4311. Carrying Agreements

The Rule | Notices

(a)(1) Unless otherwise permitted by FINRA, a member shall not enter into an agreement for the carrying, on an omnibus or fully disclosed basis, of any customer account in which securities transactions can be effected ("customer account" or "account"), unless such agreement is with a carrying firm that is a FINRA member. An introducing firm that acts as an intermediary for another introducing firm(s) for the purpose of obtaining clearing services from the carrying firm must notify such carrying firm of the existence of such arrangement(s) and the identity of the other introducing firm(s). Each such carrying agreement(s) shall identify and bind every direct and indirect recipient of clearing services as a party thereto.

(2) A carrying firm may enter into a carrying agreement(s) for the carrying of the customer accounts of a person other than a U.S. registered broker or dealer, subject to the conditions set forth in this Rule.

(b)(1) The carrying firm shall submit to FINRA for prior approval any agreement for the carrying of accounts, whether on an omnibus or fully disclosed basis, before such agreement may become effective. The carrying firm also shall submit to FINRA for prior approval any material changes to an approved carrying agreement before such changes may become effective.

(2) A carrying firm may use a standardized form of agreement that has been approved by FINRA pursuant to paragraph (b)(1) of this Rule, to enter into new carrying arrangements with other U.S. registered brokers or dealers, without the resubmission and re-approval of such agreement. However, a carrying firm must submit to FINRA for approval each carrying agreement that includes a party that is not a U. S. registered broker or dealer.

(3) As early as possible, but not later than 10 business days, prior to the carrying of any accounts of a new introducing firm (including the accounts of any introducing firm(s) for which a new or existing introducing firm is acting as an intermediary in obtaining clearing services from the carrying firm) the carrying firm shall submit to FINRA a notice identifying each such introducing firm by name and CRD number and shall include such additional information as FINRA may require.

(4) Each carrying firm shall conduct appropriate due diligence with respect to any new introducing firm relationship to assess the financial, operational, credit and reputational risk that such arrangement will have upon the carrying firm. FINRA, in its review of any arrangement, may in its discretion require specific items to be addressed by the carrying firm as part of such firm's due diligence requirement under this Rule. The carrying firm shall maintain a record, in

accordance with the timeframes prescribed by SEA Rule 17a-4(b), of the due diligence conducted for each new introducing firm.

(c)(1) Each carrying agreement in which accounts are to be carried on a fully disclosed basis shall specify the responsibilities of each party to the agreement, including at a minimum the allocation of the responsibilities set forth in paragraphs (c)(1)(A) through (I) and (c)(2) of this Rule. The allocation of such responsibilities shall be subject to approval by FINRA pursuant to paragraph (b)(1) of this Rule.

(A) Opening and approving accounts.

(B) Acceptance of orders.

(C) Transmission of orders for execution.

(D) Execution of orders.

(E) Extension of credit.

(F) Receipt and delivery of funds and securities.

(G) Preparation and transmission of confirmations.

(H) Maintenance of books and records.

(I) Monitoring of accounts.

(2) Each carrying agreement in which accounts are to be carried on a fully disclosed basis shall expressly allocate to the carrying firm the responsibility for the safeguarding of funds and securities for the purposes of SEA Rule 15c3-3 and for preparing and transmitting statements of account to customers. However, the carrying firm may authorize the introducing firm to prepare and/or transmit statements of account to customers on the carrying firm's behalf with the prior written approval of FINRA.

(d) Each customer whose account is introduced on a fully disclosed basis shall be notified in writing upon the opening of the account of the existence of the carrying agreement and the responsibilities allocated to each respective party. The carrying firm shall be responsible for the content of such notification to the customer. The customer shall be notified promptly and in writing in the event of any change to any of the parties to the agreement or any material change to the allocation of responsibilities thereunder.

(e) Each carrying agreement shall expressly state that to the extent that a particular responsibility is allocated to one party, the other party or parties will supply to the responsible organization all appropriate data in their possession pertinent to the proper performance and supervision of that responsibility.

(f) A carrying agreement may authorize an introducing firm to issue negotiable instruments directly to its customers on the carrying firm's behalf, using instruments for which the carrying firm is the maker or drawer, provided that the parties comply with SEA Rule 15c3-3 and further that the introducing firm represents to the carrying firm in writing that such introducing firm maintains, and will enforce, supervisory policies and procedures with respect to the issuance of such negotiable instruments that are satisfactory to the carrying firm.

(g)(1) Each carrying agreement shall expressly authorize and direct the carrying firm to:

(A) furnish promptly to the introducing firm and the introducing firm's designated examining authority (or, if none, to its appropriate regulatory agency or authority) any written customer complaint received regarding the conduct of the introducing firm or firms and its associated persons; and

(B) notify the complaining customer, in writing, that it has received the complaint and that such complaint has been furnished to the introducing firm and its designated examining authority (or, if none, to its appropriate regulatory agency or authority).

(2) Upon a showing of good cause, FINRA, at its discretion, may exclude certain carrying firms from the requirements of paragraph (g)(1) in instances where the introducing firm is an affiliated entity of the carrying firm.

(h)(1) At the commencement of the agreement and annually thereafter, the carrying firm must furnish to each of its introducing firms a list of all reports (e.g., exception reports) available to assist the introducing firm with the responsibilities allocated to it pursuant to the carrying agreement. The introducing firm must promptly request of the carrying firm, in writing, those offered reports that it requires.

(2) No later than July 1 of each year, the carrying firm shall notify the introducing firm's chief executive and chief compliance officer(s) in writing of the list of reports offered to, requested by and supplied to the introducing firm as of the date of the notice. A copy of this written notice must at the same time be provided to the introducing firm's designated examining authority (or if none, to its appropriate regulatory agency or authority).

(3) The carrying firm shall maintain as part of its books and records those reports requested by and supplied to the introducing firm. The carrying firm may satisfy the requirements of this paragraph by furnishing, upon request of the introducing firm's designated examining authority (or if none, to its appropriate regulatory agency or authority):

(A) a re-created copy of the report originally produced; or

(B) the format of the report and the applicable data elements contained in the original report.

(4) Upon a showing of good cause, FINRA, at its discretion, may exclude certain carrying firms from the requirements of this paragraph (h) in instances where the introducing firm is an affiliated entity of the carrying firm.

(i) All carrying agreements shall require each introducing firm to maintain its proprietary and customer accounts, and the proprietary and customer accounts of any introducing firm for which it is acting as an intermediary in obtaining clearing services from the carrying firm, in such a manner as to enable the carrying firm and FINRA to specifically identify the proprietary and customer accounts belonging to each introducing firm. The requirements of this paragraph (i) shall apply to intermediary clearing arrangements that are established on or after February 20, 2006.

• • • Supplementary Material: ----------

.01 Material Changes. For purposes of paragraph (b)(1) of this Rule, material changes include, but are not limited to, changes to: (a) the allocation of responsibilities required by this Rule; (b) termination clauses applicable to the introducing firm; (c) any terms or provisions affecting the liability of the parties; and (d) the parties to the agreement (including, for example, the addition of a new party to the agreement, such as a "piggyback" arrangement, a new carrying firm or a new introducing firm, but not including a termination of the agreement).

.02 Notice of New Introducing Firm Arrangement. For purposes of the notice requirements of paragraph (b)(3) of this Rule, the carrying firm shall submit a questionnaire in such form as to be specified by FINRA in a Regulatory Notice, which questionnaire may be updated from time to time as FINRA deems necessary.

.03 Due Diligence. For purposes of paragraph (b)(4) of this Rule, the carrying firm's due diligence may include, without limitation, inquiry by the carrying firm into the introducing firm's business model and product mix, proprietary and customer positions, FOCUS and similar reports, audited financial statements and complaint and disciplinary history.

.04 Allocation of Responsibilities. For purposes of paragraphs (c)(1)(F) and (c)(2) of this Rule, members are reminded that receipt and delivery of customers' funds and securities and the safeguarding of such funds and securities must comply with the requirements of the SEC's financial responsibility rules, in particular SEA Rule 15c3-3, and applicable SEC guidance.

.05 Notice to Customers. For purposes of paragraph (d) of this Rule, notification to customers of a change to any of the parties to the carrying agreement is not required in instances where, consistent with applicable FINRA rules and the federal securities laws, such customers' accounts are being transferred pursuant to: (a) ACATS using an authorized Transfer Instruction Form (TIF); or (b) a process outside of ACATS where notification to customers is provided by means of an alternative mechanism such as affirmative or negative response letters.

Amended by SR-FINRA-2010-061 eff. Aug. 1, 2011.
Amended by SR-NASD-2005-058 eff. Feb. 20, 2006.
Amended by SR-NASD-97-76 eff. July 19, 1999.
Adopted by SR-NASD-93-46 eff. Apr. 15, 1994.

Selected Notices: 92-32, 93-50, 94-7; 97-79, 99-57, 05-72, 11-26.

4314. Securities Loans and Borrowings

The Rule | Notices

(a) Disclosure of Parties' Capacity in Loan or Borrow Transactions

(1) A member that lends or borrows securities in the capacity of agent shall disclose such capacity to the other party (or parties) to the transaction.

(2) Prior to lending securities to or borrowing securities from a person that is not a member of FINRA, a member shall determine whether the other party is acting as principal or agent in such transaction.

(3) A member that is a party to a security loan or borrow transaction, where the other party to such transaction is acting as agent, shall maintain books and records that reflect:

(A) the details of the transaction with the agent; and

(B) each principal(s) on whose behalf the agent is acting and the details of each transaction therewith.

(b) Right to Liquidate Transaction

Each member that is a party to an agreement with another member providing for the loan and borrowing of securities shall have the right to liquidate such transaction whenever the other party to such transaction:

(1) applies for or consents to, or is the subject of an application for, the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of itself or of all or a substantial part of its property;

(2) admits in writing its inability, or becomes generally unable, to pay its debts as such debts become due;

(3) makes a general assignment for the benefit of its creditors; or

(4) files, or has filed against it, a petition under Title 11 of the United States Code, or has filed against it an application for a protective decree under Section 5 of the Securities Investor Protection Act of 1970 ("SIPA"), unless the right to liquidate such transaction is stayed, avoided, or otherwise limited by an order authorized under the provisions of SIPA or any statute administered by the SEC.

