



September 2022

# Firm Element Needs Analysis Quarterly Highlights

Formerly Known as Firm Element Advisory

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## Introduction

The Securities Industry/Regulatory Council on Continuing Education (Council) publishes the Firm Element Needs Analysis Quarterly Highlights to assist industry participants with identification of potential topics to include in Firm Element training plans. Topics are identified from a review of industry, regulatory and self-regulatory organization (SRO) announcements, publications of significant events, and the annual report from FINRA's Examination and Risk Monitoring Program.

The Council suggests that firms use the Firm Element Needs Analysis Quarterly Highlights as an aid in evaluating and prioritizing their Firm Element needs and developing written training plans.

Firms are reminded not to rely on the Firm Element Needs Analysis Quarterly Highlights as a comprehensive list of all areas they should consider. The Council recommends using all available tools to make Firm Element planning as efficient and effective as possible.

For more information, contact

[cecounciladmin@finra.org](mailto:cecounciladmin@finra.org)

## Q3 2022 New Content Quick Reference

New:

- [FINRA Regulatory Notice 22-19 \(August 8, 2022\)](#): Enhancement to ACATS “Receiver Delete” Functionality for alternative Investments
- [FINRA Regulatory Notice 22-18 \(August 3, 2022\)](#): FINRA Reminds Firms of Their Obligation to Supervise for Digital Signature Forgery and Falsification
- [MRSB Regulatory Notice 2022-05 \(July 25, 2022\)](#): MSRB to End Regulatory Relief that extended Certain Professional Qualification Requirements Due to COVID-19
- [SEC Release No. 34-95191 \(June 30, 2022\)](#): Proposed Rule Change to Amend FINRA Rule 6120 (Trading Halts)
- [MSRB Regulatory Notice 2022-04 \(June 24, 2022\)](#): MSRB Applies regulation Best Interest to Bank -Dealers and Amends the Quantitative Suitability Standard for Institutional SMMPs
- [FINRA Regulatory Notice 22-13 \(June 14, 2022\)](#): Exemption from Trade Reporting Obligation for Certain Transaction on Alternative Trading Systems
- [SEC Release No. Release No. 34-95086 \(June 10, 2022\)](#): Order Granting Approval to Amend the Provision of NYSE Rule 7.35B
- [CAT Announcement \(June 2, 2022\)](#): CAT Full CAIS Certification and Compliance Deadlines Extended
- [FINRA Regulatory Notice 22-12 \(May 15, 2022\)](#): FINRA Adopts Amendments to TRACE Reporting Rule to Require Identification of Portfolio Trades

## Firm Operations

### 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](#)

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### Anti-Money Laundering

#### **U.S Imposes Sanctions on Russian Entities and Individuals**

The U.S. government has imposed sanctions in response to Russia’s actions in Ukraine. FINRA is issuing

this Notice to provide member firms with information about these recent actions. FINRA encourages member firms to continue to monitor the Department of Treasury's Office of Foreign Asset Control (OFAC) website for relevant information.

- [FINRA Regulatory Notice 22-06 \(February 25, 2022\)](#): FINRA Alerts Firms to Sanctions

### **AML Act of 2020 First Priorities Issued**

FinCEN has [issued](#) the first government-wide priorities for AML and CFT, which was mandated by the AML Act of 2020. FinCEN also issued a [statement](#) to provide covered non-bank financial institutions, including broker-dealers, with guidance on how to approach the AML/CFT Priorities. FINRA is issuing this Notice to inform member firms of the AML/CFT Priorities and the Statement, and to encourage member firms to consider how to incorporate the AML/CFT Priorities into their risk-based AML compliance programs.

