

# FINRA (and selected SEC) regulatory matters at a glance – What compliance officers need to know

FINRA notices, rule filings and guidance and selected SEC materials for November 2020

By Glen Barrentine

## Internallinks

<b><u>Items of Note</u></b>	<b><u>FINRA Regulatory Notices</u></b>	<b><u>Other FINRA Notices</u></b>
<b><u>FINRA Rule Filings</u></b>	<b><u>SEC Rule Filings</u></b>	<b><u>FINRA Guidance</u></b>
<b><u>No Action Letters</u></b>	<b><u>Selected Enforcement and Litigation</u></b>	<b><u>Other matters of interest</u></b>

<b>Chart color key</b>	<b>Action may be required (does not include continuing education items)</b>	<b>Administrative</b>	<b>Arbitration</b>	<b>Continuing education</b>	<b>No action needed</b>
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<b>Item</b>	<b>Subject matter</b>	<b>Heading</b>	<b>Relevant rule*</b>	<b>Comments</b>	<b>Relevant date</b>	<b>Impact on member</b>
<b><u>This month's item(s) of note</u></b>						
<a href="#">SR-FINRA-2020-040</a> <a href="#">34-90454</a>	Supervision Office Inspections Remote Inspections	Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Temporary Supplementary Material .17 (Temporary Relief to Allow Remote Inspections for Calendar Year	<a href="#">FINRA Rule 3110</a> (Supervision)	The immediately effective amendment provides member firms the option to complete their calendar year 2020 and 2021 internal inspection obligations remotely.	Immediately Effective	Firms wishing to conduct remote inspections must comply with the requirements set forth in Supplementary Material .17.

\* Other rules may also apply

Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
		2020 and Calendar Year 2021) under FINRA Rule 3110 (Supervision)		Applicable requirements are set forth at Supplementary Material .17 (Temporary Relief to Allow Remote Inspections for Calendar Year 2020 and Calendar Year 2021). These requirements include specific books and records and that the member amend its WSPs to address specific, listed, requirements.		

**FINRA Regulatory Notices**

<a href="#">Regulatory Notice 20-40</a>	Cyber Security Phishing Fake FINRA Domain Name	FINRA Alerts Firms to Phishing Emails Using Invest-FINRA.org Domain Name	Not Applicable	In what is becoming a monthly occurrence, FINRA once again alerts its members of fraudulent emails purporting to be from FINRA and using the domain “@invest-finra.org.”	Immediately	In light of this and earlier phishing-related notices, members that have not already done so may want to revisit their policies around authorization to respond to emails from FINRA. If they have not already done so, firms may want to take steps to limit who is so authorized and provide training to non-authorized employees as to what they should do if they receive an
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						email that purports to be from FINRA as well as the significant phishing-related risks accompanying such emails.

**Other FINRA Notices**

<a href="#">Information Notice 11-23-20</a>	Annual Report and Focus and Related Filings	2021 and First Quarter of 2022 Report Filing Due Dates: Annual Report; FOCUS; Form Custody; Supplemental Statement of Income (SSOI); Supplemental Schedule for Derivatives and Other Off-Balance Sheet Items (OBS); and Supplemental Inventory Schedule (SIS)	<a href="#">SEA Rule 17a-5</a> (Reports to be Made by Certain Brokers and Dealers)  <a href="#">FINRA Rule 4524</a> (Supplemental Focus Information)	The Notice sets forth the due dates for the listed reports in 2021 and the first quarter of 2022.	Immediately	Firms are advised to make note of the referenced due dates.
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**FINRA Rule Filings**

<a href="#">SR-FINRA-2020-024</a> <a href="#">34-90535</a>	Securities Reporting  Order Audit Trail System (OATS)	Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 to Delete the FINRA Order Audit Trail System (OATS)	<a href="#">FINRA Rule 4554</a> (Alternative Trading Systems — Recording and Reporting Requirements of Order and Execution Information for NMS Stocks)  <a href="#">FINRA Rule 7400</a> (Order Audit Trail System)	The Order deletes OATS reporting once member firms have transitioned to reporting pursuant to the Consolidated Audit Trail.	Effective Date:  To be determined but not until appropriate CAT reporting standards have been achieved and only after FINRA has published a Regulatory Notice announcing the implementation date.	None
<a href="#">SR-FINRA-2020-041</a> <a href="#">34-90527</a>	Restricted Firms  FINRA Oversight	Notice of Filing of a Proposed Rule Change to Adopt FINRA Rule 4111 (Restricted Firm	The proposed rules are available at Exhibit 5 of the <a href="#">draft rule filing</a> ,	The proposed rules would require member firms that are	Comment Due Date:  21 days from publication in	None  The Notice is for the purpose of soliciting

