

# 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 2019

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>Exemptive and Interpretive Letters</u>	<u>Targeted Examination Letters</u>
<u>Reports and studies</u> <u>Other matters of interest</u>	<u>No Action Letters</u>	<u>Selected Enforcement and Litigation</u>

Chart color key	Action may be required (does not include continuing education items)	Administrative	Arbitration	Continuing education	Notifications / Request for comment
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Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
<b><u>This month's items of note</u></b>						
FINRA Regulatory Notice <a href="#">19-24</a>	Digital Assets Cryptocurrencies Tokens	Digital Assets: FINRA Encourages Firms to Notify FINRA if They Engage in Activities Related to Digital Assets	Not Applicable	The Notice announces that FINRA is extending the time period until July 31, 2020 during which members are encouraged to notify FINRA if the member, its associated persons or affiliates engages in activities related to digital assets.	The covered notice period is through July 31, 2020.	Though there is no rule that obligates members to comply with FINRA's notification request, members covered by the Notice should assess whether it is in their interest to notify FINRA as requested.
<a href="#">Joint Staff Statement on Broker-Dealer</a>	Digital Assets Custody	Joint Staff Statement on Broker-Dealer	<a href="#">SEA Rule 15c3-3</a> (Customer Protection –	The Joint Statement by the SEC's Division of Trading and	Immediately	None though firms that custody or intend to custody

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<a href="#">Custody of Digital Asset Securities</a> <a href="#">July 8, 2019</a>		Custody of Digital Asset Securities	Reserves and Custody of Securities)	Markets and FINRA’s Office of General Counsel identifies certain difficulties in complying with the customer protection rule of digital asset securities.		such assets for even engage in transactions in such assets on behalf of their customers may want to review the joint statement.
FINRA Regulatory Notice <a href="#">19-23</a>	Enforcement Extraordinary Cooperation	FINRA Supplements Prior Guidance on Credit for Extraordinary Cooperation	Various	The Notice restates and supplements prior guidance regarding the circumstances that may demonstrate extraordinary cooperation.	Immediately	None, though members may want to consider the offered guidance when considering steps to take in connection with the discovery of conduct that may give rise to an enforcement proceeding.

#### **FINRA Regulatory Notices**

#### **New Regulatory Notices**

FINRA Regulatory Notice <a href="#">19-25</a>	Trade Reporting TRACE  Dollar-Denominated Foreign Sovereign Debt Securities	Trade Reporting and Compliance Engine (TRACE); FINRA Requests Comment on a Proposal to Require Reporting of Transactions in US Dollar-Denominated Foreign Sovereign Debt Securities to TRACE	<a href="#">FINRA Rule 6710</a> (Trade Reporting and Compliance Engine (TRACE) - Definitions)  <a href="#">FINRA Rule 6730</a> (Transaction Reporting)  <a href="#">FINRA Rule 6750</a> (Dissemination of Transaction Information)  <a href="#">FINRA Rule 7730</a> (Trade Reporting and Compliance Engine (TRACE))	The Notice announces that FINRA is seeking comments on a proposal to require reporting to TRACE of transactions in U.S. dollar-denominated foreign sovereign debt securities.	Comment Period Expiration Date:  September 24, 2019	None  This Notice is informational only and for the purpose of soliciting comments in connection with the proposed new rule.
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\* Other rules may also apply