(c) Written Agreement with Non-Members

No member shall lend or borrow any security to or from any person that is not a member of FINRA, except pursuant to a written agreement, which may consist of the exchange of contract confirmations, that confers upon such member the contractual right to liquidate such transaction because of a condition of the kind specified in paragraph (b) of this Rule.

• • • ***Supplementary Material:*** ----------

.01 Definition of Agreement. For purposes of this Rule, an agreement for the loan and borrowing of securities shall mean a securities contract or other agreement, including related terms, for the transfer of securities against the transfer of funds, securities, or other collateral, with a simultaneous agreement by the transferee to transfer to the transferor against the transfer of funds, securities, or other collateral, upon notice, at a date certain, or upon demand, the same or substituted securities.

.02 Disclosure of Capacity. A member may satisfy its disclosure obligation in paragraph (a)(1) of this Rule by, among other things, providing specific disclosure of its capacity as agent in the written agreement between the parties or in the individual confirmations of each security exchanged between the parties for each loan and borrow transaction.

.03 Details of Transactions with Parties. For purposes of this Rule, a member shall create and maintain records for each security loan or borrow transaction in accordance with the requirements of SEA Rules 17a-3 and 17a-4. For purposes of paragraph (a)(3) of this Rule, when entering into a security loan or borrow transaction with a party that is acting as agent on behalf of another principal(s), the member shall maintain a record of the details of each security loan or borrow with the agent, identifying the specific security and quantity loaned or borrowed, the contract value and the type and description of the collateral provided to the agent. In addition, the member's records shall reflect the quantity of securities loaned or borrowed from each principal on whose behalf the agent is acting and the amount and description of the collateral allocated to each such principal.

.04 Compliance with Rule 4330 When Borrowing Securities from a Customer. When a member borrows securities from a customer, the member also is subject to Rule 4330(b)(2)(B)(ii), which requires members to provide disclosures to customers regarding the risks and financial impact associated with the customer's loan(s) of securities. Such written notice shall include a disclosure of the right of the member to liquidate the borrow transactions with the customer, as provided by paragraph (b) of this Rule.

.05 Compliance with SEA Rule 15c3-3. For purposes of paragraph (c) of this Rule, each member subject to the provisions of SEA Rule 15c3-3 that borrows securities from a customer (as defined in said rule) shall comply with the provisions thereof relating to the requirements for a written agreement between the borrowing member and the lending customer.

Amended by SR-FINRA-2013-035 eff. May 1, 2014.
Adopted by SR-NYSE-84-11 eff. March 20, 1985.

Selected Notice: 14-05

4320. Short Sale Delivery Requirements

The Rule | Notices

(a) If a participant of a registered clearing agency has a fail to deliver position at a registered clearing agency in a non-reporting threshold security for 13 consecutive settlement days, the participant shall immediately thereafter close out the fail to deliver position by purchasing securities of like kind and quantity.

(1) *Provided, however*, if a participant of a registered clearing agency has a fail to deliver position at a registered clearing agency for thirty-five consecutive settlement days in a non-reporting threshold security that was sold pursuant to SEC Rule 144, the participant shall immediately thereafter close out the fail to deliver position in the security by purchasing securities of like kind and quantity. The requirements in paragraph (b) shall apply to all such fails to deliver that are not closed out in conformance with this paragraph (a)(1).

(b) If a participant of a registered clearing agency has a fail to deliver position at a registered clearing agency in a non-reporting threshold security for 13 consecutive settlement days (or 35 consecutive settlement days if entitled to rely on paragraph (a)(1)), the participant and any broker or dealer for which it clears transactions, including any market maker that would otherwise be entitled to rely on the exception provided in paragraph (b)(2)(iii) of Rule 203 of SEC Regulation SHO, may not accept a short sale order in the non-reporting threshold security from another person, or effect a short sale in the non-reporting threshold security for its own account, without borrowing the security or entering into a bona-fide arrangement to borrow the security, until the participant closes out the fail to deliver position by purchasing securities of like kind and quantity and that purchase has cleared and settled at a registered clearing agency.

(c) If a participant of a registered clearing agency reasonably allocates a portion of a fail to deliver position to another registered broker or dealer for which it clears trades or for which it is responsible for settlement, based on such broker or dealer's short position, then the provisions of this Rule relating to such fail to deliver position shall apply to the portion of the fail to deliver position allocated to such registered broker or dealer, and not to the participant.

(d) A participant of a registered clearing agency shall not be deemed to have fulfilled the requirements of this Rule where the participant enters into an arrangement with another person to purchase securities as required by this Rule, and the participant knows or has reason to know that the other person will not deliver securities in settlement of the purchase.

(e) For the purposes of this Rule, the following terms shall have the meanings below:

(1) the term "market maker" has the same meaning as in Section 3(a)(38) of the Exchange Act.

(2) the term "non-reporting threshold security" means any equity security of an issuer that is not registered pursuant to Section 12 of the Exchange Act and for which the issuer is not required to file reports pursuant to Section 15(d) of the Exchange Act:

(A) for which there is an aggregate fail to deliver position for five consecutive settlement days at a registered clearing agency of 10,000 shares or more and for which on each settlement day during the five consecutive settlement day period, the reported last sale during normal market hours for the security on that settlement day that would value the aggregate fail to deliver position at $50,000 or more, provided that if there is no reported last sale on a particular settlement day, then the price used to value the position on such settlement day would be the previously reported last sale; and

(B) is included on a list published by FINRA.

A security shall cease to be a non-reporting threshold security if the aggregate fail to deliver position at a registered clearing agency does not meet or exceed either of the threshold tests specified in paragraph (e)(2)(A) of this Rule for five consecutive settlement days.

(3) the term "participant" means a participant as defined in Section 3(a)(24) of the Exchange Act, that is a FINRA member.

(4) the term "registered clearing agency" means a clearing agency, as defined in Section 3(a)(23)(A) of the Exchange Act, that is registered with the SEC pursuant to Section 17A of the Exchange Act.

(5) the term "settlement day" means any business day on which deliveries of securities and payments of money may be made through the facilities of a registered clearing agency.

(f) Pursuant to the Rule 9600 Series, the staff, for good cause shown after taking into consideration all relevant factors, may grant an exemption from the provisions of this Rule, either unconditionally or on specified terms and conditions, to any transaction or class of transactions, or to any security or class of securities, or to any person or class of persons, if such exemption is consistent with the protection of investors and the public interest.

Amended by SR-FINRA-2010-028 eff. Oct. 15, 2010.
Amended by SR-FINRA-2007-013 eff. Oct. 15, 2007.
Amended by SR-NASD-2006-071 eff. July 3, 2006.
Amended by SR-NASD-2004-044 eff. July 3, 2006.
Amended by SR-NASD-2004-175 eff. Jan. 3, 2005.
Amended by SR-NASD-97-28 eff. Aug. 7, 1997.
Deleted and replaced with former Appendix B by SR-NASD-93-48 eff. Mar. 8, 1994.
Added eff. Sept. 24, 1973.

Selected Notices: 73-05, 73-45, 73-54, 73-67, 06-28, 07-45, 10-35.

4330. Customer Protection — Permissible Use of Customers' Securities

(a) Authorization to Lend Customers' Margin Securities

No member shall lend securities that are held on margin for a customer and that are eligible to be pledged or loaned, unless such member shall first have obtained a written authorization from such customer permitting the lending of such securities.

(b) Requirements for Borrowing of Customers' Fully Paid or Excess Margin Securities

(1) A member that borrows fully paid or excess margin securities carried for the account of any customer shall:

(A) comply with the requirements of SEA Rule 15c3-3;

(B) comply with the requirements of Section 15(e) of the Exchange Act; and

(C) notify FINRA, in such manner and format as FINRA may require, at least 30 days prior to first engaging in such securities borrows.

(2) Prior to first entering into securities borrows with a customer pursuant to paragraph (b)(1) of this Rule, a member shall:

(A) have reasonable grounds for believing that the customer's loan(s) of securities are appropriate for the customer. In making this determination, the member shall exercise reasonable diligence to ascertain the essential facts relative to the customer, including, but not limited to, the customer's financial situation and needs, tax status, investment objectives, investment time horizon, liquidity needs, risk tolerance and any other information the customer may disclose to the member or associated person in connection with entering such securities loans.

(B) provide the customer, in writing (which may be electronic), with the following:

(i) clear and prominent notice stating that the provisions of the Securities Investor Protection Act of 1970 may not protect the customer with respect to the customer's securities loan transaction and that the collateral delivered to the customer may constitute the only source of satisfaction of the member's obligation in the event the member fails to return the securities; and

(ii) disclosures regarding the customer's rights with respect to the loaned securities, and the risks and financial impact associated with the customer's loan(s) of securities, including, but not limited to:

a. loss of voting rights;

b. the customer's right to sell the loaned securities and any limitations on the customer's ability to do so, if applicable;

c. the factors that determine the amount of compensation received by the member and its associated persons in connection with the use of the securities borrowed from the customer;

d. the factors that determine the amount of compensation (e.g., interest rate) to be paid to the customer and whether or not such compensation can be changed by the member under the terms of the borrow agreement;

e. the risks associated with each type of collateral provided to the customer;

f. that the securities may be "hard-to-borrow" because of short-selling or may be used to satisfy delivery requirements resulting from short sales;

g. potential tax implications, including payments deemed cash-in-lieu of dividend paid on securities while on loan; and

h. the member's right to liquidate the transaction because of a condition of the kind specified in Rule 4314(b).

(3) A member that is subject to paragraph (b)(1) of this Rule shall create and maintain records evidencing the member's compliance with the requirements of paragraph (b)(2) of this Rule. Such records shall be maintained in accordance with the requirements of SEA Rule 17a-4(a).

• • • ***Supplementary Material:*** ----------

.01 Definitions. For purposes of this Rule, the definitions contained in SEA Rule 15c3-3 shall apply.

.02 Authorization to Lend Customers' Margin Securities. For purposes of paragraph (a) of this Rule, members may use a single customer account agreement/margin agreement/loan consent signed by a customer as written authorization to permit the lending of a customer's margin eligible securities in lieu of obtaining a separate written authorization; provided such customer account agreement/margin agreement/loan consent includes clear and prominent disclosure that the firm may lend either to itself or others any securities held by the customer in its margin account.

