



## Securities Industry Continuing Education Program Firm Element Advisory—Spring 2011

### Introduction

The Securities Industry/Regulatory Council on Continuing Education (Council) publishes the Firm Element Advisory (FEA) semi-annually to highlight current regulatory and sales practice topics for possible inclusion in Firm Element training plans. The Council has identified the topics from a review of industry regulatory and self-regulatory organization (SRO) announcements and publications of significant events.

The FEA briefly identifies each topic and provides links to relevant documents issued about the specified subjects. The FEA is designed for Internet use; however, it can be printed. Be advised that each link must be printed separately in order to encompass the full document and subjects covered.

All new material in the FEA is denoted by a “*(New)*” next to the appropriate title. Material from previous editions that the Council has updated is denoted with an “*(Updated)*” next to the appropriate title. [Previous editions](#) of the FEA, as well as a [matrix](#) indicating the topics covered in those editions, are available at the Council’s website at [www.cecouncil.com](http://www.cecouncil.com).

The Council suggests that firms use the FEA as an aid in developing and updating their Firm Element needs analysis and written training plans. However, firms are reminded that they should not rely on the FEA as a comprehensive list of all areas they should consider. Firms should review current and previous FEAs to determine which topics are relevant for inclusion in their training based on their product offerings, structure and business line(s).

In response to requests from firms for more resources to help them with Firm Element planning, the Council suggests the following tools that firms may use in addition to the FEA:

- [Guide to Firm Element Needs Analysis and Training Plan Development](#): This is a how-to guide for effectively performing the needs analysis and developing written training plans.



- **Quarterly Continuing Education Performance Reports**: FINRA produces quarterly reports that compare a firm's continuing education (CE) performance with the industry at large for the same programs and modules. Firms should review the performance of their registered persons since the last needs analysis to determine if any modules or topics appear to warrant additional training. These reports are no longer mailed; firms may sign up to view the reports on [FINRA's Report Center](#).
- **FINRA's Annual Regulatory and Examination Priorities Letter**: Each year, FINRA issues a letter that highlights issues of importance to FINRA's examination program. These letters may be useful when developing education programs within a firm.
- **FINRA Investor Alerts**: These are periodic alerts that highlight products and sales practices of particular concern, which firms may use to supplement training materials.
- **FINRA Online Learning**: FINRA's online learning programs address a range of training topics for compliance personnel, registered representatives, administrative and operations staff, and those with supervisory responsibilities. Some of these programs offer completion tracking and deliver compliance training that may be suitable for firm element CE.

The Council recommends using all available tools to make Firm Element planning as efficient and effective as possible.

## **Reminder**

Individuals are now required to use either their CRD<sup>®</sup> or FINRA ID numbers to schedule an exam or CE appointment at Prometric or Pearson VUE testing centers. Social Security numbers are no longer accepted.

All non-FINRA candidates who enroll using the Form U10 will be assigned a FINRA ID number for scheduling purposes.

Please note that the Form U10 is now only available for online submission; hardcopy forms mailed to FINRA are no longer accepted.

## **Questions?**

For more information, contact:



- [cecounciladmin@finra.org](mailto:cecounciladmin@finra.org); or
- Roni Meikle, Director, Continuing Education, FINRA, at (646) 315-8688.

## **ALTERNATIVE INVESTMENTS**

### **Reverse Exchangeable Securities (Reverse Convertibles)**

Firms that offer reverse convertibles must ensure that their promotional materials and communications to the public regarding these products are fair and balanced, and do not understate the risks associated with these products. Firms also must ensure that their registered representatives understand the risks, terms and costs associated with these products, and that they perform an adequate suitability analysis before recommending them to any customer.

- [FINRA Regulatory Notice 10-09](#): FINRA Reminds Firms of Their Sales Practice Obligations With Reverse Exchangeable Securities (Reverse Convertibles) (February 2010)

### **(New) Sales Practice Obligations for Commodity Futures-Linked Securities**

Firms that offer commodity futures-linked securities must ensure that:

- communications with the public about these securities are fair and balanced;
- recommendations to customers are suitable; and
- their registered representatives adequately understand and are able to inform their customers about these securities before they recommend them.

To meet these obligations, firms must train registered personnel about the characteristics, risks and rewards of each product before they allow registered persons to sell them to investors. Firms also must have adequate written supervisory procedures and supervisory controls that are reasonably designed to ensure that sales of commodity futures-linked securities comply with the federal securities laws and applicable FINRA rules.

- [FINRA Regulatory Notice 10-51](#): Sales Practice Obligations for Commodity Futures-Linked Securities (October 2010)



## **ANTI-MONEY LAUNDERING**

### **AML Compliance**

Firms are reminded to maintain current AML programs and train staff appropriately. Information and guidance relating to AML rules, regulations and compliance is issued regularly from a number of sources, such as the following.

- [FINRA Issue Center: Anti-Money Laundering](#)
- [SEC AML Source Tool](#)

Recent updates to the Securities and Exchange Commission's (SEC's) AML Source Tool include FinCEN's March 5, 2010 guidance on obtaining and retaining beneficial ownership information.

FINRA's AML Template for Small Firms reflects new FINRA Rule 3310 (Anti-Money Laundering Compliance Program). FINRA offers a three-part podcast series that walks firms through the process of setting up AML compliance and supervisory procedures.

- [AML Template for Small Firms](#)
- [Anti-Money Laundering Template \(Part 1\)](#)
- [Anti-Money Laundering Template \(Part 2\)](#)
- [Anti-Money Laundering Template \(Part 3\)](#)

### **(Updated) Red Flags Rule – FTC FACT Act**

As of July 21, 2011, the Dodd-Frank Wall Street Reform and Consumer Protection Act transfers responsibility for joint rulemaking and enforcement of identity theft red flag guidelines and regulations from the Federal Trade Commission (FTC) to the SEC for those subject to SEC jurisdiction. The SEC is expected to propose and request public comment on a version of the Red Flags



Rule enforced by the FTC since January 1, 2010, as it assumes the rulemaking and enforcement responsibility.

- [Information About the FTC FACT Act](#)
- [FTC FACT Act Red Flags Rule Template](#)

### **SEC Suspicious Activity Report Alert Message Line**

The SEC maintains a Suspicious Activity Report (SAR) Alert Message Line that securities firms can use to voluntarily report the filing of a SAR that may require the SEC's immediate attention. Placing a call to the SEC SAR Alert Message Line does not alleviate a firm's obligation to file a SAR or notify an appropriate law enforcement authority.

- [SEC SAR Alert Message Line](#)

### **ARBITRATION RULES**

#### **Deficient Claims**

On March 22, 2010, the Codes of Arbitration Procedure for Customer and Industry disputes were amended to clarify that if a claim deficiency is corrected within 30 days from the time a party receives notice of a deficiency, the claim will be considered filed on the date the initial statement of claim was filed.

