



Monthly Regulatory Review and Outlook (April 2019)

As the regulatory landscape is constantly evolving, Compliance Risk Concepts (“CRC”) is issuing its monthly review and summary of FINRA, SEC, and NFA notices and bulletins to assist our clients in keeping abreast of notable regulatory developments and deadlines in an effort to strengthen their compliance and regulatory initiatives.

FINRA Regulatory Notices

Per Notice 19-10 This notice addresses the responsibilities of member firms when communicating with customers about departing registered representatives. FINRA expects that 1) in the event of a registered representative’s departure, the member firm should promptly and clearly communicate to affected customers how their accounts will continue to be serviced; and 2) the firm should provide customers with timely and complete answers, if known, when the customer asks questions about a departing registered representative.

Per Notice 19-11 FINRA is making available an update to the Interpretations of Financial and Operational Rules that relates to Securities Exchange Act (SEA) Rule 15c3 1(c)(2)(viii) (Open Contractual Commitments). This interpretation relates to the conditions under which an underwriting backstop agreement in a firm commitment underwriting would not give rise to an open contractual commitment charge. The updated page is [here](#).

Per Notice 19-12 FINRA requests comment on a proposed pilot program to study changes to corporate bond block trade dissemination based on recommendations of the Securities and Exchange Commission’s (SEC) Fixed Income Market Structure Advisory Committee (FIMSAC or Committee). Specifically, the proposed pilot is designed to study two primary changes recommended by the FIMSAC: an increase to the current dissemination caps for corporate bond trades, and delayed dissemination of any information about trades above the proposed dissemination caps for 48 hours. FINRA encourages all interested parties to comment on the proposal. Comments must be received by June 11, 2019.

Comments must be submitted through one of the following methods: Emailing comments to pubcom@finra.org; OR Mailing comments in hard copy to: Marcia E. Asquith Office of the Corporate Secretary FINRA 1735 K Street, NW Washington, DC 20006-1506

Per Notice 19-13 Effective May 6, 2019, the Securities and Exchange Commission (SEC) approved a proposed rule change to amend FINRA Rule 4512 (Customer Account Information) to permit the use of electronic signatures for discretionary accounts and to clarify the scope of the rule. Specifically, the new rule requires firms to maintain the name of the associated person, if any, responsible for the account, rather than requiring firms to maintain the signature of the registered representative introducing the account.

Where a member firm designates multiple individuals as being responsible for an account, the firm is required to maintain each of their names and a record indicating the scope of their responsibilities with respect to the account. For purposes of the rule, it is the member firm's obligation to determine whether a particular individual is responsible for the account based on the scope of the individual's activities with respect to that account. The new rule continues to require a firm to maintain the signature of a partner, officer or manager of the firm with respect to an account, but it clarifies that the purpose of this signature is to denote that the account has been accepted in accordance with the firm's policies and procedures for acceptance of accounts. The signature also serves to validate the identity of the named associated person, if any. The rule does not require a partner, officer or manager to provide any particular representations.

Per Notice 19-14 In February 2012, pursuant to an SEC order, FINRA established an accounting support fee (GASB Accounting Support Fee) to adequately fund the annual budget of the Governmental Accounting Standards Board (GASB). The GASB Accounting Support Fee is collected on a quarterly basis from member firms that report trades to the Municipal Securities Rulemaking Board (MSRB). Each member firm's assessment is based on its portion of the total par value of municipal securities transactions reported by all FINRA member firms to the MSRB during the previous quarter. For 2019, GASB's annual budget expenses of \$10,452,300 will be partially funded from \$1,516,800 of excess reserves of the Financial Accounting Foundation. As a result, the recoverable annual budgeted expense for purposes of the GASB Accounting Support Fee is \$8,935,500; therefore, FINRA will collect \$2,233,875 from its member firms each quarter beginning in April 2019.

Per Notice 19-15 As required by SEC Regulation Systems Compliance and Integrity (Regulation SCI), FINRA in 2015 adopted Rule 4380 requiring member firm participation in business continuity and disaster recovery (BC/DR) testing. The rule authorizes FINRA to designate firms that must participate in FINRA's annual BC/DR test based on established standards, which FINRA first published in Regulatory Notice 15-43 and updated in Regulatory Notice 18-09. FINRA will notify firms that meet these criteria individually by email in or around April of each year. FINRA will include in the notification email the date of the annual test, which typically is in October of each year; information about the voluntary connectivity pre-test, which typically occurs several weeks before the annual test date; and the contact information for FINRA staff that coordinates testing activity.