.03 Notification to FINRA. FINRA, upon receipt of a member's written notification pursuant to paragraph (b)(1)(C) of this Rule, may request such additional information as it may deem necessary to evaluate compliance with SEA Rule 15c3-3, Section 15(e) of the Exchange Act and other applicable FINRA rules or federal securities laws or rules. Examples of additional information include, but are not limited to:

(a) the written agreement authorizing such borrowing of securities, which shall reflect the material terms of the arrangement;

(b) the types of customers that are parties to such securities borrows;

(c) the types of accounts used to effect the securities borrows (i.e., whether the subject securities are maintained in customers' cash or margin or other accounts);

(d) the types of collateral provided to customers in connection with such securities borrows, the frequency of marking to market of the collateral and the custody arrangements for such collateral;

(e) the operational and recordkeeping processes related to such securities borrows;

(f) the rebates paid/received in connection with such securities borrows and any other compensation arrangements related thereto;

(g) the procedures for handling customers' requests to sell the securities subject to such borrows; and

(h) disclosures made to customers.

.04 Appropriateness of Customer's Loan(s) of Securities. The member borrowing a customer's fully paid or excess margin securities is responsible for making the determination regarding the appropriateness of such borrow from a customer required by paragraph (b)(2)(A) of this Rule. However, in making that determination, when the member has entered into a carrying agreement with an introducing member, pursuant to Rule 4311, the member may rely on the representations of the introducing member that has a customer relationship with the lender.

.05 Appropriateness Determination for Institutional Customers. A member may fulfill the obligation set forth in paragraph (b)(2)(A) of this Rule for an institutional account, as defined in Rule 4512(c), by complying with the requirements of Rule 2111(b).

.06 Notification to FINRA of Pre-existing Fully Paid or Excess Margin Securities Borrows and Disclosures to Customers. Members with any existing fully paid or excess margin securities borrows with customers as of May 1, 2014 shall notify FINRA in writing, in such manner and format as FINRA may require, of such borrows within 30 days from May 1, 2014. Further, such members shall provide such customers with the disclosures required by paragraph (b)(2)(B) of this Rule within 180 days of May 1, 2014.

Amended by SR-FINRA-2013-035 partially effective May 1, 2014 and fully effective October 28, 2014.
Amended eff. March 17, 1983.
Amended eff. December 12, 1974.
Amended eff. October 18, 1972.
Amended eff. March 1, 1972.
Amended eff. December 19, 1968.

Selected Notice: 14-05

4340. Callable Securities

The Rule | Notices

(a) Allocation Procedures and Customer Notice

Each member that has in its possession or under its control any security which, by its terms, may be called or redeemed prior to maturity, shall:

(1) establish and make available on the member's website procedures by which it will allocate among its customers, on a fair and impartial basis, the securities to be redeemed or selected as called in the event of a partial redemption or call; and

(2) provide written notice (which may be electronic) to new customers at the opening of an account, and all customers at least once every calendar year, of the manner in which they may access the allocation procedures on the member's website and that, upon a customer's request, the member will provide hard copies of the allocation procedures to the customer.

(b) Favorable Redemptions

Where redemption of callable securities is made on terms that are favorable to the called parties, a member shall not allocate the securities to any account in which it or its associated persons have an interest until all other customers' positions in such securities have been satisfied.

(c) Unfavorable Redemptions

Where the redemption of callable securities is made on terms that are unfavorable to the called parties, a member shall not exclude its positions or those of its associated persons (including those persons performing solely clerical and ministerial functions) from the pool of the securities eligible to be called.

• • • ***Supplementary Material:*** ----------

.01 Definition of Associated Person; Clerical and Ministerial Functions. The term "associated person" as used in this Rule shall have the meaning provided in Section 3(a)(18) of the Exchange Act, which expressly excludes, for certain purposes, any person associated with the member whose functions are solely clerical or ministerial (referred to as "clerical and ministerial associated persons"). With respect to a redemption made on terms that are favorable to the called parties, for purposes of paragraph (b) of this Rule, a member may include the accounts of clerical and ministerial associated persons in the pool of the securities eligible to be called. With respect to a redemption made on terms that are unfavorable to the called parties, for purposes of paragraph (c) of this Rule, a member shall

not exclude the accounts of clerical and ministerial associated persons from the pool of the securities eligible to be called.

.02 Allocations of Partial Redemptions or Calls. For purposes of paragraph (a)(1) of this Rule, a member's procedures may include the use of an impartial lottery system, acting on a pro-rata basis, or such other means as will achieve a fair and impartial allocation of the partially redeemed or called securities.

.03 Accounts of an Introducing Member and its Associated Persons. Where an introducing member is a party to a carrying agreement with another member that is conducting an allocation pursuant to paragraph (a) of this Rule, any accounts in which the introducing member or its associated persons have an interest shall be subject to paragraphs (b) and (c) of this Rule. The introducing member also shall identify such accounts to the member conducting the allocation.

Adopted by SR-FINRA-2013-035 eff. May 1, 2014.

Selected Notice: 14-05

4360. Fidelity Bonds

The Rule | Notices

(a) General Provision

(1) Each member required to join the Securities Investor Protection Corporation shall maintain blanket fidelity bond coverage which provides against loss and has Insuring Agreements covering at least the following:

(A) Fidelity

(B) On Premises

(C) In Transit

(D) Forgery and Alteration

(E) Securities

(F) Counterfeit Currency

(2) The fidelity bond must include a cancellation rider providing that the insurance carrier will use its best efforts to promptly notify FINRA in the event the bond is cancelled, terminated or substantially modified.

(3) A member's fidelity bond must provide for per loss coverage without an aggregate limit of liability.

(b) Minimum Required Coverage

(1) A member with a net capital requirement of less than $250,000 must maintain minimum fidelity bond coverage for all Insuring Agreements required by paragraph (a) of this Rule of the greater of (A) 120% of the member's required net capital under SEA Rule 15c3-1 or (B) $100,000. A member with a net capital requirement of $250,000 or more must maintain minimum fidelity bond coverage for all Insuring Agreements required by paragraph (a) of this Rule in accordance with the following table:

Net Capital Requirement under SEA Rule 15c3-1	Minimum Coverage
250,000 – 300,000	600,000

300,001 – 500,000	700,000
500,001 – 1,000,000	800,000
1,000,001 – 2,000,000	1,000,000
2,000,001 – 3,000,000	1,500,000
3,000,001 – 4,000,000	2,000,000
4,000,001 – 6,000,000	3,000,000
6,000,001 – 12,000,000	4,000,000
12,000,001 and above	5,000,000

(2) At a minimum, a member must maintain fidelity bond coverage for any person associated with the member, except directors or trustees who are not performing acts within the scope of the usual duties of an officer or employee.

(3) Any defense costs for covered losses must be in addition to the minimum coverage requirements as set forth in paragraph (b)(1) of this Rule.

(c) Deductible Provision

A provision may be included in a fidelity bond to provide for a deductible of up to 25% of the coverage purchased by a member. Any deductible amount elected by the member that is greater than 10% of the coverage purchased by the member must be deducted from the member's net worth in the calculation of its net capital for purposes of SEA Rule 15c3-1. If the member is a subsidiary of another FINRA member, this amount may be deducted from the parent's rather than the subsidiary's net worth, but only if the parent guarantees the subsidiary's net capital in writing.

(d) Annual Review of Coverage

(1) A member, including a member that signs a multi-year insurance policy, shall, annually as of the yearly anniversary date of the issuance of the fidelity bond, review the adequacy of its coverage and make any required adjustments, as set forth in paragraphs (d)(2) and (d)(3) of this Rule.

(2) A member's highest net capital requirement during the preceding 12-month period, based on the applicable method of computing net capital (dollar minimum, aggregate indebtedness or alternative standard), shall be used as the basis for determining the member's required minimum fidelity bond coverage for the succeeding 12-month period. For the purpose of

this paragraph, the "preceding 12-month period" shall include the 12-month period that ends 60 days before the yearly anniversary date of a member's fidelity bond.

(3) A member that has only been in business for one year and elected the aggregate indebtedness ratio for calculating its net capital requirement may use, solely for the purpose of determining the adequacy of its fidelity bond coverage for its second year, the 15 to 1 ratio of aggregate indebtedness to net capital in lieu of the 8 to 1 ratio (required for broker-dealers in their first year of business) to calculate its net capital requirement. Notwithstanding the above, such member shall not carry less minimum bonding coverage in its second year than it carried in its first year.

(e) Notification of Change

A member shall immediately advise FINRA in writing if its fidelity bond is cancelled, terminated or substantially modified.

(f) Exemptions

(1) The requirements of this Rule shall not apply to:

(A) members that maintain a fidelity bond as required by a national securities exchange, registered with the SEC under Section 6 of the Exchange Act, provided that the member is in good standing with such national securities exchange and the fidelity bond requirements of such exchange are equal to or greater than the requirements of this Rule; and

(B) members whose business is solely that of a Designated Market Maker, Floor broker or registered Floor trader and who does not conduct business with the public.

(2) Any member may apply for an exemption, pursuant to the Rule 9600 Series, from the requirements of paragraphs (d)(2) and (d)(3) of this Rule. An exemption may be granted, at the discretion of FINRA, upon a showing of good cause, including a substantial change in the circumstances or nature of the member's business that would result in a lower net capital requirement.

• • • Supplementary Material: ----------

.01 Definitions. For purposes of this Rule, the term "substantially modified" shall mean any change in the type or amount of fidelity bonding coverage, or in the exclusions to which the bond is subject, or any other change in the bond such that it no longer complies with the requirements of this Rule.

.02 Alternative Coverage. A member that does not qualify for blanket fidelity bond coverage as required by paragraph (a)(3) of this Rule shall maintain substantially similar fidelity bond coverage in

compliance with all other provisions of this Rule, provided that the member maintains written correspondence from two insurance providers stating that the member does not qualify for the coverage required by paragraph (a)(3) of this Rule. The member must retain such correspondence for the period specified by SEA Rule 17a-4(b)(4).

