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Online Tax, Peregrine, Whitman Founder Trial: Compliance

By Carla Main on August 02, 2012

Amazon.com Inc. (AMZN) (AMZN) and brick-and-mortar stores urged U.S. senators to pass legislation to let states collect sales taxes from online retailers based elsewhere, as other Internet companies said they oppose the measure.

Paul Misener, vice president for global public policy at Amazon, the largest U.S. online retailer, made remarks favoring federal legislation before the Senate Commerce Committee.

The legislation would let states impose new and complex tax burdens for companies that would have to comply with 9,600 jurisdictions, Steve DelBianco, executive director of NetChoice, a group backed by EBay Inc. (EBAY) (EBAY), Oracle Corp. (ORCL) (ORCL) and Facebook Inc. (FB) (FB), said in written testimony for a hearing yesterday.

Amazon has been making tax agreements with states where it plans to expand its warehouses and shipping centers. Under a 1992 Supreme Court ruling, Web retailers only need to remit sales taxes to states where they have a physical presence.

Last year, the company said it would spend $500 million on facilities and add 10,000 full-time jobs in California by December 2015, ending a fight against a state law that taxes online sales. It will start remitting the levies in September if Congress doesn't act, according to a statement from Governor Jerry Brown, a Democrat.

The Senate is considering a bill, S. 1832, introduced by Michael Enzi, a Wyoming Republican. Enzi told lawmakers the measure would close a loophole and benefit local businesses that have to collect sales taxes while online retailers don't, according to the Congressional Record.

The National Conference of State Legislatures, the National Association of Counties and the U.S. Conference of Mayors support the bill.

Opposition has come from Senator Jim DeMint, a South Carolina Republican, who wrote in yesterday's Wall Street Journal that the legislation would bring about "taxation without representation," because states would be able to "chase revenues far outside their borders."

A House bill received a hearing July 24 at which Judiciary Committee Chairman Lamar Smith, a Texas Republican, said the Constitution doesn't allow one state to tax other states' retailers.

For more, click here.

Compliance Policy

U.K. Outlines Plans to Make Financial Products Consumer Friendly

The U.K. government outlined plans to make financial products more consumer friendly as it seeks to restore public confidence in the industry after a series of mis-selling scandals.

A government-appointed panel including former Bank of England official Carol Sergeant; Angela Knight, the outgoing chief executive officer of the British Bankers' Association; and Otto Thoresen, chief executive of the Association of British Insurers recommended banks create easy-access savings accounts and standard 30-day notice periods to close accounts. It also called for simpler life insurance.

Public trust in the financial-services industry was damaged by the 2008 credit crisis and a wave of scandals including the mis-selling of consumer-credit insurance and the rigging of the Libor market. The panel's final recommendations will be published in February.

Japan to Raise Limit on Bank Ownership of Companies, Nikkei Says

Japan's Financial Services Agency plans to raise the limit on bank ownership of companies to 10 percent to-20 percent from 5 percent, Nikkei reported, without attribution.

An advisory panel will debate the proposal this year for legislation next year; implementation is expected by fiscal 2014, according to Nikkei.

SEC Shouldn't Regulate Credit Ratings, Cato Researchers Say

The U.S. government should stop regulating credit-rating companies, researchers from the Cato Institute said.

Standard & Poor's, Moody's Investors Service (MCO) (MCO) and Fitch Ratings have become a "de facto oligopoly" due to rules that forced banks and other investors to use their ratings to determine the riskiness of holdings, according to the paper, published yesterday by the Washington-based public policy research organization, which says it promotes free markets.

Credit-rating companies should be "subject to competitive market pressures," wrote Emily Ekins, a research fellow, and Mark Calabria, director of financial regulation studies. "Such pressures would most effectively be brought to bear by a reduction in regulatory barriers to entry and the removal of artificial demand due to various compliance requirements."

Regulators shouldn't decide which rating companies are approved for use and should stop using the ratings themselves in rules, according to the Cato researchers. That would force the firms to compete based on quality, they said.

After inflated credit ratings for risky mortgage bonds were blamed for helping cause the financial crisis, policy makers have been searching for a way to ensure the grades are accurate. The Dodd-Frank Act instructed regulators to stop relying on ratings and increased oversight of the ratings companies.

Compliance Action

FSA Fines Turkish Bank U.K. Unit for Money Laundering Breaches

The U.K. Financial Services Authority fined Turkish Bank (UK) Ltd. 294,000 pounds ($457,000) for failing to establish proper controls preventing money laundering.

