflecting their preliminary findings resulting from its ongoing review of the flash crash. The Committee’s initial report focused on the following hypotheses and findings:

- a possible link between the decline in prices of stock index products and simultaneous waves of selling in individual securities;
- a temporary breakdown in liquidity;
- the extent to which the liquidity mismatch may have been exacerbated by the dissimilar trading conventions among various exchanges;
- the need to examine “stub quotes”;
- the use of market orders, stop loss market orders and stop loss limit orders; and
- the impact of Exchange Traded Funds (ETFs).

Additionally, the Committee stated that it found no evidence of “fat fingers” errors, computer hacking, or terrorist activity.

On October 18, 2010, the Committee released its follow-up report detailing a series of events, occurring together, as the cause of the market disruption. The report states that the skittish markets, high volatility, and low liquidity, coupled with an algorithmic trading program utilized by an institutional firm to sell 75,000 contracts valued at over \$4 billion, sent the markets into shock. The report notes that the interrelatedness of the markets exacerbated the problem as arbitrageurs moved to other venues, and lists potential struc-

tural changes that might be implemented to avoid future disruptions such as circuit breakers, limit-up and limit-down mechanisms, liquidity restoration procedures, and potential rules regulating flash trading.

## NFA

### NFA Seeks to Amend CFTC Regulation 4.5

CFTC Regulation 4.5 allows registered investment companies (“RICs”), *e.g.*, mutual funds, to trade futures and options using a portion of their assets without requiring the RIC to register as a CPO or comply with CFTC disclosure obligations. Currently, individuals who wish to claim the exclusion must simply file a notice of eligibility with NFA. However, on August 18, 2010, NFA petitioned the CFTC to amend Regulation 4.5 to limit the scope of the exclusion for RICs.

In response to NFA’s petition, the CFTC published for comment a proposed amendment which essentially restores the regulation’s operating restrictions that applied to RICs prior to 2003, when the CFTC amended the rule to its current form. Specifically, the CFTC’s proposal would require an RIC to include in its notice of eligibility a representation that the RIC’s qualifying entity:

1. Will use commodity futures or commodity options contracts solely for bona fide hedging purposes;
2. Will not have initial margin and premiums required to establish any commodity futures or commodity options not used for bona fide hedging purposes exceeding five percent of the liquidation value of the qualifying entity’s portfolio; and
3. Will not be marketed to the public as a commodity pool or as a vehicle for investment in commodity futures or commodity options.

Following the CFTC’s proposal, NFA submitted a comment letter clarifying its suggested amendments. The letter explained that in filing its petition, NFA did not seek to eliminate RIC product offerings so long as they are subject to appropri-

ate regulatory oversight and applicable CFTC Part 4 disclosure requirements.

The CFTC's comment period concerning Regulation 4.5 ended on October 18, 2010 and the agency has not yet issued a final regulation. Please watch for Henderson & Lyman Client Updates to keep you apprised of any future developments.

### **NFA Amends Code of Arbitration**

On September 14, 2010, NFA submitted its proposed amendments to NFA's Code of Arbitration (the "Code") to the CFTC, invoking the "ten-day" provision. As a result, the amendment to the Code is effective immediately for all customer cases pending or filed on or after October 7, 2010. The amendment provides that during the pendency of an arbitration proceeding filed by a customer that is not an eligible contract participant, all parties to the arbitration are prohibited from bringing any action outside of the arbitration proceeding against any other party that would resolve any of the matters raised in the arbitration.

## *Securities Developments*

### *INVESTMENT ADVISERS*

#### **Private Fund Investment Advisers Registration Act**

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") was signed into law. Set forth in Title IV of the Act is the Private Fund Investment Adviser Registration Act of 2010 (the "Registration Act").

Broadly speaking, the Registration Act: (i) eliminates the "private adviser exemption" from the Investment Adviser Act of 1940; (ii) requires certain smaller investment advisers previously registered with the SEC to transition to state registration; and (iii) imposes additional recordkeeping and reporting obligations on registered, as well as certain non-registered, investment advisers.

The Registration Act eliminates both (i) the "private adviser exemption" from registration

previously contained in Section 203(b)(3) of the Investment Advisers Act; and (ii) the "intrastate exemption" from registration (applicable to investment advisers with clients that are all residents of the state in which the adviser maintains its principle place of business). As a result, many investment advisers to private funds will be required to register with the SEC, unless they fall within one of the specified exemptions below:

- Certain Private Fund Advisers;
- Venture Capital Fund Advisers;
- Foreign Private Advisers;
- Family Offices;
- Commodity trading Advisors that Advise Private Funds;
- Small Business Investment Company Advisers; or
- Mid-Sized Private Fund Advisers.

