



SEC Withdraws Rule 151A

In an October 14, 2010 [Release](#), the SEC formally withdrew Rule 151A. The SEC stated that its withdrawal of the Rule was "ministerial in nature" given that the U.S. Court of Appeals for the D.C. Circuit had already vacated the Rule in a July 12, 2010 [Amended Judgment](#) and [Order](#). Because the SEC's withdrawal of the Rule "merely implements the Court's decision," the SEC found that a notice and comment period was unnecessary.

Interestingly, the SEC Release makes no mention of the Harkin Amendment to the Dodd-Frank Act, which legislatively overrode Rule 151A this summer.

The Harkin Amendment raises a number of questions about how the NAIC and state regulators will implement it, and what effect this will have on the SEC and FINRA. The NAIC has given notice that it is addressing issues regarding implementation of the Amendment, including consideration of the products covered and application of the conditions imposed. SEC Chairman Schapiro testified before a House subcommittee that the SEC remained willing to work with state regulators to see if the SEC could be of assistance to them.

If you have a question or comment on the matters discussed in this alert, please contact Gary Cohen at 202-965-8152 or goc@jordenusa.com or Kristin Shepard at 202-965-8129 or kas@jordenusa.com.

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