

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 April 2020

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<u>Items of Note</u>		<u>FINRA Regulatory Notices</u>		<u>Other FINRA Notices</u>	
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<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

Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
<u>This month's item(s) of note</u>						
Public Statement <u>4/2/20</u>	Regulation Best Interest Form CRS	Investors Remain Front of Mind at the SEC: Approach to Allocation of Resources; Implementation of Regulation Best Interest and Form CRS	Regulation Best Interest Form CRS	The statement announces the SEC's current view to continue with the June 30, 2020 compliance date for Reg BI and the delivery of Form CRS.	June 30, 2020	Firms should continue their efforts to meet the June 30 th compliance dates for Regulation Best Interest and Form CRS.

* Other rules may also apply

Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
Guidance (April 8, 2020)	Sales Practices Retail Investors Regulation Best Interest Form CRS	FINRA Highlights Firm Practices from Regulation Best Interest Preparedness Reviews	Regulation Best Interest (240.15l-1)	FINRA has published a report that identifies practices that FINRA has observed through its review of Regulation BI and Form CRS preparedness, which might be of use to other firms as they build out these programs.	Immediately	Firms may want to consider the practices and other information provided in the report as they build out their Regulation Best Interest and Form CRS programs.
OCIE Risk Alert: Examinations that Focus on Compliance with Regulation Best Interest (April 7, 2020) OCIE Risk Alert: Examinations that Focus on Compliance with Form CRS (April 7, 2020)	Sales Practice Retail Investors Regulation Best Interest Form CRS	Examinations that Focus on Compliance with Regulation Best Interest Examinations that Focus on Compliance with Form CRS	Regulation Best Interest (240.15l-1) Form CRS	The Risk Alerts point to specific documents and requirements that OCIE expects to see (and examine for) once it starts its compliance reviews in July. While not quite a checklist, the alerts should still be useful in helping ensure that a firm's Regulation BI and Form CRS program is consistent with OCIE's intended examination scope.	Immediately	Firms may want to consider the practices and other information provided in the Risk Alerts as they build out their Regulation Best Interest and Form CRS programs.

FINRA Regulatory Notices

FINRA Regulatory Notice 20-11	Arbitrations Customer Code Inactive Firm or Representative	FINRA Amends Arbitration Code to Expand Options Available to Customer if a Firm or Associated Person is or Becomes Inactive	FINRA Rule 12000 (Code of Arbitration Procedure for Customer Disputes)	The Notice informs members that FINRA has made substantive changes to FINRA Rule 12000 (Code of Arbitration Procedure for Customer	Effective Date: The amendments are effective for cases filed on or after June 29, 2020.	None
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				Disputes) to expand a customer's options to withdraw an arbitration claim if a member firm or an associated person becomes inactive.		

Other FINRA Notices

Information Notice <u>4/8/20</u>	Information Requests Regulatory Duplication	Members of the U.S. Subgroup of the Intermarket Surveillance Group (ISG) Announce the Establishment of the Cross-Market Regulation Working Group (CMRWG)	Not Applicable	The Notice informs FINRA member firms of the existence and role of the CMRWG, which was established to focus on reductions of unnecessary regulatory duplication. The Notice is accompanied by an ISG CMRWG Regulatory Memorandum, which provides an email address for each SRO member that can use to bring instances of duplicate or overlapping information requests or related regulatory duplication or questions related thereto to the attention of the relevant SRO.	Immediately	None
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FINRA Rule Filings