- [FINRA Regulatory Notice 10-11](#): Amendments to the Arbitration Rules Regarding Deficient Claims (March 2010)

#### **Non-Party Witness' Attorney May Attend Hearing While Witness Is Testifying**

Effective October 14, 2010, a non-party witness' attorney may attend an arbitration hearing while the witness is testifying. Unless otherwise authorized by the arbitrators, the attorney's role will be limited to asserting recognized privileges, such as the attorney-client and work-product privileges, and the privilege against self-incrimination. The amendments to the Customer and Industry Codes of Arbitration Procedure apply to all hearings taking place on or after October 14, 2010.



- [FINRA Regulatory Notice 10-40](#): Non-Party Witness' Attorney May Attend Hearing While Witness Is Testifying (September 2010)

### **Customer Option to Choose an All Public Arbitration Panel in All Cases**

Effective February 1, 2011, customers in FINRA arbitration have the option to choose an all public arbitration panel in all cases with three arbitrators. FINRA amended the Code of Arbitration Procedure for Customer Disputes to allow customers with claims over \$100,000 to choose between two panel composition methods. The first method, called the composition rules for majority-public panel, is the composition method FINRA used prior to the rule amendments. It provides for a panel comprised of a chair-qualified public arbitrator, a public arbitrator and a non-public arbitrator.

The second method, called the composition rules for optional all public panel, allows any party to select an all public arbitration panel. FINRA believes that providing customers with the right to exclude a non-public arbitrator from the panel deciding their case will enhance customers' perception of the fairness of FINRA's rules and the securities arbitration process.

- [FINRA Regulatory Notice 11-05](#): Customer Option to Choose an All Public Arbitration Panel in All Cases.

### **Change to Expedited Proceedings for Failure to Comply With an Arbitration Award or Related Settlement**

Firms and associated persons cannot rely on an inability-to-pay defense in expedited actions for failure to comply with arbitration awards involving customers if the FINRA Rule 9554 notice initiating the action was sent on or after July 2, 2010.

- [FINRA Regulatory Notice 10-31](#): Change to Expedited Proceedings for Failure to Comply with an Arbitration Award or Related Settlement (June 2010)



## **Increase in Number of Arbitrators Available for Review When Parties Choose Arbitration Panels**

On September 27, 2010, FINRA began increasing the number of proposed arbitrators available for review when parties choose arbitration panels from lists generated randomly by the Neutral List Selection System (NLSS). The amendments to the Customer and Industry Codes of Arbitration Procedure (Codes) apply to lists generated on or after the effective date.

- [FINRA Regulatory Notice 10-37](#): Increase in Number of Arbitrators Available for Review When Parties Choose Arbitration Panels (August 2010)

## **BUSINESS CONTINUITY**

### **Business Continuity Planning**

Business continuity remains a priority for firms and their associated persons. It is important that firms maintain adequate business continuity and contingency plans, and ensure that associated persons are aware of and understand these plans.

- [FINRA Industry Issues Center—Business Continuity Planning](#)

FINRA offers a podcast that describes its Business Continuity Planning (BCP) Template and notes updates to such, including those that were made to reflect FINRA Rule 4370 (Business Continuity Plans and Emergency Contact Information), which became effective on December 14, 2009.

- **FINRA Compliance Podcast:** [FINRA's Business Continuity Planning Template](#)

## **COMMUNICATIONS WITH THE PUBLIC**

### **(New) Applications of Rules on Certain Free Writing Prospectuses**

The content standards, principal review requirements and applicable filing requirements in NASD Rules 2210 (Communications with the Public) and 2211



(Institutional Sales Material and Correspondence) shall apply to free writing prospectuses distributed by broker-dealers in a manner reasonably designed to lead to their broad unrestricted dissemination, as described in Securities Act Rule 433. In *Regulatory Notice 10-52*, FINRA withdrew, in part, previous interpretive guidance that excluded free writing prospectuses from the requirements of NASD Rules 2210 and 2211.

- [FINRA Regulatory Notice 10-52](#): Application of Rules on Communications with the Public and Institutional Sales Material and Correspondence to Certain Free Writing Prospectuses (October 2010)

## **Blogs and Social Networks**

FINRA provides guidance to firms on how FINRA's communications with the public rules apply to social media websites, such as blogs and social networking sites, for business and personal communications. The guidance covers recordkeeping, suitability, supervision and other compliance concerns.

- [FINRA Regulatory Notice 10-06](#): Guidance on Blogs and Social Networking Web Sites (January 2010)

FINRA offers a podcast on social networking providing guidance on firms' use of blogs and social networking sites for business communications.

- **FINRA Compliance Podcast:** [Social Networking](#)

In addition, FINRA offers two on-demand webinars on social networking:

- [Compliance Considerations for Social Networking Sites](#)
- [Implementing Compliance Practices for Social Networking Sites](#)

## **(Updated) CONSOLIDATED FINRA RULEBOOK**

Following the consolidation of NASD and the member regulation, enforcement and arbitration functions of NYSE Regulation into FINRA, FINRA established a process to develop a new consolidated rulebook (the Consolidated FINRA Rulebook). FINRA has been proposing new consolidated rules in phases for approval by the SEC as part of the Consolidated FINRA Rulebook. FINRA announces the effective dates for all new consolidated FINRA rules in *Regulatory*



*Notices.* See below for the *Notices*, which include effective dates, regarding new consolidated FINRA rules that the SEC has approved since the Fall 2010 Firm Element Advisory.

## **Know-Your-Customer and Suitability Obligations**

The SEC approved FINRA's proposal to adopt rules governing know-your-customer and suitability obligations for the Consolidated FINRA Rulebook. The new rules are based in part on, and replace provisions in, the NASD and Incorporated NYSE rules. The implementation date for Rules 2090 and 2111 has been moved from October 7, 2011, to July 9, 2012.

- [FINRA Regulatory Notice 11-02](#): SEC Approves Consolidated FINRA Rules Governing Know-Your-Customer and Suitability Obligations (February 2010)
- [SR-FINRA-2011-016](#): Proposed Rule Change to Delay the Implementation date of FINRA Rule 2090 (Know Your Customer) and FINRA Rule 2111 (Suitability)

## **Customer Confirmations**

In October 2010, the SEC approved FINRA's proposed rule change to adopt FINRA Rule 2232 (Customer Confirmations) in the Consolidated FINRA Rulebook and delete NASD Rule 2230, NASD IM-2110-6 and Incorporated NYSE Rule 409(f). Generally, new FINRA Rule 2232 requires that customer confirmations must conform to the requirements of Exchange Act Rule 10b-10 (the SEC's rule on confirmations of transactions). The new FINRA rule also addresses disclosure requirements as to the settlement date of transactions and transactions in callable equity securities. The effective date of new FINRA Rule 2232 is June 17, 2011.

