

Feature Story

SEC Publishes Temporary Rule Allowing Broker-Dealers in the Foreign
Currency Exchange Market

The Securities and Exchange Commission published a [final rule](#) permitting registered broker-dealers to engage in a retail foreign currency exchange (“forex”) business, given certain conditions. “The Commission is adopting a rule to permit a registered broker-dealer to engage in a retail forex business, provided that the broker-dealer complies with the Securities Exchange Act of 1934, the rules and regulations thereunder, and the rules of the self-regulatory organization(s) of which the broker-dealer is a member insofar as they are applicable to retail forex transactions.” This rule is taking the place of a previously-published interim final rule, which expires this month; this replacement final rule will expire in July, 2016. The rule

implements the Dodd-Frank Act, which amended the Commodity Exchange Act (CEA) “to limit potential abuses in the retail forex market by prohibiting retail forex transactions as of July 16, 2011, in the absence of a rulemaking permitting retail forex transactions by the relevant Federal regulatory agency. The prohibition in the CEA applies to retail forex transactions with registered broker-dealers, and the Commission adopted an Interim Final Temporary Rule on July 13, 2011 (“Interim Rule”), to allow retail forex transactions with broker-dealers under terms and conditions prescribed by the Commission.”



Opinion

- Sorry, Banks, New Capital Rules Are Just the Start
- Note to SEC: \$200,000 Doesn't Mean You're Rich
- Tougher bank capital requirements are worth the costs
- Elizabeth Warren and John McCain want Glass-Steagall back. Should you?
- The feds are finally cracking down on ratings agencies. What took so long?
- The Crazy Costs of Excessive Coal Regulation
- From the Fed, Another Reason for More Bank Capital
- Don't Believe the Banks' Warnings About Capital
- EPA's failure to meet deadlines invites regulatory manipulation
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Marketplace of Ideas

American Action Forum

- Regulatory Lawbreakers: Agencies Fail to Comply with Paperwork Reduction Act, *Sam Batkins*

In the News

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- [GOP lawmakers decry ceiling fan regulations](#), *The Hill*
- [SEC lifts ban on hedge fund advertising](#), *The Hill*
- [Regulatory czar starts work at White House](#), *The Hill*
- [House panel approves bill curtailing EPA power on climate regs](#), *The Hill*
- [Airline co-pilots must have significantly more flying experience under new regulations](#), *Washington Post*
- [SEC eliminates ban on hedge funds advertising to general audience](#), *Washington Post*
- [Environmental group sues EPA, seeking stronger ship discharge rules to halt species invasions](#), *Washington Post*
- [SEC rule change would allow hedge funds to raise money by advertising to the public](#), *Washington Post*
- [SEC Votes to Ease 80-Year-Old Ban on Private-Investment Ads](#), *Bloomberg*
- [Regulators See Dodd-Frank Substantially Complete by End of Year](#), *Bloomberg*
- [Lifting SEC Ad Ban Promises Wider Airing of Hedge-Fund Pitches](#), *Bloomberg*
- [Fink Says Banks Rules May Push Interest Rates Higher](#), *Bloomberg*
- [FAA to increase flying experience requirements for co-pilots](#), *USA Today*

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- [US, EU regulators reach agreement to coordinate oversight of \\$700 trillion derivatives market](#), *Washington Post*
- [Cross-Border Swaps Deal to End U.S.-EU Regulation Overlap](#), *Bloomberg*
- [Battle of the mandates: Health care law's coverage requirements for](#)



- The Week in Regulation: July 8 - 12, *Sam Batkins*
- The ACA Effect: Less Coverage, *Mike Danylak*
- Long-term Impact of the Mandate Delay, *Robert Book*

American Enterprise Institute

- Paying for new drugs for new bugs: Regulation is only one side of the coin, *Scott Gottlieb*
- The fiasco that is Obamacare, *James C. Capretta*
- Testimony before the House Committee on Ways and Means, Subcommittee on Health: The Obama administration's delay of the employer mandate, *James C. Capretta*

Center for Effective Government

- President's Spring Agenda Signals Continued Delays on New Rules

Competitive Enterprise Institute

- CEI's Battered Business Bureau: The Week in Regulation, *Ryan Young*

Federal Regulations Advisor

- Monday Morning Regulatory Review – 7/15/13, *Leland E. Beck*

Federalist Society

- Joint Economic Committee Hearing: "Reducing Unnecessary and Costly Red Tape Through Smarter Regulations", *Susan Dudley*
- 2013 Unified Agenda of Regulatory and Deregulatory Actions, *Susan E. Dudley*