- [FINRA Regulatory Notice 21-36 \(October 8, 2021\)](#): FINRA Encourages Firms to Consider How to Incorporate the Government-wide AML and CFT Priorities into their AML Programs

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## Cybersecurity and Technology Governance

### **FINRA Alerts Firms to “Log4Shell” Vulnerability in Apache Log4j Software**

FINRA is alerting firms to a recently identified vulnerability in Apache Log4J software, which is an open-source, Java-based logging utility widely used by enterprise applications and cloud services. The “Log4Shell” vulnerability presents risk for member firms because they may be using this software in internal applications, or the software may be embedded in third-party software packages. In addition, many applications written in Java are potentially vulnerable.

- [FINRA Regulatory Notice 21-42 \(December 14, 2021\)](#): FINRA Alerts Firms to “Log4Shell” Vulnerability in Apache Log4j Software

### **Vendor Management and Outsourcing**

FINRA is publishing this Notice to remind member firms of their obligation to establish and maintain a supervisory system, including written supervisory procedures, for any activities or functions performed by third-party vendors that are reasonably designed to achieve compliance with applicable securities laws and regulations and with applicable FINRA rules. This Notice reiterates applicable regulatory obligations, summarizes recent trends in examination findings, observations and disciplinary actions; and provides questions member firms may consider when evaluating their systems, procedures and controls relating to Vendor management.

- [FINRA Regulatory Notice 21-29 \(August 13, 2021\)](#): FINRA Reminds Firms of their Supervisory Obligations Related to Outsourcing to Third-Party Vendors

### **Digital Assets**

For the past several years, FINRA has encouraged firms to keep their risk monitoring analyst 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. FINRA appreciates members' cooperation with this

request and is encouraging firms to continue to keep their risk monitoring analyst abreast of their activities related to digital assets on an ongoing basis.

- [FINRA Regulatory Notice 21-25 \(July 8, 2021\)](#): FINRA Continues to Encourage Firms to Notify FINRA if They Engage in Activities Related to Digital Assets

### 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 Investment Accounts from Fraud (July 1, 2021)

### 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](#)

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## Senior Investors

### Senior Investors

FINRA has adopted amendments to Rule 2165 (Financial Exploitation of Specified Adults) to permit member firms to: (1) place a hold on a securities transaction (in addition to the already-permitted hold on a disbursement of funds or securities) where there is a reasonable belief of financial exploitation; and (2) extend a temporary hold on a disbursement or transaction for an additional 30 business days, beyond the current maximum of 25 business days (for a total of 55 business days), if the member firm has reported the matter to a state regulator or agency, or a court of competent jurisdiction. The amendments to Rule 2165 became effective on March 17, 2022.

- [FINRA Regulatory Notice 22-05 \(February 15, 2022\)](#): FINRA Adopts Amendments to FINRA Rule 2165

### 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)

[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](#)

## Sales & Trading

### Reg BI

#### **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 in the Notice, 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

Reg BI establishes 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"). 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 the SEC has 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 was June 30, 2020.

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

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

### Reg BI-Related Changes to FINRA Rules

FINRA has amended its suitability rule, Capital Acquisition Broker (CAB) suitability rule and rules governing non-cash compensation to provide clarity on which standard applies and to address potential inconsistencies with the SEC's Regulation Best Interest (Reg BI). These changes have been approved by the SEC and became effective on June 30, 2020, the compliance date of Reg BI.

- [FINRA Regulatory Notice 20-18 \(June 19, 2020\)](#): FINRA Amends its Suitability, Non-Cash Compensation and Capital Acquisition Broker (CAB) Rules in Response to Regulation Best Interest

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## Sales Practice

### Alternative Mutual Funds

Recently, FINRA took enforcement action against several firms for failing to establish or maintain a reasonably designed supervisory system for recommendations of alternative mutual funds, also sometimes referred to as "alt funds" or "liquid alts" ("Alt Funds"). FINRA is continuing to note such deficiencies in its examinations and communications reviews of such products.

