



## Securities Industry Continuing Education Program Firm Element Advisory – Q2 2020

### Introduction

The Securities Industry/Regulatory Council on Continuing Education (Council) publishes the Firm Element Advisory (FEA) 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.

The Council suggests that firms use the FEA as an aid in evaluating and prioritizing their Firm Element needs and developing 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.

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.

Firms that engage in multiple businesses may not want to adopt a one-size-fits-all approach to Firm Element Training, opting instead to provide training that is appropriate to an individual’s job functions.

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

- [Guide to Firm Element Needs Analysis and Training Plan Development](#): Suggestions for effectively performing the needs analysis and developing written training plans.
- [Continuing Education Regulatory Element Report](#): A quarterly report, available through FINRA’s Report Center that compares a firm’s Regulatory Element Continuing Education 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. Firms may sign up to view the reports on [FINRA’s Report Center](#).



- [FINRA Annual Risk Monitoring and Examination Priorities Letter](#): A letter issued annually by FINRA that highlights new and existing areas of significance to FINRA's examination program that may be useful when developing educational programs within a firm.
- [SEC Examination Priorities Memorandum](#): A memorandum issued annually by the SEC's Office of Compliance Inspections and Examinations to communicate with investors and registrants about areas that are perceived by the SEC staff to have heightened risk, and to support the SEC's mission to protect investors.
- [FINRA Investor Alerts](#): Periodic alerts that highlight products and sales practices of particular concern, which firms may use to supplement training materials.
- [FINRA Online Learning](#): A collection of courses, webinars and podcasts that address a range of training topics for compliance personnel, registered persons, administrative staff, operations staff and those with supervisory responsibilities. Some of the courses offer completion tracking and deliver virtual compliance training that may be suitable for Firm Element Continuing Education.
- [MSRB Education Center](#): A multimedia library of information that explains how the municipal securities market works and how participants can make informed decisions.
- [NASAA 2019 Enforcement Report Based on 2018 Data](#): Enforcement Actions Against Licensed Broker Sales Agents
- [FINRA Topic Page – Small Firms](#): FINRA has created this page to provide information for the small firm community—those firms with 150 or fewer registered representatives. This page contains current and past communications, links of interest to small firms, and other information.

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

Questions?

For more information, contact [cecounciladmin@finra.org](mailto:cecounciladmin@finra.org)



## **ALTERNATIVE INVESTMENTS**

### **Cryptocurrencies and ICOs**

#### **Digital Assets**

Last year, FINRA took several steps to engage with members regarding their current and planned activities relating to digital assets. These efforts included the issuance of Regulatory Notice 18-20, which encouraged firms to keep their Regulatory Coordinator informed if the firm, or its associated persons or affiliates, engaged, or intended to engage, in activities related to digital assets, including digital assets that are non-securities. Regulatory Notice 18-20 requested that firms provide these updates to Regulatory Coordinators until July 31, 2019. FINRA appreciates members' cooperation over the past year and is encouraging firms to continue keeping their Regulatory Coordinators abreast of their activities related to digital assets until July 31, 2020.

- [FINRA Regulatory Notice 19-24 \(July 18, 2019\)](#): FINRA Encourages Firms to Notify FINRA if They Engage in Activities Related to Digital Assets

#### **Cryptocurrencies**

FINRA issued an alert to warn investors to be cautious when considering the purchase of shares of companies that tout the potential of high returns associated with cryptocurrency-related activities without the business fundamentals and transparent financial reporting to back up such claims. According to the SEC, there is substantially less investor protection in cryptocurrency markets than in traditional securities markets, with correspondingly greater opportunities for fraud and manipulation. The SEC has issued investor alerts, bulletins and statements on initial coin offerings and cryptocurrency-related investments, including with respect to the marketing of certain offerings and investments by celebrities and others.

- [NASAA Reminds Investors to Approach Cryptocurrencies, Initial Coin Offerings and Other Cryptocurrency-Related Investment Products with Caution \(January 4, 2018\)](#)
- [FINRA Investor Alert \(December 21, 2017\)](#): Don't Fall for Cryptocurrency-Related Stock Scams
- [SEC Public Statement \(December 11, 2017\)](#): Statement on Cryptocurrencies and Initial Coin Offerings by SEC Chairman Jay Clayton



## **General**

### **(New) Securities Offering Reform for Closed-End Investment Companies**

The SEC adopting rules that will modify the registration, communications, and offering processes for business development companies (“BDCs”) and other closed-end investment companies under the Securities Act of 1933. As directed by Congress, the SEC is adopting rules that will allow these investment companies to use the securities offering rules that are already available to operating companies. August 1, 2020 is the effective date for all aspects of the final rule, subject to the exceptions noted in the Release.

- [Securities Exchange Act Release No. 34-88606 \(April 1, 2020\)](#): Securities Offering Reform for Closed-End Investment Companies (Final Rule)

### **Amendments to Nasdaq Rules 5705 and 5710 to Adopt a Disclosure Requirement for Certain Securities**

The SEC approved a proposed rule change to amend Nasdaq Rule 5705(b)(1)(B) relating to Index Fund Shares and Nasdaq Rule 5710(d) relating to Linked Securities to require issuers of such Index Fund Shares or Linked Securities to include on each such product’s website a statement that the product seeks returns for a single day, and that, due to the compounding of returns, holding periods of longer than one day can result in investment returns that are significantly different than the product’s target returns. The disclosure would also direct investors to consult the prospectus for further information on the calculation of the returns and other risks associated with investing in this type of product.

- [Securities Exchange Act Release No. 34-85362 \(March 19, 2019\), 84 FR 11148 \(March 25, 2019\)](#): Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to Amend Nasdaq Rules 5705 and 5710 to Adopt a Disclosure Requirement for Certain Securities

### **Alternative Mutual Funds**

The SEC’s Office of Investor Education and Advocacy is issuing this Investor Bulletin to inform you about features, and some potential risks, of alternative mutual funds.

- [SEC Investor Bulletin \(February 3, 2017\)](#): Alternative Mutual Funds



## **Supervision**

### **Volatility-Linked Exchange-Traded Products**

Volatility-linked exchange-traded products (ETPs) are designed to track Chicago Board Options Exchange Volatility Index (VIX) futures, rather than the VIX itself. For the reasons explained in the Notice, many volatility-linked ETPs are highly likely to lose value over time. Accordingly, volatility-linked ETPs may be unsuitable for certain retail investors, particularly those who plan to use them as traditional buy-and-hold investments. This Notice reminds firms of their sales practice obligations in connection with volatility-linked ETPs as discussed more generally in Regulatory Notice 12-03, including, without limitation, that recommendations to customers must be based on a full understanding of the terms, features and risks of the product recommended, sales materials must be fair and accurate, and firms must have reasonable supervisory procedures in place to ensure that these obligations are met.

- [FINRA Regulatory Notice 17-32 \(October 2017\)](#): FINRA Reminds Firms of Sales Practice Obligations for Volatility-Linked Exchange-Traded Products

### **Complex Products**

FINRA published guidance to firms about the supervision of complex products, which may include a security or investment strategy with novel, complicated or intricate derivative-like features, such as structured notes, inverse or leveraged exchange-traded funds, hedge funds and securitized products, such as asset-backed securities. These features may make it difficult for a retail investor to understand the essential characteristics of the product and its risks.

Regulatory Notice 12-03 identifies characteristics that may render a product “complex” for purposes of determining whether the product should be subject to heightened supervisory and compliance procedures and provides examples of heightened procedures that may be appropriate.

- [FINRA Regulatory Notice 12-03 \(January 2012\)](#): Heightened Supervision of Complex Products

\* \* \* \* \*



## **ANTI-MONEY LAUNDERING (AML)**

### **FINRA Provides Guidance to Firms Regarding Suspicious Activity Monitoring and Reporting Obligations**

FINRA issued guidance regarding suspicious activity monitoring and reporting obligations under FINRA Rule 3310 (Anti-Money Laundering Compliance Program).

- [FINRA Regulatory Notice 19-18 \(May 6, 2019\)](#): FINRA Provides Guidance to Firms Regarding Suspicious Activity Monitoring and Reporting Obligations

### **FINRA Amends Capital Acquisition Broker Rule 331 to Conform to FinCEN's Final Rule on Customer Due Diligence Requirements for Financial Institutions**

FINRA filed for immediate effectiveness amendments to Capital Acquisition Broker (CAB) Rule 331 (Anti-Money Laundering Compliance Program) to reflect the Financial Crimes Enforcement Network's (FinCEN) adoption of a final rule on Customer Due Diligence Requirements for Financial Institutions (CDD Rule). The implementation date was November 19, 2018.

- [FINRA Regulatory Notice 18-36 \(October 19, 2018\)](#): FINRA Amends Capital Acquisition Broker Rule 311 to Conform to FinCEN's Final Rule on Customer Due Diligence Requirements for Financial Institutions

### **FINRA Amends Rule 3310 to Conform to FinCEN's Final Rule on Customer Due Diligence Requirements for Financial Institutions**

FINRA filed for immediate effectiveness amendments to FINRA Rule 3310 (Anti-Money Laundering Compliance Program) to reflect the Financial Crimes Enforcement Network's (FinCEN) adoption of a final rule on Customer Due Diligence Requirements for Financial Institutions (CDD Rule). The implementation date was May 11, 2018 to align with the compliance date for FinCEN's CDD Rule.

- [FINRA Regulatory Notice 18-19 \(May 2, 2018\)](#): FINRA Amends Rule 3310 to Conform to FinCEN's Final Rule on Customer Due Diligence Requirements for Financial Institutions

### **FinCEN's Customer Due Diligence Requirements for Financial Institutions and FINRA Rule 3310**

FINRA published guidance regarding member firms' obligations under FINRA Rule 3310 (Anti-Money Laundering Compliance Program) in light of the Financial



Crimes Enforcement Network's (FinCEN) adoption of a final rule on Customer Due Diligence Requirements for Financial Institutions (CDD Rule). Cboe also published circulars, announcing the CDD Rule and referencing Regulatory Notice 17-40. FinCEN's CDD Rule became effective on July 11, 2016, and member firms were required to be in compliance by May 11, 2018.

- [FINRA Regulatory Notice 17-40 \(November 21, 2017\)](#): FINRA Provides Guidance to Firms Regarding Anti-Money Laundering Program Requirements Under FINRA Rule 3310 Following Adoption of FinCEN's Final Rule to Enhance Customer Due Diligence Requirements for Financial Institutions
- [CBOE Options Regulatory Circular RG19-002 \(January 11, 2019\)](#): Anti-Money Laundering Compliance Program - Customer Due Diligence Requirements and Filing Requirements for Certain Trading Permit Holders

### **AML Compliance**

FINRA Rule 3310 (Anti-Money Laundering Compliance Program) requires each member firm to develop and implement a written AML program (that must be approved, in writing, by a member of senior management) that is reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act, and the implementing regulations promulgated by the Department of the Treasury. The rule also sets forth, among other things, that the AML program provides ongoing training to appropriate personnel. Information and guidance relating to AML rules, regulations and compliance are available from a number of sources, such as the following:

- [FINRA Topic Page: Anti-Money Laundering](#)

### **AML Template for Small Firms**

FINRA provides a template for small firms to assist them in fulfilling their responsibilities to establish the AML compliance program required by the Bank Secrecy Act and its implementing regulations and FINRA Rule 3310. The template provides text examples, instructions, relevant rules and websites and other resources that are useful for developing an AML plan for a small firm.

- [AML Template for Small Firms](#)

### **AML Source Tool for Broker-Dealers**

The SEC maintains and periodically updates its AML Source Tool for Broker-Dealers, a compilation of key AML laws, rules, orders and guidance applicable to broker-dealers.