- [FINRA Regulatory Notice 10-62](#): SEC Approval and Effective Date for New Consolidated FINRA Rule (December 2010)

## **Public Offerings, Uniform Practice Code and Outside Business Activities**

In August and September 2010, the SEC approved three rule filings relating to the Consolidated FINRA Rulebook. FINRA Rule 5121 (Public Offerings of



Securities with Conflicts of Interest) and the FINRA Rule 11000 Series (Uniform Practice Code) took effect on December 15, 2010. The effective date of FINRA Rule 3270 (Outside Business Activities of Registered Persons) was also December 15, 2010; however, for registered persons who were actively engaged in an outside business activity prior to December 15, 2010, firms have until June 15, 2011 to review such pre-existing activities under the standards set forth in FINRA Rule 3270, including the requirement that firms keep a record of their compliance with such standards.

- [FINRA Regulatory Notice 10-49](#): SEC Approval and Effective Date for New Consolidated FINRA Rules (October 2010)

### **Sale of Securities in a Fixed Price Offering**

In July 2010, the SEC approved FINRA's proposed rule change to adopt new FINRA Rule 5141 (Sale of Securities in a Fixed Price Offering). The new rule protects the integrity of fixed price offerings by ensuring that securities in such offerings are sold to the public at the stated public offering price or prices. The new rule is based in part on, and replaces, NASD Rules 0120(h), 2730, 2740 and 2750, and NASD IM-2730, IM-2740 and IM-2750. New FINRA Rule 5141 went into effect on February 8, 2011.

- [FINRA Regulatory Notice 10-47](#): SEC Approves Consolidated FINRA Rule on the Sale of Securities in a Fixed Price Offering (October 2010)

### **Margin Requirements, Daily Record of Required Margin and Extension of Time Requests**

FINRA adopted consolidated rules regarding margin requirements, daily record of required margin and extension of time requests under Regulation T and Exchange Act Rule 15c3-3 for the Consolidated FINRA Rulebook. These new rules became effective on December 2, 2010.

The new FINRA rules are based on and replace provisions in the NASD and Incorporated NYSE Rules. The new rules also clarify that a firm must take into account the special deductions from net capital set forth in FINRA Rule 4210 (Margin Requirements) in determining its status under FINRA Rule 4120 (Regulatory Notification and Business Curtailment).



In addition, FINRA adopted the Incorporated NYSE Rule 431 interpretations, subject to certain amendments, as interpretations to FINRA Rule 4210, which also became effective on December 2, 2010.

- [FINRA Regulatory Notice 10-45](#): SEC Approval and Effective Date for New Consolidated FINRA Rules Regarding Margin Requirements, Daily Record of Required Margin, and Extension of Time Requests (October 2010)

## Rule Conversion Charts

To facilitate the transition to the Consolidated FINRA Rulebook, FINRA created three rule conversion charts that map NASD and Incorporated NYSE rules to new FINRA rules and vice versa. FINRA updates these charts as the effective dates of FINRA rules are announced.

**Important Note:** These conversion charts are intended as reference aids only and do not serve as substitutes for diligent review of the relevant rule language.

- [FINRA Rule Conversion Charts](#)

## CORPORATE FINANCE AND INSTITUTIONAL BUSINESS

### **(New) Allocation and Distribution of New Issues**

New FINRA Rule 5131 (New Issue Allocations and Distributions), which further and more specifically prohibits certain abuses in the allocation and distribution of new issues, becomes effective on May 27, 2011. Among other things, the rule prohibits quid pro quo allocations and “spinning,” and addresses the conduct of firms (and associated persons) in the areas of book-building, new issue pricing, penalty bids, trading and waivers of lock-up agreements.

- [FINRA Regulatory Notice 10-60](#): SEC Approves New FINRA Rule to Address Abuses in the Allocation and Distribution of New Issues (November 2010)

## Member Private Offerings

FINRA reminds broker-dealers of their obligation to conduct a reasonable investigation of the issuer and the securities they recommend in offerings made



under SEC Regulation D under the Securities Act of 1933—also known as private placements.

- [FINRA Regulatory Notice 10-22](#): Obligation of Broker-Dealers to Conduct Reasonable Investigations in Regulation D Offerings (April 2010)

## **Processing of Company-Related Actions**

On September 27, 2010, new FINRA Rule 6490 (Processing of Company-Related Actions) codified the requirements in Exchange Act Rule 10b-17 for issuers of a class of publicly trading securities to provide timely notice to FINRA of certain corporate actions (*e.g.*, dividend or other distribution of cash or securities, stock split or reverse split, rights or subscription offering). Issuers also must provide timely notification to FINRA of certain other specified corporate actions. Issuers must complete the necessary forms and pay the applicable fees within the required time periods, or they will be subject to late fees and delayed processing of documents to announce corporate actions. On March 14, 2011, FINRA launched a new electronic notification system. Forms can be accessed on FINRA's website at [www.finra.org/upc/forms](http://www.finra.org/upc/forms).

- [FINRA Regulatory Notice 10-38](#): SEC Approves New FINRA Rule Relating to the Processing of and Fees for Company-Related Actions for Non-Exchange-Listed Securities (August 2010)
- [FINRA Regulatory Notice 11-09](#): New Electronic System for Submitting and Processing Company-Related Actions for Non-Exchange Listed Securities Under Rule 6490 (February 2011)

## **CUSTOMER ACCOUNTS**

### **Providing Customers with Consolidated Financial Reports**

The practice of providing customers with consolidated financial account reporting has become increasingly common in the financial services industry. In many cases, these reports offer a single document that combines information regarding most or all of the customer's financial holdings, regardless of where those assets are held. Firms are reminded that these reports represent communications with the public; the dissemination of these reports must comply with all applicable FINRA rules as well as the federal securities laws.



- [FINRA Regulatory Notice 10-19](#): FINRA Reminds Firms of Responsibilities When Providing Customers with Consolidated Financial Account Reports (April 2010)

FINRA released a podcast that offers guidance on consolidated account reports, including applicable rules and other considerations.

- **FINRA Compliance Podcast:** [Consolidated Account Reports](#)

### **Master and Sub-Accounts**

FINRA reminds firms that maintain master/sub-account arrangements that, depending on the facts and circumstances of such arrangements, a firm may be required to recognize the sub-accounts as separate customer accounts for the purposes of applying FINRA rules, the federal securities laws and other applicable federal laws.