- [FINRA Regulatory Notice 22-11 \(April 19, 2022\)](#): FINRA Reminds Firms of Their Sales Practice Obligations for Alternative Mutual Funds

### Rules to Address Firms with a History of Misconduct

FINRA has adopted new rules to address firms with a significant history of misconduct. New Rule 4111 (Restricted Firm Obligations) requires member firms that are identified as "Restricted Firms" to deposit cash or qualified securities in a segregated, restricted account; adhere to specified conditions or restrictions; or comply with a combination of such obligations. New Rule 9561 (Procedures for Regulating Activities Under Rule 4111) and amendments to Rule 9559 (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series) establish a new expedited proceeding to implement Rule 4111. The new rules and rule amendments became effective on January 1, 2022. The first "Evaluation Date" for Rule 4111 was June 1, 2022.

- [FINRA Information Notice February 1, 2022](#): FINRA Announces Rule 4111 (Restricted Firm Obligations) Evaluation Date
- [FINRA Regulatory Notice 21-34 \(September 28, 2021\)](#): FINRA Adopts Rules to Address Firms with a Significant History of Misconduct
- [FINRA Regulatory Notice 21-09 \(March 10, 2021\)](#): FINRA Adopts Rules to Address Brokers with a Significant History of Misconduct

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## Private Placements

### FINRA Amends Rules 5122 and 5123 Filing Requirements

FINRA has adopted changes to FINRA Rules 5122 (Private Placements of Securities Issued by Members) and 5123 (Private Placements of Securities) to require members to file retail communications that promote or recommend private placement offerings that are subject to those rules' filing requirements. The new filing requirements became effective on October 1, 2021.

- [FINRA Regulatory Notice 21-26 \(July 15, 2021\)](#): Private Placement Retail Communications

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## Products

### (New) Enhancement to ACATS “Receiver Delete” Functionality for Alternative Investments

The NSCC administers ACATS, a system that automates and imposes specified duties and performance timeframes to facilitate the transfer of accounts, in whole or in part, from one firm to another. The NSCC recently announced a change to ACATS that will allow a receiving member (the firm slated to receive the customer's account) to use the “receiver delete” function to remove alternative investments from an ACATS transfer. This Notice reminds members of their obligations under FINRA Rule 11870.

- [FINRA Regulatory Notice 22-19 \(August 8, 2022\)](#): Enhancement to ACATS “Receive Delete” Functionality for Alternative Investments

### Complex Products and Options

The availability of complex products and options can potentially expand the investment opportunities for retail investors and, if properly understood, offer favorable investment outcomes (e.g., enhancing returns, limiting losses or improving diversification). However, important regulatory concerns arise when investors trade complex products without understanding their unique characteristics and risks. Like complex products, trading in options may pose risks if investors do not have the financial experience to understand options and options trading strategies. Therefore, FINRA have taken steps to address complex products and options over the years, including publishing guidance regarding sales practice concerns raised by complex products and options; issuing investor-focused alerts to highlight the risks of these products; adopting rules with specific requirements for particular complex products and for options; and examining members for compliance with SEC and FINRA rules. The number of accounts trading in complex products and options has increased significantly in recent years. As a result, FINRA is again reminding members of their current regulatory obligations, including, as discussed below, the application of Regulation Best Interest (Reg BI) when broker-dealers and their associated persons make securities recommendations, and recommendations of investment strategies involving securities, to retail customers. In addition, FINRA is soliciting comment on: (1) effective practices that members have developed for complex products and options, particularly when retail investors are involved; and (2) whether the current regulatory framework, which was adopted at a time when the majority of individuals accessed financial products through financial professionals, rather than through self-directed platforms, is appropriately tailored to address current concerns raised by complex products and options.

- [FINRA Regulatory Notice 22-08 \(March 8, 2022\)](#): Complex Products and Options

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## Options

### **Options Customer Account Approval and Supervision**

Cboe reminds Trading Permit Holders and Members (collectively “Members”) of the approval requirements for customers seeking to trade options in their account. Members are prohibited from accepting orders from a customer to purchase or write an option contract unless the customer’s account has been approved for options transactions in accordance with the provisions set forth in the Exchanges’ rules governing the opening of accounts.