- [AML Source Tool for Broker-Dealers \(January 11, 2017\)](#)

### **SAR Information Accessibility**

The Financial Crimes Enforcement Network (FinCEN) regulations regarding the confidentiality of suspicious activity reports (SARs) require a broker-dealer to make SARs and supporting documentation available to any SRO that examines the broker-dealer for compliance with the requirements of 31 CFR 1023.320 (Reports by brokers or dealers in securities of suspicious transactions), also known as the “SAR Rule,” upon the request of the SEC. On January 26, 2012, the SEC issued a letter to FINRA authorizing FINRA staff to ask for SARs and SAR information from firms in certain circumstances. On the same date, SEC staff also issued a letter to chief executive officers of all SEC-registered FINRA firms requesting that they make SARs and supporting documentation available to FINRA.

- [FinCEN Advisories/Bulletins/Fact Sheets](#)
- [SEC Letter to FINRA \(January 26, 2012\)](#)
- [SEC Open Letter to CEOs of All SEC-Registered, FINRA Member Broker-Dealers \(January 26, 2012\)](#)
- [FINRA Regulatory Notice 12-08 \(February 2012\): SEC Requests Broker-Dealers Make SARs and SAR Information Available to FINRA](#)

### **SAR Alert Message Line**

The SEC SAR Alert Message Line phone number is 202-551-SARS (7277). This number should only be used when securities firms have filed a SAR that may require immediate attention by the Commission. Calling the SEC SAR Alert Message Line does not alleviate a firm's obligation to file a SAR or notify an appropriate law enforcement authority, such as a local office of either the Internal Revenue Service Criminal Investigation Division or the FBI. General questions on SARs and other BSA filing requirements may be directed to FinCEN's Regulatory Helpline at 1-800-949-2732.

- [SAR Alert Message Line](#)

\* \* \* \* \*



## **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 employees are aware of and understand these plans.

- [FINRA Topic Page: Business Continuity Planning](#)
- [FINRA Small Firm Business Continuity Planning Template](#)

### **(New) Pandemic-Related Business Continuity Planning, Guidance and Regulatory Relief**

Due to the recent outbreak of coronavirus disease (COVID-19), FINRA reminds member firms to consider pandemic-related business continuity planning, including whether their business continuity plans (BCPs) are sufficiently flexible to address a wide range of possible effects in the event of a pandemic in the United States. Each member firm is also encouraged to review its BCP to consider pandemic preparedness and to review its emergency contacts to ensure that FINRA has a reliable means of contacting the firm. This Notice also provides pandemic-related guidance and regulatory relief to member firms from some requirements. As coronavirus-related risks decrease, member firms should expect to return to meeting any regulatory obligations for which relief has been provided.

- [FINRA Regulatory Notice 20-08 \(March 9, 2020\)](#): Pandemic-Related Business Continuity Planning, Guidance and Regulatory Relief

### **BC/DR Testing Under Regulation SCI**

As required by SEC Regulation Systems Compliance and Integrity (Regulation SCI), FINRA in 2015 adopted Rule 4380 requiring member firm participation in business continuity and disaster recovery (BC/DR) testing. The rule authorizes FINRA to designate firms that must participate in FINRA's annual BC/DR test based on established standards, which FINRA first published in Regulatory Notice 15-43 and updated in Regulatory Notice 18-09. This Notice consolidates FINRA's designation criteria, as previously announced in Notices 15-43 and 18-09, without change.

- [FINRA Regulatory Notice 19-15 \(April 19, 2019\)](#): FINRA Publishes Consolidated Criteria to Designate Firms for Mandatory Participation in FINRA's Business Continuity/Disaster Recovery Testing



- [FINRA Regulatory Notice 18-09 \(March 7, 2018\)](#): FINRA Updates Designation Criteria to Require Firms Reporting U.S. Treasury Securities to TRACE to Participate in FINRA’s Business Continuity/Disaster Recovery Testing

\* \* \* \* \*

## **COMMUNICATIONS**

### **Advertising Regulation**

This Notice responds to questions that FINRA has received from members about how they can comply with FINRA rules when communicating with customers—particularly when using websites, email and other electronic media—while ensuring fair and balanced presentations. Our goal is to facilitate simplified and more effective disclosure in communications with the public.

FINRA welcomes the opportunity to consult with members about expanding their use of alternative and innovative design techniques—such as technology that offers customized information—in their marketing communications to help investors better understand their products and services. We are interested in ways that members can make communications more interesting and informative and how, together, we can improve the effectiveness of disclosure. Firms are encouraged to contact the Advertising Regulation Department directly at (240) 386-4500 to discuss these approaches.

- [FINRA Regulatory Notice 19-31 \(September 19, 2019\)](#): Disclosure Innovations In Advertising And Other Communications With The Public

### **FINRA Provides Guidance On Customer Communications Related To Departing Registered Representatives**

FINRA has consistently sought to ensure that customers can make a timely and informed choice about where to maintain their assets when their registered representative (i.e., a person registered with the member who has direct contact with customers in the conduct of the member’s securities sales) leaves a member firm. Accordingly, FINRA expects that: (1) in the event of a registered representative’s departure, the member firm should promptly and clearly communicate to affected customers how their accounts will continue to be serviced; and (2) the firm should provide customers with timely and complete answers, if known, when the customer asks questions about a departing registered representative.

- [FINRA Regulatory Notice 19-10 \(April 5, 2019\)](#): FINRA Provides Guidance on Customer Communications Related to Departing Registered Representatives



### **Social Media and Digital Communications**

FINRA issued guidance regarding the application of FINRA rules governing communications with the public to digital communications, in light of emerging technologies and communications innovations.

- [FINRA Regulatory Notice 17-18 \(April 2017\)](#): Guidance on Social Networking Websites and Business Communications

### **Communications With the Public**

The SEC approved amendments to FINRA rules governing communications with the public to revise the filing requirements in Rule 2210 (Communications with the Public) and Rule 2214 (Requirements for the Use of Investment Analysis Tools), and the content and disclosure requirements in Rule 2213 (Requirements for the Use of Bond Mutual Fund Volatility Ratings). The amendments became effective on January 9, 2017.

- [FINRA Regulatory Notice 16-41 \(October 2016\)](#): SEC Approves Amendments to Rules Governing Communications With the Public
- [FINRA Rule 2210 Interpretive Guidance Questions and Answers](#)

\* \* \* \* \*

## **(New) Custodial Accounts**

### **Supervision**

#### **(New) FINRA Reminds Member Firms of Their Responsibilities Supervising UTMA and UGMA Accounts**

This Notice addresses the characteristics of Uniform Transfers to Minors Act (UTMA) and Uniform Gifts to Minors Act (UGMA) accounts (collectively referred to herein as “UTMA/UGMA Accounts”) and the responsibilities of member firms to supervise UTMA/UGMA Accounts.

- [FINRA Regulatory Notice 20-07 \(February 27, 2020\)](#): FINRA Reminds Member Firms of Their Responsibilities for Supervising UTMA and UGMA Accounts

\* \* \* \* \*



## **CYBERSECURITY**

### **(New) FINRA Reminds Firms to Beware of Fraud During the Coronavirus (COVID-19) Pandemic**

The COVID-19 pandemic is affecting most aspects of our society and daily lives, as well as the U.S. economy and markets. Events with such profound impact routinely create opportunities for financial fraud. Firms and their associated persons should be aware of and take appropriate measures to address the increased risks and challenges presented during the COVID-19 pandemic. In addition to new scams focusing on COVID-19, previous scams may also find new life as fraudsters adapt to and exploit recent events and related vulnerabilities, especially those related to the remote working environment.

FINRA is committed to providing guidance, updates and other information to help stakeholders stay informed about the latest developments relating to COVID-19, which can be found on [FINRA's COVID-19/Coronavirus Topic Page](#).

FINRA will also continue to inform the industry on emerging cybersecurity trends and related frauds, and reminds firms to review resources on FINRA's [Cybersecurity Topic Page](#), which provides information on how firms can strengthen their cybersecurity programs.

- [FINRA Regulatory Notice 20-13 \(May 5, 2020\)](#): FINRA Reminds Firms To Beware Of Fraud During The Coronavirus (COVID-19) Pandemic

### **(New) FINRA Warns of Fraudulent Phishing Emails Purporting To Be From FINRA**

FINRA warns member firms of a widespread, ongoing phishing campaign that involves fraudulent emails purporting to be from FINRA officers, including Bill Wollman and Josh Drobnyk. These emails have a source domain name “@broker-finra.org” and request immediate attention to an attachment relating to your firm. In at least in some cases, the emails do not actually include the attachment, in which case they may be attempting to gain the recipient’s trust so that a follow-up email can be sent with an infected attachment or link, or a request for confidential firm information. In other cases, what appears to be an attached PDF file may direct the user to a website which prompts the user to enter their Microsoft Office or SharePoint password. FINRA recommends that anyone who entered their password change it immediately and notify the appropriate individuals in their firm of the incident.



The domain of “broker-finra.org” is not connected to FINRA and firms should delete all emails originating from this domain name. In addition, FINRA has requested that the Internet domain registrar suspend services for “broker-finra.org”.

- [FINRA Regulatory Notice 20-12 \(May 4, 2020\)](#): FINRA Warns of Fraudulent Phishing Emails Purporting To Be From FINRA

### **(New) Cybersecurity Alert: Measures to Consider as Firms Respond to the Coronavirus Pandemic**

As work processes adjust in response to COVID-19, firms and their associated persons should take appropriate measures to address increased vulnerability to cybersecurity attacks and to protect customer and firm data on firm and home networks, as well as devices.

This alert provides firms and associated persons with measures they may use to help strengthen their cybersecurity controls in areas where risks may increase in the current environment. In particular, FINRA understands the resource challenges that small firms may face, but hopes that the information included below may help them address possible cybersecurity issues associated with remote work.

However, this alert does not provide an exhaustive list of steps that firms and associated persons should consider. Further, the alert is not intended to express any legal position, and does not create any new legal requirements or change any existing regulatory obligations.

FINRA is committed to providing guidance, updates and other information to help stakeholders stay informed about the latest developments on [FINRA's COVID-19/Coronavirus Topic Page](#). New information will be posted on that webpage as it becomes available.

- [FINRA Information Notice \(March 26, 2020\)](#): Cybersecurity Alert: Measures to Consider as Firms Respond to the Coronavirus Pandemic

### **Cybersecurity Alert: Cloud Based Email**

Several member firms recently notified FINRA that they have experienced email account takeovers (ATOs) while using cloud-based email platforms, including Microsoft Office 365 (O365). Attackers used compromised email accounts to defraud member firms by requesting fraudulent wire requests or stealing confidential firm information or non-public personally identifiable information (PII).



This Notice outlines the attackers' tactics in executing ATOs, as well as steps taken by member firms to address ATO risks when using cloud-based email systems.

- [FINRA Information Notice \(October 2, 2019\)](#): Cybersecurity Alert: Cloud Based Email Account Takeovers

### **Imposter Websites Impacting Member Firms**

Several member firms have recently notified FINRA that they have been victims of imposter websites—which are sites designed to mimic a firm's actual website with the end goal of committing financial fraud. This Notice outlines steps firms can take to monitor for imposter websites and what to do if an imposter website is found.

- [FINRA Information Notice \(April 29, 2019\)](#): FINRA Provides Guidance to Firms Regarding Suspicious Activity Monitoring and Reporting Obligations

### **FINRA Warns of Fraudulent Phishing Emails Targeting Member Firms**

FINRA warns member firms to be on the lookout for a fraudulent phishing email that is currently circulating. Brokerage firms reported to FINRA that they have received suspicious emails targeting their compliance personnel. The email appears to be from a legitimate credit union attempting to notify the firm about potential money laundering involving a purported client of the firm. The email directs the recipient to open an attached document—which likely contains a malicious virus or malware designed to obtain unauthorized access to the recipient's computer network. As a reminder, phishing scams are ever-changing and are designed to infiltrate the computer network of the recipient. Use caution when opening emails from unknown senders and do not open attachments until you verify the sender and information that might be included in the document.

