

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 July 2021

By Glen Barrentine

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

Chart color key	Action may be required (does not include continuing education items)	Administrative	Arbitration	Continuing education	No action needed
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Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
<u>This month's item(s) of note</u>						
<u>FINRA Regulatory Notice 21-27</u>	Net Capital Customer Protection – Reserve and Custody	FINRA Announces Update of the Interpretations of Financial and Operational Rules	<u>SEA Rule 15c3-1</u> (Net Capital Rule) <u>SEA Rule 15c3-3</u> (Customer Protection Rule)	The Notice announces a number of new, revised, and rescinded interpretations that have been added to the <u>Interpretations of Financial and Operational Rules</u> .	Immediately	As applicable, members may want to ensure that their net capital and customer protection policies and procedures are compliant with the updated interpretations.

* Other rules may also apply

Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
FINRA Regulatory Notice 21-26	Securities Offerings Private Placements Retail Communication	FINRA Amends Rules 5122 and 5123 Filing Requirements to Include Retail Communications That Promote or Recommend Private Placements Implementation Date: October 1, 2021	FINRA Rule 5122 (Private Placements of Securities Issued by Members) FINRA Rule 5123 (Private Placements of Securities)	The Notice describes amendments that implement new filing requirements related to retail communications related to private placement.	Implementation Date: October 1, 2021	Members that promote or recommend private placements to retail investors should update their policies and procedures to comply with FINRA's recent amendments.
FINRA Regulatory Notice 21-25	Digital Assets	FINRA Continues to Encourage Firms to Notify FINRA if They Engage in Activities Related to Digital Assets	Not Applicable	As the title of the Notice states, FINRA encourages members that engage in digital asset related activity to inform FINRA thereof.	Effective Date: Immediately	None
<u>FINRA Regulatory Notices</u>						
FINRA Regulatory Notice 21-27	Net Capital Customer Protection – Reserve and Custody	FINRA Announces Update of the Interpretations of Financial and Operational Rules	SEA Rule 15c3-1 (Net Capital Rule) SEA Rule 15c3-3 (Customer Protection Rule)	The Notice announces a number of new, revised, and rescinded interpretations that have been added to the Interpretations of Financial and Operational Rules .	Immediately	As applicable, members may want to ensure that their net capital and customer protection policies and procedures are compliant with the updated interpretations.
FINRA Regulatory Notice 21-26	Securities Offerings Private Placements Retail Communication	FINRA Amends Rules 5122 and 5123 Filing Requirements to Include Retail Communications That Promote or Recommend Private Placements Implementation Date: October 1, 2021	FINRA Rule 5122 (Private Placements of Securities Issued by Members) FINRA Rule 5123 (Private Placements of Securities)	The Notice describes amendments that implement new filing requirements related to retail communications related to private placement.	Implementation Date: October 1, 2021	Members that promote or recommend private placements to retail investors should update their policies and procedures to comply with FINRA's recent amendments.

* Other rules may also apply

Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
FINRA Regulatory Notice 21-25	Digital Assets	FINRA Continues to Encourage Firms to Notify FINRA if They Engage in Activities Related to Digital Assets	Not Applicable	As the title of the Notice states, FINRA encourages members that engage in digital asset related activity to inform FINRA thereof.	Effective Date: Immediately	None
FINRA Regulatory Notice 21-24	Margin	FINRA Announces Updates to the Interpretations of FINRA's Margin Rule Regarding Minimum Equity	FINRA Rule 4210 (Margin Requirements)	The Notice announces that FINRA has added new Interpretations to its margin interpretations. Interpretation /021 addresses the minimum equity requirements in a margin account clarifying when the \$2,000 amount is not required because securities may be fully paid. New Interpretation /021 also clarifies treatment of securities transactions resulting in positions covered by Rule 4210(e)(2)(F), (G) or (H) or other provisions of Rule 4210 that allow the member to take a capital charge in lieu of collecting margin. New	Effective Date: Immediately	None Member firms that provide margin may want to review their existing procedures and operations to ensure compliance with the new Interpretations.

* Other rules may also apply

Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
				<p>Interpretation /022 incorporates the section of current Interpretation /02 that addresses the effect of market value decline on the minimum equity requirements. New Interpretation /023 clarifies when withdrawals are permissible. New Interpretation /024 clarifies minimum equity requirements for a cash account. Finally, new Interpretation /025 states the minimum equity requirements for a pattern day trader.</p>		

Other FINRA Notices

None

FINRA Rule Filings

<u>SR-FINRA-2021-041</u> <u>34-92525</u>	Restricted Firms FINRA Oversight	Order Approving a Proposed Rule Change, as Modified by Amendment No. 1 and Amendment No. 2, to Adopt FINRA Rule 4111 (Restricted Firm Obligations) and FINRA Rule 9561	The approved rules, as amended, are available <u>here</u> and included: <u>FINRA Rule 4111</u> (Restricted Firm Obligations) <u>FINRA Rule 9561</u>	The proposed rules would require member firms that are identified as “Restricted Firms” on account of a history of misconduct to maintain a deposit in a	Effective Date: 180 days after publication by FINRA of a Regulatory Notice announcing Commission approval.	The newly approved rules would apply only to firms identified as “Restricted Firms”, which would only occur after a firm has been notice thereof and an opportunity to
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* Other rules may also apply

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		(Procedures for Regulating Activities Under Rule 4111)	(Procedures for Regulating Activities Under Rule 4111) and amendments to FINRA Rule 9559 (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series)	segregated account from which withdrawals would be restricted, adhere to specified conditions or restrictions, or comply with a combination of such obligations.		contest such designation.
SR-FINRA-2021-014 34-92524	Filing Requirements OTC Securities Published Quotations Form 211	Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Relating to Members' Filing Requirements under FINRA Rule 6432 (Compliance with the Information Requirements of SEA Rule 15c2-11)	FINRA Rule 6432 (Compliance with the Information Requirements of SEA Rule 15c2-11)	The Notice designates a longer period for the Commission to take action on proposed amendments to FINRA Rule 6432. The proposed amendments are intended to reflect recent changes to Exchange Act Rule 15c2-11, which rule sets forth the information review and maintenance requirements for broker-dealers that publish quotations in quotation medium, including interdealer networks, for securities in the over the counter market.	Extended Date for Commission Action: September 13, 2021	None The Notice merely designates an extended time period in which the Commission may act on FINRA's proposal.
SR-FINRA-2021-018 34-92403	Various	Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Make Technical and other Non-Substantive	Various	The changes update outdated references to rules and other matters and are not substantive.	Effective Date: Immediately	None

* Other rules may also apply

Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
		Changes within FINRA rules				
<u>Relevant SEC Rule Filings</u>						
None						
<u>FINRA Guidance</u>						
COVID-19 Guidance and Relief	Firms are urged to monitor updates to the guidance and relief set forth on FINRA's COVID-19 Page .					
SEC Guidance						
COVID-19 Guidance and Relief	Firms are urged to monitor updates to the guidance and relief set forth on the SEC's COVID-19 page .					
<u>No Action Letters</u> of particular relevance to Broker-Dealers						
None						
Other matters of interest including materials from the SEC's Division of Examinations and other SEC <u>press releases</u>, <u>SEC public statements</u>, and FINRA <u>press releases</u>						
None						

* 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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