- [CBOE Regulatory Circular 22-007 \(March 15, 2022\): Option Customer Account Approval and Supervision](#)

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## Municipal Securities

### **(New) MSRB to End Regulatory Relief that Extended Certain Professional Qualification Requirements due to COVID-19**

The Municipal Securities Rulemaking Board (MSRB) has announced August 29, 2022 as the expiration date of professional qualifications pandemic-related regulatory relief. Individuals associated with a dealer will have 120 calendar days from August 29, 2022 until December 27, 2022 to satisfy the professional qualification requirements under MSRB Rule G-3(b)(ii) (municipal securities principal); Rule G-3 (b)(iv)(B) (municipal fund securities limited principal); and Rule G-3(c)(ii) (municipal securities sales principal), as applicable. Likewise, registered persons of dealers will have 120 calendar days from August 29, 2022 until December 27, 2022 to complete the requirement under Rule G-3(i)(i)(A) to complete the Regulatory Element portion of continuing education.

- [MSRB Regulatory notice 2022-05 \(July 25, 2022\): MSRB to End Regulatory Relief that extended Certain Professional Qualification Requirements Due to COVID-19](#)

### **(New) MSRB Applies Regulation Best Interest to Bank-Dealers and Amends the Quantitative Suitability Standard for Institutional SMMPs**

The Municipal Securities Rulemaking Board (MSRB) received approval from the SEC on June 23, 2022, for amendments to MSRB Rule G-19, on suitability of recommendations and transactions, and MSRB Rule G-48, on transactions with sophisticated municipal market professionals (SMMPs). The amendments align Rule G-19 to the Commission’s Rule 15l-1 under the Exchange Act (“Regulation Best Interest”) for certain municipal securities activities of bank dealers (the “Bank Dealer Amendment”). The approved amendments to Rule G-48 modify the quantitative suitability obligation of brokers, dealers, and municipal securities dealers (collectively, “dealers”) for certain institutional SMMP customers (the “Quantitative Suitability Amendment”). The compliance date for the Quantitative Suitability Amendment was August 1, 2022. The compliance date for the Bank Dealer Amendment is August 1, 2023.

- [MSRB Regulatory Notice 2022-04 \(June 24, 2022\): MSRB Applies regulation Best Interest to Bank -Dealers and Amends the Quantitative Suitability Standard for Institutional SMMPs](#)

### SEC Approves Amendments to Rules G-10 and G-48 Clarifying Notification Requirements for Dealers

On October 5, 2021, the MSRB received approval from SEC for a rule change consisting of amendments to Rule G-10, on investor and municipal advisory client education and protection, clarifying and aligning the requirements for brokers, dealers and municipal securities dealers to provide required notifications under the rule directly to those customers for whom a purchase or sale of a municipal security was effected in the past year and to each customer who holds a municipal securities position. The SEC also approved an accompanying amendment to Rule G-48, on transactions with sophisticated municipal market professionals (SMMPs), allowing dealers to conditionally excluded SMMPs from the requirements under Rule G-10(a). The rules became effective on October 12, 2021.

- [MSRB Regulatory Notice 2021-13 \(October 6, 2021\)](#): SEC Approves Amendments to Rules G-10 and G-48 Clarifying Notification Requirements for Dealers

## Market Integrity

### Consolidated Audit Trail (CAT)

#### (New) CAT Full CAIS Certification and Compliance Deadlines Extended

The Participants have determined to delay the full Customer Account Information System (“CAIS”) compliance deadline from July 11, 2022, to December 12, 2022. This extension of the compliance deadline will assist in addressing reporting challenges and delays in error feedback and processing and will allow time for such issues to be remediated. While the compliance deadline for full CAIS reporting is moving to December 12, 2022, Industry Members are expected to continue testing and now will be required to certify for production system access by July 25, 2022. There are interim reporting requirements between August 15, 2022 and December 5, 2022 to ensure Industry Members can comply with CAIS reporting requirements by December 12, 2022.