- [FINRA Information Notice \(February 13, 2019\)](#): FINRA Warns of Fraudulent Phishing Emails Targeting Member Firms

### **FINRA Report on Cybersecurity Practices**

This report continues FINRA's efforts to share information that can help broker-dealer firms further develop their cybersecurity programs. Firms routinely identify cybersecurity as one of their primary operational risks. Similarly, FINRA continues to see problematic cybersecurity practices in its examination and risk monitoring program. This report presents FINRA's observations regarding



effective practices that firms have implemented to address selected cybersecurity risks while recognizing that there is no one-size-fits-all approach to cybersecurity.

When selecting the topics for this report, FINRA considered the evolving cybersecurity threat landscape, firms' primary challenges and the most frequent cybersecurity findings from our firm examination program. First, we address how firms have strengthened their cybersecurity controls in branch offices, which is especially important for firms with decentralized business models. Second, we discuss limiting phishing attacks, which remain a top cybersecurity challenge for many firms. Third, we explain the importance of identifying and mitigating insider threats, which are of concern for many firms. Fourth, we describe the elements of a strong penetration testing program. Finally, we share observations regarding establishing and maintaining controls on mobile devices, which have emerged as a significant risk for many firms because of their increasingly widespread use by employees and customers.

- [FINRA Report on Cybersecurity Practices \(December 2018\)](#)

#### **FINRA Warns Firms of Regulator Impersonators**

Recently, FINRA has received reports of member firms receiving telephone calls from persons claiming to work for FINRA in an attempt to deceive firms into revealing confidential information. FINRA is notifying firms that these individuals may be impersonators. Firms that receive telephone calls or emails purportedly from someone at FINRA requesting any type of information—confidential or otherwise—should use caution and verify the identity of the caller or sender before providing any information or responding to an email.

- [FINRA Information Notice \(July 13, 2018\)](#): FINRA Warns Firms of Regulator Impersonators

#### **SEC Investor Bulletin**

The SEC's Office of Investor Education and Advocacy issued this Investor Bulletin to help investors protect their online investment accounts from fraud. As with all web-based accounts, investors should take precautions to help ensure that their online investment accounts remain secure. These online security tips can help.

- [SEC Investor Bulletin](#): Protecting Your Online Accounts from Fraud (April 26, 2017)



## **A Small Entity Compliance Guide: Final Model Privacy Form Under the Gramm-Leach-Bliley Act**

The model privacy form is designed to make it easier for consumers to understand how financial institutions collect and share their personal financial information and to compare different institutions' information practices. For a guide to implementing these procedures visit: <https://www.sec.gov>.

## **Resources**

### **FINRA Cybersecurity Topic Page**

Given the evolving nature, increasing frequency, and sophistication of cybersecurity attacks – as well as the potential for harm to investors, firms, and the markets – cybersecurity practices are a key focus for FINRA. Visit the link below for more information on related rules, notices, guidance, news and investor education

- [FINRA Topic Page: Cybersecurity](#)

\* \* \* \* \*

## **DISPUTE RESOLUTION**

### **General**

#### **(New) Membership Application Program**

FINRA amended its Membership Application Program (MAP) rules to create further incentives for the timely payment of arbitration awards by preventing an individual from switching firms, or a firm from using asset transfers or similar transactions, to avoid payment of arbitration awards. The amendments will address situations where: (1) a FINRA member firm hires individuals with pending arbitration claims, where there are concerns about the payment of those claims should they go to award or result in a settlement, and the supervision of those individuals; and (2) a member firm with substantial arbitration claims seeks to avoid payment of the claims should they go to award or result in a settlement by shifting its assets, which are typically customer accounts, or its managers and owners, to another firm and closing down. These changes become effective on September 14, 2020.

- [FINRA Regulatory Notice 20-15 \(May 21, 2020\)](#): FINRA Amends Rules Governing Application Program to Incentivize Payment of Arbitration Awards



### **(New) Inactive Members and Associated Persons in Arbitration**

FINRA amended its Code of Arbitration Procedure for Customer Disputes (Customer Code) to expand a customer's options to withdraw an arbitration claim if a member firm or an associated person becomes inactive. These amendments also allow customers to amend pleadings, postpone hearings, request default proceedings and receive a refund of filing fees in these situations.

- [FINRA Regulatory Notice 20-11 \(April 9, 2020\)](#): FINRA Amends Arbitration Code to Expand Options Available to Customers if a Firm or Associated Person Becomes Inactive

### **Simplified Arbitration**

FINRA amended its rules to provide a new option for simplified arbitration. The amendments provide an additional hearing option for parties in arbitration with claims of \$50,000 or less, excluding interest and expenses. The amendments became effective on September 17, 2018.

- [FINRA Regulatory Notice 18-21 \(July 23, 2018\)](#): SEC Approves Amendments to Arbitration Codes to Provide an Additional Hearing Option in Simplified Arbitration

\* \* \* \* \*

## **DUTIES AND CONFLICTS**

### **Conflicts of Interest**

#### **FINRA Report on Conflicts of Interest**

In 2013, FINRA published a Report on Conflicts of Interest on conflicts of interest in the broker-dealer industry to highlight effective conflicts management practices that may go beyond current regulatory requirements and identify potential problem areas. To help firms analyze the conflicts they face and implement a conflicts management framework appropriate to the size and scope of their business, the Report includes examples of how some large broker-dealer firms address conflicts. These practices—as well as those that are based on FINRA's experience and analysis—can help firms of all sizes improve their conflicts management practices. Of course, there is no one-size-fits-all framework. Firms need to assess the approach that is most effective for their particular circumstances.

- [FINRA Report on Conflicts of Interest \(October 2013\)](#): FINRA published a Report on Conflicts of Interest in the broker-dealer industry to highlight effective conflicts management practices



## FINRA Topic Page: [Conflicts of Interest](#)

### **General**

#### **Disclosure of Hedging by Employees, Officers and Directors**

The SEC adopted a rule to implement a provision of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The new rule requires a company to describe any practices or policies it has adopted regarding the ability of its employees (including officers) or directors to purchase financial instruments, or otherwise engage in transactions, that hedge or offset, or are designed to hedge or offset, any decrease in the market value of equity securities granted as compensation, or held directly or indirectly by the employee or director. The new rule requires a company to describe the practices or policies and the categories of persons they affect. If a company does not have any such practices or policies, the company must disclose that fact or state that hedging transactions are generally permitted. The new disclosure is required in a proxy statement or information statement relating to an election of directors. The rule became effective on March 8, 2019.

- [Securities and Exchange Commission Release No. 33-10593 \(December 20, 2018\), 84 FR 2402 \(February 6, 2019\)](#): Disclosure of Hedging by Employees, Officers and Directors

#### **Senior Designations**

FINRA reminds firms of their supervisory obligations regarding the use of certifications and designations that imply expertise, certification, training or specialty in advising senior investors (senior designations). Regulatory Notice 11-52 outlines findings from a survey of firms and highlights sound practices used by firms with respect to senior designations. Firms are encouraged to adopt the practices that are outlined in this Notice to strengthen their own supervisory procedures, as appropriate to their business.

- [FINRA Regulatory Notice 11-52 \(November 2011\)](#): FINRA Reminds Firms of Their Obligations Regarding the Supervision of Registered Persons Using Senior Designations
- [Professional Designations Database](#): Use this tool to decode the letters that sometimes follow a financial professional's name and see whether the issuing organization requires continuing education, takes complaints or has a way to confirm who holds the credential.



## **Political Contributions**

### **FINRA “Pay-To-Play” and Related Rules**

The SEC approved FINRA Rules 2030 (Engaging in Distribution and Solicitation Activities with Government Entities) and 4580 (Books and Records Requirements for Government Distribution and Solicitation Activities) to establish “pay-to-play” and related rules regulating the activities of member firms that engage in distribution or solicitation activities for compensation with government entities on behalf of investment advisers. The rules became effective on August 20, 2017.

- [FINRA Regulatory Notice 16-40 \(October 2016\)](#): SEC Approves FINRA “Pay-To-Play” and Related Rules

## **Recordkeeping**

### **Custodian of Books and Records**

The SEC approved a proposed rule change to amend FINRA Rule 4570 (Custodian of Books and Records) to: (1) provide a member firm that is filing a Form BDW (Uniform Request for Broker-Dealer Withdrawal) the option of designating another FINRA member firm as the custodian of its books and records on the form; (2) clarify the obligations of the designated custodian; and (3) require the designated custodian to consent to act in such a capacity. These changes became effective on August 19, 2019.

- [FINRA Regulatory Notice 19-16 \(April 22, 2019\)](#): SEC Approves Amendments to FINRA Rule 4570

### **Third-Party Recordkeeping Services**

This Notice provides firms with information regarding recent guidance issued by SEC staff regarding the use of recordkeeping services provided by third parties to preserve records pursuant to SEA Section 17(a) and SEA Rule 17a-4.

- [FINRA Regulatory Notice 18-31 \(September 14, 2018\)](#): SEC Staff Issues Guidance on Third-Party Recordkeeping Services

## **Supervision**

### **FINRA Supervision Topic Page**

This site highlights FINRA rules 3110, 3120, and 3130 on supervisory procedures. It also contains links to related notices, guidance, news, and investor education.



- [FINRA Topic Page: Supervision](#)

### **Heightened Supervision**

FINRA is reminding member firms of their supervisory obligations regarding associated persons with a history of past misconduct that may pose a risk to investors. FINRA Rule 3110 (Supervision) requires member firms to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and FINRA rules. An effective supervisory system plays an essential role in the prevention of sales abuses, and thus enhances investor protection and market integrity. As such, FINRA has long emphasized that member firms have a fundamental obligation to implement a supervisory system that is tailored specifically to the member firm's business and addresses the activities of its associated persons. The notice highlights particular instances where heightened supervision of an associated person may be appropriate. FINRA is encouraging firms to adopt the practices that are outlined in the Notice to strengthen their own supervisory procedures, as appropriate to their business.

- [FINRA Regulatory Notice 18-15 \(April 30, 2018\)](#): Heightened Supervision, Guidance on Implementing Effective Heightened Supervisory Procedures for Associated Persons With a History of Past Misconduct

\* \* \* \* \*

## **EQUITIES**

### **Algorithmic Trading**

#### **Equity Trading Initiatives: Supervision and Control Practices for Algorithmic Trading Strategies**

As algorithmic trading strategies, including high frequency trading strategies, have grown to compose a substantial portion of activity on U.S. securities markets, the potential for these strategies to adversely impact market and firm stability has likewise grown. Although a reasonable supervision and control program may not foresee every potential failure or prevent every undesirable consequence, in an effort to reduce the future occurrence of such potential issues, FINRA is providing guidance on effective supervision and control practices for member firms and market participants that use algorithmic strategies. These effective practices focus on five general areas: General Risk Assessment and Response; Software/Code Development and Implementation; Software Testing and System Validation; Trading Systems; and Compliance.



- [FINRA Regulatory Notice 15-09 \(March 2015\)](#): Guidance on Effective Supervision and Control Practices for Firms Engaging in Algorithmic Trading Strategies

**FINRA Topic Page:** [Algorithmic Trading](#)

## **Execution**

### **Best Execution Rule**

In light of the increasingly automated market for equity securities and standardized options, and recent advances in trading technology and communications in the fixed income markets, FINRA reiterates the best execution obligations that apply when firms receive, handle, route or execute customer orders in equities, options and fixed income securities. FINRA reminds firms of their obligations, as previously articulated by the SEC and FINRA, to regularly and rigorously examine execution quality likely to be obtained from the different markets trading a security.