Amended by SR-FINRA-2010-059 eff. Jan. 1, 2012.
Amended by SR-NASD-98-33 eff. Sept. 15, 1998.
Deleted and replaced with former Appendix C by SR-NASD-93-48 eff. Mar. 8, 1994.
Amended by SR-NASD-82-14 eff. Nov. 19, 1982.
Amended eff. July 11, 1979.
Added eff. Mar. 15, 1974.

Selected Notices: 73-02, 73-75, 74-15, 75-26, 76-19, 78-02, 78-15, 79-25, 79-26, 82-40, 82-58, 83-56, 11-21.

4370. Business Continuity Plans and Emergency Contact Information

The Rule | Notices

(a) Each member must create and maintain a written business continuity plan identifying procedures relating to an emergency or significant business disruption. Such procedures must be reasonably designed to enable the member to meet its existing obligations to customers. In addition, such procedures must address the member's existing relationships with other broker-dealers and counter-parties. The business continuity plan must be made available promptly upon request to FINRA staff.

(b) Each member must update its plan in the event of any material change to the member's operations, structure, business or location. Each member must also conduct an annual review of its business continuity plan to determine whether any modifications are necessary in light of changes to the member's operations, structure, business, or location.

(c) The elements that comprise a business continuity plan are flexible and may be tailored to the size and needs of a member. Each plan, however, must at a minimum, address:

(1) Data back-up and recovery (hard copy and electronic);

(2) All mission critical systems;

(3) Financial and operational assessments;

(4) Alternate communications between customers and the member;

(5) Alternate communications between the member and its employees;

(6) Alternate physical location of employees;

(7) Critical business constituent, bank, and counter-party impact;

(8) Regulatory reporting;

(9) Communications with regulators; and

(10) How the member will assure customers' prompt access to their funds and securities in the event that the member determines that it is unable to continue its business.

Each member must address the above-listed categories to the extent applicable and necessary. If any of the above-listed categories is not applicable, the member's business continuity plan need not

address the category. The member's business continuity plan, however, must document the rationale for not including such category in its plan. If a member relies on another entity for any one of the above-listed categories or any mission critical system, the member's business continuity plan must address this relationship.

(d) Members must designate a member of senior management to approve the plan and he or she shall be responsible for conducting the required annual review. The member of senior management must also be a registered principal.

(e) Each member must disclose to its customers how its business continuity plan addresses the possibility of a future significant business disruption and how the member plans to respond to events of varying scope. At a minimum, such disclosure must be made in writing to customers at account opening, posted on the member's Web site (if the member maintains a Web site), and mailed to customers upon request.

(f)(1) Each member shall report to FINRA, via such electronic or other means as FINRA may specify, prescribed emergency contact information for the member. The emergency contact information for the member includes designation of two associated persons as emergency contact persons. At least one emergency contact person shall be a member of senior management and a registered principal of the member. If a member designates a second emergency contact person who is not a registered principal, such person shall be a member of senior management who has knowledge of the member's business operations. A member with only one associated person shall designate as a second emergency contact person an individual, either registered with another firm or nonregistered, who has knowledge of the member's business operations (e.g., the member's attorney, accountant, or clearing firm contact).

(2) Each member must promptly update its emergency contact information, via such electronic or other means as FINRA may specify, in the event of any material change. With respect to the designated emergency contact persons, each member must identify, review, and, if necessary, update such designations in the manner prescribed by Rule 4517.

(g) For purposes of this Rule, the following terms shall have the meanings specified below:

(1) "Mission critical system" means any system that is necessary, depending on the nature of a member's business, to ensure prompt and accurate processing of securities transactions, including, but not limited to, order taking, order entry, execution, comparison, allocation, clearance and settlement of securities transactions, the maintenance of customer accounts, access to customer accounts and the delivery of funds and securities.

(2) "Financial and operational assessment" means a set of written procedures that allow a member to identify changes in its operational, financial, and credit risk exposures.

Amended by SR-FINRA-2015-004 eff. Feb. 12, 2015.
Amended by SR-FINRA-2009-036 eff. Dec. 14, 2009.
Amended by SR-NASD-2007-034 eff. Dec. 31, 2007.
Adopted by SR-NASD-2002-108 eff. Aug. 11, 2004 (Clearing Firms), Sep. 10, 2004 (Introducing Firms).

Selected Notices: 04-37, 07-42, 09-60.

4380. Mandatory Participation in FINRA BC/DR Testing Under Regulation SCI

The Rule | Notices

(a) In accordance with Rule 1004 of SEC Regulation SCI, FINRA will designate members that will be required to participate in FINRA's periodic, scheduled testing of its business continuity and disaster recovery (BC/DR) plan. FINRA will do so according to established criteria that are designed to ensure participation by those members that FINRA reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of its BC/DR plan. FINRA's criteria will consider volume of activity on a FINRA market system over a specified period of time. FINRA will communicate to members its criteria for designation under this Rule, and any changes to such criteria, on a prospective basis by Regulatory Notice.

(b) The testing of FINRA's BC/DR plan referred to in this Rule will occur at least once every twelve months. Such testing will include functional and performance testing of the operation of FINRA's BC/DR plan. FINRA will notify members that are designated to participate in BC/DR testing under this Rule at least 90 days prior to the scheduled test date.

(c) Members that are designated pursuant to this Rule shall be required to fulfill, within the time frames established by FINRA, certain testing requirements that FINRA determines are necessary and appropriate. Members may also be required to satisfy related reporting requirements, for example, reporting the results of the member's participation in testing under this Rule, as determined by FINRA.

Adopted by SR-FINRA-2015-046 eff. Nov. 3, 2015.

Selected Notice: 15-43

4511. General Requirements

The Rule | Notices

(a) Members shall make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules.

(b) Members shall preserve for a period of at least six years those FINRA books and records for which there is no specified period under the FINRA rules or applicable Exchange Act rules.

(c) All books and records required to be made pursuant to the FINRA rules shall be preserved in a format and media that complies with SEA Rule 17a-4.

Adopted by SR-FINRA-2010-052 eff. Dec. 5, 2011.

Selected Notice: 11-19.

4512. Customer Account Information

(a) Each member shall maintain the following information:

(1) for each account:

(A) customer's name and residence;

(B) whether customer is of legal age;

(C) name(s) of the associated person(s), if any, responsible for the account, and if multiple individuals are assigned responsibility for the account, a record indicating the scope of their responsibilities with respect to the account, provided, however, that this requirement shall not apply to an institutional account;

(D) signature of the partner, officer or manager denoting that the account has been accepted in accordance with the member's policies and procedures for acceptance of accounts;

(E) if the customer is a corporation, partnership or other legal entity, the names of any persons authorized to transact business on behalf of the entity; and

(F) subject to Supplementary Material .06, name of and contact information for a trusted contact person age 18 or older who may be contacted about the customer's account; provided, however, that this requirement shall not apply to an institutional account.

(2) for each account other than an institutional account, and accounts in which investments are limited to transactions in open-end investment company shares that are not recommended by the member or its associated persons, each member shall also make reasonable efforts to obtain, prior to the settlement of the initial transaction in the account, the following information to the extent it is applicable to the account:

(A) customer's tax identification or Social Security number;

(B) occupation of customer and name and address of employer; and

(C) whether customer is an associated person of another member; and

(3) for discretionary accounts maintained by a member, in addition to compliance with subparagraph (1) and, to the extent applicable, subparagraph (2) above, and Rule 3260, the

member shall maintain a record of the dated, signature of each named, associated person of the member authorized to exercise discretion in the account. This recordkeeping requirement shall not apply to investment discretion granted by a customer as to the price at which or the time to execute an order given by a customer for the purchase or sale of a definite dollar amount or quantity of a specified security. Nothing in this Rule shall be construed as allowing members to maintain discretionary accounts or exercise discretion in such accounts except to the extent permitted under the federal securities laws.

(b) A member need not meet the requirements of this Rule with respect to any account that was opened pursuant to a prior FINRA rule until such time as the member updates the information for the account either in the course of the member's routine and customary business or as otherwise required by applicable laws or rules.

(c) For purposes of this Rule, the term "institutional account" shall mean the account of:

(1) a bank, savings and loan association, insurance company or registered investment company;

(2) an investment adviser registered either with the SEC under Section 203 of the Investment Advisers Act or with a state securities commission (or any agency or office performing like functions); or

(3) any other person (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least $50 million.

• • • Supplementary Material: ----------

.01 Customer Account Information Retention Periods. For purposes of this Rule, members shall preserve a record of any customer account information that subsequently is updated for at least six years after the date that such information is updated. Members shall preserve a record of the last update to any customer account information, or the original account information if there are no updates to the account information, for at least six years after the date the account is closed.

.02 Additional Customer Account Records Under the Exchange Act. Members should be aware that they may be required to make and preserve additional customer account records as required under Section 17(a) of the Exchange Act and the applicable associated Exchange Act rules.

.03 Compliance With Rule 2070. With respect to paragraph (a)(2)(B) of this Rule, members should be aware that they have an obligation to comply with the requirements of Rule 2070(a) if they have actual notice that a customer having a financial interest in, or controlling trading in, an account is an employee of FINRA.

.04 "Maintain" and "Preserve." For purposes of Rule 4512 only, as a general matter, the term "maintain" is used to reflect customer account information that is current or in use. The term "preserve" is used to reflect customer account information that is no longer current or in use.

.05 Supervision of Accounts. Nothing in paragraph (a)(1)(C) of this Rule obviates a member's obligation to supervise an account that it services, including determining the associated persons responsible for the account and ensuring that such persons are appropriately qualified and registered, and to comply with the requirements of Rule 2090 (effective July 9, 2012). With respect to a member's obligation to supervise an account, it is incumbent upon the member to design appropriate mechanisms to determine the associated persons responsible for the account, ensure that such persons are appropriately qualified and registered, and have the ability to provide such information to FINRA or SEC staff upon request.

.06 Trusted Contact Person

(a) With respect to paragraph (a)(1)(F) of this Rule, at the time of account opening a member shall disclose in writing, which may be electronic, to the customer that the member or an associated person of the member is authorized to contact the trusted contact person and disclose information about the customer's account to address possible financial exploitation, to confirm the specifics of the customer's current contact information, health status, or the identity of any legal guardian, executor, trustee or holder of a power of attorney, or as otherwise permitted by Rule 2165. With respect to any account that was opened pursuant to a prior FINRA rule, a member shall provide this disclosure in writing, which may be electronic, when updating the information for the account pursuant to paragraph (b) of this Rule either in the course of the member's routine and customary business or as otherwise required by applicable laws or rules.