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FINRA Regulatory Notice <u>19-24</u>	Digital Assets Cryptocurrencies Tokens	Digital Assets: FINRA Encourages Firms to Notify FINRA if They Engage in Activities Related to Digital Assets	Not Applicable	The Notice announces that FINRA is extending the time period until July 31, 2020 during which members are encouraged to notify FINRA if the member, its associated persons or affiliates engages in activities related to digital assets.	The covered notice period is through July 31, 2020.	Though there is no rule that obligates members to comply with FINRA's notification request, members covered by the Notice should assess whether it is in their interest to notify FINRA as requested.
FINRA Regulatory Notice <u>19-23</u>	Enforcement Extraordinary Cooperation	FINRA Supplements Prior Guidance on Credit for Extraordinary Cooperation	Various	The Notice restates and supplements prior guidance regarding the circumstances that may demonstrate extraordinary cooperation.	Immediately	None, though members may want to consider the offered guidance when considering steps to take in connection with the discovery of conduct that may give rise to an enforcement proceeding.
FINRA Regulatory Notice <u>19-22</u>	Alternative Trading Systems Fixed Income Securities Corporate Bonds Agency Debt Market Transparency	ATS Fixed Income Trading Volume	Various	The Notice requests comment on a proposal to expand the alternative trading system (ATS) volume data published on FINRA's website to include information on transactions in corporate bonds and agency debt securities that occur within an ATS and are reported to FINRA's Trade Reporting and Compliance Engine (TRACE). The ATS data would be aggregated on a monthly basis and published with a three-month delay. Initially, FINRA	Comment Period Expiration Date: September 7, 2019	None  This Notice is informational only and for the purpose of soliciting comments in connection with the proposed new rule.

\* Other rules may also apply

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				<p>would require ATSS to report aggregate weekly volume information and number of trades by security in the covered products though FINRA expects that, after a trial period, t it would be able to eliminate the self-reporting requirement and instead rely on TRACE reports.</p>		
<p>FINRA Regulatory Notice <a href="#">19-21</a></p>	<p>Margin Exchange Traded Notes (ETNs)</p>	<p>Exchange-Traded Notes: Margin Requirements for Exchange-Traded Notes</p>	<p><a href="#">FINRA Rule 4210</a> (Margin Requirements)</p>	<p>The Notice clarifies that ETNs and options on ETNs are not eligible for portfolio margin treatment while also excluding such products from reduced margin treatment accorded ordinary investment grade debt securities, listed non-equity securities and other margin eligible non-equity securities and, instead, establishes higher strategy-based margin requirements for such products. The Notice also states that members that believe these measures would result in undue hardship may request additional time to comply.</p>	<p>Effective Date: July 1, 2019</p>	<p>Members that provide margin on ETNs will need to revise the manner in which they calculate margin on ETNs.</p>

\* Other rules may also apply

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<b><u>Other FINRA Notices</u></b>						
<b>New Notices</b>						
<a href="#"><u>Trade Reporting Notice 7/19/19</u></a>	Trade Reporting TRACE Security Master List	Trade Reporting Notice: FINRA Reminds Firms of their Obligations Regarding TRACE Reporting	<a href="#"><u>FINRA Rule 6710</u></a> (Trade Reporting and Compliance Engine (TRACE) - Definitions)  <a href="#"><u>FINRA Rule 6730</u></a> (Transaction Reporting)  <a href="#"><u>FINRA Rule 6760</u></a> (Obligation to Provide Notice)	The Notice reminds members that they have an obligation to determine whether a transaction in a TRACE-Eligible Security has occurred and is, therefore, reportable, even if the security is not included on the TRACE security master list. In such case, the member should contact Market Operations to add the security to the security master list and report the transaction to TRACE.	Immediately	Members that engage in transactions in TRACE-Eligible Securities, should ensure that they have policies and procedures in place that will (i) allow them to identify TRACE-Eligible Securities that are not included on the TRACE master security list and (ii) in such case, provide for contacting Market Operations to add the security to the master list and report the applicable transaction to TRACE.
<a href="#"><u>Trade Reporting Notice 7/16/19</u></a>	Trade Reporting Equities Step-Outs	Trade Reporting Notice: Trade Reporting Requirements Applicable to Step-Out Submissions	<a href="#"><u>FINRA Rule 7130</u></a> (Trade Report inputs)  <a href="#"><u>FINRA Rule 7230A</u></a> (Trade Report Input)  <a href="#"><u>FINRA Rule 7230B</u></a> (Trade Report Input)  <a href="#"><u>FINRA Rule 7330</u></a> (Trade Report Input)	The Notice reminds members of applicable trade reporting requirements for step-out transactions. A step-out is a transfer of a client's position to a client account at a different firm.	Effective Date: Immediately	Members that engage in step-outs should confirm that their policies, procedures and practices are in compliance with the reporting requirements described in the Notice.