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Item	Subject matter	Heading	Relevant rule*	Comments	Relevant date	Impact on member
FINRA Rule Filing 2020-012 (34-88760)	BrokerCheck Disclosure of IAPD Information	Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rule 8312 (FINRA BrokerCheck Disclosure) to Allow the Dissemination of IAPD Information Through BrokerCheck)	FINRA Rule 8312 (FINRA BrokerCheck Disclosure)	The Notice amends FINRA Rule 8312 (FINRA BrokerCheck Disclosure) to allow the dissemination through BrokerCheck of information from the SEC's publicly available Investment Adviser Public Disclosure Database (IAPD) about registered brokers who are, or were, licensed as investment adviser representatives.	Effective Date: To be announced	None
FINRA Rule Filing 2019-011 (34-88600)	Supervision	Notice of Filing of a Proposed Rule Change to Address Brokers with a Significant History of Misconduct	Various	The Proposed Rule Change would make a number of changes to FINRA rules that are designed to address brokers with a significant history of misconduct. These changes include allowing a Hearing Officer in a disciplinary matter to impose conditions or restrictions on a member firm or respondent broker, require firms to adopt heightened supervisory procedures when a disciplinary matter is appealed or an eligibility request	Comment Due Date: May 5, 2020	None. The Proposal is for the purpose of requesting comments on possible rule amendments.

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				is under review. The proposal would also allow the disclosure on BrokerCheck of a firm's status as a "taping firm" under FINRA Rule 3170, and require firms to seek a materiality consultation when a natural person that seeks to become an owner, control person, principal or registered person has a history of certain criminal or other events.		
FINRA Rule Filing 2020 - 010 (34-88556)	Transaction Reporting TRACE Treasury Securities executed to hedge a P1 Transaction	Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Compliance Date for SR-FINRA-2019-014	FINRA Rule 6730 (Transaction Reporting)	The Notices extends the effective date of the new transaction reporting requirements from June 1, 2020 to August 3, 2020.	New Effective Date: August 3, 2020	None. The Notice provides additional time for firms to come into compliance with FINRA Rule 6730 (Transaction Reporting).
<u>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 .					
Guidance (April 30, 2020)	Sales Practices Senior Investors	Protecting Senior Investors 2015-2020	Various	FINRA's has published a report that provides an update on FINRA initiatives to help	Immediately	Members may want to review FINRA's report to gain

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				senior investors and, in particular, the impact of FINRA's Senior Helpline. The report also provides an overview of relevant FINRA rules and shares effective practices seen by FINRA during examinations and provides a list of resources relevant to the protection of senior investors.		additional insight on steps they can take to protect senior investors.
FAQs (Updated April 24, 2020)	Pandemic Preparedness	Frequently Asked Questions Related to Regulatory Relief Due to the Coronavirus Pandemic	Various	<p>These FAQs Notices provides guidance and regulatory relief across a broad range of topics, including filing and reporting deadlines, net capital, best execution, supervision, remote offices, qualification examinations, and continuing education.</p> <p>For further information see Regulation Tomorrow Blog Post: FINRA's Updates FAQs Related to COVID-19 Regulatory Relief</p>	Immediately	Members may want to review FINRA's guidance as they continue to navigate through the current pandemic.
Guidance (April 15, 2020)	FINRA Administrative FINRA Gateway	FINRA Gateway Frequently Asked Questions	Not Applicable	FINRA has published a FAQ that responds to Frequently Asked	Immediately	Persons who currently or will be using FINRA's

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				Questions regarding FINRA's Gateway, which will eventually replace the Firm Gateway.		Gateway may want to review this FAQ, which should help with the transition from the Firm Gateway.
Guidance (April 8, 2020)	Sales Practices Retail Investors Regulation Best Interest Form CRS	FINRA Highlights Firm Practices from Regulation Best Interest Preparedness Reviews	<u>Regulation Best Interest</u> (240.151-1)	FINRA has published a report that identifies practices that FINRA has observed through its review of Regulation BI and Form CRS preparedness, which might be of use to other firms as they build out these programs.	Immediately	Firms may want to consider the practices and other information provided in the report as they build out their Regulation Best Interest and Form CRS programs.
Guidance (April 3, 2020)	Pandemic Preparedness	State "Shelter-in-Place" and "Stay-at-Home" Orders	Not Applicable	FINRA's guidance provides a helpful link to state "Shelter-in-Place" and "Stay-at-Home" Orders	Immediately	Members may want to review FINRA's guidance as they continue to navigate through the current pandemic.
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 .					
Division of Trading and Markets Staff Statement	Financial Responsibility Rules	Division of Trading and Markets Staff:	Various	The Statement provides relief for broker-dealers that rely on the (k)(2) exemption	Immediately. The relief provided under Rule 15c3-3 is	None The Statement provides