(b) The absence of the name of or contact information for a trusted contact person shall not prevent a member from opening or maintaining an account for a customer, provided that the member makes reasonable efforts to obtain the name of and contact information for a trusted contact person.

(c) With respect to any account subject to the requirements of SEA Rule 17a- 3(a)(17) to periodically update customer records, a member shall make reasonable efforts to obtain or, if previously obtained, to update where appropriate the name of and contact information for a trusted contact person consistent with the requirements of SEA Rule 17a-3(a)(17).

Amended by SR-FINRA-2019-009 eff. May 8, 2019.
Amended by SR-FINRA-2018-040 eff. May 6, 2019.
Amended by SR-FINRA-2016-039 eff. Feb. 5, 2018.
Amended by SR-FINRA-2011-070 eff. Dec. 5, 2011.
Adopted by SR-FINRA-2010-052 eff. Dec. 5, 2011.

Selected Notices: 11-19, 17-11, 19-13.

4513. Records of Written Customer Complaints

The Rule | Notices

(a) Each member shall keep and preserve in each office of supervisory jurisdiction either a separate file of all written customer complaints that relate to that office (including complaints that relate to activities supervised from that office) and action taken by the member, if any, or a separate record of such complaints and a clear reference to the files in that office containing the correspondence connected with such complaints. Rather than keep and preserve the customer complaint records required under this Rule at the office of supervisory jurisdiction, the member may choose to make them promptly available at that office, upon request of FINRA. Customer complaint records shall be preserved for a period of at least four years.

(b) For purposes of this Rule, "customer complaint" means any grievance by a customer or any person authorized to act on behalf of the customer involving the activities of the member or a person associated with the member in connection with the solicitation or execution of any transaction or the disposition of securities or funds of that customer.

Adopted by SR-FINRA-2010-052 eff. Dec. 5, 2011.

Selected Notice: 11-19.

4514. Authorization Records for Negotiable Instruments Drawn From a Customer's Account

The Rule | Notices

No member or person associated with a member shall obtain from a customer or submit for payment a check, draft or other form of negotiable paper drawn on a customer's checking, savings, share or similar account, without that person's express written authorization, which may include the customer's signature on the negotiable instrument. Where the written authorization is separate from the negotiable instrument, the member shall preserve the authorization for a period of three years following the date the authorization expires. This provision shall not, however, require members to preserve copies of negotiable instruments signed by customers.

Adopted by SR-FINRA-2010-052 eff. Dec. 5, 2011.

Selected Notice: 11-19.

4515. Approval and Documentation of Changes in Account Name or Designation

This version is valid from May 08, 2019 through May 27, 2024.
Amendments have been announced but are not yet effective. To view other versions open the versions tab on the right.

Before any customer order is executed, there must be placed upon the order form or other similar record of the member for each transaction, the name or designation of the account (or accounts) for which such order is to be executed. No change in such account name(s) (including related accounts) or designation(s) (including error accounts) shall be made unless the change has been authorized by a qualified and registered principal designated by the member. Such person must, prior to giving his or her approval of the account designation change, be personally informed of the essential facts relative thereto and indicate his or her approval of such change in writing on the order or other similar record of the member. The essential facts relied upon by the person approving the change must be documented in writing and preserved for the period of time and accessibility specified in SEA Rule 17a-4(b). With respect to any change that takes place prior to execution of the trade, the required approval and documentation must take place prior to execution.

• • • Supplementary Material: ----------

.01 Allocations of Orders Made by Investment Advisers. Members may accept orders from investment advisers as described below and allow such investment advisers to make allocations on their orders for customers on whose behalf the investment advisers submit the orders, provided that members receive specific account designations or customer names from such investment advisers by noon of the next business day following the trading session. This exception only applies where there is more than one customer for any particular order.

In addition, this exception applies to: (a) outside investment advisers; and (b) associated persons of a member who provide investment advisory services on behalf of a member acting as an investment adviser. However, in either instance, the investment adviser must be one who is registered under the Investment Advisers Act or who, but for Investment Advisers Act Section 203(b) or 203A, would be required to register under the Investment Advisers Act. It does not apply to accounts handled by individual registered representatives of members who otherwise exercise discretionary authority over accounts pursuant to Rule 3260. Nothing in this Rule or Supplementary Material may be construed as allowing a member knowingly to facilitate the allocation of orders from investment advisers in a manner other than in compliance with both (i) the investment adviser's intent at the time of trade

execution to allocate shares on a percentage basis to the participating accounts and (ii) the investment adviser's fiduciary duty with respect to allocations for such participating accounts, including but not limited to allocations based on the performance of a transaction between the time of execution and the time of allocation.

Amended by SR-FINRA-2019-009 eff. May 8, 2019.
Adopted by SR-FINRA-2010-052 eff. Dec. 5, 2011.

Selected Notice: 11-19.

4517. Member Filing and Contact Information Requirements

(a) Each member shall be required to file with FINRA, or otherwise submit to FINRA, in such electronic format as FINRA may require, all regulatory notices or other documents required to be filed or otherwise submitted to FINRA, as specified by FINRA.

(b) Each member must identify, review and, if necessary, update its executive representative designation and contact information as required by Article IV, Section 3 of the FINRA By-Laws in the manner prescribed by this Rule.

(c) Each member shall report and update to FINRA all contact information required by FINRA via the Firm Gateway or such other means as FINRA may specify.

(1) Each member shall update its required contact information promptly, but in any event not later than 30 days following any change in such information. In addition, each member shall review and, if necessary, update its required contact information within 17 business days after the end of each calendar year.

(2) Each member shall comply with any FINRA request for the required contact information promptly, but in any event not later than 15 days following the request, or such longer period that may be agreed to by FINRA staff.

Amended by SR-FINRA-2015-004 eff. Feb. 12, 2015.
Amended by SR-NASD-2007-034 eff. Dec. 31, 2007.
Amended by SR-NASD-2006-060 eff. Dec. 6, 2006.
Adopted by SR-NASD-2003-184 eff. May 14, 2004.

Selected Notices: 06-61, 07-42.

4518. Notification to FINRA in Connection with the JOBS Act

The Rule | Notices

A member shall notify FINRA, in a manner prescribed by FINRA:

(a) prior to engaging, for the first time, in a transaction involving the offer or sale of securities in reliance on Section 4(a)(6) of the Securities Act; or

(b) within 30 days of directly or indirectly controlling, or being controlled by or under common control with, a funding portal as defined pursuant to Rule 300(c)(2) of SEC Regulation Crowdfunding.

Adopted by SR-FINRA-2015-040 eff. Jan. 29, 2016.

Selected Notice: 16-07.

4521. Notifications, Questionnaires and Reports

The Rule | Notices

(a) Each carrying or clearing member shall submit to FINRA, or its designated agent, at such times as may be designated, or on an ongoing basis, in such form and within such time period as may be prescribed, such financial and operational information regarding the member or any of its correspondents as FINRA deems essential for the protection of investors and the public interest.

(b) Every member approved by the SEC pursuant to SEA Rule 15c3-1 to use the alternative method of computing net capital contained in Appendix E to that Rule shall file such supplemental and alternative reports as may be prescribed by FINRA.

(c) Each carrying or clearing member shall notify FINRA in writing, no more than 48 hours after its tentative net capital as computed pursuant to SEA Rule 15c3-1 has declined 20 percent or more from the amount reported in its most recent FOCUS Report or, if later, the most recent such notification filed with FINRA. For purposes of this paragraph, "tentative net capital as computed pursuant to SEA Rule 15c3-1" shall exclude withdrawals of capital previously approved by FINRA.

(d)(1) Unless otherwise permitted by FINRA in writing, members carrying margin accounts for customers are required to submit, on a settlement date basis, the information specified in paragraphs (d)(2)(A) and (d)(2)(B) of this Rule as of the last business day of the month. If a member has no information to submit, a report should be filed with a notation thereon to that effect. Reports are due as promptly as possible after the last business day of the month, but in no event later than the sixth business day of the following month. Members shall use such form as FINRA may prescribe for these reporting purposes.

(2) Each member carrying margin accounts for customers shall submit reports containing the following customer information:

(A) Total of all debit balances in securities margin accounts; and

(B) Total of all free credit balances in all cash accounts and all securities margin accounts.

(3) For purposes of this paragraph (d):

(A) Only free credit balances in cash and securities margin accounts shall be included in the member's report. Balances in short accounts and in special memorandum accounts (see Regulation T of the Board of Governors of the Federal Reserve System) shall not be considered as free credit balances.

(B) Reported debit or credit balance information shall not include the accounts of other FINRA members, or of the associated persons of the member submitting the report where such associated person's account is excluded from the definition of customer pursuant to SEA Rule 15c3-3.

(e) Unless a specific temporary extension of time has been granted, there shall be imposed upon each member required to file any report, notification or information pursuant to this Rule, a late fee as set forth in Schedule A Section 4(g)(1) to the FINRA By-Laws.

(f) For purposes of this Rule, any report filed pursuant to this Rule containing material inaccuracies shall be deemed not to have been filed until a corrected copy of the report has been resubmitted.

• • • Supplementary Material: ----------

.01 Members Operating Pursuant to the Exemptive Provisions of SEA Rule 15c3-3(k)(2)(i). For purposes of this Rule, all requirements that apply to a member that clears or carries customer accounts shall also apply to any member that, operating pursuant to the exemptive provisions of SEA Rule 15c3-3(k)(2)(i), either clears customer transactions pursuant to such exemptive provisions or holds customer funds in a bank account established thereunder.

Amended by SR-FINRA-2010-004 eff. Feb. 8, 2010.
Adopted by SR-FINRA-2008-067 eff. Feb. 8, 2010.

Selected Notice: 09-71.

4522. Periodic Security Counts, Verifications and Comparisons

The Rule | Notices

(a) Each member that is subject to the requirements of SEA Rule 17a-13 shall make the counts, examinations, verifications, comparisons and entries set forth in SEA Rule 17a-13.

