Regulatory Notice 09-65

November 2009

Non-Traditional Exchange Traded Funds (ETFs)

FINRA Delays the Effective Date for Increased Margin Requirements for Options on Leveraged ETFs and Day-Trading Requirements for Leveraged ETFs

New Effective Date: April 30, 2010

Executive Summary

In August 2009, FINRA issued Regulatory Notice 09-53 (Non-Traditional ETFs), announcing increased customer margin requirements for leveraged ETFs and uncovered options overlying leveraged ETFs effective December 1, 2009. To accommodate ongoing changes in options symbology and other systems-related concerns, FINRA is deferring the effective date for increased customer margin for uncovered options overlying leveraged ETFs, as well as the application of day-trading margin requirements for leveraged ETFs to April 30, 2010. Firms should be aware, however, that the increased maintenance margin for leveraged ETFs will take effect as originally scheduled on December 1, 2009.

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Background & Discussion

As noted in *Regulatory Notice 09-53*, NASD Rule 2520(f)(8)(A) and Incorporated NYSE Rule 431(f)(8)(A) permit FINRA—in response to market conditions—to prescribe higher initial and maintenance margin requirements. In view of the increased volatility of leveraged ETFs

Notice Type

- Special Alert

Suggested Routing

- Compliance
- Legal
- Margin Department
- Operations
- Regulatory Reporting
- Risk Management
- Senior Management

Key Topics

- Leveraged ETFs
- Margin Requirements
- Uncovered Options on Leveraged ETFs

Referenced Rules & Notices

- NASD Rule 2520
- NYSE Rule 431
- Regulatory Notice 09-53

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compared to their non-leveraged counterparts, FINRA announced higher maintenance margin levels for leveraged ETFs and uncovered options overlying leveraged ETFs.

In general, the margin requirements have increased by a factor commensurate with the leverage of the ETF or underlying ETF in the case of an option.

FINRA is deferring the increased maintenance margin requirements for options overlying leveraged ETFs and the day-trading margin requirements with respect to leveraged ETFs until April 30, 2010. While FINRA is committed to increasing these margin requirements, it also is mindful of the fact that listed options markets are in the final stages of a wholesale overhaul of the method of identifying exchange-traded options contracts.[1] The Options Symbology Initiative requires broker-dealers to redesign their systems to accommodate this new symbology and is expected to be completed on February 12, 2010.

To allow firms to devote the necessary resources to meet this deadline, FINRA is deferring the implementation of the increased maintenance margin requirements for *options* overlying leveraged ETFs until April 30, 2010. FINRA also is deferring the implementation of the day-trading margin requirements until April 30, 2010, as such calculations also may incorporate options overlying leveraged ETFs. **Firms should be aware, however, that the increased maintenance margin for leveraged ETFs will take effect as originally scheduled on December 1, 2009.**

Member firms are reminded to review *Regulatory Notice 09-53*, which discusses the increased maintenance margin requirements in detail.

Other Leveraged Products

In *Regulatory Notice 09-53*, FINRA advised firms to assess the adequacy of maintenance requirements for all securities that contain inherent leverage, such as leveraged mutual funds, and to increase requirements where appropriate. FINRA notes that this statement applies to security futures that have leveraged ETFs as the underlying security as well as any other securities that contain leverage or are linked to a leveraged product.

Endnote

1 *See Regulatory Notices 09-18* (EBS Submissions Following Implementation of the Option Symbology Initiative) and *09-47* (New Large Options Positions Report (LOPR) Requirements Due to Implementation of Options Symbology Initiative).

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