Additionally, the Registration Act prohibits an investment adviser from registering with the SEC if the adviser (i) has AUM under \$100 million; and (ii) is required to be registered as an investment adviser with the securities regulator of the state in which it maintains its principal place of business. As a result, many investment advisers currently registered with the SEC must de-register and become registered with their home state. If, however, any investment adviser would be required to register with 15 or more states, it may instead choose to register with the SEC.

Importantly, advisers located in states that do not have registration and examination requirements are still subject to the SEC's current registration threshold. Specifically, the current requirements mandate that advisers with AUM of more than \$30 million generally must register with the SEC, and advisers with AUM between \$25 and \$30 million may elect to register with the SEC.

The Registration Act becomes effective on July 21, 2011. During this one-year period, the SEC is expected to adopt rules and regulations providing procedures for registration and reporting and any clarification necessary for ambiguous provisions of the Registration Act.

For additional information regarding the Registration Act, please click [here](#).

## SEC Adopts Revised Form ADV Part 2

On July 21, 2010, the SEC adopted amendments to Part 2 of Form ADV, the written disclosure statement commonly known as the “brochure.” The amendments to Part 2 change the format of the brochure from the previous “check the box/fill in the blank” format to a uniform narrative format to allow clients to more easily compare the brochures of multiple investment advisers. As a result of the adopted amendments, SEC-registered investment advisers (“RIAs”) will be required to report new information about their advisory business practices and provide their clients with narrative brochures written in plain English.

Advisers with a December 31 fiscal year end must file the updated brochure with their annual amendment, due by March 31, 2011. Advisers with a fiscal year end other than December 31, must file the updated brochure with their annual amendment filing for the 2011 year end. New applicants for registration after January 1, 2011, must comply with the new brochure requirements as part of the application for registration on Form ADV.

## HEDGE FUNDS

### Changes to Definition of ‘Accredited Investor’ Under the Dodd-Frank Act

Effective July 21, 2010, the definition of “accredited investor” has been revised to exclude the value of an individual’s primary residence from the net worth standard. As a result, in order to qualify as an accredited investor, an individual investor must fall into one of the three following categories:

1. A natural person whose individual net worth, or joint net worth with spouse, is at least \$1,000,000, *excluding the value of such investor’s primary residence*;
2. A natural person who had individual income in excess of \$200,000 in each of the two most

recent years or joint income with spouse in excess of \$300,000 in each of those years and a reasonable expectation of reaching the same income level in the current year; or

3. A director, executive officer, or general partner of the issuer of the securities being offered or sold, or a director, executive officer, or general partner of a general partner of that issuer.

In addition, the SEC Division of Corporation Finance issued an interpretation concerning this provision on July 23, 2010. Pending implementation of future changes to its regulations which the Commission has yet to issue, the related amount of indebtedness secured by the primary residence up to its fair market value may be excluded in calculating an investor’s net worth. However, indebtedness secured by the residence in excess of the value of the home is considered a liability and must be deducted from net worth.

Although the revised accredited investor standard only applies to new investors, an updated qualification should be obtained from any existing investor who commits additional funds.

### Amendment to Reg D Offerings

Rule 506 of Regulation D of the Securities Act creates a safe harbor that allows issuers to make private placements under Section 4(2) without the offering being deemed “public” and without having to comply with the securities laws of each specific state in which the securities are offered or sold. However, Section 926 of the Dodd-Frank Act requires the SEC to adopt rules by July 21, 2011, that will disqualify offerings from the protections of Regulation D if the offerings are made by certain “bad actors.”

Pursuant to the Act, the SEC’s new rules must disqualify an offering or sale of securities if the individual involved in the transaction has been subject to an order or conviction related to certain securities violations specified in the Act. As a result, hedge funds relying on Regulation 506 to satisfy their private offering requirements must exercise greater due diligence when selecting their directors, officers, and affiliates.

## SEC NEWS

### SEC Bans “Pay to Play” for Advisers

The SEC has adopted new Rule 206(4)-5 (the “Rule”) to curtail “pay to play” schemes by investment advisers. “Pay to play” is the practice of making campaign contributions to elected officials in order to influence the receipt of lucrative contracts for the management of public pension plan assets. These public plans control over \$2.6 trillion in assets and account for one-third of all U.S. pension assets.