(b) Each carrying or clearing member subject to the requirements of SEA Rule 17a-13 shall make more frequent counts, examinations, verifications, comparisons and entries where prudent business practice would so require. In addition, each such carrying or clearing member shall:

(1) Receive position statements as frequently as good business practice requires, but no less than once per month with respect to securities held by clearing corporations, other organizations or custodians. Each such member shall at least once per month reconcile all such securities and money balances by comparison of the clearing corporations' or custodians' position statements to the member's books and records and promptly report differences to the contra organization and such differences shall be promptly resolved by both. Where there is a higher volume of activity, good business practice may require a more frequent exchange of statements and their reconciliation; and

(2) At a maximum of seven business days after each security count, enter all unresolved differences into a "Difference" account, for that security count. The Difference account shall identify the unverified securities and reflect the number of shares or principal amount long or the number of shares or principal amount short of each security difference and the date of the security count that disclosed such difference. Thereafter, any adjustment of a difference position shall be made by entry into such account.

Adopted by SR-FINRA-2010-061 eff. Aug. 1, 2011.

Selected Notice: 11-26.

4523. Assignment of Responsibility for General Ledger Accounts and Identification of Suspense Accounts

The Rule | Notices

(a) Each member shall designate an associated person who shall be responsible for each general ledger bookkeeping account and account of like function used by the member and such associated person shall control and oversee entries into each such account and shall determine that the account is current and accurate as necessary to comply with all applicable FINRA rules and federal securities laws governing books and records and financial responsibility requirements. A supervisor shall, as frequently as is necessary considering the function of the account but, in any event, at least monthly, review each account to determine that it is current and accurate and that any items that become aged or uncertain as to resolution are promptly identified for research and possible transfer to a suspense account(s).

(b) Each carrying or clearing member shall maintain a record of the names of the associated persons assigned primary and supervisory responsibility for each account as required by paragraph (a) of this Rule. All records made pursuant to this paragraph (b) shall be preserved for a period of not less than six years.

(c) Each member must record, in an account that shall be clearly identified as a suspense account, money charges or credits and receipts or deliveries of securities whose ultimate disposition is pending determination. A record must be maintained of all information known with respect to each item so recorded. Such suspense accounts include, but are not limited to, DK fails, unidentified fails, unallocable securities receipts versus payment, returned deliveries, and any other receivable or payable (money or securities) "suspended" because of doubtful ownership, collectibility or deliverability. To the extent that suspense items can be distinguished by type, separate accounts may be used provided that the word "suspense" is made a prominent part of the account title. All records made pursuant to this paragraph shall be preserved for a period of not less than six years.

• • • Supplementary Material: ----------

.01 Supervisory Responsibility. For the purposes of paragraphs (a) and (b) of this Rule, each member with only one associated person may assign primary and supervisory responsibility for each account to that associated person, subject to applicable registration requirements. Members of limited size and resources that have more than one associated person may seek FINRA's prior written approval to assign primary and supervisory responsibility for each account to the same associated person.

.02 Members Operating Pursuant to the Exemptive Provisions of SEA Rule 15c3-3(k)(2)(i). For purposes of this Rule, all requirements that apply to a member that clears or carries customer accounts shall also apply to any member that, operating pursuant to the exemptive provisions of SEA Rule 15c3-3(k)(2)(i), either clears customer transactions pursuant to such exemptive provisions or holds customer funds in a bank account established thereunder.

Adopted by SR-FINRA-2010-061 eff. Aug. 1, 2011.

Selected Notice: 11-26.

4524. Supplemental FOCUS Information

The Rule | Notices

As a supplement to filing FOCUS reports required pursuant to SEA Rule 17a-5 and FINRA Rule 2010, each member, as FINRA shall designate, shall file such additional financial or operational schedules or reports as FINRA may deem necessary or appropriate for the protection of investors or in the public interest. The content of such schedules or reports, their format, and the timing and the frequency of such supplemental filings shall be specified in a Regulatory Notice (or similar communication) issued pursuant to this Rule. FINRA shall file with the SEC pursuant to Section 19(b) of the Exchange Act the content of any such Regulatory Notice (or similar communication) issued pursuant to this Rule.

Adopted by SR-FINRA-2011-064 eff. Feb. 28, 2012.

Selected Notice: 12-11.

4530. Reporting Requirements

The Rule | Notices

(a) Each member shall promptly report to FINRA, but in any event not later than 30 calendar days, after the member knows or should have known of the existence of any of the following:

(1) the member or an associated person of the member:

(A) has been found to have violated any securities-, insurance-, commodities-, financial- or investment-related laws, rules, regulations or standards of conduct of any domestic or foreign regulatory body, self-regulatory organization or business or professional organization;

(B) is the subject of any written customer complaint involving allegations of theft or misappropriation of funds or securities or of forgery;

(C) is named as a defendant or respondent in any proceeding brought by a domestic or foreign regulatory body or self-regulatory organization alleging the violation of any provision of the Exchange Act, or of any other federal, state or foreign securities, insurance or commodities statute, or of any rule or regulation thereunder, or of any provision of the by-laws, rules or similar governing instruments of any securities, insurance or commodities domestic or foreign regulatory body or self-regulatory organization;

(D) is denied registration or is expelled, enjoined, directed to cease and desist, suspended or otherwise disciplined by any securities, insurance or commodities industry domestic or foreign regulatory body or self-regulatory organization or is denied membership or continued membership in any such self-regulatory organization; or is barred from becoming associated with any member of any such self-regulatory organization;

(E) is indicted, or convicted of, or pleads guilty to, or pleads no contest to, any felony; or any misdemeanor that involves the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or a conspiracy to commit any of these offenses, or substantially equivalent activity in a domestic, military or foreign court;

(F) is a director, controlling stockholder, partner, officer or sole proprietor of, or an associated person with, a broker, dealer, investment company, investment advisor, underwriter or insurance company that was suspended, expelled or had its registration denied or revoked by any domestic or foreign regulatory body, jurisdiction or organization

or is associated in such a capacity with a bank, trust company or other financial institution that was convicted of or pleaded no contest to, any felony or misdemeanor in a domestic or foreign court;

(G) is a defendant or respondent in any securities- or commodities-related civil litigation or arbitration, is a defendant or respondent in any financial-related insurance civil litigation or arbitration, or is the subject of any claim for damages by a customer, broker or dealer that relates to the provision of financial services or relates to a financial transaction, and such civil litigation, arbitration or claim for damages has been disposed of by judgment, award or settlement for an amount exceeding $15,000. However, when the member is the defendant or respondent or is the subject of any claim for damages by a customer, broker or dealer, then the reporting to FINRA shall be required only when such judgment, award or settlement is for an amount exceeding $25,000; or

(H) (i) is subject to a "statutory disqualification" as that term is defined in the Exchange Act; or (ii) is involved in the sale of any financial instrument, the provision of any investment advice or the financing of any such activities with any person that is subject to a "statutory disqualification" as that term is defined in the Exchange Act, provided, however, that this requirement shall not apply to activities with a member or an associated person that has been approved (or is otherwise permitted pursuant to FINRA rules and the federal securities laws) to be a member or to be associated with a member. The report shall include the name of the person subject to the statutory disqualification and details concerning the disqualification; or

(2) an associated person of the member is the subject of any disciplinary action taken by the member involving suspension, termination, the withholding of compensation or of any other remuneration in excess of $2,500, the imposition of fines in excess of $2,500 or is otherwise disciplined in any manner that would have a significant limitation on the individual's activities on a temporary or permanent basis.

(b) Each member shall promptly report to FINRA, but in any event not later than 30 calendar days, after the member has concluded or reasonably should have concluded that an associated person of the member or the member itself has violated any securities-, insurance-, commodities-, financial- or investment-related laws, rules, regulations or standards of conduct of any domestic or foreign regulatory body or self-regulatory organization.

(c) Each person associated with a member shall promptly report to the member the existence of any of the events set forth in paragraph (a)(1) of this Rule.

(d) Each member shall report to FINRA statistical and summary information regarding written customer complaints in such detail as FINRA shall specify by the 15th day of the month following the calendar quarter in which customer complaints are received by the member.

(e) Nothing contained in this Rule shall eliminate, reduce or otherwise abrogate the responsibilities of a member or person associated with a member to promptly disclose required information on the Forms BD, U4 or U5, as applicable, to make any other required filings or to respond to FINRA with respect to any customer complaint, examination or inquiry. In addition, members are required to comply with the reporting obligations under paragraphs (a), (b) and (d) of this Rule, regardless of whether the information is reported or disclosed pursuant to any other rule or requirement, including the requirements of the Form BD. However, a member need not report: (1) an event otherwise required to be reported under paragraph (a)(1) of this Rule if the member discloses the event on the Form U4, consistent with the requirements of that form, and indicates, in such manner and format that FINRA may require, that such disclosure satisfies the requirements of paragraph (a)(1) of this Rule, as applicable; or (2) an event otherwise required to be reported under paragraphs (a) or (b) of this Rule if the member discloses the event on the Form U5, consistent with the requirements of that form.

(f) Each member shall promptly file with FINRA copies of:

(1) any indictment, information or other criminal complaint or plea agreement for conduct reportable under paragraph (a)(1)(E) of this Rule;

(2) any complaint in which a member is named as a defendant or respondent in any securities- or commodities-related private civil litigation, or is named as a defendant or respondent in any financial-related insurance private civil litigation;

(3) any securities- or commodities-related arbitration claim, or financial-related insurance arbitration claim, filed against a member in any forum other than the FINRA Dispute Resolution forum;

(4) any indictment, information or other criminal complaint, any plea agreement, or any private civil complaint or arbitration claim against a person associated with a member that is reportable under question 14 on Form U4, irrespective of any dollar thresholds Form U4 imposes for notification, unless, in the case of an arbitration claim, the claim has been filed in the FINRA Dispute Resolution forum.

(g) Members may file electronically, in such manner and format as specified by FINRA, the documents required by paragraph (f); provided, however, that the filings shall be accompanied by summary information regarding the documents in such detail as specified by FINRA.

(h) Members shall not be required to comply separately with paragraph (f) in the event that any of the documents required by paragraph (f) have been the subject of a request by FINRA's Credentialing, Registration, Education and Disclosure staff, provided that the member produces those requested documents to the Credentialing, Registration, Education and Disclosure staff not later than 30 days after receipt of such request. This paragraph does not supersede any FINRA rule or policy

that requires production of documents specified in paragraph (f) sooner than 30 days after receipt of a request by the Credentialing, Registration, Education and Disclosure staff.

