

# 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 December 2021

By Glen Barrentine

## Internal links

<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>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
<b><u>This month's item(s) of note</u></b>						
<a href="#">FINRA Regulatory Notice 21-44</a>	Business Continuity	Business Continuity Planning and Lessons from the Covid-19 Pandemic	<a href="#">FINRA Rule 4370</a> (business Continuity Plans and Emergency Contact Information)	The Notice announces that following the completion of FINRA's retrospective review of Rule 4370, FINRA has determined to maintain the without change. The Notice summarizes the retrospective rule	Immediately	None.  Firms may want to review the guidance provided by the Notice.

\* Other rules may also apply

Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
				review process, the predominant themes that emerged from stakeholder feedback and resulting actions in both the retroactive rule review and reviews undertaken by FINRA as a result of the pandemic, and provides guidance to member firms.		
<b><u>FINRA Regulatory Notices</u></b>						
<a href="#">FINRA Regulatory Notice 21-45</a>	Financial and Operational Rules	FINRA Announces Update of the Interpretations of Financial and Operational Rules	Various	The announced updates reflect amendments to various SEC Financial and Operational rules and revised and re-designated interpretations thereof.	Immediately	None. Firms may want to review the updates provided.
<a href="#">FINRA Regulatory Notice 21-44</a>	Business Continuity	Business Continuity Planning and Lessons from the Covid-19 Pandemic	<a href="#">FINRA Rule 4370</a> (business Continuity Plans and Emergency Contact Information)	The Notice announces that following the completion of FINRA's retrospective review of Rule 4370, FINRA has determined to maintain the without change. The Notice summarizes the retrospective rule review process, the predominant themes that emerged from stakeholder feedback and resulting actions in both the retroactive rule review and reviews undertaken by FINRA as a result of the pandemic, and provides	Immediately	None. Firms may want to review the guidance provided by the Notice.

\* Other rules may also apply

Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
				guidance to member firms.		
<a href="#">FINRA Regulatory Notice 21-43</a>	Customer Sales Practices	Proposed Amendments to FINRA Rule 3240 and Retrospective Rule Review Report	<a href="#">FINRA Rule 3240</a> (Borrowing From or Lending to Customers)	The Notice seeks comments regarding possible changes to FINRA Rule 3420, prohibits borrowing from or lending to customers. The proposed Amendments (shown on <a href="#">Attachment A</a> ) would make a number of changes to the rule.	Comment Period Expiration Date: February 14, 2022	None. The Notice seeks comment on a possible changes to an existing FINRA rule. Should FINRA decide to go enact these amendments, it would still be required to file for approval with the SEC.
<a href="#">FINRA Regulatory Notice 21-42</a>	Cybersecurity	FINRA Alerts Firms to “Log4Shell” Vulnerability in Apache Log4j Software	Not Applicable	The notice alerts members of a vulnerability in Apache Log4j Software “which is an open-source, java-based logging utility widely used by enterprise applications and cloud services. The notice sets forth recommended next steps that members that may be exposed to this vulnerability should consider.	Immediately	Firms exposed to the vulnerability that forms the basis of FINRA’s alert may want to consider the recommended next steps set forth therein.
<b><u>Other FINRA Notices</u></b>						
<b>None</b>						
<b><u>FINRA Rule Filings</u></b>						
<a href="#">SR-FINRA-2021-032</a> <a href="#">34-93769</a>	Carrying Firms Distribution of Proxies and other Issuer Materials	Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rule 2251 (Processing and Forwarding of	<a href="#">FINRA Rule 2251</a> (Processing and Forwarding of Proxy and Other Issuer-Related Materials)	The amendments to FINRA Rule 2251 relate to reimbursements from issuers for forwarding proxy and other materials.	Comment Due Date: January 10, 2022	None The Notice relates to reimbursement rates for forwarding issuer related materials and does not impose any

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Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
		Proxy and Other Issuer-Related Materials)				obligations on member firms..
<a href="#">SR-FINRA-2021-031</a> <a href="#">34-93758</a>	Margin Mortgage Backed Securities	Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Expiration Date of Temporary Amendments Set Forth in SR-FINRA-2020-015 and SR-FINRA-2020-027	Various	The amendments extend the expiration date of temporary amendments to FINRA rules relating to timing, method of service and other procedural requirements in FINRA rules and allow enforcement hearings and appeals to the NAC to be conducted by video conference.	The Notice extends the expiration date of these temporary amendments from December 31, 2021 to March 31, 2022.	None The Notice extends the expiration date of existing, but temporary, amendments to various FINRA rules.
<a href="#">SR-FINRA-2021-030</a> <a href="#">34-93699</a>	Trade Reporting Trace Delayed Treasury Spot Trades Portfolio Trades	Notice of Filing of Proposed Rule Change to Amend FINRA Rule 6730 to Require Members to Append Modifiers to Delayed Treasury Spot and Portfolio Trades When Reporting to TRACE	<a href="#">FINRA Rule 6730</a> (Transaction Reporting)	The proposed rule relates to reporting to the TRACE trade reporting system of two types of corporate bond trades. The first consists of corporate bond trades where the price of the trade is based on a spread to a benchmark U.S. Treasury Security that was agreed upon earlier in the day (the notice refers to these trades as “delayed Treasury spot trades”). The second consists of corporate bond trades that are part of a larger portfolio trade.	The comment period on this Notice has already passed.	None. The Notice is for the purpose of soliciting comments on proposed amendments.

**Relevant SEC Rule Filings**

\* Other rules may also apply

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<b>None</b>						
<b><u>FINRA Guidance</u></b>						
<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> .					
<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><u>No Action Letters</u> of particular relevance to Broker-Dealers</b>						
<a href="#">Rule 15c2-11 Fixed Income No-Action Letter 2</a> , December 16, 2021.	The no action letter grants additional time for member firms seeking to comply with SEA Rule 15c2-11 for quotations of fixed income securities that are published in quotation mediums.					
<b>Other matters of interest including materials from the SEC's <a href="#">Division of Examinations</a> and other SEC <u>press releases</u>, <u>SEC public statements</u>, and FINRA <u>press releases</u></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 boarder 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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