- [CAT Announcement](#) & [Timeline](#): Full CAIS Certification and Compliance Deadlines Extended

#### Sanction Guidelines

The National Adjudicatory Council (NAC) has revised FINRA’s Sanction Guidelines to incorporate a new guideline for violations of the Consolidated Audit Trail System (CAT) industry member compliance rules. The revised Sanction Guidelines are effective immediately and available on FINRA’s website.

- [FINRA Regulatory Notice 21-37 \(October 20, 2021\)](#): The National Adjudicatory Council (NAC) Revises the Sanction Guidelines

#### CAT Compliance Rules

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

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## Prohibited Practices

### (New) Digital Signatures

FINRA has received an increasing number of reports regarding registered representatives and associated persons (representatives) forging or falsifying customer signatures, and in some cases signatures of colleagues or supervisors, through third-party digital signature platforms. Firms have, for example, identified signature issues involving a wide range of forms, including account opening documents and updates, account activity letters, discretionary trading authorizations, wire instructions and internal firm documents related to the review of customer transactions. These types of incidents underscore the need for member firms that allow digital signatures to have adequate controls to detect possible instances of signature forgery or falsification. To help firms address the risks these signature forgeries and falsifications present, FINRA is sharing information in this Notice about:

- relevant regulatory obligations;
  - forgery and falsification scenarios firms have reported to FINRA; and
  - methods firms have used to identify those scenarios.
- [FINRA Regulatory Notice 22-18 \(August 3, 2022\)](#): FINRA Reminds Firms of Their Obligation to Supervise for Digital Signature Forgery and Falsification

### 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.

- [SEC Fast Answers: Insider Trading](#)
- [Insider Trading “Red Flags” and Filing a Tip with FINRA](#)

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## Trade Practices

### (New) FINRA Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rule 6120 (Trading Halts)

FINRA is proposing to amend FINRA Rule 6120 (Trading Halts) to conform to recent amendments to the NMS plans governing the collection, consolidation and dissemination of quotation and transaction information for NMS stocks and to make technical and clarifying changes to the rule.

- [SEC Release No. 34-95191 \(June 30, 2022\)](#): Notice of filing and immediate effectiveness of a proposed

rule change to amend FINRA Rule 6120 (Trading Halts) to conform to recent amendments to the SIP Plans and to Make Technical and Clarifying Changes to the Rule

**(New) Order Granting Approval of a Proposed Rule Change to Amend the Provisions of NYSE Rule 7.35B**

The Exchange approves to modify NYSE Rule 7.35B(f)(2), which sets forth rules pertaining to the cancellation of MOC, LOC, and Closing IO Orders before the Closing Auction Imbalance Freeze, and to make conforming changes to NYSE Rule 7.35B(j)(2)(B).

- [SEC Release No.34-95086 \(June 10, 2022\)](#): Order Granting Approval to Amend the Provision of NYSE Rule 7.35B

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## Trade Reporting

**(New) Exemption From Trade Reporting Obligation for Certain Transactions on Alternative Trading Systems**

FINRA has adopted amendments to Rule 6732 (Exemption from Trade Reporting Obligation for Certain Transactions on an Alternative Trading System) to expand the scope of the exemption to include eligible ATS transactions that involve only one member (other than the ATS). As amended, a member ATS may apply for the exemption for transactions between a member subscriber and a non-member entity (e.g., a bank). The amendments to Rule 6732 become effective on October 3, 2022.

