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White on Hill, China Commodity Trades, CLOs: Compliance

By: Carla Main – March 12, 2013

Mary Jo White, U.S. President Barack Obama's choice to run the Securities and Exchange Commission, may be compelled to provide more information about her ties to large banks as senators press her today about how she would operate as Wall Street's regulator.

Some Democrats on the Senate Banking Committee who will question White at a nomination hearing say their concerns probably don't threaten her confirmation. White, 65, has said she would retire from New York-based Debevoise & Plimpton LLP, where she has served as a lawyer defending Wall Street, if she's confirmed by the Senate.

White, who was the Manhattan-based U.S. Attorney from 1993 to 2002, has had numerous meetings with senators in recent weeks as she faces skepticism about her ties to Wall Street. In her prepared Senate testimony, released yesterday, White doesn't address the issue. She previously pledged to abstain for one year from any SEC matter that involves Debevoise or its clients.

Senator Sherrod Brown, an Ohio Democrat, said last week he wasn't ready to support White for the post. He expressed concerns about conflicts of interest to a law firm "that have not been cut."

White has said Debevoise would pay her a lump-sum retirement payment within 60 days of her starting at the SEC. The payment would replace her monthly retirement payments for four years. She is eligible for lifetime monthly payments from Debevoise of about \$42,500, according to her financial disclosure statement.

Other Democrats, including Senator Mark Warner of Virginia, said in interviews that they are inclined to support White.

Her testimony dwells on market regulation, a topic that hasn't been a large part of her career as a litigator. She singled out high-frequency and algorithmic trading as strategies that demand further evaluation from the SEC.

"There must be a sense of urgency to addressing these issues to understand their impact on investors and the quality of our markets so that the appropriate regulatory responses can be made," White wrote.

White said her first priority would be completing rules required by the Dodd-Frank Act of 2010 and last year's Jumpstart Our Business Startups Act. The SEC should consistently consider the economic costs and benefits of new rules "from the outset," she wrote.

White said that many other pending regulations await her at the SEC, including a rule to place new restrictions on money- market mutual funds and one that would set a new standard for brokers' conduct with customers. She also singled out high- frequency and algorithmic trading as strategies that demand further evaluation from the SEC.

White has spent much of her 38-year legal career at Debevoise, where she earned \$2.4 million last year and represented banks. She could be pressed to explain how she'd oversee the SEC's enforcement program, said Mark Calabria, director of financial regulation studies at the Cato Institute and a former Republican staff member of the Banking Committee.

"Investors and all market participants need to know that the playing field of our markets is level and that all wrongdoers -- individual and institutions, of whatever position or size -- will be aggressively and successfully pursued by the SEC," White wrote in her testimony.

Senate Republicans haven't publicly expressed reservations about White's nomination. Her history as an attorney for banks could make her more appealing to some Republican senators because it suggests she understands how regulations affect companies, according to Richard C. Breeden, a Republican and former SEC chairman from 1989 to 1993.