▪ ▪ ▪ Supplementary Material: ----------

.01 Reporting of Firms' Conclusions of Violations. For purposes of paragraph (b) of this Rule, with respect to violative conduct by a member, FINRA expects a member to report only conduct that has widespread or potential widespread impact to the member, its customers or the markets, or conduct that arises from a material failure of the member's systems, policies or practices involving numerous customers, multiple errors or significant dollar amounts. With respect to violative conduct by an associated person, FINRA expects a member to report only conduct that has widespread or potential widespread impact to the member, its customers or the markets, conduct that has a significant monetary result with respect to a member(s), customer(s) or market(s), or multiple instances of any violative conduct. In addition, with respect to violative conduct by an associated person, the reporting obligation under paragraph (b) must be read in conjunction with the reporting obligation under paragraph (a)(2) of this Rule. If a member has concluded that an associated person has engaged in violative conduct and imposes the discipline set forth under paragraph (a)(2) of this Rule, then the member is required to report the event under paragraph (a)(2), and it need not report the event under paragraph (b).

.02 Firms' Conclusions of Violations versus External Findings. Members should be aware that paragraph (b) of this Rule is limited to situations where the member has concluded or reasonably should have concluded on its own that violative conduct has occurred. Paragraph (a)(1)(A) of this Rule is limited to situations where there has been a finding of violative conduct by an external body, such as a court, domestic or foreign regulatory body, self-regulatory organization or business or professional organization.

.03 Meaning of "Found." The term "found" as used in paragraph (a)(1)(A) of this Rule includes among other formal findings, adverse final actions, including consent decrees in which the respondent has neither admitted nor denied the findings, but does not include informal agreements, deficiency letters, examination reports, memoranda of understanding, cautionary actions, admonishments and similar informal resolutions of matters. For example, a Letter of Acceptance, Waiver and Consent or an Order Accepting an Offer of Settlement is considered an adverse final action. The term "found" also includes any formal finding, regardless of whether the finding will be appealed. The term "found" does not include a violation of a self-regulatory organization rule that has been designated as "minor" pursuant to a plan approved by the SEC, if the sanction imposed consists of a fine of $2,500 or less, and if the sanctioned person does not contest the fine.

.04 Meaning of "Regulatory Body." For purposes of this Rule, the term "regulatory body" refers to governmental regulatory bodies and authorized non-governmental regulatory bodies, such as the Financial Services Authority.

.05 Reporting of Individual and Related Events. With respect to a reportable event under paragraphs (a) or (b) of this Rule, members should not report the same event under more than one paragraph or subparagraph. Members should report the event under the most appropriate paragraph or subparagraph. However, members should be aware that they may be required to report related events under more than one paragraph or subparagraph. For instance, if a member is named as a respondent in a proceeding brought by a self-regulatory organization alleging the violation of the self-regulatory organization's rules, the member would be required to report that event under paragraph (a)(1)(C) of this Rule. In addition, if the member subsequently is found to have violated the self-regulatory organization's rules, the member would be required to report that finding under paragraph (a)(1)(A) of this Rule.

.06 Calculation of Monetary Thresholds. For purposes of paragraph (a)(1)(G) of this Rule, when determining the dollar amount that would require a report, members must include any attorneys fees and interest in the total amount. In addition if the parties are subject to "joint and several" liability, the amount for each party must be aggregated and reported, if above the dollar thresholds under paragraph (a)(1)(G), as if each party is separately liable for the aggregated amount. For instance, if two parties have "joint and several" liability for $40,000, the amount reported would be $40,000 for each party.

.07 Former Associated Persons. For purposes of paragraphs (a), (b) and (d) of this Rule, members should report an event relating to a former associated person if the event occurred while the individual was associated with the member. A member is not required to report such an event where, based on its records or information available through Web CRD, the member cannot determine that the person was an associated person of the member.

.08 Customer Complaints. For purposes of paragraph (a)(1)(B) of this Rule, a "customer" includes any person, other than a broker or dealer, with whom the member has engaged, or has sought to engage, in securities activities. Any written customer complaint reported under paragraph (a)(1)(B) of this Rule also must be reported pursuant to paragraph (d) of this Rule. For purposes of paragraph (d) of this Rule, with respect to a person, other than a broker or dealer, with whom the member has engaged in securities activities, the member must report any written grievance by such person involving the member or a person associated with the member. In addition, with respect to a person, other than a broker or dealer, with whom the member has sought to engage in securities activities, the member must report any securities-related written grievance by such person involving the member or a person associated with the member and any written complaint reportable under paragraph (a)(1)(B) of this Rule.

.09 Financial Related. For purposes of this Rule, the term "financial related" means related to the provision of financial services.

.10 Findings and Actions by FINRA. For purposes of paragraphs (a)(1)(A), (C) and (D) of this Rule only, members are not required to report findings and actions by FINRA.

Amended by SR-FINRA-2020-039 eff. Oct. 29, 2020.
Amended by SR-FINRA-2015-011 eff. May 5, 2015.
Amended by SR-FINRA-2013-006 eff. July 1, 2013.
Amended by SR-FINRA-2013-006 eff. March 4, 2013.
Amended by SR-FINRA-2011-024 eff. July 1, 2011.
Amended by SR-FINRA-2010-034 eff. July 1, 2011.
Amended by SR-NASD-2002-112 eff. May 21, 2003.
Amended by SR-NASD-2002-27 eff. July 15, 2002.
Adopted by SR-NASD-95-16 eff. Sept. 8, 1995.

Selected Notices: 94-95, 95-81, 96-85, 02-34, 03-23, 06-34, 11-06, 13-08.

4540. Reporting Requirements for Clearing Firms

In Regulatory Notice 23-17, FINRA announced its decision, effective November 30, 2023, to discontinue collecting INSITE data, pursuant to Rule 4540, at this time.

(a) Each member that is a clearing firm or self-clearing firm shall be required to report to FINRA in such format as FINRA may require, prescribed data pertaining to the member and any member broker-dealer for which it clears. A clearing firm or self-clearing firm may enter into an agreement with a third party pursuant to which the third party agrees to fulfill the obligations of a clearing firm or self-clearing firm under this Rule. Notwithstanding the existence of such an agreement, each clearing firm or self-clearing firm remains responsible for complying with the requirements of this Rule.

(b) Each member that is a clearing firm is required to report prescribed data to FINRA under this Rule in such a manner as to enable FINRA to distinguish between data pertaining to all proprietary and customer accounts of an introducing member and data pertaining to all proprietary and customer accounts of any member for which the introducing member is acting as an intermediary in obtaining clearing services from a clearing firm. The reporting requirements of this paragraph (b) shall apply to the proprietary and customer accounts of members that have established an intermediary clearing arrangement with an introducing member on or after February 20, 2006.

(c) Pursuant to the Rule 9600 Series, FINRA may in exceptional and unusual circumstances, taking into consideration all relevant factors, exempt a member or class of members unconditionally or on specified terms from any or all of the provisions of this Rule that it deems appropriate.

• • • Supplementary Material: ----------

(a) Upon written request for exemptive relief pursuant to the Rule 9600 Series, FINRA generally will grant an exemption from the reporting requirements of Rule 4540 to a self-clearing firm that:

(1) derives, on an annualized basis, at least 85 percent of its revenue from transactions in fixed income securities;

(2) conducts an institutional business that settles transactions on an RVP/DVP basis, provided that such exemption from reporting shall apply only with respect to such institutional business unless FINRA determines that any other remaining business otherwise qualifies for an exemption under this supplementary material or is *de minimis* in nature; or

(3) does not execute transactions for customers or otherwise hold customer accounts or act as an introducing broker with respect to customer accounts (e.g., that engages solely in

proprietary trading, or that conducts business only with other broker-dealers or any other non-customer counter-parties).

(b) Upon written request for exemptive relief pursuant to the Rule 9600 Series, FINRA also generally will grant an exemption to a clearing firm with respect to one or more of the introducing firms for which it clears if the introducing firm meets one of the above-stated grounds for exemptive relief.

(c) Any self-clearing firm that, due to a change in the facts pertaining to the operation and nature of its business or the operation and nature of the business of a firm for which it clears, as applicable, no longer qualifies for an exemption previously granted by FINRA from the reporting requirements of Rule 4540 must promptly report such change in circumstances to FINRA, and commence compliance with the reporting requirements of Rule 4540.

Amended by SR-FINRA-2019-009 eff. May 8, 2019.
Amended by SR-NASD-2005-058 eff. Feb. 20, 2006.
Amended by SR-NASD-2004-014 eff. Feb. 20, 2004.
Adopted by SR-NASD-2001-19 eff. Dec. 10, 2001.

Selected Notice: 01-84, 04-24, 05-72, 23-17.

4551. Requirements for Alternative Trading Systems to Record and Transmit Order and Execution Information for Security Futures

(a) Alternative Trading Systems' Recording Requirements

(1) Each alternative trading system that accepts orders for security futures (as defined in Section 3(a)(55) of the Exchange Act) shall record each item of information described in paragraph (b) of this Rule. For purposes of this Rule, the term "order" includes a broker-dealer's proprietary quotes that are transmitted to an alternative trading system.

(2) Alternative trading systems shall record each item of information required to be recorded under this Rule in such manner and form as is prescribed by FINRA from time to time.

(3) Maintaining and Preserving Records

(A) Each alternative trading system shall maintain and preserve records of the information required to be recorded under this Rule for the period of time and accessibility specified in SEA Rule 17a-4(b).

(B) The records required to be maintained and preserved under this Rule may be immediately produced or reproduced on "micrographic media" as defined in SEA Rule 17a-4(f)(1)(i) or by means of "electronic storage media" as defined in SEA Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEA Rule 17a-4(f) and may be maintained and preserved for the required time in that form.

(b) Information to be Recorded.