- [FINRA Regulatory Notice 22-13 \(June 14, 2022\)](#): Exemption From Trade Reporting Obligation for Certain Transaction on Alternative Trading Systems

**(New) FINRA Adopts Amendments to TRACE Reporting Rule to Require Identification of Portfolio Trades**

FINRA has adopted amendments to Rule 6730 (Transaction Reporting) to require members to append a modifier to a corporate bond trade that is part of a portfolio trade when reporting to FINRA's Trade Reporting and Compliance Engine (TRACE). The amendments to Rule 6730 become effective on May 15, 2023.

- [FINRA Regulatory Notice 22-12 \(May 15, 2022\)](#): FINRA Adopts Amendments to TRACE Reporting Rule to Require Identification of Portfolio Trades

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## Best Execution

**Best Execution and Payment for Order Flow**

FINRA issued this Notice to remind member firms of longstanding SEC and FINRA rules and guidance

concerning best execution and payment for order flow, which the SEC has defined very broadly to refer to a wide range of practices including monetary payments and discounts, rebates, or other fee reductions or credits. Under these rules and guidance, member firms may not let payment for order flow interfere with their duty of best execution

- [FINRA Regulatory Notice 21-23 \(June 23, 2021\)](#): FINRA Reminds Firms of Requirements Concerning Best Execution and Payment for Order Flow

**Market Order Timeliness**

Considering the increasingly automated markets for NMS stocks, FINRA is issuing this Notice to remind member firms of their obligation to execute marketable customer orders fully and promptly. FINRA also reminds firms of their obligation to ensure that their supervisory systems are reasonably designed to achieve compliance with this obligation.

- [FINRA Regulatory Notice 22-04 \(January 21, 2022\)](#): FINRA Reminds Member Firms of Obligation to Execute Marketable Customer Orders Fully and Promptly

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Quotations

**Regulation of Inter-dealer Quotation Systems**

On November 8, 2021, FINRA ceased operation of the OTC Bulletin Board (OTCBB)—a FINRA-operated inter-dealer quotation system—and deleted the OTCBB-related rules from the FINRA rulebook.

- [FINRA Regulatory Notice 21-38 \(October 25, 2021\)](#): FINRA Announces Closure of the OTC Bulletin Board

**Compliance with SEC Rule 15c2-11**

FINRA adopted amendments to Rule 6432 (Compliance with the Information Requirements of SEA Rule 15c2-11) in light of the SEC amendments to SEC Rule 15c2-11. As amended, Rule 6432 will require a qualified inter-dealer quotation system to submit a modified Form 211 filing to FINRA in connection with each initial information review, and a daily security file to FINRA containing summary information for all securities quoted on its system on each day that it makes a publicly available determination permitted under SEC Rule 15c2-11, among other amendments. The amendments to Rule 6432 became effective on September 28, 2021, in line with the compliance date for the amendments to SEC Rule 15c2-11.

- [FINRA Regulatory Notice 21-33 \(September 28, 2021\)](#): FINRA Adopts Amendments to Rule 6432 Regarding Compliance with the Information Requirements of SEC Rule 15c2-11

**Regulation of Inter-dealer Quotation Systems**

FINRA has adopted new Rule 6439 (Requirements for Member Inter-Dealer Quotation Systems), which implements additional requirements for firms that operate systems that regularly disseminate the quotations of identified broker-dealers in OTC Equity Securities (each an “inter-dealer quotation system” or “IDQS”). Rule 6439 became effective on October 1, 2021, except for paragraph (d)(1)(B), which relates to the collection of order-level information. The effective date for this paragraph will be announced at a later date to better coordinate, and avoid regulatory duplication, with reporting obligations to the Consolidated Audit Trail (CAT) under Rule 6830 (Industry Member Data Reporting).

FINRA also is deleting the Rule 6500 Series and other rules related to the OTC Bulletin Board (OTCBB) – a FINRA-operated inter-dealer quotation system – and ceasing its operation. The permanent closure of the OTCBB will not occur prior to October 1, 2021. FINRA will announce the effective date of the deletion of the OTCBB-related rules and its closure in a separate communication.