- [FINRA Regulatory Notice 10-18](#): FINRA Issues Guidance on Master and Sub-Account Arrangements (April 2010)

## **FINANCE AND OPERATIONS**

### **(New) Verification of Assets at a Non-Member Financial Institution**

Effective February 1, 2011, new FINRA Rule 4160 (Verification of Assets) prohibits a firm, when notified by FINRA, from continuing to custody or retain record ownership of assets at a non-member financial institution, which, upon FINRA staff's request, fails promptly to provide FINRA with written verification of assets maintained by the firm at such financial institution.

- [FINRA Regulatory Notice 10-61](#): SEC Approves New FINRA Rule 4160 Relating to the Verification of Assets at a Non-Member Financial Institution (December 2010)



### **(New) Funding and Liquidity Risk Management Practices**

FINRA expects broker-dealers to develop and maintain robust funding and liquidity risk management practices to prepare for adverse circumstances. Further, FINRA expects broker-dealers affiliated with holding companies to undertake these efforts at the broker-dealer level, in addition to their planning at the holding-company level.

- [FINRA Regulatory Notice 10-57](#): Funding and Liquidity Risk Management Practices (November 2010)

### **(New) Supplemental FOCUS Filing Requirement Applicable to Certain Joint Broker-Dealers/Futures Commission Merchants**

In October 2010, FINRA announced that beginning with the monthly FOCUS Report that was due on November 23, 2010 (covering the October 2010 reporting period), each member firm that is a futures commission merchant (FCM) and clears over-the-counter (OTC) derivatives for customers through Chicago Mercantile Exchange Inc. (CME)—either as a CME clearing member itself or as a carrying, non-clearing firm through a CME clearing member—must file with FINRA a new statement pertaining to customer cleared OTC derivatives. This requirement arises from amendments by CME to its financial reporting rules and forms and by National Futures Association (NFA) to its financial requirements rules.

FINRA announced that the new statement—the Statement of Sequestration Requirements and Funds in Cleared OTC Derivatives Sequestered Accounts (Sequestration Statement)—is a supplemental schedule to FOCUS Report Parts II and II CSE, and firms must file it with FINRA as part of their monthly FOCUS Reports.

- [FINRA Regulatory Notice 10-46](#): Supplemental FOCUS Filing Requirement Applicable to Certain Joint Broker-Dealers/Futures Commission Merchants (October 2010)



## **(New) New Alert-Reporting Criterion for Leverage in FOCUS Reports**

In September 2010, FINRA published the alert-reporting criteria for FOCUS Reports, and announced that it was adding a new criterion intended to measure leverage that would be implemented with the next scheduled quarterly FOCUS filing.

- [FINRA Regulatory Notice 10-44](#): New Alert-Reporting Criterion for Leverage in FOCUS Reports (September 2010)

## **INSURANCE/ANNUITIES**

### **Deferred Variable Annuities**

FINRA's deferred variable annuities rule (FINRA Rule 2330) establishes broker recommendation requirements (including suitability and disclosure obligations), principal review requirements, supervisory procedure requirements and training requirements. *Regulatory Notice 10-05* addresses issues raised about a firm's ability to hold checks made payable to entities other than itself (third parties) pursuant to interpretive relief that FINRA previously issued.

- [FINRA Regulatory Notice 10-05](#): FINRA Reminds Firms of Their Responsibilities Under FINRA Rule 2330 for Recommended Purchases or Exchanges of Deferred Variable Annuities (January 2010)
- [FINRA Issue Center](#): Variable Annuities

## **MARGIN AND MARGIN ACCOUNTS**

### **Margin Requirements for Exempted Securities Mutual Funds and Exempted Securities ETFs**

Effective October 26, 2010, FINRA advised firms of customer margin requirements for exempted securities mutual funds and exempted securities exchange traded funds (ETFs) in Regulation T margin accounts. FINRA also reminded firms of customer margin requirements for money market mutual funds.

- [FINRA Regulatory Notice 10-53](#): Margin Requirements for Exempted Securities Mutual Funds and Exempted Securities ETFs (October 2010)



## Customer Margin Balance Form

Beginning March 1, 2010, members subject to new FINRA Rule 4521(d) are required to file FINRA's new Customer Margin Balance Form. FINRA reminded firms that FINRA Rule 4521(d) governs filing requirements for customer margin accounts. The rule, adopted as part of the new consolidated financial responsibility rules that went into effect on February 8, 2010, replaces Incorporated NYSE Rules 421(2) and 421.40 and applies to all FINRA members that carry customer margin accounts.

- [FINRA Regulatory Notice 10-08](#): Filing Requirements for Members that Carry Customer Margin Accounts; New Customer Margin Balance Form (February 2010)

## Alternative Margin Treatment for Call Writes Against Employee Stock Options

On June 17, 2009, the SEC approved CBOE customer margin rules that provide for spread margin treatment on the writing of listed equity call options when, for the same underlying security and underlying quantity of shares, the writer owns employee stock options that are vested and exercisable.

- [CBOE Regulatory Circular RG09-141](#): Alternative Margin Treatment Available for Writing Listed Equity Call Options Against Employee Stock Options (December 2009)

## Margin Requirements for Leveraged ETFs

The customer margin requirements for leveraged ETFs increased on December 1, 2009. Also, the customer margin requirements for uncovered options overlying leveraged ETFs, as well as the application of day-trading margin requirements for leveraged ETFs, increased on April 30, 2010.

- [FINRA Regulatory Notice 09-65](#): FINRA Delays the Effective Date for Increased Margin Requirements for Options on Leveraged ETFs and Day-Trading Requirements for Leveraged ETFs (November 2009)
- [CBOE Regulatory Circular RG09-132](#): Update of RG09-097, Margin Requirements for Leveraged ETFs and Uncovered Options on Leveraged ETFs (November 2009)



- [\*\*CBOE Regulatory Circular RG09-097\*\*](#): Margin Requirements for Leveraged ETFs and Uncovered Options on Leveraged ETFs (August 2009)
- [\*\*FINRA Regulatory Notice 09-53\*\*](#): Increased Margin Requirements for Leveraged Exchange-Traded Funds and Associated Uncovered Options (August 2009)

## **MUNICIPAL SECURITIES**

### ***(Updated)* Auction Rate Securities (ARS)**

Firms are required to report certain descriptive information regarding ARS and variable rate demand obligations (VRDOs) that is publicly disseminated via the MSRB's Short-Term Obligation Rate Transparency (SHORT) System.

Amendments to MSRB Rules G-8 on books and records and G-34 on variable rate security market information that were adopted in August 2010 enhance the information currently collected from dealers. Among other information, the amendments require submission of documents that define auction procedures and interest rate setting mechanisms for ARS and liquidity facilities for VRDOs and ARS bidding information. The change becomes effective on May 16, 2011.