- [FINRA Regulatory Notice 15-46 \(November 2015\)](#): Guidance on Best Execution Obligations in Equity, Options and Fixed Income Markets

## **General**

### **Understanding Short Sale Volume Data on FINRA's Website**

This Notice provides information to assist market participants in understanding the short sale volume data published on FINRA's website. FINRA is aware that some market participants, including investors, may occasionally perceive the percentage of short sale volume to be unusually high or inconsistent with reported short interest data. This perception may cause market participants to draw inaccurate conclusions about the level or nature of short selling activity in the relevant security. FINRA is issuing this Notice to further explain the published short sale volume data and provide several key points for market participants to consider when evaluating the data.

- [FINRA Information Notice \(May 10, 2019\)](#): FINRA Provides Guidance to Firms Regarding Suspicious Activity Monitoring and Reporting Obligations

\* \* \* \* \*



## **FINANCIAL RESPONSIBILITY RULES FOR BROKER-DEALERS**

### **(New) Amendments to Financial Disclosures about Acquired and Disposed Businesses**

The SEC is adopting amendments to their rules and forms to improve their application, assist registrants in making more meaningful determinations of whether a subsidiary or an acquired or disposed business is significant, and to improve the disclosure requirements for financial statements relating to acquisitions and dispositions of businesses, including real estate operations and investment companies. The changes are intended to improve for investors the financial information about acquired or disposed businesses, facilitate more timely access to capital, and reduce the complexity and costs to prepare the disclosure.

- [Securities Exchange Act Release No. 33-10786 \(May 20, 2020\), \(File No. S7-05-19; Final Rule\)](#): Amendments to Financial Disclosures about Acquired and Disposed Businesses

### **(New) FINRA Announces Update of the Interpretations of Financial and Operational Rules**

FINRA is updating the text of the Securities Exchange Act (SEA) financial responsibility rules in the Interpretations of Financial and Operational Rules to reflect the effectiveness of a rule change that the SEC adopted. The SEC's rule change, amending paragraph (e)(1)(i)(A) of SEA Rule 17a-5, relates to a specified exemption with regard to the annual reporting requirement for a broker-dealer whose securities business has been limited to acting as broker (agent) for a single issuer in soliciting subscriptions for securities of that issuer.

- [FINRA Regulatory Notice 20-06 \(February 25, 2020\)](#): FINRA Announces Update of the Interpretations of Financial and Operational Rules

### **Risk Mitigation Techniques for Uncleared Security-Based Swaps**

The SEC is adopting final rules requiring the application of specific risk mitigation techniques to portfolios of uncleared security-based swaps. In particular, these final rules establish requirements for each registered security-based swap dealer and each registered major security-based swap participant with respect to, among other things, reconciling outstanding security-based swaps with applicable counterparties on a periodic basis, engaging in certain forms of portfolio compression exercises, as appropriate, and executing written security-



based swap trading relationship documentation with each of its counterparties prior to, or contemporaneously with, executing a security-based swap transaction. In addition, the Commission is issuing an interpretation addressing the application of the portfolio reconciliation, portfolio compression, and trading relationship documentation requirements to cross-border security-based swap activities and is amending Rule 3a71-6 to address the potential availability of substituted compliance in connection with those requirements. Lastly, the final rules include corresponding amendments to the recordkeeping, reporting, and notification requirements applicable to SBS Entities.

- [Securities Exchange Act Release No. 34-87782 \(December 18, 2019\), 85 FR 6359 \(February 4, 2020\) \(File No. S7-28-18; Final Rule\)](#): Risk Mitigation Techniques for Uncleared Security-Based Swaps
- [Securities Exchange Act Release No. 34-87780 \(December 18, 2019\), 85 FR 6270 \(February 4, 2020\) \(File No. S7-07-19; Final Rules; Guidance\)](#): Cross-Border Application of Certain Security-Based Swap Requirements

### **Capital, Margin, and Segregation Requirements**

In accordance with the Dodd-Frank Act, the SEC, pursuant to the Securities Exchange Act of 1934 (Exchange Act), is adopting capital and margin requirements for security-based swap dealers (SBSDs) and major security-based swap participants (MSBSPs), segregation requirements for SBSBs, and notification requirements with respect to segregation for SBSBs and MSBSPs. The Commission also is increasing the minimum net capital requirements for broker-dealers authorized to use internal models to compute net capital (“A NC broker-dealers”), and prescribing certain capital and segregation requirements for broker-dealers that are not SBSBs to the extent they engage in security-based-swap and swap activity. The Commission also is making substituted compliance available with respect to capital and margin requirements under Section 15F of the Exchange Act and the rules thereunder and adopting a rule that specifies when a foreign SBSB or foreign MSBSP need not comply with the segregation requirements of Section 3E of the Exchange Act and the rules thereunder. The effective date was October 21, 2019.

- [Securities Exchange Act Release No. 34-86175 \(June 21, 2019\), 84 FR 43872 \(August 22, 2019\) \(File No. S7-08-12; Final Rule\)](#): Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital and Segregation Requirements for Broker-Dealers



### **SEC Financial Responsibility Rules**

The SEC staff communicates and issues oral and written interpretations to the financial responsibility and operational rules, which FINRA publishes on the [Interpretations of Financial and Operational Rules](#) page on the FINRA website. FINRA has published a number of Regulatory Notices announcing updates to the interpretations to reflect the addition, revision or rescission of specified interpretations, including among other things updates to reflect the effectiveness of the new rule amendments.

- [FINRA Regulatory Notice 19-11 \(April 9, 2019\)](#): FINRA Announces Update of the Interpretations of Financial and Operational Rules

### **Guidance on FOCUS Reporting for Operating Leases**

In October 2018, the staff of the SEC Division of Trading and Markets (the SEC staff) issued no-action relief<sup>1</sup> (the no-action relief letter) regarding the treatment of operating leases under SEA Rule 15c3-1 (Rule 15c3-1) in connection with the Financial Accounting Standards Board's (FASB) Accounting Standards Update for Leases (the Lease Accounting Update). Based on discussions with the SEC staff, and in response to member inquiries, FINRA is issuing this Notice to provide guidance to members for reporting lease assets and lease liabilities on their FOCUS reports. Members should apply the guidance in this Notice going forward when preparing their FOCUS reports. Members are not required to refile any FOCUS reports that they have already submitted to comply with this guidance.

- [FINRA Regulatory Notice 19-08 \(March, 2019\)](#): Guidance on FOCUS Reporting for Operating Leases

### **Liquidity Risk Management Practices**

Effective liquidity management is a critical control function at broker-dealers and across firms in the financial sector. Failure to manage liquidity has contributed to both individual firm failures and, when widespread, systemic crises. From an investor protection perspective, sound liquidity risk management practices enhance investor protection because they make it more likely that a firm's customers continue to have prompt access to their assets, even in times of stress.

FINRA is providing guidance on effective practices that senior management and risk managers at firms should consider and implement. Regulatory Notice 15-33 is directed to firms that hold inventory positions or clear and carry customer transactions. Other types of broker-dealers may also find the Notice is of value to them when assessing their own liquidity risks.



- [FINRA Regulatory Notice 15-33 \(September 2015\)](#): Guidance on Liquidity Risk Management Practices

\* \* \* \* \*

## **FIXED INCOME**

### **General**

#### **(New) Financial Disclosures about Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant's Securities**

The SEC is adopting amendments to the financial disclosure requirements for guarantors and issuers of guaranteed securities registered or being registered, and issuers' affiliates whose securities collateralize securities registered or being registered in Regulation S-X to improve those requirements for both investors and registrants. The changes are intended to provide investors with material information given the specific facts and circumstances, make the disclosures easier to understand, and reduce the costs and burdens to registrants. In addition, by reducing the costs and burdens of compliance, issuers may be encouraged to offer guaranteed or collateralized securities on a registered basis, thereby affording investors protection they may not be provided in offerings conducted on an unregistered basis. Finally, by making it less burdensome and less costly for issuers to include guarantees or pledges of affiliate securities as collateral when they structure debt offerings, the revisions may increase the number of registered offerings that include these credit enhancements, which could result in a lower cost of capital and an increased level of investor protection.

- [SEC Release No. 33-10762 \(March 2, 2020\), 85 FR 21940 \(April 20, 2020\) \(File No. S7-19-18; Final Rule\)](#): Financial Disclosures about Guarantors and Issuers of Guaranteed Securities and Affiliates Whose Securities Collateralize a Registrant's Securities

#### **Pricing Disclosure in the Fixed Income Markets**

Effective May 14, 2018, members are subject to new disclosure requirements, set out in Rule 2232, for corporate and agency debt securities concerning confirmation disclosure of mark-ups and mark-downs, time of execution, and a security-specific URL for webpages that contain relevant information about the traded securities. The new requirements, approved by the Securities and



Exchange Commission in November 2016, require member firms to disclose additional transaction-related information to retail customers for trades in certain fixed income securities.

- [FINRA Regulatory Notice 17-24 \(July 2017\)](#): FINRA Issues Guidance on the Enhanced Confirmation Disclosure Requirements in Rule 2232 for Corporate and Agency Debt Securities
- [Fixed Income Confirmation Disclosure](#): Frequently Asked Questions

### **Best Execution Rule**

In light of the increasingly automated market for equity securities and standardized options, and recent advances in trading technology and communications in the fixed income markets, FINRA reiterates the best execution obligations that apply when firms receive, handle, route or execute customer orders in equities, options and fixed income securities. FINRA reminds firms of their obligations, as previously articulated by the SEC and FINRA, to regularly and rigorously examine execution quality likely to be obtained from the different markets trading a security.

- [FINRA Regulatory Notice 15-46 \(November 2015\)](#): Guidance on Best Execution Obligations in Equity, Options and Fixed Income Markets

### **Supervision**

#### **Municipal Advisors**

FINRA is issuing this Notice to remind member firms of their supervisory obligations under FINRA Rules 3110 (Supervision) and 3120 (Supervisory Control System) if they hold or transact in customer accounts owned by municipal entities or obligated persons (municipal clients), as defined in Section 15B of the Securities Exchange Act of 1934 (Exchange Act), and participate in investment-related activities with municipal clients, such as recommending or selling non-municipal securities products to such municipal clients. Under these circumstances, member firms are obligated to determine if such activities require registration as a municipal advisor.

- [FINRA Regulatory Notice 19-28 \(August 16, 2019\)](#): Guidance Regarding Member Firms' Supervisory Obligations When Participating in Investment-Related Activities with Municipal Clients

\* \* \* \* \*



## **INVESTMENT BANKING**

### **Funding Portals**

Before applying to become a funding portal member, it is important that you fully understand all of FINRA's requirements for funding portals. We recommend that you read this section of FINRA.org thoroughly, as well as the FINRA Funding Portal Rules and the SEC's Regulation Crowdfunding.

**FINRA Topic Page:** [Funding Portals](#)

### **Private Placements**

#### **OTC Quotations in Foreign Private Issues**

In consultation with the staff of the SEC, FINRA is issuing this Notice to remind firms of their obligations under Securities Exchange Act (SEA) Rule 15c2-11 and FINRA Rule 6432 (Compliance with the Information Requirements of Rule 15c2-11) regarding quotations in the securities of foreign private issuers that rely on SEA Rule 12g3-2(b). Specifically, we are reminding firms that Rule 15c2-11(a)(4) requires that they make paragraph (a)(4) information reasonably available upon request to any person expressing an interest in a transaction involving the security, such as by providing the requesting person with appropriate instructions regarding how to obtain the information electronically. Firms cannot comply with this requirement by directing customers to an issuer's website if, by its terms, the website restricts access by U.S. persons to the paragraph (a)(4) information.

• [FINRA Regulatory Notice 19-09 \(March 20, 2019\)](#): FINRA Reminds Firms of their Obligations Under SEC Rule 15c2-11(A)(4)

**FINRA Topic Page:** [Private Placements](#)

### **Public Offerings**

#### **(New) FINRA Amends the FINRA Corporate Financing Rule**

FINRA has amended its Rule 5110 (Corporate Financing Rule – Underwriting Terms and Arrangements) to make substantive, organizational and terminology changes to the rule. The amendments to Rule 5110 modernize, simplify and clarify its provisions while maintaining important protections for market participants, including issuers and investors participating in public offerings. The implementation date for amended Rule 5110(a)(3)(A), (a)(4)(A) (ii) and



(a)(4)(A)(iii) is March 20, 2020. The implementation date for all other provisions in amended Rule 5110 is September 16, 2020.