- [FINRA Regulatory Notice 21-28 \(August 6, 2021\)](#): FINRA Adopts Rule 6439 Governing the Operation of Inter-Dealer Quotation Systems and Announces Closure of the OTC Bulletin Board

## Financial Management

### General Standards

#### **SEC Financial Responsibility Rules**

FINRA is making available updates to interpretations in the Interpretations of Financial and Operational Rules that have been communicated to FINRA by the staff of the SEC's Division of Trading and Markets. The updated interpretations are with respect to Securities Exchange Act (SEA) Rules 15c3-1 and 15c3-3.

- [FINRA Regulatory Notice 21-27 \(July 22, 2021\)](#): FINRA Announces Update of the Interpretations of Financial and Operational Rules

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### Liquidity Management

#### **Security-Based Swaps**

FINRA has adopted amendments to its rules to clarify the application of FINRA rules to security-based swaps (SBS):

- FINRA has adopted a new Rule 0180 (Application of Rules to Security-Based Swaps), which, along with conforming amendments to Rule 9610 (Procedures for Exemptions—Application), will become effective February 6, 2022. The new rule replaces the expiring temporary Rule 0180 and generally applies FINRA rules to members' activities and positions with respect to SBS, with limited exceptions.
- FINRA has amended its financial responsibility and operational rules, including Rule 4120 (Regulatory Notification and Business Curtailment), to conform to the Securities and Exchange Commission's (SEC or Commission) SBS-related capital, margin and segregation requirements. These amendments will also become effective February 6, 2022.
- FINRA has adopted a new SBS-specific margin rule, Rule 4240 (Security-Based Swap Margin Requirements), which replaces the expiring interim pilot program establishing margin requirements for credit default swaps (CDS). The new margin rule, along with related amendments to Rules 4210 (Margin Requirements) and 4220 (Daily Record of Required Margin), will become effective April 6, 2022.

*Effective Dates: February 6, 2022 (Rules 0180, 4120 and 9610) and April 6, 2022 (Rules 4210, 4220 and 4240)*

- [FINRA Regulatory Notice 22-03 \(January 20, 2022\)](#): FINRA Adopts Amendments to Clarify the Application of FINRA Rules to Security-Based Swaps

### **Supplemental Liquidity Schedule**

FINRA has established a new Supplemental Liquidity Schedule (SLS). The new SLS, which members subject to the requirement will need to file as a supplement to the FOCUS Report, is designed to improve FINRA's ability to monitor for events that signal an adverse change in the liquidity risk of the members with the largest customer and counterparty exposures. FINRA is issuing this Notice to provide further information on the new requirement, which became effective on March 1, 2022. For members subject to the requirement, the first SLS was to be completed as of the end of March 2022 and due by May 4, 2022

- [FINRA Regulatory Notice 21-31 \(September 3, 2021\)](#): FINRA Establishes New Supplemental Liquidity Schedule (SLS)

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## Credit Risk Management

### **Margin Interpretation Updates**

FINRA Rule 4210 (Margin Requirements) specifies the margin requirements applicable to securities held in margin accounts, including both strategy-based margin accounts and portfolio margin accounts. FINRA maintains interpretations regarding FINRA Rule 4210, available on the Interpretations of FINRA's Margin Rule webpage, in a portable digital format (PDF) document where the interpretations immediately follow the section of the rule to which they relate. This Notice clarifies and updates the interpretations regarding minimum equity requirements.

- [FINRA Regulatory Notice 21-24 \(July 6, 2021\)](#): FINRA Announces Updates to the Interpretations of FINRA's Margin Rule Regarding Minimum Equity

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### **Additional Resources**

- For more information visit the [cecouncil.com](https://cecouncil.com) website or contact CE Council member organizations.
- For compliance resources on issues affecting the security issue please visit [FINRA Key Topics](#) page.
- For more information on Firm Element please visit the [CE Council Frequently Asked Questions](#) page.