The George Washington University Regulatory Studies Center

- Should International Benefits Count?, *Dan Sutter*

Heritage Foundation

- A Band-Aid for Derivatives Trading, *Derek Scissors*
- Delaying Natural Gas Exports Delays Jobs, *Nicolas Loris*

The Mercatus Center

- Evaluating the Centralized-Layers Approach to U.S. Federal Financial Regulation, *David VanHoose*
- How Well Do Federal Agencies Use Regulatory Impact Analysis?, *Jerry Ellig & James Broughel*

Penn Program on Regulation

- Regulating the Virtual World: A Losing Battle?, *Wistar Wilson*

[employers and individuals](#), *Washington Post*
[SEC Should Reduce Investor Reliance on Proxy Advisers: Gallagher](#), *Bloomberg*
[Lawmakers Move to Rebuild Wall Between Commercial and Investment Banking](#), *Wall Street Journal*

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[FDA to set new limits on arsenic in apple juice](#), *Washington Post*
[The FDA will limit arsenic in apple juice to same levels allowed in drinking water](#), *Washington Post*
[US agency delays start of policy extending derivatives oversight to foreign trading](#), *Washington Post*
[Wall Street regulators turn to better technology to monitor markets](#), *Washington Post*
[House Republicans ready attack on Obama's 'social cost of carbon'](#), *The Hill*
[Court overturns EPA greenhouse gas rule delay](#), *The Hill*
[Regulators extend comment period for rule on telemarketing scams](#), *The Hill*
[FDA proposes limit on arsenic in apple juice](#), *The Hill*
[Dodd-Frank Overseas Swap Guidance Approved After Europe Deal](#), *Bloomberg*
[EPA Delay on Greenhouse Gas Biofuel Rules Tossed by Court](#), *Bloomberg*
[US agency delays derivatives oversight overseas](#), *The Examiner*
[CFTC Votes to Delay Derivatives Guidelines for U.S. Firms Abroad](#), *Wall Street Journal*
[CTFC delays derivatives oversight overseas](#), *USA Today*
[In Obama climate plan, states seek flexibility](#), *USA Today*

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[Securities regulator seeks more transparency at dark pools](#), *The Hill*
[Bankers are Balking at a Proposed Rule on Capital](#), *New York Times*

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[Some Scientists Welcome Scrutiny of EPA Research Data](#), *CQ Roll Call*
[Tough job ahead as Obama puts climate talk into action, sells ambitious plan to a wary public](#), *Washington Post*
[CFPB installs top staff, as Cordray fight rages on](#), *The Hill*
[Vacancies and Partisan Fighting Put Labor Relations Agency in Legal Limbo](#), *New York Times*
[FCC delays decision on allowing more nudity and cursing on TV](#), *The Hill*
[Oil industry intensifies opposition to biofuel rule with ad blitz](#), *The Hill*
[New regs czar invited for grilling on employer mandate delay](#), *The Hill*
[GOP senator: Delay of 'crushing' ObamaCare rules was political](#), *The Hill*
[Barnier Sees 'Difficult Discussions' With U.S. on Finance Rules](#), *Bloomberg*
[Tarullo Says Regulators Must Do More on Short-Term Funding](#), *Bloomberg*
[Court: EPA must regulate biogenic emissions now](#), *Politico*
[Banks Dodge a Bullet With Deal on Swaps](#), *New York Times*

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[Watch him pull a USDA-mandated rabbit disaster plan out of his hat](#), *Washington Post*
[Goldman Sachs' profit doubles, but all analysts want to talk about is new capital requirements](#), *Washington Post*
[Senate confirms Cordray to head Consumer Financial Protection Bureau](#), *Washington Post*
[Delay of health law's employer requirement may hamper enforcement of individual coverage rule](#), *Washington Post*
[Two-thirds of small businesses aren't ready for ObamaCare, survey finds](#), *The Hill*



▪ The Regulatory Week in Review: July 12, 2013, *Christina Reichert*

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[States file lawsuit against EPA over 'sue and settle' strategy](#), *The Hill*
[Cordray: Confirmation brings certainty to industry oversight, consumer protection](#), *The Hill*

[Conservatives fear Senate deal on nominees will embolden regulators](#), *The Hill*

[House farm bill provision could delay new food safety regulations](#), *The Hill*

[Richard Cordray confirmed to lead CFPB](#), *Politico*

[Obama Shifts Picks for Labor Board](#), *Wall Street Journal*

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[Report: USDA changes tune on regulation of magic show rabbit](#), *The Hill*

Rulemaking

Department of Health and Human Services

HHS Finalizes Standards for Navigators and Non-Navigator Assistance Personnel in Federal Exchanges

The Department of Health and Human Services published a [final rule](#) establishing “conflict-of-interest, training and certification, and meaningful access standards applicable to Navigators and non-Navigator assistance personnel in Federally-facilitated Exchanges, including State Partnership Exchanges, and to non-Navigator assistance personnel in State-based Exchanges that are funded through federal Exchange Establishment grants. These proposed standards would help ensure that Navigators and non-Navigator assistance personnel will be fair and impartial and will be appropriately trained, and that they will provide services and information in a manner that is accessible” to people with limited English proficiency and individuals with disabilities. The costs incurred by this rule will be covered by Navigator grants and compensation provided by the exchanges.