The Rule is intended to capture direct and indirect political contributions by investment advisers and became effective on September 13, 2010. Advisers must be in compliance with the Rule within six months of the effective date; however, the compliance date for advisers of investment companies subject to the Rule is September 13, 2011.

### SEC Considers Extending New Circuit-Breaker Rules

In response to the “flash crash” on May 6, 2010, the SEC approved rules requiring exchanges and FINRA to pause trading in certain individual stocks if the price moves 10 percent or more in a five-minute period. Under the rules, trading of any S&P 500 stock that rises or falls 10 percent or more within five minutes, between 8:45 a.m. and 2:35 p.m. Central time, will pause for a five-minute period. Initially, these rules are effective on a pilot basis through December 10, 2010.

Recently, however, U.S. stock exchanges have proposed rules expanding the range of securities covered by a new category of stock-specific circuit breakers. On June 30, 2010, the exchanges filed proposals with the SEC to apply the circuit breakers to the individual stock components of the Russell 1000 index as well as more than 300 exchange-traded funds based on various U.S. and international stock indices. Those proposals are currently under review at the SEC.

### Controversial FOIA Provision Revised

On October 4, 2010, President Obama signed into law a bill amending Section 9291 of the Dodd-Frank Act, which provided expansive protections from public disclosure of information produced to the SEC by regulated entities. The amended law narrows, but does not eliminate, Section 9291, and ignited a controversy regarding the extent to which the provision allows the SEC to sidestep public disclosures otherwise required under the Freedom of Information Act (“FOIA”).

As originally enacted, FOIA Exemption 8 of Section 9291, exempted from disclosure matters that are “[c]ontained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.”

The amended law focuses on FOIA Exemption 8 and expressly identifies the SEC as an agency responsible for regulating and supervising “financial institutions.” Any entity that the SEC is responsible for regulating, supervising, or examining is also deemed a “financial institution” under the amended Exemption 8. In clarifying the definition of “financial institution,” the revised law extends at least some level of FOIA protection to documents related to examination, operating, or condition reports for all entities regulated by the SEC.

## ENFORCEMENT

### New Jersey Settles SEC Suit Over Bond Offerings

On August 18, 2010, the SEC filed and settled a securities fraud action against the state of New Jersey for misrepresenting and failing to disclose to investors in municipal bond offerings that it was underfunding the state's two largest pension plans. Specifically, the SEC alleged that New Jersey offered and sold more than \$26 billion worth of municipal bonds in 79 offerings between August 2001 and August 2007 and masked the fact that New Jersey was unable to make any contributions without raising taxes or cutting other services.

The New Jersey investigation began in 2007 after the New York Times published a critical report on the state's pension accounting. In its settlement, the state neither admitted nor denied wrongdoing but agreed not to commit any further violations. The SEC did not fine the state, citing its cooperation and remedial steps it had taken. The SEC also noted that no investors appeared to be harmed.

The case is the first SEC fraud action against a state, and only its second against any government over the handling of a public pension fund. (The first was the city San Diego. In that municipal bond fraud case, the SEC secured financial penalties against city officials).

The SEC's latest action may mark the beginning of a deluge of suits against government bodies as the SEC has disclosed its desire to assume more authority over municipal securities, and recently announced the creation of a special unit established to investigate public pension disclosures.

## ABOUT THE FINANCIAL SERVICES PRACTICE GROUP

Henderson & Lyman attorneys have represented leaders in the financial services industry for over twenty-five years. Our clients range from publicly-traded brokerage firms to small introducing brokers and individual traders. We represent Broker-Dealers, Futures Commission Merchants, Forex Dealer Members, Introducing Brokers, Commodity Pool Operators, Commodity Trading Advisors, Investment Advisers, and proprietary trading groups. The firm also has a sophisticated practice representing hedge funds, private equity funds, offshore funds and their managers.

The Financial Services Practice Group provides counsel regarding numerous formation, compliance, regulatory, trading-related, and litigation matters. In counseling its clients, the Financial Services Practice Group draws upon its significant industry experience.

Henderson & Lyman is located in the heart of Chicago's financial district and provides goal-oriented legal services to a wide array of companies and individuals. The firm also represents clients in a wide variety of business, regulatory and commercial litigation matters.

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