

SMALL CAP TRADES COULD BE DELAYED, CANCELED WITH HURRICANE FLOODING AT DTCC

Trades in small cap stocks may be delayed and even fail because of water damage that Hurricane Sandy caused to physical stock certificates held by the **Depository Trust & Clearing Corp.**, several attorneys say.

The DTCC said on Nov. 2 that its lower Manhattan headquarters was flooded in the storm and sustained significant damage. The facility warehouses 1.3 million paper certificates for shares, bonds, and other financial instruments with a face value in the trillions of dollars.

“While a lot of hard work and progress is being made to restore the building to normal conditions, the location remains inaccessible at this time until a full health and safety inspection has been completed,” DTCC spokeswoman Judy Inosanto said in an email. “It would be premature to estimate a timeframe for re-occupancy or provide an accurate assessment as to the full impact of the water damage to our vault.”

She stressed, however, that the DTCC’s “computer records are fully intact, and we maintain a robust inventory file that contains certificate level detail of all physical securities in our vault that can be

replicated from our multiple out of region centers. We continue to work at minimizing disruption to our clients.

The immediate impact of the flooding will be that securities-issuing companies will have to pay to have lost certificates replaced, said Jack Hogoboom, a partner with the law firm of **Lowenstein Sandler** in Roseland, N.J.

Companies had to pay about \$300 million to reprint securities with a face amount of \$16 billion lost in the collapse of the World Trade Center in 2001, according to the *Financial Times*.

DTC rules require the certificates to be printed by a bank note company, which will make them “relatively expensive to print,” Hogoboom said.

“Anyone who wants to take physical delivery of a certificate won’t be able to do so for a while,” he said. “That may result in an increase in failed trades and/or significant delays in settling trades.”

Mitchell Littman, a partner with the law firm of **Littman Krooks** in New York, said he would advise clients to contact their brokers on any recent transactions to make sure that failure to deliver a certificate doesn’t block a pending trade.

“While we certainly now live in a predominately uncertificated trading environment, where the loss of physical certificates should have less of an impact than in years past, it certainly doesn’t hurt to contact your broker on any recent transaction to make sure that failure to deliver a certificate will not cancel a pending trade,” he said in an email.

Small cap companies are more likely to have investors who want certificates issued in their own names, Hogoboom said. That could be a major headache for management teams receiving calls about certificates.

“More unsophisticated investors may be concerned that ‘their shares’ are lost,” Hogoboom said. “It could add to the management burden and hassle. Some investors may be irrational enough to sell stock out of fear.”

It’s unlikely that the loss of physical certificates “will have a catastrophic impact on trading or settlement because so much is now settled electronically and DTC probably has robust backup systems for electronic data,” he said. —DL

DATES & DEADLINES

The following is a list of events coming up in the small cap financing market:

- **Energy & Exploration Partners** is expected to price its \$236 million initial public offering the week of Nov. 12, according to Dealogic. The Forth Worth, Texas-based energy exploration company plans to offer 15.8 million shares in a price range from \$14 to \$16 each, with **Canaccord Genuity** and **Johnson Rice & Co.** underwriting the deal.

- **Ruckus Wireless** is expected to roll out its \$118 million IPO the week of Nov. 12. A provider of wi-fi systems for telecoms, based in Sunnyvale, Calif., anticipates pricing 7 million shares between \$13 and \$15. **Goldman Sachs**, **Morgan Stanley**, and **Deutsche Bank** will underwrite the transaction.

- New York-based investment company **Silvercrest Asset Management Group** expects to debut its \$55 million IPO the week of Nov. 12, with **Sandler**

O’Neil and **Raymond James** underwriting. It will offer 4.6 million shares priced between \$11 and \$13.

- Due to the impact from Hurricane Sandy, the Financial Industry Regulatory Authority is providing guidance on a number of regulatory and compliance issues, including emergency office relocations, continuing education requirements for registered personnel, registered personnel engaged in active military duty, regulatory filings and