The company, a subsidiary of Northern Cyprus-based Turkish Bank Ltd., didn't have adequate policies to manage its relationships with other banks, didn't carry out due diligence on those banks and failed to keep proper records, the FSA said in a statement.

HSBC Holdings Plc (HSBA) had to apologize and set aside $700 million for fines after U.S. senators found failings in its money-laundering controls gave terrorists and drug cartels access to the U.S. financial system.

Turkish Bank would have had to pay 420,000 pounds had it not cooperated and settled at an early stage, the FSA said. Ufuk Gungor, assistant general manager at the Borough High Street branch of Turkish Bank, declined to comment.

Philippines' SEC Probes Trading of Calata Shares, Herbosa Says

The Philippines securities regulator is looking into a report by the Philippine stock exchange's market integrity unit that rules may have been breached in trading of Calata Corp. (CAL) shares, according Securities and Exchange Commission Chairwoman Teresita Herbosa.

"Matters already under investigation are confidential," Herbosa says in a mobile text message reply to questions, without giving further details. Calata President Joseph Calata wasn't immediately available for comment when contacted in his office today.

Knight Market-Making Unit Had 'Technical Issue' in Early Swings

Knight Capital Group Inc. (KCG) (KCG) told some clients of its market- making unit that a "technical issue" was affecting its systems and advised them to route orders elsewhere as dozens of U.S. stocks swung more than 10 percent yesterday.

Knight, which helps execute billions of dollars in equity transactions every day, said the issue was confined to market making and other operations were unaffected. Its stock (KCG) plunged as much as 26 percent as investors speculated on its role in the incident, which spurred concern that computers had distorted trading for the second time in two weeks.

The incident, occurring after three Dow Jones Industrial Average stocks fluctuated in regular hourly patterns for a full trading day on July 19, may embolden critics of American market structure who say the computers that dominate trading have become too complex to control. Special curbs adopted after the May 2010 equity crash helped calm yesterday's volatility.

The New York Stock Exchange said it was reviewing trades in 148 securities between 9:30 a.m. and 10:15 a.m. New York time, according to a statement on its website.

"At this time, we believe NYSE systems and circuit breakers operated normally during this period, and we are working with all market participants on the issue," NYSE said in an e-mailed statement.

Robert Madden, a spokesman for Nasdaq OMX Group Inc., declined to comment.

For more, click here, and click here.

MF Global Clients to Get Most of Their Money, Says Trustee

MF Global Holdings Ltd. (MFGLQ) (MFGLQ)'s brokerage customers, facing a $1.6 billion gap in funds, will eventually recoup between 90 percent and all of their money, according to the trustees overseeing the liquidation.

James W. Giddens, the trustee overseeing the MF Global Inc. unit's bankruptcy, made the remarks about the 90 percent distribution yesterday at a U.S. Senate Agriculture Committee hearing in Washington.

Giddens commented after Louis Freeh, bankruptcy trustee for MF Global's holding company, said it was his belief customers would eventually recoup all their money. He said he based his conclusion on estimates of the return of customer funds from foreign jurisdictions and settlements obtained by Giddens's office.

U.S. lawmakers called for the hearing to oversee the response to the MF Global downfall and the recent collapse of Peregrine Financial Group Inc., which has left about $220 million in client funds unaccounted. The failures, which are being probed by the U.S. Commodity Futures Trading Commission and Justice Department among others, have undermined confidence in the futures market and spurred calls for new rules, according to lawmakers and regulators.

The CFTC's investigation into MF Global could lead to allegations that rules governing fund segregation and supervision of customer accounts were violated, Jill E. Sommers, a Republican commissioner and senior agency member overseeing the probe, said at the hearing. The CFTC's enforcement unit could also file an action against corporate entities or individuals, including management.

Giddens has distributed about 80 percent of what commodity future customers are owed, he said. The largest disputes with claimants include those with the company's U.K. Joint Special Administrators. A trial is expected to start in April to resolve a dispute over $700 million of customer funds.

Giddens is still evaluating creditor and customer claims, and may litigate those where an agreement can't be reached on what the brokerage owes. He said he still sees lawsuits against former MF Global Chief Executive Officer Jon S. Corzine, former chief financial officer Henri Steenkamp and former assistant treasurer Edith O'Brien, among others, as a way to recover more money for creditors.