Department of Energy

DOE Proposes Rule Determining Computers as Covered Consumer Products Subject to EPCA Requirements

The Department of Energy issued a [proposed determination](#) classifying computers as a covered product under the Energy Policy and Conservation Act (EPCA). Computers have not been subject to any rulemaking concerning energy conservation standards by the Department of Energy (DOE) in the past. DOE has calculated that 87% of households currently own a computer and the average energy use for a computer—calculated as a weighted average between desktop and portable computers—is 130kWh/yr. DOE cites these two statistics to justify a new conservation of energy standard for computers, in accordance of carrying out the purposes of the EPCA. Furthermore, one of the key requirements for classification as a covered product under EPCA is that “the average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (kWh) per year.” Given that many households own more than one computer, the “DOE estimates the average annual per-household electricity usage to be approximately 291 kWh/yr.” [Comments](#) are due on August 12th.

DOE Proposes Rule Determining Computer Servers as Covered by EPCA Energy Efficiency Requirements

The Department of Energy issued a [proposed determination](#) classifying computer servers as a covered product under the Energy Policy and Conservation Act (EPCA). There is no existing energy efficiency standard for computer servers, nor is there an existing statutory definition of a “server.” Assuming that households would have no more than one server, “DOE estimated the average annual household energy use for households that use servers to be at least 1900 kWh/yr, and possibly much larger. Therefore, DOE tentatively determines that the average annual per-household energy use for servers is very likely to exceed 100 kWh/yr,” which satisfies the 100 kWh/yr threshold established in the EPCA. [Comments](#) are due on August 12th.

Consumer Product Safety Commission

CPSC Seeks Comment on Petition to Strictly Regulate Window Blind Cords

The Consumer Product Safety Commission [published notice](#) that it has received a petition to regulate window blind cords, and is inviting comment from the public on the petition. “The petition asserts that a mandatory rule is necessary because attempts to develop a voluntary standard that adequately mitigates the risk of injury associated with window covering cords have failed. Petitioners state that, based on CPSC's data, between 1985 and 2012, 324 children have been killed, and 122 have been injured by window covering cords... Petitioners ask the Commission to issue a mandatory standard to eliminate the hazard posed by accessible cords in window coverings. The petition specifically requests that the Commission: (1) Promulgate a mandatory standard that prohibits any window



covering cords when a feasible cordless alternative exists; and (2) require that all cords be made inaccessible through the use of a passive guardian device when a feasible cordless alternative does not exist.” [Comments](#) are due on September 13th.

Environmental Protection Agency

EPA Extends Comment Deadline for Rule Limiting Discharge from Steam Electric Power Point Sources

The Environmental Protection Agency [extended](#) the public comment deadline for its June 7th [proposed rule](#), *Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category*. This proposed rule would “strengthen the controls on discharges from certain steam electric power plants by revising technology-based effluent limitations guidelines and standards for the steam electric power generating point source category. Steam electric power plants alone contribute 50-60 percent of all toxic pollutants discharged to surface waters by all industrial categories currently regulated in the United States under the Clean Water Act. Furthermore, power plant discharges to surface waters are expected to increase as pollutants are increasingly captured by air pollution controls and transferred to wastewater discharges. This proposal, if implemented, would reduce the amount of toxic metals and other pollutants discharged to surface waters from power plants. EPA is considering several regulatory options in this rulemaking and has identified four preferred alternatives for regulation of discharges from existing sources. These four preferred alternatives differ with respect to the scope of requirements that would be applicable to existing discharges of pollutants found in two wastestreams generated at power plants. EPA estimates that the preferred options for this proposed rule would annually reduce pollutant discharges by 0.47 billion to 2.62 billion pounds, reduce water use by 50 billion to 103 billion gallons, cost \$185 million to \$954 million, and would be economically achievable.” [Comments](#) are now due on September 20th.