- [FINRA Regulatory Notice 20-10 \(March 20, 2020\)](#): FINRA Amends the FINRA Corporate Financing Rule

### **Amendments to FINRA Rules 5130 and 5131 Relating to Equity IPOs**

The SEC approved a rule change to amend FINRA Rule 5130 (Restrictions on the Purchase and Sale of Initial Equity Public Offerings) and FINRA Rule 5131 (New Issue Allocations and Distributions) to modify the rules to enhance regulatory consistency and address unintended operational impediments. These changes became effective on January 1, 2020.

- [FINRA Regulatory Notice 19-37 \(December 19, 2019\)](#): SEC Approves Amendments to FINRA Rules 5130 and 5131 Relating to Equity IPOs

### **Solicitations of Interest Prior to a Registered Public Offering**

The SEC is adopting a new communications rule under the Securities Act of 1933 that permits issuers to engage in oral or written communications with certain potential investors, either prior to or following the filing of a registration statement, to determine whether such investors might have an interest in a contemplated registered securities offering. The effective date was December 3, 2019.

- [SEC Release No. 33-10699 \(September 25, 2019\), 84 FR 53011 \(October 4, 2019\) \(File No. S7-01-19; Final Rule\)](#): Solicitations of Interest Prior to a Registered Public Offering

### **Regulation A Offerings**

FINRA issued guidance regarding the FINRA filing requirements and review procedures that apply to firms that participate in Regulation A+ offerings. Specifically, FINRA's Corporate Financing Rules require firms that participate in Regulation A+ offerings to file with FINRA information specified in the rules. FINRA's Communications with the Public Rule and its Suitability Rule also apply to a firm's participation in these offerings. FINRA also reminds firms that communications with the public concerning a Regulation A+ offering of direct participation program securities must be filed with FINRA.

- [FINRA Regulatory Notice 15-32 \(September 2015\)](#): FINRA Filing Requirements and Review of Regulation A Offerings



FINRA Topic Page: [Public Offerings](#)

## **Supervision**

### **Insider Trading**

FINRA Rule 3110 (Supervision) includes a provision to help firms comply with their obligation under Section 15(g) of the Securities Exchange Act of 1934 to have policies and procedures in place reasonably designed to prevent potential insider trading. Rule 3110(d) requires that firms include in their supervisory procedures a process for reviewing securities transactions in certain types of accounts that is reasonably designed to identify trades that may violate insider trading prohibitions. When implementing these policies and procedures, firms may take a risk-based approach to monitoring transactions that takes into account their specific business models, and firms are encouraged to tailor their policies and procedures to their specific business models.

- [FINRA Regulatory Notice 14-10 \(March 2014\)](#): SEC Approves New Supervision Rules
- [SEC Fast Answers: Insider Trading](#)
- [Insider Trading “Red Flags” and Filing a Tip with FINRA](#)

\* \* \* \* \*

## **MARGIN**

### **Exchange-Traded Notes**

Pursuant to FINRA Rule 4210(f)(8)(A), FINRA is establishing higher strategy based margin requirements for exchange-traded notes (ETNs) and options on ETNs in light of the complex nature of these products. The new requirements for initial and maintenance margin are detailed in the regulatory notice. In addition, FINRA is clarifying that ETNs and options on ETNs are not eligible for portfolio margining under FINRA Rule 4210(g). If these measures would result in undue hardship to a firm or its customers, the firm may submit a written request to FINRA for additional time to comply with this Notice.

- [FINRA Regulatory Notice 19-21 \(July 1, 2019\)](#): Margin Requirements for Exchange-Traded Notes



### **Covered Agency Transactions**

The SEC approved an amendment to FINRA Rule 4210 to establish margin requirements for Covered Agency Transactions. Covered Agency Transactions include (1) To Be Announced transactions, inclusive of adjustable rate mortgage transactions, (2) Specified Pool Transactions and (3) transactions in Collateralized Mortgage Obligations, issued in conformity with a program of an agency or Government-Sponsored Enterprise, with forward settlement dates, as discussed more fully in Regulatory Notice 16-31. To assist members in complying with the rule change, FINRA has made available a set of frequently asked questions and guidance. In addition, FINRA is extending, to March 25, 2020, the effective date of the requirements that otherwise would have become effective on June 25, 2018. Members should note that the risk limit determination requirements became effective on December 15, 2016, and are not affected by this Notice.

- [FINRA Regulatory Notice 19-05 \(February 12, 2019\)](#): FINRA Extends Effective Date of Margin Requirements for Covered Agency Transactions
- [FINRA Regulatory Notice 17-28 \(September 2017\)](#): FINRA Makes Available Frequently Asked Questions and Guidance and Extends Effective Date of Margin Requirements for Covered Agency Transactions
- [Responses to Frequently Asked Questions Regarding Covered Agency Transactions Under FINRA Rule 4210 \(Updated September 26, 2017\)](#)
- [FINRA Regulatory Notice 16-31 \(August 2016\)](#): SEC Approves Amendments to FINRA Rule 4210 (Margin Requirements) to Establish Margin Requirements for Covered Agency Transactions

**FINRA Topic Page:** [Margin Accounts and Requirements](#)

\* \* \* \* \*

## **MUNICIPAL SECURITIES**

### **General**

#### **Obligations of Senior Syndicate Managers Utilizing Electronic Communications**

In November 1998, the MSRB published an interpretation about the use of electronic media to deliver and receive information by brokers, dealers and municipal securities dealers under Board rules (the “1998 Interpretation”). The 1998 Interpretation addresses how dealers may use electronic media to satisfy their delivery obligations under MSRB rules, including communications among



dealers and between dealers and issuers. It states, “. . . a dealer that undertakes communications required under Board rules with other dealers and with issuers in a manner that conforms with the principles stated [in the 1998 Interpretation] relating to customer communications will have met its obligations with respect to such communications.” The MSRB wishes to remind dealers of the 1998 Interpretation, particularly in light of the January 13, 2020 compliance date for certain amendments to MSRB Rule G-11, on primary offering practices.

- [MSRB Regulatory Notice 2020-01 \(January 6, 2020\)](#): Obligations of Senior Syndicate Managers Utilizing Electronic Communications

### **Amendments to Underwriters’ Fair Dealing Obligations to Issuers Under Rule G-17**

The MSRB established a compliance date of November 30, 2020 for its amended and restated guidance regarding the fair dealing obligations underwriters owe to issuers of municipal securities under MSRB Rule G-17, on conduct of municipal securities and municipal advisory activities (the “Revised Interpretive Notice”). The SEC approved the Revised Interpretive Notice on November 6, 2019. The Revised Interpretive Notice incorporates various amendments to the MSRB’s 2012 Interpretive Notice. The MSRB reminds brokers, dealers and municipal securities dealers these amendments and encourages them to review the Revised Interpretive Notice in its entirety in advance of the November 30, 2020 compliance date.

- [MSRB Regulatory Notice 2020-03 \(January 31, 2020\)](#): MSRB Establishes Compliance Date for Revised Interpretive Notice of Underwriters’ Fair Dealing Obligations to Issuers
- [MSRB Regulatory Notice 2019-20 \(November 8, 2019\)](#): SEC Approves Amendments to Underwriters’ Fair Dealing Obligations to Issuers Under Rule G-17

### **Municipal Advisors**

FINRA is issuing this Notice to remind member firms of their supervisory obligations under FINRA Rules 3110 (Supervision) and 3120 (Supervisory Control System) if they hold or transact in customer accounts owned by municipal entities or obligated persons (municipal clients), as defined in Section 15B of the Securities Exchange Act of 1934 (Exchange Act), and participate in investment-related activities with municipal clients, such as recommending or selling non-municipal securities products to such municipal clients. Under these circumstances, member firms are obligated to determine if such activities require registration as a municipal advisor.



- [FINRA Regulatory Notice 19-28 \(August 16, 2019\)](#): Guidance Regarding Member Firms' Supervisory Obligations When Participating in Investment-Related Activities with Municipal Clients

### **SEC Approves Amendments to MSRB Rules and Data Collection Related to Primary Offering Practices**

The MSRB received approval from the SEC on June 27, 2019 of amendments to MSRB Rule G-11, on primary offering practices, MSRB Rule G-32, on disclosures in connection with primary offerings and MSRB Form G-32, regarding a collection of data elements provided in electronic format to the Electronic Municipal Market Access Dataport (EMMA® Dataport) system in connection with primary offerings. The compliance date for the amendments to Rule G-11 and Rule G-32 became effective on January 13, 2020.

- [MSRB Regulatory Notice 2019-15 \(June 28, 2019\)](#): SEC Approves Amendments to MSRB Rules and Data Collection Related to Primary Offering Practices

### **Advertising Rule Changes for Brokers, Dealers and Municipal Securities Dealers**

The MSRB received approval from the SEC on May 7, 2018 to amend MSRB Rule G-21, on advertising by brokers, dealers or municipal securities dealers, and to adopt new MSRB Rule G-40, on advertising by municipal advisors. The SEC also approved a technical amendment to MSRB Rule G-42, on duties of non-solicitor municipal advisors. With these rule changes, as well as the previously announced development of the municipal advisor principal examination (Series 54), the MSRB, in the exercise of authority granted by the Dodd-Frank Wall Street Reform and Consumer Protection Act, has completed the core of its Congressionally mandated comprehensive regulatory framework for municipal advisors. The effective date for the amendments was August 23, 2019.

- [MSRB Information Notice 2019-07 \(February 26, 2019\)](#): MSRB Establishes Effective Date for Advertising Rules and Provides Social Media Guidance and Related Rule Amendments

As referenced in MSRB Notice 2019-07, the following revised compliance resource is designed to provide practical assistance to municipal advisors with their understanding of Rule G-40's content standards through the analysis of mock advertisements. The MSRB derived the principles discussed in this compliance resource from Rule G-40 and its related rulemaking record, and this



compliance resource should be read in conjunction with Rule G-40 and its related guidance. The compliance resource does not create new legal or regulatory requirements or new interpretations of existing requirements. The MSRB does not intend for this compliance resource to be interpreted by municipal advisors or examining authorities as establishing new standards of conduct.

- [MSRB Regulatory Notice 2018-32 \(December 19, 2018\)](#): MSRB Provides Compliance Resource on Application of Content Standards to Advertisements by Municipal Advisors Under MSRB Rule G-40

### **Best Execution Rule**

The MSRB is adopting clarifying amendments to implementation guidance on Rule G-18, on best execution. The Implementation Guidance primarily provides answers to frequently-asked questions (FAQs) about Rule G-18. Since the MSRB's best execution requirements became effective in 2016, some market participants have communicated to the MSRB that the practice of posting the same bid-wanted for a municipal security simultaneously on multiple trading platforms may have harmful effects on dealers, investors and the market as a whole while not necessarily achieving improved execution for customers. While the posting of bid-wanted simultaneously on multiple trading platforms is not prohibited by MSRB rules and may be considered by dealers under prevailing facts and circumstances to be consistent with their best-execution obligations and beneficial to their customers, the MSRB has stated previously, including in the Implementation Guidance, that such simultaneous posting is not required.

- [MSRB Regulatory Notice 2019-05 \(February 7, 2019\)](#): MSRB Amends Implementation Guidance On MSRB Rule G-18, On Best Execution

In light of the increasingly automated market for equity securities and standardized options, and recent advances in trading technology and communications in the fixed income markets, FINRA is issuing this Notice to reiterate the best execution obligations that apply when firms receive, handle, route or execute customer orders in equities, options and fixed income securities. FINRA is also issuing this Notice to remind firms of their obligations, as previously articulated by the Securities and Exchange Commission (SEC) and FINRA, to regularly and rigorously examine execution quality likely to be obtained from the different markets trading a security.