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<u>4/22/20</u>	Rule 15c3-3(k)(2): Prompt Transmission of Customer Checks Rule 17a-13: Quarterly securities count of physical certificates	FAQ Concerning the COVID-19 Pandemic and the Broker-Dealer Financial Responsibility Rules		from Rule 15c3-3 (the Customer Protection Rule) but are having difficulty accessing their premises and, as a result, may be delayed in forwarding customer checks. The Statement also provides relief related to the completion of the quarterly securities count of physical certificates as required by Rule 17a-13..	effective through June. The relief provide under Rule 17a-13, applies to the quarterly counts due in April, May or June.	regulatory relief to persons that wish to avail themselves thereof.
Division of Trading and Markets Staff Statement <u>4/2/20</u>	Filings Signatures Notarizations	Division of Trading and Markets Staff Statement Regarding Requirements for Certain Paper Submissions in Light of COVID-19 Concerns	Various	The Statement provides relief for persons required to submit to the Division of Trading and Markets certain documents in paper format, including. The relief also extends to requirements relating to manual signatures and notarizations.	Effective for the period from and including March 16, 2020 to June 30, 2020	None The Statement provides regulatory relief to persons that wish to avail themselves thereof.

No Action Letters of particular relevance to Broker-Dealers

None

Selected Enforcement and Litigation Actions

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SEC Press Release 2020-81 <u>4/6/20</u>	Books and Records Blue Sheets	Firm Agrees to Pay \$3.2 Million to Settle Charges for Providing Deficient Blue Sheet Data	Various	The Press Release states that the firm submitted blue sheet submissions containing missing or incorrect data for approximately 35 million transactions over a five year period. The Press Releases ascribes these shortcomings to inadequate processes designed to validate the accuracy of the submissions.	Immediately	None, though firms that provide blue sheet data may want to review their validation processes.

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

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SEC Press Release 2020-92 <u>4-20-20</u>	Transaction Reporting Consolidated Audit Trail	SEC Provides for Phased CAT Broker-Dealer Reporting Timelines with Conditional Exemption for Impacts of COVID-19	Various	The Press Release relates to the issuance by the SEC of two exemptive orders that establish a phased CAT reporting timeline for broker-dealers and permits certain introducing brokers to follow the small broker-dealer reporting timeline.	Key dates relating to broker-dealer reporting to CAT are: June 22, 2020: Initial equities reporting for large broker-dealers and small broker-dealers that currently report to FINRA's Order Audit Trail System (OATS); July 20, 2020: Initial options reporting for large broker-dealers; and Dec. 13, 2021: Full equities and options reporting for large and small broker-dealers; and July 11, 2022: Full customer and account reporting for large and small broker-dealers.	Members should ensure their ability to comply with the applicable requirements by the applicable date.

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<p><u>OCIE Risk Alert:</u> Examinations that Focus on Compliance with Regulation Best Interest (April 7, 2020)</p> <p><u>OCIE Risk Alert:</u> Examinations that Focus on Compliance with Form CRS (April 7, 2020)</p>	<p>Sales Practice Retail Investors Regulation Best Interest Form CRS</p>	<p>Examinations that Focus on Compliance with Regulation Best Interest</p> <p>Examinations that Focus on Compliance with Form CRS</p>	<p><u>Regulation Best Interest</u> (240.151-1)</p> <p><u>Form CRS</u></p>	<p>The Risk Alerts point to specific documents and requirements that OCIE expects to see (and examine for) once it starts its compliance reviews in July. While not quite a checklist, the alerts should still be useful in helping ensure that a firms Regulation BI and Form CRS program is consistent with OCIE's intended examination scope.</p>	<p>Immediately</p>	<p>Firms may want to consider the practices and other information provided in the Risk Alerts as they build out their Regulation Best Interest and Form CRS programs.</p>

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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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

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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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