JPMorgan Chase & Co. (JPM) (JPM) has already returned $89.2 million in customer property and $518.4 million in other assets.

For more, click here.

Peregrine Probed by Labor Department, Chapter 7 Trustee Says

Peregrine Financial Group Inc.'s handling of its employees' 401(k) plan is being reviewed by the U.S. Labor Department, the collapsed commodity firm's bankruptcy trustee told a U.S. Senate Panel.

Trustee Ira Bodenstein disclosed the department's action in written testimony for a hearing yesterday by the Senate Agriculture Committee.

Peregrine filed for Chapter 7 bankruptcy on July 10 after the Cedar Falls, Iowa-based firm and founder Russell Wasendorf Sr. were sued by the U.S. Commodity Futures Trading Commission.

The CFTC accused Wasendorf and the firm of misappropriating more than $200 million in customer funds. He has been charged with lying to U.S. agents and is being held in federal custody.

The Labor Department doesn't comment on the existence of ongoing investigations, Jason Surbey, an agency spokesman, said in a telephone interview yesterday.

The regulatory case is U.S. Commodity Futures Trading Commission v. Peregrine Financial Group Inc., 12-cv-05383, U.S. District Court, Northern District of Illinois (Chicago). The criminal case is U.S. v. Wasendorf, 12-mj-131, U.S. District Court, Northern District of Iowa (Cedar Rapids). The bankruptcy case is Peregrine Financial Group Inc., 12-27488, U.S. Bankruptcy Court, Northern District of Illinois (Chicago).

Courts

Motey Says He Passed Marvell Revenue Figures to Doug Whitman

Karl Motey, a former computer-chip industry analyst, testified that he got confidential Marvell Technology Group Ltd. (MRVL) (MRVL) revenue figures from sources inside the company and gave the information to Whitman Capital LLC founder Doug Whitman.

Prosecutors have charged Whitman with using inside information from Motey and from Roomy Khan, a former Intel Corp. (INTC) (INTC) executive, to make almost $1 million for his Menlo Park, California-based hedge fund.

The trial is part of a broad government investigation of insider trading involving hedge funds. Since August 2009, at least 70 people have been charged with insider trading by the office of U.S. Attorney Preet Bharara. More than 60 have pleaded guilty or been convicted at trial.

Motey, who pleaded guilty to conspiracy and securities fraud, told jurors he's testifying in hopes of avoiding prison when he's sentenced.

Prosecutors said they plan to call Khan as a witness.

Whitman denies the charges against him. In an opening statement, David Anderson, a defense lawyer, told jurors that the witnesses testifying against Whitman are "criminals and liars" who hope to stay out of prison by incriminating his client.

The case is U.S. v. Whitman, 12-cr-00125, U.S. District Court, Southern District of New York (Manhattan).

Interviews/Hearings

Gensler Says It's 'Critical' CFTC Further Updates Rules

Gary Gensler, chairman of the Commodity Futures Trading Commission, talked about the outlook for oversight of brokerage firms following the collapse of MF Global Holdings Ltd. and Peregrine Financial Group Inc.

Gensler spoke before a U.S. Senate Agriculture Committee hearing yesterday in Washington.

For the video, click here.

Comings and Goings

North Carolina Utility Board Hires Valukas for Duke Probe

The North Carolina Utilities Commission hired Jenner & Block Chairman Anton Valukas to aid in its probe of whether it was misled when it approved Duke Energy Corp. (DUK) (DUK)'s takeover of Progress Energy Inc., the law firm said.

Valukas is a former U.S. Attorney in Chicago and served as U.S. Justice Department examiner in the Lehman Brothers Holdings Inc. bankruptcy, documenting that firm's collapse in 2008.

The state agency is investigating Duke's decision to fire Progress Energy Chief Executive Officer Bill Johnson within hours of completing the $17.8 billion dollar merger that last month created the largest U.S. utility owner.

Johnson, who was to be CEO of the combined companies, was replaced by Duke CEO Jim Rogers.

Under state law, the costs of the investigation will be charged to Duke and will not be passed on to its customers, the state agency said in a statement announcing the hiring.

"We have fully cooperated with the North Carolina Utilities Commission in its recent investigation of Duke Energy," Tom Williams, a spokesman for the Charlotte, North Carolina-based company, said in an e-mailed statement. "That will continue."

To contact the reporter on this story: Carla Main in New Jersey at cmain2@bloomberg.net

To contact the editor responsible for this report: Michael Hytha at mhytha@bloomberg.net