- [\*\*MSRB Notice 2011-17\*\*](#): Notice of Upcoming Changes to Rule G-34(c) to Require Dealer Submission of ARS and VRDO Documents to the SHORT System (February 2011)
- [\*\*MSRB Notice 2011-09\*\*](#): Amendments to Rules G-8 and G-34 to Increase Transparency of Municipal Variable Rate Securities Effective May 16, 2011 (February 2011)



## ***(Updated)* Electronic Municipal Market Access System (EMMA)**

The MSRB's EMMA system is a comprehensive source for municipal disclosures, official statements, continuing disclosure information and market data for the municipal securities market. Underwriters are required to submit official statements and certain other primary market information to EMMA. Under certain circumstances, an underwriter may satisfy its obligation to deliver an official statement to a purchaser of municipal securities if the underwriter has made certain required submissions.

On February 14, 2011, amendments to Rule G-32 on disclosures in connection with primary offerings became effective. The amendments require that dealers acting as underwriters provide to EMMA certain information regarding continuing disclosure undertakings, including whether the issuer or other obligated person has undertaken to provide continuing disclosures; the identity of any obligated persons other than the issuer; and the timing by which issuers or other obligated persons have agreed to provide annual financial and operating data. EMMA also accepts continuing disclosure documents and related information that are submitted by issuers or their obligated persons on a voluntary basis. All information collected is made available to the public without cost via the EMMA web portal. EMMA is accessible via [www.msrb.org](http://www.msrb.org) or [www.emma.msrb.org](http://www.emma.msrb.org).

- [\*\*MSRB Notice 2011-08\*\*](#): Reminder of February 14, 2011 Effective Date for Amendments to Rule G-32 Related to Submission of Information About Continuing Disclosure Undertakings Under Exchange Act Rule 15c2-12 (February 2011)
- [\*\*MSRB Notice 2010-56\*\*](#): Amendments to Rule G-32 Related to Submission of Information About Continuing Disclosure Undertakings Effective February 14, 2011 (December 2010)
- [\*\*MSRB Notice 2010-32\*\*](#): MSRB Receives Approval to Modify the Continuing Disclosure Service of EMMA (August 2010)
- [\*\*MSRB Notice 2010-19\*\*](#): Reminder on Submission of Disclosure Documents to EMMA for 529 College Savings Plans (June 2010)
- [\*\*MSRB Notice 2010-15\*\*](#): MSRB Receives SEC Approval to Make Available Primary Market and Continuing Disclosure Information on EMMA (June 2010)



## **Municipal Securities Sales Practice and Supervisory Requirements**

In September 2010, the MSRB and FINRA jointly issued guidance reminding firms of a broad range of sales practice and supervisory obligations. Brokers, dealers and municipal securities dealers must fully understand the bonds they sell in order to meet their disclosure, suitability and pricing obligations under the rules of the MSRB and the federal securities laws. Dealers must obtain, analyze and disclose all material facts about the secondary market transactions that are known to the dealer, or are reasonably accessible to the market. Although EMMA provides a significant amount of important information about an issuer and a security, firms also may have a duty to obtain and disclose information that is not available through EMMA. Public availability of the information does not relieve a firm of its duty to disclose that information. Firms must perform an independent analysis of the bonds they sell, and may not rely solely on a bond's credit rating. Firms also must use available information to establish a fair price in transactions with customers. Supervision and monitoring of supervisory systems are also discussed.

- [\*\*MSRB Notice 2010-37\*\*](#): MSRB Reminds Firms of their Sales Practice and Due Diligence Obligations When Selling Municipal Securities in the Secondary Market (September 2010)
- [\*\*FINRA Regulatory Notice 10-41\*\*](#): FINRA Reminds Firms of Their Sales Practice and Due Diligence Obligations When Selling Municipal Securities in the Secondary Market (September 2010)

FINRA also offers online resources related to Municipal Securities Business. These programs include:

- [\*\*FINRA Compliance Podcast: Municipal Securities \(Part I through III\)\*\*](#)
- **FINRA Webinars:**
  - [\*\*Municipal Securities Compliance and Enforcement Priorities: Disclosures and Other Enforcement Trends\*\*](#)



- [Municipal Securities Compliance and Enforcement Priorities: Pricing Issues](#)
- **Checklist for Customer Disclosure:** [Municipal Bond Sales in the Secondary Market](#)

### **Priority of Orders in Primary Offerings**

On October 13, 2010, MSRB Rule G-11 was amended to apply to all primary offerings, whether or not a syndicate has been formed, and to improve the distribution of new issues by ensuring that underwriters follow the priority provisions in the offering. Underwriters are required to give priority to customer orders over orders for their own or related accounts to the extent consistent with orderly distribution or unless otherwise agreed to by the issuer, and must keep additional records regarding underwriting and trading accounts. Concurrently approved MSRB interpretive guidance states that MSRB Rule G-17 requires underwriters to give customer orders priority unless specific exceptions apply, and it may be a violation of MSRB Rule G-17 if an underwriter fails to follow an issuer's directions concerning a retail order period.

- [MSRB Notice 2010-26](#): Priority of Orders in Primary Offerings Proposed Rule Change Approved (August 2010)

### **Political Contributions and the Solicitation of Municipal Securities Business**

The SEC approved changes to MSRB Rule G-37 that require the public disclosure of certain contributions made to bond ballot campaigns by dealers, their political action committees, Municipal Finance Professionals (MFPs) and non-MFP executive officers. Dealers are also required to create and maintain records of contributions to bond ballot campaigns. The amendments became effective on February 1, 2010.

- [MSRB Notice 2010-01](#): SEC Approves Amendments to Rule G-37 and Rule G-8 Relating to Political Contributions (January 22, 2010)

The MSRB issued guidance setting out factors that may result in a political action committee (PAC) formed by, or otherwise maintaining a relationship with an affiliate of a broker, dealer or municipal securities dealer, such as a bank, bank



holding company, insurance company or an investment management company, being viewed as controlled by the dealer and treated as a dealer-controlled PAC for purposes of MSRB Rule G-37. Factors that a dealer should examine include, but are not limited to:

- the role of a dealer (or an MFP of such dealer) or other person in creating a PAC;
- a dealer's (or an MFP's) continuing relationships with such PAC;
- a dealer's (or an MFP's) ability to direct or cause the direction of the management or policies of such PAC; and
- the level and frequency of funding provided by a dealer (or an MFP).

Indirect contributions through bank PACs or other affiliated PACs should also be reviewed to determine if the PAC will be considered a dealer-controlled PAC.

- [MSRB Notice 2010-57](#): Interpretation on Dealer-Controlled Political Action Committees Under Rule G-37 (December 17, 2010)

## **OPTIONS**

### ***(New)* AML**

On January 25, 2011, the SEC approved an amendment to CBOE Rule 4.20 (Anti-Money Laundering Compliance Program) that requires all Trading Permit Holder (TPH) or TPH organizations to conduct independent testing during the first calendar year of becoming a TPH or TPH organization.

