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- On December 10, 2014, in the highly publicized case of *United States v. Newman*, the United States Court of Appeals for the Second Circuit vacated the insider trading convictions and dismissed with prejudice the indictments against two former hedge fund managers, Todd Newman and Anthony Chiasson, finding that the Government had failed to prove beyond a reasonable doubt that Messrs. Newman and Chiasson knew that an insider disclosed confidential information in breach of a duty and that such insider did so in exchange for a tangible personal benefit (opinion available here). The impact of this ruling, which the Justice Department has appealed and the SEC has criticized, has led to the reversal of several high profile insider trading convictions and also has the potential to significantly alter the framework in which the Government prosecutes "tippees" (those who receive and trade upon material non-public information) who are several levels removed from the insider "tippers" who serve as the initial sources of such information.

- On January 5, 2015, the CFTC published a notice (available here) indicating that it had reopened the comment period on its proposed position limits and aggregation rules that would establish speculative position limits for 28 exempt and agricultural commodity futures and options contracts and the equivalent physical commodity swaps. The CFTC hopes to approve the limits, which are aimed to reduce speculation on the prices of raw materials and agricultural products, by the end of the year. The CFTC's previous attempt to establish position limits was vacated by the United States District Court for the District of Columbia in 2012, when the Court found that the CFTC had failed to demonstrate that such limits were both necessary and appropriate (opinion available here).

- On January 6, 2015, FINRA released its annual Regulatory and Examination Priorities Letter. While highlighting the fact that its risk-based examination program enables it to allocate examination resources to higher risk firms and individuals, FINRA indicated five areas that it considers to be recurring challenges and are the source of compromised service and compliance and supervisory breakdowns. These recurring challenges include: firms failing to put the interests of customers first; poor firm culture; inadequate supervision; risk management and controls; improper product and service offerings; and conflicts of interest. Broker-dealers should review the letter (available here) in light of the concerns addressed.

- On February 12, 2015, the Cayman Islands Court of Appeal (CICA) overturned a lower court's decision in the seminal case of *Weavering Macro Fixed Income Fund Limited (in Liquidation) v. Stefan Peterson and Hans Ekstrom* more than 3 years after the original decision resulted in the independent fund directors being found guilty of willful neglect and default and liable for $111 million in damages in connection with the collapse of a Cayman Islands hedge fund. While the lower court concluded that willful neglect and default were present as a result of the directors failing to discover that the fund's biggest trading position was fictitious, and failing to review a quarterly report which contained evidence which would have aided in uncovering this fact, the CICA emphasized that in order to be guilty of willful neglect or default, the directors must know that their conduct or failure to act is a deliberate and conscious breach of a duty. While the lower court's initial decision in this case resulted in many funds bolstering governance procedures, the appeal clarifies that an independent director's liability does not include "negligence, however gross." A further appeal of the CICA decision may be made to the Judicial Committee of the Privy Council, the final Appellate Court for the Cayman Islands.

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