Per Notice 19-16 Effective on August 19, 2019, the Securities and Exchange Commission (SEC) approved a proposed rule change to amend FINRA Rule 4570 (Custodian of Books and Records) to: (1) provide a member firm that is filing a Form BDW (Uniform Request for Broker-Dealer Withdrawal) the option of designating another FINRA member firm as the custodian of its books and records on the form; (2) clarify the obligations of the designated custodian; and (3) require the designated custodian to consent to act in such a capacity.

Information Notice

Imposter Websites Impacting Member Firms Several member firms have recently notified FINRA that they have been victims of imposter websites—which are sites designed to mimic a firm’s actual website with the end goal of committing financial fraud. Member firms can take proactive steps to monitor for imposter websites. For example, firms may consider registering website URL name variations, such as common misspellings or visually similar character substitutions, and using social media or website monitoring services to watch for imposter websites. Learn more [here](#).

New Rate for Fees Paid Under Section 31 of the Exchange Act Effective April 16, 2019, the Section 31 fee rate applicable to specified securities transactions on the exchanges and in the over-the-counter markets will increase from its current rate of \$13.00 per million dollars in transactions to a new rate of \$20.70 per million dollars in transactions. The assessment on security futures transactions will remain unchanged at \$0.0042 for each round turn transaction.

Special Notice

2019 Involvement and Election Process Overview FINRA has multiple committees that facilitate engagement with its member firms and representatives of the public regarding regulatory and policy initiatives related to FINRA’s mission of promoting market integrity and investor protection. This Notice provides: (i) an overview of each elected or appointed vacancy to be filled in 2019; (ii) a description of responsibilities for the various bodies; and (iii) a summary of how eligible individuals can become candidates for appointment or election. FINRA will announce detailed nomination and election procedures for the elected positions discussed in this Notice in an Election Notice at the start of the various elections throughout the year.

SEC

Final Notices

Per Release No. 34-85714 The Securities and Exchange Commission (“Commission”) is adopting amendments to Regulation National Market System (“Regulation NMS”) under the Securities Exchange Act of 1934 to require additional disclosures by broker-dealers to customers regarding the handling of their orders. The Commission is adding a new disclosure requirement which requires a broker-dealer, upon request of its customer, to provide specific disclosures related to the routing and execution of the customer’s NMS stock orders submitted on a not held basis for the prior six months, subject to two de minimis exceptions. The Commission also is amending the current order routing disclosures that broker-dealers must make publicly available on a quarterly basis to pertain to NMS stock orders submitted on a held basis, and the Commission is making targeted enhancements to these public disclosures. In connection with these new requirements, the Commission is amending Regulation NMS to include certain newly defined and redefined terms that are used in the amendments. The Commission also is amending Regulation NMS to require that the public order execution report be kept publicly available for a period of three years.

Proposed Notices

There were no proposed notices in April.

Interim Final Notices.

There were no interim final notices in April.

Interpretive Releases

There were no interpretive releases in April.

NFA

Notices to Members

There were no notices to members in April.

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Our Perspective

Our Perspective Regulators continue to demonstrate their commitment to protecting investors by aggressively pursuing bad actors and reviewing and updating regulations to guard investors against constantly evolving threats.

The best approach to regulatory compliance is a proactive one. Staying ahead of the curve by taking note of statements and guidance released by regulators and using them as a barometer to assess the current regulatory climate can help ensure that a firm is prepared for a regulatory exam. Instead of scrambling to rectify issues or meet deadlines, a thorough, active compliance program that considers and incorporates regulatory developments is in a better position to satisfy regulators and preserve operations so they can best serve their clients.

For more information, please contact:

Mitch Avnet, p. (646) 346-2468

mavnet@compliance-risk.com

David Amster, p. (646) 661-6483

damster@compliance-risk.com

Sources:

FINRA Industry Notices

SEC Notices

NFA Notices