The records required pursuant to paragraph (a) of this Rule shall contain, at a minimum, the following information for every order:

(1) Date and time (expressed in terms of hours, minutes and seconds) that the order was received;

(2) Security future product name and symbol;

(3) Number of contracts to which the order applies;

(4) An identification of the order as related to a program trade or an index arbitrage trade as defined in New York Stock Exchange Rule 132B;

(5) The designation of the order as a buy or sell order;

(6) The designation of the order as a market order, limit order, stop order, stop limit order or other type of order;

(7) Any limit or stop price prescribed by the order;

(8) The date on which the order expires and, if the time in force is less than one day, the time when the order expires;

(9) The time limit during which the order is in force;

(10) Any instructions to modify or cancel the order;

(11) Date and time (expressed in terms of hours, minutes and seconds) that the order was executed;

(12) Unit price at which the order was executed; excluding commissions, mark-ups or mark-downs;

(13) Size of the order executed;

(14) Identity of the alternative trading system's subscribers that were intermediaries or parties in the transaction; and

(15) An account identifier that relates the order back to the account owner(s).

(c) Reporting Requirements

(1) General Requirement

Alternative trading systems shall report information required to be recorded under this Rule to FINRA on the next business day following the date the alternative trading system accepted the order or executed the trade, or at such other time period as FINRA shall specify.

(2) Method of Transmitting Data

Alternative trading systems shall transmit this information in such manner and form as prescribed by FINRA.

Amended by SR-FINRA-2009-016 eff. Aug. 17, 2009.
Adopted by SR-NASD-2001-47 eff. March 31, 2003.

Selected Notice: 09-33.

4560. Short-Interest Reporting

The Rule | Notices

(a) Each member shall maintain a record of total "short" positions in all customer and proprietary firm accounts in all equity securities (other than Restricted Equity Securities as defined in Rule 6420) and shall regularly report such information to FINRA in such a manner as may be prescribed by FINRA. Reports shall be received by FINRA no later than the second business day after the reporting settlement date designated by FINRA.

(b) Members shall record and report all gross short positions existing in each individual firm or customer account, including the account of a broker-dealer, that resulted from (1) a "short sale," as that term is defined in Rule 200(a) of SEC Regulation SHO, or (2) where the transaction(s) that caused the short position was marked "long," consistent with SEC Regulation SHO, due to the firm's or the customer's net long position at the time of the transaction. Members shall report only those short positions resulting from short sales that have settled or reached settlement date by the close of the reporting settlement date designated by FINRA.

(c) The recording and reporting requirements of this Rule shall not apply to:

(1) any sale by any person, for an account in which he has an interest, if such person owns the security sold and intends to deliver such security as soon as is possible without undue inconvenience or expense; and

(2) any sale by an underwriter, or any member of a syndicate or group participating in the distribution of a security, in connection with an over-allotment of securities, or any lay-off sale by such a person in connection with a distribution of securities through rights or a standby underwriting commitment.

Amended by SR-FINRA-2012-001 eff. Nov. 30, 2012.
Amended by SR-FINRA-2010-003 eff. June 28, 2010.
Amended by SR-FINRA-2008-057 eff. Dec. 15, 2008.
Amended by SR-FINRA-2008-033 eff. Dec. 15, 2008.
Amended by SR-NASD-2006-131 eff. Sept. 6, 2007.
Amended by SR-NASD-2007-047 eff. July 6, 2007.
Amended by SR-NASD-2005-087 eff. Aug. 1, 2006.
Amended by SR-NASD-2005-112 eff. July 3, 2006.
Amended by SR-NASD-2005-001 eff. Jan. 7, 2005.
Amended by SR-NASD-2002-178 eff. Dec. 16, 2002.
Amended by SR-NASD-94-67 eff. May 1, 1995.
Amended by SR-NASD-87-23 eff. Aug. 31, 1987.
Adopted by SR-NASD-85-34 eff. Jan. 20, 1986.

Selected Notices: 85-77, 85-87, 86-4, 86-15, 86-61, 87-15, 95-8, 03-08, 07-24, 07-31, 08-57, 10-26, 12-38.

4570. Custodian of Books and Records

The Rule | Notices

(a) Designation of Custodian

A member that files a Form BDW shall designate on the Form BDW, as the custodian of the member's books and records: (i) a person associated with the member at the time that the Form BDW is filed; or (ii) another FINRA member.

(b) Obligations of Custodians

The custodian designated on the Form BDW shall preserve the books and records of the member that filed the Form BDW for the remainder of the applicable retention periods under FINRA and Exchange Act rules and make such records available for inspection by FINRA upon request. Further, the custodian shall preserve and produce such books and records in the same manner in which they were received from the member that filed the Form BDW.

Where a member has agreed to act as custodian of the books and records of another member that has filed a Form BDW, the member that has agreed to act as custodian shall: (i) treat such books and records as if they were its own books and records; and (ii) arrange upon its dissolution for such books and records to continue to be retained for the remainder of the applicable retention periods under FINRA and Exchange Act rules in the same manner as its own books and records consistent with this Rule.

(c) Consent Requirement

A member that is filing a Form BDW shall, before the submission of the form, obtain from the person designated on the form as custodian of the member's books and records the person's affirmative consent to act in such a capacity. Prior to obtaining a custodian's consent, such member shall inform the custodian of its obligations under the Exchange Act and FINRA Rules, including this Rule.

A person designated on a Form BDW as custodian of a member's books and records shall, at the time that the Form BDW is filed, represent to FINRA, in a method prescribed by FINRA, that the person: (i) consented to act as a custodian; (ii) understands the responsibilities of a custodian; and (iii) shall provide to FINRA upon request during the course of the required retention periods the books and records of the member for which the person is acting as a custodian.

• • • Supplementary Material: ----------

.01 Converting Records to Other Acceptable Formats. Nothing in paragraph (b) of this Rule shall preclude the custodian from converting a record from a format acceptable under FINRA and Exchange Act rules to another format acceptable under such rules (e.g., converting from paper to electronic storage media), provided that such records are not altered or deleted during the conversion process.

.02 Members Acting as Custodians. Nothing in paragraph (b) of this Rule shall require a member that is acting as custodian to verify the completeness or accuracy of the books and records that it is receiving from the member that filed the Form BDW.

Amended by SR-FINRA-2018-039 eff. Aug. 19, 2019.
Amended by SR-FINRA-2009-080 eff. April 19, 2010.
Adopted by SR-NASD-99-76 eff. Sept. 11, 2000.

Selected Notices: 00-56, 10-10, 19-16.

4580. Books and Records Requirements for Government Distribution and Solicitation Activities

(a) A covered member that engages in distribution or solicitation activities with a government entity on behalf of any investment adviser that provides or is seeking to provide investment advisory services to such government entity shall maintain books and records that pertain to Rule 2030, including a list or other record of:

(1) The names, titles and business and residence addresses of all covered associates of the covered member;

(2) The name and business address of each investment adviser on behalf of which the covered member has engaged in distribution or solicitation activities with a government entity within the past five years, but not prior to August 20, 2017;

(3) The name and business address of all government entities with which the covered member has engaged in distribution or solicitation activities for compensation on behalf of an investment adviser, or which are or were investors in any covered investment pool on behalf of which the covered member has engaged in distribution or solicitation activities with the government entity on behalf of the investment adviser to the covered investment pool, within the past five years, but not prior to August 20, 2017; and

(4) All direct or indirect contributions made by the covered member or any of its covered associates to an official of a government entity, or direct or indirect payments to a political party of a state or political subdivision thereof, or to a political action committee.

(b) Records relating to the contributions and payments referred to in paragraph (a)(4) must be listed in chronological order and indicate:

(1) The name and title of each contributor;

(2) The name and title (including any city/county/state or other political subdivision) of each recipient of a contribution or payment;

(3) The amount and date of each contribution or payment; and

(4) Whether any such contribution was the subject of the exception for certain returned contributions pursuant to Rule 2030.

(c) The terms used in this Rule 4580 shall have the same meaning as defined in Rule 2030.

(d) Any book or other record made, kept, maintained and preserved in compliance with SEA Rules 17a-3 and 17a-4, or with rules adopted by the Municipal Securities Rulemaking Board, which are substantially the same as the book or other record required to be made, kept, maintained and preserved under this Rule, shall be deemed to be made, kept, maintained and preserved in compliance with this Rule.

Adopted by SR-FINRA-2015-056 eff. Aug. 20, 2017.

Selected Notice: 16-40

4590. Synchronization of Member Business Clocks

(a) Each member shall synchronize its business clocks, including computer system clocks and mechanical time stamping devices, that are used for purposes of recording the date and time of any event that must be recorded pursuant to the FINRA By-Laws or other FINRA rules, with reference to a time source as designated by FINRA, and shall maintain the synchronization of such business clocks in conformity with such procedures as are prescribed by FINRA.

(b) Business clocks, including computer system clocks and manual time stamp machines, must record time in hours, minutes and seconds and must be synchronized to a source that is synchronized to within a one second tolerance of the National Institute of Standards' (NIST) atomic clock. This tolerance includes all of the following:

(1) The difference between the NIST standard and a time provider's clock;

(2) Transmission delay from the source; and

(3) The amount of drift of the member's clock.

(c) Computer system and mechanical clocks must be synchronized every business day before market open to ensure that recorded event timestamps are accurate. To maintain clock synchronization, clocks must be checked against the standard clock and re-synchronized, as necessary, throughout the day.

• • • Supplementary Material: ----------

.01 Members must document and maintain their clock synchronization procedures. Among other requirements, members must keep a log of the times when they synchronize their clocks and the results of the synchronization process. This log should include notice of any time the clock drifts more than the tolerance specified in paragraph (b) of this Rule. This log should be maintained for the period of time and accessibility specified in SEC Rule 17a-4(b), and it should be maintained and preserved for the required time period in paper format or in a format permitted under SEC Rule 17a-4(f).

.02 Members must comply with the provisions of this Rule 4590 only to the extent that Rule 6820 (Clock Synchronization) under the Rule 6800 Series (Consolidated Audit Trail Compliance Rule) does not apply, e.g., to business clocks that record events in debt securities.

Amended by SR-FINRA-2023-003 eff. Mar. 10, 2023.
Amended by SR-FINRA-2016-005 eff. Aug. 15, 2016.
Amended by SR-FINRA-2008-021 eff. Dec. 15, 2008.
Adopted by SR-NASD-97-56 eff. according to schedule in Rule 6957.

Selected Notices: 98-33, 08-57, 16-23.