- [FINRA Regulatory Notice 15-46 \(November 2015\)](#): Guidance on Best Execution Obligations in Equity, Options and Fixed Income Markets



### **Frequently Asked Questions Regarding Use of Municipal Advisory Client Lists and Case Studies Under MSRB Rule G-40**

The MSRB's FAQs described in the Notice below provide further explanation of Rule G-40, particularly with respect to a municipal advisor's use of municipal advisory client lists and case studies. The MSRB derived the principles discussed in these FAQs from Rule G-40 and its related rulemaking record, and these FAQs should be read in conjunction with Rule G-40 and related guidance. These FAQs do not create new legal or regulatory requirements. The MSRB does not intend for these FAQs to be interpreted by municipal advisors or examining authorities as establishing new standards of conduct.

- [MSRB Regulatory Notice 2018-24 \(September 17, 2018\)](#): MSRB Answers FAQs Regarding Use of Municipal Advisory Client Lists and Case Studies Under MSRB Rule G-40

### **Compliance Advisory for Municipal Advisors**

The MSRB is providing this Compliance Advisory as a compliance resource to assist municipal advisors in their continuing compliance efforts. This Compliance Advisory highlights certain MSRB rules and provides considerations a municipal advisor could use in assessing its own policies and procedures for compliance with the applicable rules. This Compliance Advisory is not designed to address all regulatory obligations applicable to municipal advisors pursuant to each MSRB rule or under other securities laws and regulations ("applicable rules") or identify an exhaustive list of considerations for ensuring compliance with the applicable rules. This resource should be read in conjunction with the relevant rules and related guidance. It does not create new legal or regulatory requirements, or new interpretations of existing requirements, and should not be interpreted as establishing new standards of conduct.

- [MSRB Regulatory Notice 2018-18 \(August 14, 2018\)](#): Compliance Advisory for Municipal Advisors

### **Investor Education Resources on New Mark-Up Disclosure Requirements**

On April 4, 2018, to support investor awareness and understanding of information about mark-up and mark-down disclosures that will begin appearing on certain municipal securities trade confirmations, the MSRB made available new and updated investor education resources. Brokers, dealers and municipal securities dealers, particularly retail broker networks, that work with individual investors, may find the documents helpful as they adapt to the new disclosure standard.



- [MSRB Regulatory Notice 2018-06 \(April 4, 2018\)](#): MSRB Provides Investor Education Resources on New Mark-Up Disclosure Requirements

### **Disclosure Requirements Under MSRB Rule G-15 And Prevailing Market Price Guidance Pursuant To Rule G-30**

Effective May 14, 2018, amendments to MSRB Rule G-15, on confirmation, clearance and other matters require brokers, dealers and municipal securities dealers to disclose additional information, including their mark-ups and mark-downs to retail customers on certain principal transactions. In addition, amendments to Rule G-30, on prices and commissions, provide guidance on prevailing market price for the purpose of determining mark-ups and other Rule G-30 determinations. These amendments enhance transparency for retail investors as to the costs of their transactions in municipal securities and provide them with valuable access to pricing and related information about their municipal securities.

- [MSRB Notice 2018-05 \(March 19, 2018\)](#): MSRB Provides New and Updated FAQs on Confirmation Disclosure and Prevailing Market Price
- [MSRB Regulatory Notice 2017-12 \(May 17, 2017\)](#): MSRB Provides Implementation Guidance on Confirmation Disclosure and Prevailing Market Price
- [MSRB Notice 2016-28 \(November 29, 2016\)](#): New Disclosure Requirements Under MSRB Rule G-15 and Prevailing Market Price Guidance Pursuant to Rule G-30 Effective May 14, 2018

### **Municipal Fund Security Product Advertisements**

The SEC approved amendments to MSRB Rule G-21(e), on municipal fund security product advertisements by brokers, dealers and municipal securities dealers. The amendments address important regulatory developments and enhance investor protection in connection with municipal fund security product advertisements. The amendments became effective on November 18, 2017.

- [MSRB Regulatory Notice 2017-16 \(August 21, 2017\)](#): SEC Approves Amendments to the MSRB's Rule on Municipal Fund Security Product Advertisements

### **Registration**

#### **MSRB to Launch Permanent Series 54 Examination November 12, 2019**

The MSRB permanent Municipal Advisor Principal Qualification Examination (Series 54) is now available. As provided for under MSRB Rule G-3, municipal



advisor principals are required to take and pass the Series 54 examination in order to become appropriately qualified to engage in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons. To facilitate the transition to the new exam requirement, the MSRB is providing a one-year grace period, sunsetting on November 12, 2020, during which individuals qualified with the Series 50 examination will be able to take the Series 54 examination while continuing to engage in principal-level activities. The score required to pass the Series 54 examination is 70 percent.

- [MSRB Regulatory Notice 2019-18 \(October 11, 2019\)](#): MSRB To Launch Permanent Series 54 Examination November 12, 2019
- [MSRB Regulatory Notice 2019-19 \(October 18, 2019\)](#): MSRB Revises Content Outline For The Municipal Advisor Principal Qualification Examination

### **MSRB Revises Content Outlines For Professional Qualifications Exam**

On June 25, 2018, the MSRB filed for immediate effectiveness a proposed rule change with the SEC to revise the content outline and selection specifications for the Municipal Securities Representative Qualification Examination (Series 52 exam) to remove general securities knowledge content as part of the MSRB's modifications to its professional qualification examination program. Additionally, the MSRB proposed revisions to the Municipal Advisor Representative Qualification Examination (Series 50 exam), Municipal Fund Securities Limited Principal Qualification Examination (Series 51 exam) and the Municipal Securities Principal Qualification Examination (Series 53 exam) to reflect changes to laws, rules and regulations covered by the examinations, as applicable, and to make technical amendments to delete or update subject-matter topics and references.

- [MSRB Regulatory Notice 2018-13 \(June 25, 2018\)](#): MSRB Revises Content Outlines for Professional Qualifications Examinations

### **Continuing Education Requirements for Municipal Advisors**

The MSRB received approval from the SEC on May 16, 2017 to amend MSRB Rule G-3, on professional qualification requirements, and amend MSRB Rule G-8, on books and records to be made by brokers, dealers, and municipal securities dealers and municipal advisors, to establish continuing education requirements for municipal advisors and related recordkeeping requirements.

- [MSRB Regulatory Notice 2017-10 \(July 12, 2017\)](#): SEC Approves Continuing Education Requirements for Municipal Advisors



\* \* \* \* \*

## **MUTUAL FUNDS**

FINRA Topic Page: [Mutual Funds](#)

\* \* \* \* \*

## **Obligations to Customers**

### **Regulation Best Interest**

#### **Regulation Best Interest: The Broker-Dealer Standard of Conduct**

This Notice reminds members of the SEC's adoption of a best interest standard of conduct for broker-dealers and a relationship summary (Form CRS) delivery obligation, and provides an SEC email address where members may submit questions about the new requirements. As more fully described below, the SEC encourages firms to actively engage with SEC staff as early as possible as questions arise when planning for implementation. Firms may send their questions by email to [IABDQuestions@sec.gov](mailto:IABDQuestions@sec.gov). FINRA also will assist members in their implementation of the best interest standard in various ways.

- [FINRA Regulatory Notice 19-26 \(August 7, 2019\)](#): SEC Adopts Best Interest Standard of Conduct

The SEC is adopting a new rule, establishing a standard of conduct for broker-dealers and natural persons who are associated persons of a broker-dealer when they make a recommendation to a retail customer of any securities transaction or investment strategy involving securities. Regulation Best Interest enhances the broker-dealer standard of conduct beyond existing suitability obligations, and aligns the standard of conduct with retail customers' reasonable expectations by requiring broker-dealers, among other things, to: (1) act in the best interest of the retail customer at the time the recommendation is made, without placing the financial or other interest of the broker-dealer ahead of the interests of the retail customer; and (2) address conflicts of interest by establishing, maintaining, and enforcing policies and procedures reasonably designed to identify and fully and fairly disclose material facts about conflicts of interest, and in instances where we have determined that disclosure is insufficient to reasonably address the conflict, to mitigate or, in certain instances, eliminate the conflict. The standard of conduct established by Regulation Best Interest cannot be satisfied through disclosure alone. The standard of conduct draws from key principles underlying fiduciary obligations, including those that apply to investment advisers under the Investment Advisers Act of 1940. Importantly, regardless of whether a retail investor chooses a broker-dealer or an investment adviser (or both), the retail



investor will be entitled to a recommendation (from a broker-dealer) or advice (from an investment adviser) that is in the best interest of the retail investor and that does not place the interests of the firm or the financial professional ahead of the interests of the retail investor.

The compliance date for this rule is June 30, 2020.

• [Securities Exchange Act Release No. 86031 \(June 5, 2019\), 84 FR 33318 \(July 12, 2019\) \(File No. S7-07-18; Final Rule\)](#): Regulation Best Interest: The Broker-Dealer Standard of Conduct

**FINRA Topic Page:** [SEC Regulation Best Interest \(Reg BI\)](#)

\* \* \* \* \*

## **OPTIONS**

### **Communications with the Public**

#### **October 2018 Supplement to the Options Disclosure Document**

The SEC approved the October 2018 supplement to the Options Disclosure Document (ODD). The ODD contains general disclosures on the characteristics and risks of trading standardized options. The October 2018 supplement (i) amends and restates in its entirety the April 2015 Supplement, which accommodated foreign index options and certain implied volatility index options; (ii) provides additional contract adjustment disclosures regarding the determination of contract adjustments by OCC rather than adjustment panels and the manner in which certain adjustments may affect an option's value; and (iii) reflects T+2 settlement. As with other supplements to the ODD, this should be read in conjunction with the current ODD, Characteristics and Risks of Standardized Options.

• [FINRA Information Notice \(January 17, 2019\)](#): October 2018 Supplement to the Options Disclosure Document

### **Trading**

#### **(New) Cboe Options Rule 6.9 – In-Kind Exchanges of Options and ETF Shares**

Cboe Exchange, Inc. is issuing this Regulatory Circular to advise Trading Permit Holders (“TPHs”) of the procedures for effecting transfers under Rule 6.9, which



allows for certain off-floor transfers of options positions associated with in-kind exchanges of options and ETF shares.

- [Cboe Regulatory Circular 20-032 \(April 15, 2020\)](#): In-Kind Exchanges of Options and ETF Shares

#### **(New) Cboe Options Rule 6.8 – Off-Floor RWA Transfers**

Cboe Exchange, Inc. is issuing this circular to provide further information with regard to Rule 6.8, which is intended to facilitate the reduction of risk-weighted assets attributable to open positions by permitting certain off-floor transfers. This circular provides an overview of the rule, information on effecting the transfers through The Options Clearing Corporation, and some examples and responses to frequently asked questions.

- [Cboe Regulatory Circular 20-031 \(April 15, 2020\)](#): Off-Floor RWA Transfers

#### **(New) Cboe Options Rule 6.7 – Off-Floor Transfers of Positions**

Cboe Exchange, Inc. is issuing this Regulatory Circular to advise Trading Permit Holders (“TPHs”) that changes to Rule 6.7, which allows for certain off-floor transfers of options positions, were recently approved by the SEC (see approval order for Cboe Options Rule Filing SR-CBOE-2019-035, Amendment 1 and Amendment 2). The criteria and procedures related to off-floor position transfers under Rule 6.7, as amended, are described in this notice.

- [Cboe Regulatory Circular 20-030 \(April 15, 2020\)](#): Off-Floor Transfers of Positions

#### **Prearranged Trades**

Cboe restates its policy concerning prearranged trading. Trading Permit Holders are cautioned that any purchase or sale, transaction or series of transactions, coupled with an agreement, arrangement or understanding, directly or indirectly to reverse such transaction, which is not done for a legitimate economic purpose or without subjecting the transactions to market risk, violates Cboe rules and may be inconsistent with various provisions of the SEA and rules thereunder. All transactions must be effected in accordance with applicable trading rules, subject to risk of the market, and reported for dissemination.

