

# SEC Announces Enforcement Action for Illegal Offering of Security-Based Swaps

## FOR IMMEDIATE RELEASE

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*Washington D.C., June 17, 2015* — The Securities and Exchange Commission today announced an enforcement action against a company that illegally offered complex derivatives products to retail investors.

The Dodd-Frank Act implemented two key requirements for any security-based swaps offering to a retail investor who doesn't meet the high standard of an "eligible contract participant" defined in the law. A registration statement must be effective for the offering, and the contracts must be sold on a national securities exchange. These requirements are intended to make financial information and other significant details about the offering fully transparent to retail investors, and limit the transactions to platforms subject to the highest level of regulation.

An SEC investigation found that Silicon Valley-based Sand Hill Exchange was offering and selling security-based swaps contracts to retail investors outside the regulatory framework of a national securities exchange and without the required registration statements in effect. The violations were detected shortly after the offering process began, and with cooperation from the company the platform was shut down before any investor harm occurred.

Sand Hill agreed to settle the SEC's charges.

"The Dodd-Frank Act prohibits security-based swaps from being offered in the darkness to retail investors, and we were able to act quickly before any losses materialized in this offering that occurred outside the proper regulatory framework," said Reid A. Muoio, Deputy Chief of the SEC Enforcement Division's Complex Financial Instruments Unit. "We will continue to scrutinize this space for companies circumventing the law to offer security-based swaps without the safeguards provided to retail investors."

According to the SEC's order instituting a settled administrative proceeding against Sand Hill and two individuals:

- Sand Hill began as two Silicon Valley entrepreneurs creating an online business involving the valuation of private startup companies in the region along the lines of a fantasy sports league. But Gerrit Hall and Elaine Ou changed their business model multiple times, and earlier this year Sand Hill evolved to invite web users to use real money to buy and sell contracts referencing pre-IPO companies and their value.
- Sand Hill sought people to fund accounts using dollars or bitcoins. Hall and Ou did not ask users about their financial holdings or limit the offering to users with any specific amount of assets. In fact, they wrote on the Sand Hill website: "We accept everybody regardless of accreditation status." Hall and Ou intended to pay users who profited from their contracts.
- Hall and Ou understood that they were buying and selling derivatives linked to the value of private companies, and Ou falsely claimed that they were in the process of seeking regulatory

approval for Sand Hill's contracts.

- For about seven weeks, Sand Hill offered, bought, and sold contracts through the website in violation of the Dodd-Frank provisions that limit security-based swaps transactions with people who don't meet the definition of an eligible contract participant. Hall and Ou exaggerated Sand Hill's trading, operations, controls, and financial backing.
- Sand Hill, Hall, and Ou ceased offering and selling security-based swaps following inquiries from the SEC in early April.

The SEC's order finds that Sand Hill, Hall, and Ou violated Section 5(e) of the Securities Act and Section 6(l) of the Securities Exchange Act of 1934. Without admitting or denying the findings, Sand Hill, Hall, and Ou agreed to cease and desist from committing or causing any future violations of the securities laws. Sand Hill agreed to pay a \$20,000 penalty.

The Complex Financial Instruments Unit will continue its scrutiny of the retail market for conduct that may violate the Dodd-Frank Act's swaps provisions, including online competitions creatively monetizing what actually constitute security-based swaps transactions. The SEC's investigation of Sand Hill was conducted by Brent Mitchell and Creola Kelly, and the case was supervised by Michael Osnato and Mr. Muoio. The investigation was assisted by Carol McGee and Andrew Bernstein of the Division of Trading and Markets as well as Amy Starr and Andrew Schoeffler of the Division of Corporation Finance.

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## Related Materials

- [SEC order](#)
- [Investor Alert: Beware of Fantasy Stock Trading Websites](#)