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<b><u>FINRA Rule Filings</u></b>						
FINRA Rule Filing 2019-012 <a href="#">(34-86509)</a>	Corporate Financing Rule Underwritings	Order Instituting Proceedings to Determine Whether to Approve or Disapprove Proposed Rule Change to Amend FINRA Rule 5110 (Corporate Financing Rule – Underwriting Terms and Arrangements) to Make Substantive, Organizational and Terminology Changes	<u>FINRA Rule 5110</u> (Corporate Financing Rule – Underwriting Terms and Arrangements)	FINRA has proposed changes to <u>FINRA Rule 5110</u> (Corporate Financing Rule – Underwriting Terms and Arrangements), responded to comments on its earlier proposal and modified the early filing by filing Partial Amendment No. 1 to the proposal. The Commission is seeking additional comments on the proposal as modified by Partial Amendment No. 1.	Comment Period Expires: 21 days from publication in the Federal Register	None. The filing merely seeks additional comments on the proposal as modified by Partial Amendment No. 1..
FINRA Rule Filing 2019-021 <a href="#">(34-86479)</a>	Order Reporting Order Audit Trail System (OATS) Manual orders Exemptive authority	Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Exemptions from the Order Audit Trail System Recording and Reporting Requirements	<u>FINRA Rule 7470</u> (Exemption to the Order Recording and Data Transmission Requirements)	The Notice extends for three years FINRA’s ability to exempt certain members from the recording and reporting requirements of the Order Audit Trail System (“OATS”) for manual orders received by the member.	Immediately	None. The Notice extends FINRA’s current exemptive authority under <u>FINRA Rule 7470</u> for three years.
FINRA Rule Filing 2019-018 <a href="#">(34-86328)</a>	Administrative Non-Substantive Rule Corrections	Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Make a Technical Correction and Other Non-Substantive Changes to FINRA Rules	Various	The Notice (i) rectifies the mistaken omission of Supplementary Material .10 to Temporary Dual FINRA-NYSE Rule 409T and (ii) updates a reference in the FINRA CAT, LLC Delegation plan to clarify that referenced rule SEC	Immediate	None

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Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
				613 is Rule 613 of SEC Regulation NMS.		
FINRA Rule Filing 2019-019 <a href="#">(34-86315)</a>	Market Transparency OTC Equity Summary Firm Data FINRA Publication	Notice of Filing of a Proposed Rule Change to Expand OTC Equity Trading Volume Data Published on FINRA's Web Site	<a href="#">FINRA Rule 6110</a> (Trading Otherwise Than on an Exchange)  <a href="#">FINRA Rule 6610</a> (General)	The proposed rule amendments would expand the summary firm data relating to over-the-counter ("OTC") equity trading that FINRA publishes on its website.	Comment Period Expiration Date: August 1, 2019	None  This Notice is informational only and for the purpose of soliciting comments in connection with the proposed new rule.