- [Cboe Regulatory Options Circular RG18-050 \(December 27, 2018\)](#): Prearranged Trades



### **Solicited Transactions**

In sum, Cboe Options Rule 6.9, Solicited Transactions: (i) sets forth priority for solicited transactions on the Exchange; and (ii) prohibits Trading Permit Holders (“TPH”) and associated persons from trading based on knowledge of an imminent undisclosed solicited transaction. This Circular is intended as a quick reference guide. Please refer to the Rule for additional information.

- [Cboe Regulatory Options Circular RG18-028 \(August 24, 2018\)](#): Solicited Transactions

### **Best Execution Rule**

In light of the increasingly automated market for equity securities and standardized options, and recent advances in trading technology and communications in the fixed income markets, FINRA reiterates the best execution obligations that apply when firms receive, handle, route or execute customer orders in equities, options and fixed income securities. FINRA reminds firms of their obligations, as previously articulated by the SEC and FINRA, to regularly and rigorously examine execution quality likely to be obtained from the different markets trading a security.

- [FINRA Regulatory Notice 15-46 \(November 2015\)](#): Guidance on Best Execution Obligations in Equity, Options and Fixed Income Markets

\* \* \* \* \*

## **REGISTRATION AND DISCLOSURE**

### **Central Registration Depository (CRD)**

#### **Presentation Changes and New Functionality in the Central Registration Depository (CRD®) System**

FINRA is introducing enhancements and presentation changes in the CRD system that relate to the implementation of FINRA’s restructured qualification examination program and the adoption of consolidated FINRA registration rules. These changes, effective October 1, 2018, principally affect the Examination Requests and SRO Registrations sections.

- [FINRA Information Notice \(September 24, 2018\)](#): Presentation Changes and New Functionality in the Central Registration Depository (CRD®) System



## **Continuing Education**

### **Continuing Education Program Transformation**

FINRA seeks comment on a proposal to implement the recommendations of the Securities Industry/Regulatory Council on Continuing Education (CE Council) enhancing the continuing education requirements for securities industry professionals. The proposal would change the: (1) Regulatory Element to provide annual training, make the content more relevant, incorporate diverse instructional formats, publicize the learning topics in advance and enhance the related management systems; (2) Firm Element to expressly recognize other training requirements, improve the guidance and resources available to firms and establish a content catalog; and (3) Continuing Education Program to enable individuals who terminate their registrations the option of maintaining their qualification by completing continuing education. The comment period expires on June 30, 2020

- [FINRA Regulatory Notice 20-05 \(February 18, 2020\)](#): FINRA Requests Comment on a Proposal to Implement the Recommendations of the CE Council Regarding Enhancements to the Continuing Education Program for Securities Industry Professionals

## **Qualifications Exams**

### **MSRB to Launch Permanent Series 54 Examination November 12, 2019**

The MSRB permanent Municipal Advisor Principal Qualification Examination (Series 54) is now available. As provided for under MSRB Rule G-3, municipal advisor principals are required to take and pass the Series 54 examination in order to become appropriately qualified to engage in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons. To facilitate the transition to the new exam requirement, the MSRB is providing a one-year grace period, sunsetting on November 12, 2020, during which individuals qualified with the Series 50 examination will be able to take the Series 54 examination while continuing to engage in principal-level activities. The score required to pass the Series 54 examination is 70 percent.

- [MSRB Regulatory Notice 2019-18 \(October 11, 2019\)](#): MSRB To Launch Permanent Series 54 Examination November 12, 2019
- [MSRB Regulatory Notice 2019-19 \(October 18, 2019\)](#): MSRB Revises Content Outline For The Municipal Advisor Principal Qualification Examination



### **Test Results Information**

Effective October 1, 2018, FINRA restructured its representative-level qualification examination program. In conjunction with the restructuring, FINRA no longer provides a total score and a score profile for each major section of the content outline to candidates who pass a qualification examination. FINRA believes that providing such information is unnecessary once a candidate has met the minimum score threshold for passing an examination. However, FINRA continues to provide a total score and a score profile for each major section of the content outline to a candidate who fails an examination

- [Securities Exchange Act Release No. 84376 \(October 5, 2018\), 83 FR 51720 \(October 12, 2018\) \(File No. SR-FINRA-2018-036\)](#): Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Provision of Test Result Information to Candidates Who Pass a FINRA Qualification Examination

\* \* \* \* \*

## **REPORTING**

### **Consolidated Audit Trail (CAT)**

Rule 613 under the Securities Exchange Act of 1934 requires FINRA and the national securities exchanges to jointly submit a National Market System (NMS) plan detailing how they would develop, implement and maintain a consolidated audit trail that collects and accurately identifies every order, cancellation, modification and trade execution for all exchange-listed equities and options across all U.S. markets. FINRA is working with the exchanges to develop an NMS plan that meets the requirements of Rule 613.

- [FINRA Rule 6800 Series](#): Consolidated Audit Trail Compliance Rule
- Visit [The Consolidated Audit Trail website \(https://www.catnmsplan.com/\)](https://www.catnmsplan.com/) for more information

### **Trade Reporting**

#### **FINRA Reminds Firms of their Obligations Regarding TRACE Reporting.**

FINRA has issued several notices to remind members of their obligation to have systems or processes in place to properly report transactions in TRACE-Eligible Securities. FINRA has also publishing technical specifications for reporting, which are available on [FINRA's website](#).



- [FINRA Regulatory Notice 19-30 \(September 19, 2019\)](#): SEC Approves Amendments Relating to Transactions in U.S. Treasury Securities Executed to Hedge a Primary Market Transaction
- [FINRA Trade Reporting Notice \(July 19, 2019\)](#): FINRA Reminds Firms of their Obligations Regarding TRACE Reporting
- [FINRA Trade Reporting Notice \(January 22, 2019\)](#): TRACE Reporting of OTC Transactions in Listed Bonds
- [FINRA Trade Reporting Notice \(January 9, 2019\)](#): US Treasury Security Auction Awards
- [FINRA Regulatory Notice 16-39 \(October 2016\)](#): SEC Approves Rule Change to Require Reporting of Transactions in U.S. Treasury Securities to the Trade Reporting and Compliance Engine (TRACE)

#### **Disclosure of Order Handling Information**

The Commission is extending the compliance date for the recently adopted amendments to Rule 606 of Regulation National Market System (“Regulation NMS”) under the Securities Exchange Act of 1934 (“Exchange Act”), which require additional disclosures by broker-dealers to customers concerning the handling of customer orders. Specifically, the Commission is extending the compliance date for the recently adopted amendments to Rule 606. Following September 30, 2019, broker-dealers must begin to collect the information required by Rules 606(a) and 606(b) as amended. The compliance date remains May 20, 2019 for the amendments to Rule 605. The Commission is extending the compliance date for the recently adopted amendments to Rule 606 in order to give broker-dealers additional time to develop, program, and test for compliance with the new and amended requirements of the rule.

- [Securities and Exchange Commission Release No. 34-85714 \(April 24, 2019\)](#): Disclosure of Order Handling Information

#### **FINRA Reminds Firms of Their Obligations Regarding Transactions in OTC Equity Securities Quoted Pursuant to a Submitted Form 211**

In consultation with SEC staff, FINRA is reminding members of legal obligations that apply when initiating a quote in an over-the-counter (OTC) security in addition to filing a Form 211.

- [FINRA Regulatory Notice 18-32 \(September 24, 2018\)](#): FINRA Reminds Firms of their Obligations Regarding Transactions in OTC Equity Securities Quoted Pursuant to a Submitted Form 211



## **FINRA Reminds Firms of their Obligations when Effecting OTC Trades in Equity Securities on a Net Basis**

FINRA is issuing this Notice to remind firms of their obligations under the FINRA trade reporting rules and other applicable FINRA and SEC rules when effecting over-the-counter (OTC) trades in equity securities on a “net” basis.

- [FINRA Regulatory Notice 18-29 \(September 12, 2018\)](#): FINRA Reminds Firms of their Obligations when Effecting OTC Trades in Equity Securities on a Net Basis

\* \* \* \* \*

## **RESEARCH**

### **General**

#### **Investment Fund Research Reports**

The SEC has approved a proposed rule change to amend FINRA Rules 2210 (Communications with the Public) and 2241 (Research Analysts and Research Reports) to conform to the requirements of the Fair Access to Investment Research Act of 2017 (FAIR Act). The rule change creates a filing exclusion under Rule 2210 for investment fund research reports that are covered by SEC rules under the FAIR Act, and eliminates the “quiet period” restrictions in Rule 2241 on publishing a report or making a public appearance concerning such funds. The implementation date was August 16, 2019.

- [FINRA Regulatory Notice 19-32 \(September 26, 2019\)](#): FINRA Amends Rules 2210 and 2241 to Conform to the Fair Access to Investment Research Act of 2017

**FINRA Topic Page:** [Research Analysts](#)

#### **FAQs about FINRA’s Research Conflict of Interest Rules**

- [FINRA Research Rules Frequently Asked Questions \(FAQ\)](#)



## **Research Analysts**

### **Covered Investment Fund Research Reports**

The SEC adopted a new rule under the Securities Act of 1933 to establish a safe harbor for an unaffiliated broker or dealer participating in a securities offering of a covered investment fund to publish or distribute a covered investment fund research report. If the conditions in the rule are satisfied, the publication or distribution of a covered investment fund research report would be deemed not to be an offer for sale or offer to sell the covered investment fund's securities for purposes of sections 2(a)(10) and 5(c) of the Securities Act of 1933. The SEC also adopted a new rule under the Investment Company Act of 1940 to exclude a covered investment fund research report from the coverage of section 24(b) of the Investment Company Act, except to the extent the research report is otherwise not subject to the content standards in self-regulatory organization rules related to research reports. Finally, the SEC adopted a conforming amendment to rule 101 of Regulation M, and a technical amendment to Form 12b-25.

- [Securities and Exchange Commission Release No. 33-10580 \(November 30, 2018\), 83 FR 64180 \(December 13, 2018\)](#): Covered Investment Fund Research Reports

### **Debt Research**

Rule 2242 (Debt Research Analysts and Debt Research Reports) was amended to clarify the application of the rule in four respects: (1) The consent requirement for institutional debt research reports distributed to non-U.S. investors by non-U.S. affiliates of members; (2) the consent requirement for institutional debt research reports distributed to specified persons for informational purposes unrelated to investing in debt securities; (3) the scope of the institutional debt research report exemption when distributing third-party debt research reports to eligible institutional investors; and (4) the disclosure requirements for debt research analysts in public appearances. The implementation date was July 16, 2016.

- [Securities Exchange Act Release No. 77963 \(June 1, 2016\), 81 FR 36628 \(June 7, 2016\) \(File No. SR-FINRA-2016-017\)](#): Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rule 2242 (Debt Research Analysts and Debt Research Reports)



### **Equity Research**

FINRA Rule 2241 (Research Analysts and Research Reports) addresses conflicts of interest relating to the publication and distribution of equity research reports.

- [FINRA Regulatory Notice 15-30 \(August 2015\)](#): SEC Approves Consolidated Rule to Address Conflicts of Interest Relating to the Publication and Distribution of Equity Research Reports

### **Supervision**

#### **Insider Trading**

FINRA Rule 3110 (Supervision) includes a provision to help firms comply with their obligation under Section 15(g) of the Securities Exchange Act of 1934 to have policies and procedures in place reasonably designed to prevent potential insider trading. Rule 3110(d) requires that firms include in their supervisory procedures a process for reviewing securities transactions in certain types of accounts that is reasonably designed to identify trades that may violate insider trading prohibitions. When implementing these policies and procedures, firms may take a risk-based approach to monitoring transactions that takes into account their specific business models, and firms are encouraged to tailor their policies and procedures to their specific business models.