EPA Final Rule Approves Pathway for Giant Reed & Napier Grasses under the Renewable Fuel Standards

The Environmental Protection Agency published a [final rule](#) approving a pathway for the production of renewable fuel from giant reed and napier grass. These grasses would be converted into cellulosic biofuels, and these fuels have been determined to meet the “greenhouse gas (GHG) reduction requirements for cellulosic biofuel under the requirements of the Renewable Fuel Standard Program (RFS) program.” EPA compares these two grasses against switchgrass, which already qualifies under the RFS program. In fact, “EPA believes that cellulosic biofuel produced from the cellulose, hemicellulose and lignin portions of giant reed and napier grass has similar or better lifecycle GHG impacts than biofuel produced from the cellulosic biomass from switchgrass” EPA is also setting additional requirements on registration, recordkeeping, and reporting to help prevent against these crops from behaving as an invasive species.

Department of Agriculture

FNS Proposes Amendments to Regulations Governing Summer Food Service Program Administration

The Food and Nutrition Service published a [proposed a rule](#) amending regulations governing the administrative procedure of the Summer Food Service Program (SFSP). This program provides free meals to children from low-income areas when schools are on vacation. The rule would expand the children covered under the program by implementing simplified cost accounting and reporting procedures to sponsors of the program. These new procedures combine operating and administrative reimbursement under a “meals times rates” system, where the amount reimbursed is simply the “sum of the number of meals served to eligible children times the operating payment rate.” In order to deal with potential fraud brought on by simplifying measures, the FNS would require agencies to closely monitor sponsors’ uses of funds. FNS has determined that most of the benefits are the result of paperwork reductions, and no significant change in program costs is anticipated. [Comments](#) are due October 10th.

Department of Transportation

FAA Finalizes Rule Mandating New Qualification & Certification Requirements for Pilots

The Federal Aviation Administration published a [final rule](#) creating new requirements for both qualification and certification of pilots in air carrier operations. An airline transport pilot certificate is now mandatory for pilots that are second in command in domestic, flag, and supplemental operations. Currently, the requirements for an airline transport pilot certificate are that a pilot is at least 23 years of age and have 1,500 hours total time as a pilot. In this rule, the Federal Aviation Administration (FAA) has decided to set a qualification for a restricted privileges airline transport pilot certificate for pilots with fewer than 1,500 hours and at least 21 years of age, given that they are a military-trained pilot, have a bachelor's degree with an aviation major, or have an associate's degree with an aviation major. In addition, this restricted privileges certificate can be attained for those at least 21 who have 1,500



hours as a pilot. The FAA has calculated benefits to be \$576.8 million, the value of preventing future accidents, and costs to implementing the requirements to be \$312.7 million.

Agencies

Food and Drug Administration

FDA Seeks Comment on Draft Guidance Limiting Allowable Arsenic Content in Apple Juice

The Food and Drug Administration published a [notice](#) announcing the availability of a [draft guidance](#) for industry on the acceptable threshold levels of arsenic in apple juice, along with supporting documents and a risk assessment. “The draft guidance identifies an action level for inorganic arsenic in apple juice of 10 micrograms/kilogram ($\mu\text{g}/\text{kg}$) or 10 parts per billion (ppb), and identifies FDA’s intended sampling and enforcement approach. The draft supporting document reviews data on arsenic levels, health effects, and achievability, and explains FDA’s rationale for identifying an action level for inorganic arsenic in apple juice of 10 $\mu\text{g}/\text{kg}$. The risk assessment document provides estimates of arsenic exposure and risk to humans at different hypothetical limits for inorganic arsenic in apple juice.” [Comments](#) on the draft guidance are due on September 13th.

Export-Import Bank

Ex-Im Bank Receives Application for \$100+ Million to Fund Export of Solar Arrays to Israel

The Export-Import Bank published a [notice](#) announcing the receipt of an application for a long-term loan or financial guarantee in excess of \$100 million to fund the export of solar arrays to Israel. “The loan will enable the Israeli based company to finance the solar arrays, launch, and insurance in support of a manufactured satellite. The satellite is expected to provide additional capacity to broadcasting and telecommunications companies in the company’s existing customer base in Central and Eastern Europe, Africa, and the Middle East.” [Comments](#) are due on August 9, 2013.

Ex-Im Bank Receives Application for \$100+ Million to Fund Export of Equipment to Singapore

The Export-Import Bank published a [notice](#) announcing the receipt of an application for a long-term loan or financial guarantee in excess of \$100 million to fund the export of semiconductor manufacturing equipment to Singapore. [Comments](#) are due on August 12th.

Ex-Im Bank Receives Application for \$100+ Million to Fund Boeing Exports to Luxembourg

The Export-Import Bank published a [notice](#) announcing the receipt of an application for a long-term loan or financial guarantee in excess of \$100 million to fund the export of commercial Boeing aircraft to Luxembourg. These exports would be used to provide air cargo services globally. [Comments](#) are due on August 12th.

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