#### SEC Rule Filings

Securities and Exchange Commission Release No. <a href="#">(34-86304)</a>	Margin Securities Futures	Customer Margin Rules Related to Securities Futures	<a href="#">17 CFR 242.403(b)(1)</a> (Required Margin)	The Proposal would lower the margin requirement for an unhedged security future from 20% to 15% and make certain changes to the margin offset table that are consistent with the proposed reduction in margin.	Comment Due Date: August 26, 2019	None.  This Notice is informational only and for the purpose of soliciting comments.
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#### Exemptive and Interpretive Letters

None

#### Targeted Examination Letters

None

#### Reports and Studies

None

#### No Action Letters of particular relevance to Broker-Dealers

None

#### Selected Enforcement and Litigation Actions

\* Other rules may also apply

Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
SEC Press Release <a href="#">2019-131</a> July 15, 2019	Enforcement Failure to Supervise CMBS RMBS	Brokerage Firm to Pay Mismatched Bond Customers \$25 Million to Settle SEC Charges	<u>Section 15(b)(4)(E)</u> of the Securities Exchange Act of 1934 (Supervision)	The underlying enforcement actions pertain to the firm's failure to supervise two employees who made false and fraudulent statements to institutional customers regarding certain CMBS and RMBS securities, including the prices at which the firm purchased such securities, the bids and offers that the firm made or received thereon, the spread to be received in connection therewith and the current owner thereof.	Immediately	None
FINRA News Release <a href="#">July 29, 2019</a>	Enforcement Fingerprint Screening	FINRA Fines Firm \$1.25 Million for Failing to Appropriately Fingerprint or Screen Employees over Seven-Year Period	<u>SEA Rule 17a-2</u> (Fingerprinting Securities Industry Personnel)	The press release and enforcement action should remind firms the firm's obligations to fingerprint personnel and to screen for statutory disqualifications may be broader than many firm's may believe.	Immediately	None

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Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
FINRA News Release <a href="#">July 2, 2019</a>	Enforcement Churning Failure to Supervise	FINRA Orders Firm to Pay More than \$550,000 in Restitution to Customers Whose Accounts were Excessively Traded	<u>FINRA Rule 2010</u> (Standards of Commercial Honor and Principles of Trade)  <u>FINRA Rule 3110</u> (Supervision)	In an AWC, the firm agreed to a fine of \$325,000 and restitution of \$558,296.44 plus interest. As stated in the press release, the firm failed to review certain automated trade alerts used to identify excessive trading and failed to supervise use of consolidated reports by its representatives.	Immediately	None

**Other matters of interest including OCIE materials and other SEC press releases, SEC public statements, and FINRA press releases**

**New**

SEC Press Release <a href="#">2019-134</a> July 18, 2019	Sales Practices Elder Fraud	SEC Retail Strategy Task Force to Host Roundtable on Combating Elder Investor Fraud	Not Applicable	The roundtable is scheduled for October 3, 2019 and begins at 9:30 a.m.	Immediately	None
SEC Press Release <a href="#">2019-121</a> July 9, 2019	SEC Personnel New Commissioner	Allison Herren Lee Sworn in as SEC Commissioner	Not Applicable	Ms. Lee is a veteran of the SEC having been on the staff for over a decade, including as counsel to Commissioner Stein and as a senior counsel with the Division of Enforcement.  Ms. Lee is a democrat and replaces Kara Stein on the Commission.  Ms. Lee's appointment brings the Commission to its full complement of five members.	Immediately	None

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Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
<a href="#">Joint Staff Statement on Broker-Dealer Custody of Digital Asset Securities</a> July 8, 2019	Digital Assets Custody	Joint Staff Statement on Broker-Dealer Custody of Digital Asset Securities	<a href="#">SEA Rule 15c3-3</a> (Customer Protection – Reserves and Custody of Securities)	The Joint Statement by the SEC’s Division of Trading and Markets and FINRA’s Office of General Counsel identifies certain difficulties in complying with the customer protection rule of digital asset securities.	Immediately	None though firms that custody or intend to custody such assets for even engage in transactions in such assets on behalf of their customers may want to review the joint statement.

### 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.

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\* Other rules may also apply

## 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 U.S. devoted exclusively to compliance in the financial services industries. He also currently hosts NSCP's monthly Broker-Dealer Forum and previously chaired the NSCP's Governance and Investment Advisers Committees.

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