- [FINRA Regulatory Notice 14-10 \(March 2014\)](#): SEC Approves New Supervision Rules
- [SEC Fast Answers: Insider Trading](#)

\* \* \* \* \*

### **SENIOR INVESTORS**

#### **NASAA Model Act to Protect Seniors and Vulnerable Adults**

In a significant step toward providing much needed protection for seniors and vulnerable adults, NASAA announced that its membership has voted to adopt a model act designed to protect vulnerable adults from financial exploitation. The model, entitled “An Act to Protect Vulnerable Adults from Financial Exploitation,” provides new tools to help detect and prevent financial exploitation of vulnerable adults.

- [NASAA Model Statute to Protect Vulnerable Adults](#)
- [www.serveourseniors.org](http://www.serveourseniors.org)



## **Resources**

**FINRA Securities Helpline for Seniors:** In 2015, FINRA launched the toll-free FINRA Securities Helpline for Seniors® to provide older investors with a supportive place to get assistance from knowledgeable FINRA staff related to concerns they have with their brokerage accounts and investments. Senior investors can call FINRA's new toll-free FINRA Securities Helpline for Seniors to get neutral, knowledgeable assistance with:

- Understanding how to review investment portfolios or account statements;
- Concerns about the handling of a brokerage account; and
- Investor tools and resources from FINRA, including BrokerCheck

1-844-57-HELPS (1-844-574-3577)  
Monday – Friday - 9 A.M. To 5 P.M. EST

**FINRA Topic Page:** [Senior Investors](#)

## **Suitability**

### **Guidance on Firm Responsibilities for Sales of Pension Income Stream Products**

Pension income stream products typically involve an up-front lump sum payment to a pensioner in exchange for the rights to the pensioner's future pension income payments. Regulatory Notice 16-12 discusses the characteristics of and investor protection issues presented by pension income stream products, as well as the legal status of these products. In addition, the Notice addresses the responsibilities of firms in supervising the sale of pension income stream products.

- **FINRA Regulatory Notice 16-12 (April 2016):** FINRA Provides Guidance on Firm Responsibilities for Sales of Pension Income Stream Products

\* \* \* \* \*



## **TRADING**

### **General**

#### **(New) Amendments to NYSE Rule 7.12 Concerning the Resumption of Trading Following a Level 3 Market-Wide Circuit Breaker**

Upon feedback from industry participants, the Exchange has been working with other national securities exchanges and FINRA to establish a standardized approach for resuming trading in all NMS Stocks following a Level 3 halt. The proposed approach would allow for the opening of all securities the next trading day after a Level 3 halt as a regular trading day, and is designed to ensure that Level 3 MWCBC events are handled in a more consistent manner that is transparent for market participants. As proposed, a Level 3 halt would end at the end of the trading day on which it is declared. This proposed change would allow for next-day trading to resume in all NMS Stocks no differently from any other trading day. In other words, an exchange could resume trading in any security when it first begins trading under its rules and would not need to wait for the primary listing market to re-open trading in a security before it could start trading such security. Accordingly, under the proposal, the Exchange could begin trading all UTP Securities at the beginning of the Exchange's Early Trading Session at 7:00 a.m. ET, regardless of whether the primary listing markets for those securities have actually opened.

- [Securities Exchange Act Release No. 34-88402 \(March 17, 2020\), 85 FR 16436 \(March 23, 2020\) \(File No. SR-NYSE-2020-20\)](#): Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending Rule 7.12 Concerning the Resumption of Trade Following a Level 3 Market-Wide Circuit Breaker Halt

#### **Best Execution Rule**

In light of the increasingly automated market for equity securities and standardized options, and recent advances in trading technology and communications in the fixed income markets, FINRA reiterates the best execution obligations that apply when firms receive, handle, route or execute customer orders in equities, options and fixed income securities. FINRA reminds firms of their obligations, as previously articulated by the SEC and FINRA, to regularly and rigorously examine execution quality likely to be obtained from the different markets trading a security.

- [FINRA Regulatory Notice 15-46 \(November 2015\)](#): Guidance on Best Execution Obligations in Equity, Options and Fixed Income Markets



### **Limit Up/Limit Down Plan Program**

On May 31, 2012, the SEC approved the [NMS Plan to Address Extraordinary Market Volatility \(Plan\)](#), which was filed by FINRA and the other SROs and is designed to address the type of sudden price movements that the market experienced on the afternoon of May 6, 2010. The Plan provides for a market-wide limit up and limit down (LULD) mechanism to prevent trades in NMS stocks from occurring outside of specified price bands, coupled with trading pauses to accommodate more fundamental price moves. The Plan is designed, among other things, to protect investors and promote fair and orderly markets.

- [FINRA Alert on Limit Up/Limit Down \(LULD\) Plan](#)
- [FINRA Regulatory Notice 16-26 \(July 2016\)](#): FINRA Adopts Amendments Relating to the Regulation NMS Plans to Address Extraordinary Market Volatility
- FINRA has published [two charts](#) to assist members in identifying the types of transactions that are excluded from the price bands under the LULD Plan and [FAQs](#) to provide guidance on LULD

The Participants filed the Plan to Address Extraordinary Market Volatility (the “Limit Up-Limit Down Plan” or the “Plan”) with the Commission on April 5, 2011 to create a market-wide limit up-limit down mechanism intended to address extraordinary market volatility in NMS Stocks, as defined in Rule 600(b)(47) of Regulation NMS under the Exchange Act. The Plan sets forth procedures that provide for market-wide limit up-limit down requirements to prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands. These limit up-limit down requirements are coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to accommodate more fundamental price moves. In particular, the Participants adopted this Plan to address extraordinary volatility in the securities markets, i.e., significant fluctuations in individual securities’ prices over a short period of time, such as those experienced during the “Flash Crash” on the afternoon of May 6, 2010. The Plan was originally approved on a pilot basis to allow the public, the Participants, and the Commission to assess the operation of the Plan and whether the Plan should be modified prior to consideration of approval on a permanent basis. The Commission recently approved an amendment to the Plan to allow the Plan to operate on a permanent basis.

- [Securities Exchange Act Release No. 85723 \(April 25, 2019\), 84 FR 18618 \(May 1, 2019\) \(File No. SR-NYSENAT-2019-10\)](#): Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 7.11, Limit Up-Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility



## **Supervision**

### **Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds**

The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), SEC, and Commodity Futures Trading Commission (CFTC) are adopting amendments to the regulations implementing section 13 of the Bank Holding Company Act (BHCA Act). Section 13 contains certain restrictions on the ability of a banking entity and nonbank financial company supervised by the Board to engage in proprietary trading and have certain interests in, or relationships with, a hedge fund or private equity fund. These final amendments are intended to provide banking entities with clarity about what activities are prohibited and to improve supervision and implementation of section 13.

- [Securities and Exchange Commission Release No. BHCA-7 \(September 18, 2019\), 84 FR 61974 \(November 14, 2019\) \(File No. S7-14-18; Final Rule\)](#): Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds

### **ATS Supervision Obligations**

FINRA is issuing this Notice to remind Alternative Trading Systems (ATs) of their supervision obligations. As registered broker-dealers and FINRA members, ATs—like other broker-dealer trading platforms—are required to maintain supervisory systems that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules, including, for example, rules on disruptive or manipulative quoting and trading activity.

- [FINRA Regulatory Notice 18-25 \(August 13, 2018\)](#): FINRA Reminds Alternative Trading Systems of Their Obligations to Supervise Activity on Their Platforms

### **Cross Market Equities Supervision: Potential Manipulation Report**

This report assists firms with monitoring their supervision for trading behaviors that may be designed to manipulate the market by displaying exceptions around two behaviors—layering and spoofing—concerns recently highlighted in FINRA’s 2016 Regulatory Examination Priorities Letter.

- [Cross Market Equities Supervision Video](#)



### **Equity Trading Initiatives: Supervision and Control Practices for Algorithmic Trading Strategies**

As algorithmic trading strategies, including high frequency trading strategies, have grown to compose a substantial portion of activity on U.S. securities markets, the potential for these strategies to adversely impact market and firm stability has likewise grown. Although a reasonable supervision and control program may not foresee every potential failure or prevent every undesirable consequence, in an effort to reduce the future occurrence of such potential issues, FINRA is providing guidance on effective supervision and control practices for member firms and market participants that use algorithmic strategies. These effective practices are focused on five general areas: General Risk Assessment and Response; Software/Code Development and Implementation; Software Testing and System Validation; Trading Systems; and Compliance.

- [FINRA Regulatory Notice 15-09 \(March 2015\)](#): Guidance on Effective Supervision and Control Practices for Firms Engaging in Algorithmic Trading Strategies

### **Insider Trading**

FINRA Rule 3110 (Supervision) includes a provision to help firms comply with their obligation under Section 15(g) of the Securities Exchange Act of 1934 to have policies and procedures in place reasonably designed to prevent potential insider trading. Rule 3110(d) requires that firms include in their supervisory procedures a process for reviewing securities transactions in certain types of accounts that is reasonably designed to identify trades that may violate insider trading prohibitions. When implementing these policies and procedures, firms may take a risk-based approach to monitoring transactions that takes into account their specific business models, and firms are encouraged to tailor their policies and procedures to their specific business models.

- [FINRA Regulatory Notice 14-10 \(March 2014\)](#): SEC Approves New Supervision Rules
- [SEC Fast Answers: Insider Trading](#)

\* \* \* \* \*



## **VARIABLE ANNUITIES**

### **(New) General**

#### **(New) Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts**

The SEC is adopting rule and form amendments intended to help investors make informed investment decisions regarding variable annuity and variable life insurance contracts. The amendments modernize disclosures by using a layered disclosure approach designed to provide investors with key information relating to the contract's terms, benefits, and risks in a concise and more reader-friendly presentation, with access to more detailed information available online and electronically or in paper format on request. New rule 498A under the Securities Act of 1933 will permit a person to satisfy its prospectus delivery obligations under the Securities Act for a variable annuity or variable life insurance contract by sending or giving a summary prospectus to investors and making the statutory prospectus available online. The rule also will consider a person to have met its prospectus delivery obligations for any portfolio companies associated with a variable annuity or variable life insurance contract if the portfolio company prospectuses are posted online. To implement the new disclosure framework, the SEC is also amending the registration forms for variable annuity and variable life insurance contracts to update and enhance the disclosures to investors in these contracts, and to implement the proposed summary prospectus framework, and adopting amendments to our rules that will require variable contracts to use the Inline eXtensible Business Reporting Language ("Inline XBRL") format for the submission of certain required disclosures in the variable contract statutory prospectus.

- [Securities and Exchange Commission Release No. 33-10765 \(March 11, 2020\): Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts](#)

### **Supervision**

#### **Pension Income Stream Products**

Pension income stream products typically involve an up-front lump sum payment to a pensioner in exchange for the rights to the pensioner's future pension income payments. Regulatory Notice 16-12 discusses the characteristics of and investor protection issues presented by pension income stream products, as well as the legal status of these products. In addition, the Notice addresses the



responsibilities of firms in supervising the sale of pension income stream products.

- [FINRA Regulatory Notice 16-12 \(April 2016\)](#): FINRA Provides Guidance on Firm Responsibilities for Sales of Pension Income Stream Products

### **SEC Issue Investor Alert on Pension or Settlement Income Streams**

- [SEC Investor Bulletin: Pension or Settlement Income Streams—What You Need to Know Before Buying or Selling Them](#)

\* \* \* \* \*

### **More Information and Resources**

For more information you may visit the [cecouncil.com](http://cecouncil.com) website and/or contact CE Council member organizations:

<b>Regulatory Organization</b>	<b>Website</b>
Cboe Global Markets	<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>
New York Stock Exchange	<a href="http://www.nyse.com">www.nyse.com</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>