- [CBOE Regulatory Circular RG11-017 \(January 2011\)](#): Anti-Money Laundering Compliance Program

### ***(New)* Master and Sub-Accounts**

CBOE provided guidance regarding proprietary trading broker-dealer organizations that are structured as limited partnerships (LPs), and/or limited liability companies (LLCs), and which offer master and sub-account arrangements.

- [CBOE Regulatory Circular RG10-101 \(October 2010\)](#): Master Accounts and Sub-Accounts



### **(New) Options Disclosure Document**

On January 12, 2011, the SEC approved a supplement to the Options Disclosure Document (ODD). The ODD contains general disclosures on the characteristics and risks of trading standardized options. The recently approved supplement amends and restates the June 2007 Supplement to provide disclosure to accommodate the listing of credit default options that contemplate the designation of a single credit event, and to incorporate certain technical amendments.

- [FINRA Information Notice 2/7/2011](#): January 2011 Supplement to the Options Disclosure Document
- [CBOE Regulatory Circular RG11-013 \(January 2011\)](#)

### **(New) FLEX Options**

CBOE will permit flexible exchange (FLEX) options that expire on a third Friday of the month to have American-style exercise. CBOE also reminds firms of the additional requirements that apply to FLEX options that expire on a third Friday-of-the-month expiration.

- [CBOE Regulatory Circular RG10-102 \(October 2010\)](#): FLEX Third Friday-of-the-Month Expiration Requirements

### **(New) SPX Weeklys and Week-End Options**

During the first week of December 2010, CBOE transitioned from an AM-settled SPX Weekly product to a PM-settled SPX Week-End product.

- [CBOE Regulatory Circular RG10-111 \(October 2010\)](#): SPX “Weeklys” and End of Week (*i.e.*, “Week-End”) Options

### **(New) Registration and Disclosure**

The SEC has approved rule changes that expand the registration, qualification and continuing education requirements for individual CBOE and CBSX TPHs and for associated persons of CBOE and CBSX TPHs and TPH organizations. All individual TPHs and individual associated persons who do not maintain a current



registration on Web CRD<sup>®</sup> and are engaged in the securities business of a TPH or TPH organization must register in Web CRD by submitting a Form U4 and fingerprints no later than January 11, 2011

- [CBOE Regulatory Circular RG10-120 \(November 2010\)](#): Proposal Regarding Registration and Qualification Requirements for Trading Permit Holders and Associated Persons

### **(New) Statutory Disqualifications**

CBOE issued a Regulatory Circular reminding TPHs and for associated persons of CBOE TPHs of their obligations respecting persons who are or become subject to a Statutory Disqualification.

- [CBOE Regulatory Circular RG10-105 \(October 2010\)](#): Statutory Disqualification

### **Standardized Options Exercise Procedures**

Effective September 7, 2010, amendments to FINRA Rule 2360 (Options) extend the cut-off time for the submission of certain contrary exercise advice by one hour to 7:30 p.m. Eastern Time. Additionally, in the event of a modified close of trading, the amendments extend the deadline for option holders to make a final exercise decision for an expiring standardized option by two minutes to one hour and 30 minutes following the modified closing time.

- [FINRA Regulatory Notice 10-36](#): Amendments to Standardized Options Exercise Procedures and Extension of Contrary Exercise Advice Cut-Off Time (August 2010)

## **REGISTRATION AND DISCLOSURE**

### **Reporting Requirements**

New FINRA Rule 4530 requires member firms to report certain events to FINRA, including quarterly statistical information regarding written customer complaints, and to file certain documents. The rule, which is effective July 1, 2011, is based in large part on current NASD Rule 3070, taking into account certain requirements under Incorporated NYSE Rule 351. The rule will apply to all FINRA firms and has several new requirements, including a requirement to report to FINRA within



30 calendar days after a member firm has concluded, or reasonably should have concluded, on its own that the firm or an associated person of the firm has engaged in certain violative conduct.

- [FINRA Regulatory Notice 11-06](#): SEC Approves Consolidated FINRA Rule Governing Reporting Requirements (February 2011)

FINRA member firms are reminded of their obligation to electronically report specified events and quarterly customer complaint information required under current NASD Rule 3070 and Incorporated NYSE Rule 351, and new FINRA Rule 4530, which is effective July 1, 2011.

- [FINRA Regulatory Notice 11-10](#): FINRA Reminds Firms of Their Obligation to Electronically Report Specified Events and Quarterly Customer Complaint Information and Provides Additional Guidance on Automated Reporting Under FINRA Rule 4530 (March 2011)

Since July 1, 2010, firms have been required to use revised and new product codes to report statistical information regarding written customer complaints relating to annuities and life settlement products. The first report using the revised and new codes was due by October 15, 2010.

- [FINRA Regulatory Notice 10-27](#): Changes to Customer Complaint Reporting Procedures Under NASD Rule 3070(c) and NYSE Rule 351(d) (June 2010)

## **BrokerCheck<sup>®</sup>**

In July 2010, the SEC approved amendments to FINRA Rule 8312, which were implemented in phases. On August 23, 2010, the amendments:

- made publicly available in BrokerCheck all historic customer complaints that became non-reportable after the implementation of Web CRD in 1999; and
- codified FINRA's current process for disputing the accuracy of (or updating) information disclosed through BrokerCheck.



Effective November 6, 2010, the amendments:

- expanded the BrokerCheck disclosure period for former associated persons of a member firm to 10 years from two years; and
  - permanently made publicly available in BrokerCheck certain information about former associated persons of a firm if any of the following applies, as reported to CRD on a uniform registration form:
    1. the person was convicted of or pled guilty or nolo contendere to a crime;
    2. the person was the subject of a civil injunction in connection with investment-related activity or a civil court finding of involvement in a violation of any investment-related statute or regulation; or
    3. the person was named as a respondent or defendant in an investment-related, consumer-initiated arbitration or civil litigation which alleged that the person was involved in a sales practice violation and which resulted in an arbitration award or civil judgment against the person.
- [\*\*FINRA Regulatory Notice 10-34\*\*](#): SEC Approves Changes to Expand the Information Released Through BrokerCheck and Establish a Process to Dispute (or Update) Information Disclosed Through BrokerCheck (July 2010)

FINRA reminds member firms of changes to BrokerCheck it implemented on August 23, 2010, and the steps firms and individuals could take with respect to the changes prior to implementation.

- [\*\*FINRA Information Notice 8/3/2010\*\*](#): FINRA Reminds Firms of Upcoming Changes to BrokerCheck



## Forms U4 and U5

In September 2010, FINRA reminded firms about their obligation to provide timely, complete and accurate disclosure on Form U5.