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		Obligations) and FINRA Rule 9561 (Procedures for Regulating Activities Under Rule 4111)	starting at page 560 thereof. <u>Proposed FINRA Rule 4111</u> (Restricted Firm Obligations) <u>Proposed FINRA Rule 9561</u> (Procedures for Regulating Activities Under Rule 4111) <u>FINRA Rule 9559</u> (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series)	identified as “Restricted Firms” on account of a history of misconduct, to maintain a deposit in a segregated account from which withdrawals would be restricted, adhere to specified conditions or restrictions, or comply with a combination of such obligations.	the Federal Register	comments on the proposed amendments.
<a href="#">SR-FINRA-2020-040</a> <a href="#">34-90454</a>	Supervision Office Inspections Remote Inspections	Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt Temporary Supplementary Material .17 (Temporary Relief to Allow Remote Inspections for Calendar Year 2020 and Calendar Year 2021) under FINRA Rule 3110 (Supervision)	<u>FINRA Rule 3110</u> (Supervision)	The immediately effective amendment provides member firms the option to complete their calendar year 2020 and 2021 internal inspection obligations remotely. Applicable requirements are set forth at Supplementary Material .17 (Temporary Relief to Allow Remote Inspections for Calendar Year 2020 and Calendar Year 2021). These requirements include specific books and records and that the member amend its WSPs to address	Immediately Effective	Firms wishing to conduct remote inspections must comply with the requirements set forth in Supplementary Material .17.

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Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
				specific, listed, requirements.		
<a href="#">SR-FINRA-2020-029</a> <a href="#">34-90396</a>	Trade Reporting Time Reporting Increments	Order Approving Proposed Rule Change Relating to Granularity of Timestamps in Trade Reports Submitted to FINRA's Equity Trade Reporting Facilities	Various	The Order approves a change to FINRA's rules that conforms the granularity of timestamps with respect to FINRA's equity trade reporting rules to the CAT reporting rules. Current equity trade reporting rules require members to report time fields in seconds and milliseconds, if captured by the member's system. Conformance to the CAT reporting rules would require reporting in milliseconds or such finer increments, up to nano seconds, captured by the member's system.	Implementation Date:  To be announced by publication of a Regulatory Notice at least 120 days prior to the implementation date, which, in part, will be no later than December 15, 2021 and, in part, no later than December 15, 2022.	On and after the implementation date, members that submit trade reports to FINRA will need to ensure the timestamps on such reports comply with the revised requirements.
<a href="#">SR-FINRA-2020-039</a> <a href="#">34-90344</a>	Administrative FINRA Department Names  Previously, Office of Dispute Resolution  Now, FINRA Dispute Resolution Services  Previously, Department of	Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rules to Reflect Name Changes to Two FINRA Departments: the Office of Dispute Resolution and the Department of Registration and Disclosure	Various	The Filing amends FINRA's rules to reflect changes to the name of two FINRA Departments.	Effective Date:  Immediately	None, though persons who deal with the affected FINRA departments should be aware of the name changes.

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	Registration and Disclosure  Now , Credentialing, Registration, Education and Disclosure (CRED)					
<a href="#">SR-FINRA-2020-031</a> <a href="#">34-90335</a>	Trading  Inter-dealer Quotation System  OTC Equity Securities Quotations	Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change to Adopt FINRA Rule 6439  (Requirements for Member Inter-Dealer Quotation Systems) and Delete the Rules Related to the OTC Bulletin Board Service	<a href="#">Proposed Rule 6439</a>  (Requirement for Member Inter-Dealer Quotation Systems)	The proposed rule would delete the rules related to the OTC Bulletin Board Service and terminate its operations while also enhancing the regulation of quotations in OTC Equity Securities by adopting new requirements for member inter-dealer quotation systems.	The Notice extends the time for SEC action on the underlying rule proposal until January 5, 2021.	None.  The Notice is for the purpose of extending the time period available to the SEC to approve, disapprove or institute proceedings to determine whether to disapprove the proposed rule change.
<a href="#">SR-FINRA-2020-037</a> <a href="#">34-90324</a>	Administrative  National Adjudicatory Council  Membership  Grounds for Removal	Notice of Filing of a Proposed Rule Change to Amend the By-Laws of FINRA Regulation, Inc. to Align the Grounds for Member Removal from the NAC with an Existing Provision in the FINRA By-Laws	Various	The Notice proposes amendments to the By-Laws of FINRA Regulation, Inc., FINRA's regulatory subsidiary, to align the grounds for member removal from the National Adjudicatory Council with existing FINRA By-Laws related to the removal of a FINRA	Comment Due Date:  21 days from publication in the Federal Register	None.  The Notice is for the purpose of soliciting comments on the proposed amendments.