- [FINRA Regulatory Notice 10-39](#): Obligation to Provide Timely, Complete and Accurate Information on Form U5 (September 2010)

In addition, FINRA offers a webcast that explains the process for submitting Form U4 and Form U5 filings.

- [What to Expect: The U4 and U5 Filing Process](#)

## SALES PRACTICE AND SUPERVISION

### *(Updated)* Annual Reporting

CBOE reminded its members and member firms of the requirement to submit a written report annually by the first of April that details the firm's supervision and compliance effort, and describes the firm's ongoing compliance processes and procedures.

- [CBOE Regulatory Circular RG11-011](#): Annual Reporting Pursuant to CBOE Rule 9.8 – Supervision of Accounts (January 2011)

## Designations

Regulators have sought to address concerns relating to the proliferation of professional designations, including those that require no meaningful training or specialized knowledge, but suggest an expertise in retirement planning or financial services for seniors.

- [NASAA Model Rule](#): Use of Senior-Specific Certifications and Professional Designations (March 2008)
- [FINRA Regulatory Notice 07-43](#): FINRA Reminds Firms of Their Obligations Relating to Senior Investors and Highlights Industry Practices to Serve these Customers (September 2007)
- [FINRA Investor Information](#): Understanding Professional Designations



## **SHORT SALES**

### **Amendments to SEC Regulation SHO**

On February 24, 2010, the SEC adopted amendments to Regulation SHO to, among other things, implement an alternative uptick rule (new Rule 201). Rule 201 imposes restrictions on short selling whenever the price of a covered security declines by 10 percent or more from the prior day's close, in which case a circuit breaker is triggered for that security restricting short sales at any price less than or equal to the current national best bid in that security for the remainder of the day and the following day. The rule requires trading centers to establish, maintain and enforce written policies and procedures that are reasonably designed to prevent the execution or display of a prohibited short sale. Rule 201 took effect on May 10, 2010, with an extended compliance date of February 28, 2011.

### **Short Sales, Temporary Rule 204T of Regulation SHO Now Permanent**

On July 27, 2009, the SEC issued an order making interim final temporary Rule 204T of Regulation SHO permanent, effective as of July 31, 2009 (the date on which Rule 204T was set to expire). Rule 204T sets out specific requirements to promptly purchase or borrow securities to deliver on long and short sales. The new rule (Rule 204) maintains the structure of Rule 204T with some modifications. In addition, the SEC's order notes that volume weighted average price (VWAP) orders may be used to close-out fails to deliver. A VWAP order must be irrevocable, received by no later than the beginning of regular trading hours on the applicable close-out date, have a final execution price that is determined after the close of regular trading hours when the VWAP value is calculated and be executed on an agency basis.

- [CBOE Regulatory Circular RG09-83](#): Short Sales, Temporary Rule 204T of Regulation SHO now permanent (August 11, 2009)
- [SEC Division of Market Regulation](#): Responses to Frequently Asked Questions Concerning Regulation SHO (Updated 8/28/2009)



## **TRADING PRACTICES AND SUPERVISION**

### **Clearly Erroneous Trades**

The FINRA Rule 11890 Series, governing clearly erroneous transactions, replaces NASD Rule 11890, IM-11890-1 and IM-11890-2. The amendments to the rules were adopted as part of a market-wide effort by multiple SROs to provide transparency and finality with respect to clearly erroneous executions. Among other things, the rule series includes a new general rule defining "clearly erroneous" transactions, separate provisions for the determination of clearly erroneous transactions depending upon whether the transaction involves an exchange-listed security or an over-the-counter equity security and procedures for appealing FINRA clearly erroneous determinations. In addition, the rule series codifies minimum numerical criteria necessary for a transaction to qualify as clearly erroneous.

- [\*\*FINRA Regulatory Notice 10-04\*\*](#): SEC Approves Consolidated FINRA Rules Governing Clearly Erroneous Transactions (January 2010)

Effective September 10, 2010, FINRA adopted, on a pilot basis, amendments to Rule 11892 to refine and clarify the process for making clearly erroneous determinations for over-the-counter transactions in exchange-listed securities, including events involving trading pauses and multiple stocks. The amendments to Rule 11892 also, among other things, reduce the ability of FINRA to deviate from the objective standards set forth in the rule.

- [\*\*FINRA Regulatory Notice 10-43\*\*](#): Amendments to FINRA Rules on Trading Pauses Due to Extraordinary Market Volatility and Clearly Erroneous Transactions in Exchange-Listed Securities (September 2010)

### **Risk Management Controls and Market Access**

The SEC has recently adopted new Exchange Act Rule 15c3-5 that requires a broker-dealer with market access to establish risk-management controls and supervisory procedures to help prevent erroneous orders ensure compliance with regulatory requirements and enforce pre-set credit or capital thresholds. The rule also requires that the controls and procedures be tested at least annually. Although the rule is currently effective, firms have until July 14, 2011, to comply.

- [\*\*SEC Adopts New Rule Preventing Unfiltered Market Access\*\*](#)



## **TRANSACTION REPORTING AND DATA DISSEMINATION**

### **Trade Reporting and Compliance Engine (TRACE)**

FINRA established a new effective date of May 16, 2011, for reporting transactions in Asset-Backed Securities to TRACE. “Asset-Backed Security” is broadly defined in FINRA Rule 6710(m) to include structured products generally, such as mortgage-backed securities, collateralized mortgage obligations and collateralized debt obligations.

- **FINRA Regulatory Notice 10-55**: FINRA Establishes a New Effective Date for Reporting Asset-Backed Securities to TRACE and Related Rule Changes (October 2010)
- **FINRA Regulatory Notice 10-23**: SEC Approves Reporting Asset-Backed Securities Transactions to TRACE and Related Fees (April 2010)

### **(New) FINRA Expands the Order Audit Trail System (OATS) to All NMS Stocks**

Effective July 11, 2011, FINRA will begin expanding, in three phases, the order recording and reporting obligations in the OATS Rules to include orders in all NMS stocks, in addition to OTC equity securities.

FINRA has also published an updated edition of the *OATS Reporting Technical Specifications* that details the technical changes that will become effective starting July 11, 2011. The latest version of the *OATS Reporting Technical Specifications*, in addition to a list of frequently asked questions regarding the expansion, is available on FINRA’s website at [www.finra.org/oats](http://www.finra.org/oats).

- **FINRA Regulatory Notice 11-03**: FINRA Expands the Order Audit Trail System to All NMS Stocks (January 2011)

### **(Updated) Amendments to Reinstitute Short Sale Exempt Marking and to Require Price and Short Exempt Identifier on Route Reports**

The SEC has approved a FINRA rule change that, among other things, reinstates the short sale exempt marking category for trade reports to a FINRA trade reporting facility (TRF) or to FINRA’s Alternative Display Facility (ADF)



(together, FINRA Facilities). The rule change also requires FINRA OATS route reports to include price and a short exempt identifier, if applicable. The amendments took effect on February 28, 2011.

- [FINRA Regulatory Notice 10-48](#): Amendments to FINRA Trade Reporting and OATS Rules to Reinstitute Short Sale Exempt Marking and to Require Price and Short Exempt Identifier on Route Reports (October 2010)

## Trade Reporting Structure for Equity Securities

Effective August 3, 2009, firms' trade reporting obligations for OTC equity transactions were changed. Specifically, FINRA trade reporting rules were amended to (1) replace the current market maker-based trade reporting structure with an "executing party" structure; and (2) require firms with the trade reporting obligation that are acting in a riskless principal or agency capacity on behalf of another member firm(s) to submit non-tape report(s) to FINRA, as necessary, to identify such other firm(s) as a party to the trade.

- [FINRA Regulatory Notice 09-08](#): SEC Approves Amendments to FINRA Trade Reporting Rules (January 2009)

## Timely Trade Reporting

Effective November 1, 2010, firms are required to report OTC transactions in equity securities to FINRA within 30 seconds of execution. The 30-second reporting time frame also applies to trade cancellations that previously were subject to 90-second reporting, as well as stop stock and prior reference price trades.

In addition, as part of the November 1, 2010 changes, firms are required to report secondary market transactions in non-exchange-listed direct participation program securities within 30 seconds of execution. Such transactions are subject to regulatory transaction fees under Section 3 of Schedule A to the FINRA By-Laws.

- [FINRA Regulatory Notice 10-24](#): SEC Approves Amendments to Require Reporting of OTC Trades in Equity Securities Within 30 Seconds of Execution (April 2010)



## OTC Equity and Restricted Securities

Firms must report transactions in restricted equity securities that are effected pursuant to SEC Rule 144A to the OTC Reporting Facility. These reporting requirements have replaced the trade reporting obligations in FINRA's PORTAL rules (formerly, the FINRA Rule 6630 Series).

Additionally, FINRA changed the definition of "OTC Equity Security," which took effect on June 28, 2010. The amendments align the term "OTC Equity Security" more closely with SEC rule terminology and improve consistency across the FINRA rulebook. The amendments also clarify that transactions reported on or through an exchange should not be reported to the OTC Reporting Facility.

- [FINRA Regulatory Notice 10-26](#): SEC Approves Amendments to Trade Reporting Requirements for Restricted Equity Securities and Revisions to the Definition of OTC Equity Security (May 2010)

Firms must comply with amended rules on applicable trade report modifiers when reporting OTC transactions in non-NMS stocks to the OTC Reporting Facility. The amendments took effect on November 1, 2010.

- [FINRA Regulatory Notice 10-29](#): SEC Approves Amendments to Rules on Reporting Transactions to the OTC Reporting Facility (June 2010)

## Related Market Center

Effective May 3, 2010, firms must identify the Related Market Center in non-tape reports submitted to a FINRA trade reporting facility.

- [FINRA Trade Reporting Notice 2/8/10](#): FINRA Extends Implementation of Amendments Requiring Related Market Center Indicator in Non-Tape Reports Submitted to FINRA

**Note:** This *Notice* supplements, and should be read in conjunction with, [Regulatory Notice 09-54](#) (September 2009).

## Trading Halts



## Trading Halts

On June 10, 2010, FINRA began a pilot program in which it halts trading by firms otherwise than on an exchange with respect to securities included in the S&P 500<sup>®</sup> Index where the primary listing market has issued a trading pause due to extraordinary market volatility. The pilot was set to end on December 10, 2010, but has been extended to April 11, 2011.

- [FINRA Regulatory Notice 10-30](#): SEC Approves Amendments Permitting FINRA to Halt Trading by Firms Otherwise Than on an Exchange Where a Primary Listing Market Has Issued a Trading Pause Due to Extraordinary Market Volatility (June 2010)

Effective September 14, 2010, FINRA expanded the scope of the trading pause pilot program to halt trading otherwise than on an exchange with respect to securities included in the Russell 1000<sup>®</sup> Index and certain exchange-traded products. The expanded pilot was set to end on December 10, 2010, but has been extended to April 11, 2011.

- [FINRA Regulatory Notice 10-43](#): Amendments to FINRA Rules on Trading Pauses Due to Extraordinary Market Volatility and Clearly Erroneous Transactions in Exchange-Listed Securities (September 2010)

Effective October 18, 2010, firms must use the weighted-average price/special pricing formula (W) trade modifier on trade reports submitted to the Alternative Display Facility (ADF) or a Trade Reporting Facility (TRF) reflecting the following types of trades: qualified contingent trades, error correction and print protection. Because these transactions are not necessarily based on the current market price of the security when reported, FINRA believes that they are not appropriate triggers for a trading pause and should be marked with the “W” trade modifier.



- [FINRA Trade Reporting Notice 8/19/10](#): Weighted-Average Price/Special Pricing Formula Trade Modifier

FINRA issued a *Trade Reporting Notice* to explain the price validation protocol of the FINRA trade reporting facilities and to set forth new guidance on the use of the price override indicator in trade reports. Firms were required to make systems changes necessary to report in accordance with the *Notice* no later than November 16, 2010.

- [FINRA Trade Reporting Notice 9/17/10](#): Price Validation and Price-Override Protocol

### **Trade Reporting Frequently Asked Questions**

FINRA publishes on its website Trade Reporting Frequently Asked Questions (FAQ), which provide guidance for firms on reporting OTC transactions in equity securities to a FINRA Facility (*i.e.*, a TRF, the ADF or the OTC Reporting Facility (ORF)). Firms should be aware of and review this FAQ, which FINRA updates periodically.

- [FINRA Trade Reporting Notice 8/14/08](#): Trade Reporting Frequently Asked Questions.



## More Information and Resources:

Find more information about the Firm Element on the CE Council's website at [www.cecouncil.com/firm\\_element](http://www.cecouncil.com/firm_element). You can also contact the CE Council at [cecounciladmin@finra.org](mailto:cecounciladmin@finra.org) or the following CE Council members at:

Regulatory Organization	Web Site
Chicago Board Options Exchange	<a href="http://www.cboe.com">www.cboe.com</a>
Financial Industry Regulatory Authority	<a href="http://www.finra.org">www.finra.org</a>
Municipal Securities Rulemaking Board	<a href="http://www.msrb.org">www.msrb.org</a>
North American Securities Administrators Association	<a href="http://www.nasaa.org">www.nasaa.org</a>
U.S. Securities and Exchange Commission	<a href="http://www.sec.gov">www.sec.gov</a>