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Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
				governor from FINRA's board of governors.		
<a href="#">SR-FINRA-2020-038</a> <a href="#">34-90302</a>	Securities Offerings  Private Placements  Retail Communications	Notice of Filing of Proposed Amendments to FINRA Rules 5122 (Private Placements of Securities Issued by Members) and 5123 (Private Placements of Securities) that Would Require Members to File Retail Communications Concerning Private Placement Offerings that are Subject to Those Rules' Filing Requirements	<a href="#">FINRA Rule 5122</a> (Private Placements of Securities Issued by Members)  <a href="#">FINRA Rule 5123</a> (Private Placements of Securities)	The Notice proposes amendments to FINRA rules that would require members to file retail communication concerning private placement offerings.	Pilot Extension Date:  October 18, 2021.	None.  The Notice is for the purpose of soliciting comments on the proposed amendments.

**Relevant SEC Rule Filings**

None

**FINRA Guidance**

<a href="#">COVID-19 Guidance and Relief</a>	Firms are urged to monitor updates to the guidance and relief set forth on <a href="#">FINRA's COVID-19 Page</a> .					
<a href="#">Targeted Examination Letter on Rights of Reinstatement</a>  November 2020	Sales Practices  Mutual Fund Waivers and Rebates  Rights of Reinstatement	<a href="#">Targeted Examination Letter on Rights of Reinstatement</a>	Various	FINRA is conducting a review of systems and procedures for providing customer waivers and rebates available through Rights of Reinstatement (RoR) on mutual fund purchases.	Immediately	Firms that engage in mutual fund sales are advised to consider how they would respond to the various questions set forth in the notice.

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<b>SEC Guidance</b>						
<a href="#">COVID-19 Guidance and Relief</a>	Firms are urged to monitor updates to the guidance and relief set forth on the <a href="#">SEC's COVID-19 page</a> .					
<b><a href="#">No Action Letters</a> of particular relevance to Broker-Dealers</b>						
<b>None</b>						
<b>Selected Enforcement and Litigation Actions</b>						
<a href="#">SEC Press Release 2020-282</a>	Sales Practices Complex Products Exchange-Traded Products Volatility-linked Products	SEC Charges Investment Advisory Firms and Broker-Dealers in Connection with Sales of Complex Exchange-Traded Products	Various	The press release notes both that the firms recommended these products to their customers without understanding the products and, in particular, the fact that these products were meant to be held only on a short term basis.	Immediately	Firms that engage in the sale of the referenced products or other complex products to retail investors may wish to review the relevant actions against their procedures and practices.
<b>Other matters of interest including OCIE materials and other SEC <a href="#">press releases</a>, <a href="#">SEC public statements</a>, and FINRA <a href="#">press releases</a></b>						
<b>None</b>						

\* Other rules may also apply



## Information about this chart

The information set forth herein is for general informational purposes only and is not meant as a full analysis of any particular matter and should not be relied upon as legal advice regarding any factual situation.



### About Glen Barrentine

Glen Barrentine has extensive experience involving regulatory, compliance and enforcement issues affecting financial service companies, particularly broker-dealers, investment advisers, municipal advisors, and securities exchanges.

Glen frequently represents and advises clients in connection with SEC and FINRA enforcement proceedings and other regulatory inquiries, such as inspections and examinations, as well as on transactions involving the purchase, sale or restructuring of financial service companies. Glen also provides clients with counseling and advice across the full range of regulatory and compliance issues arising under the rule sets issued by the SEC, FinCEN, FINRA and the various securities exchanges, e.g., the NYSE.

Particular areas of focus include insider trading, registration and membership, anti-money laundering, broker-dealer net capital requirements, sales practices, research, trading and trade reporting, Rule 15a-6 and cross border activities by foreign broker-dealers, pay to play restrictions, supervision, and soft dollars. Other areas of focus include the preparation of supervisory and compliance procedures and drafting and negotiating clearing, account, prime brokerage, and other industry agreements.

Glen was previously a member of the Board of Directors of the National Society of Compliance Professionals (NSCP), the largest organization in the US devoted exclusively to compliance in the financial services industries. He currently hosts NSCP's monthly Broker-Dealer Forum and previously chaired the NSCP's Governance Committee and Investment Advisers Forum.

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