

Small Firm Emergency Partner Program

Overview & Guide

To help firms manage significant business disruptions, FINRA has developed—with input from introducing and clearing firms and other regulators—the Small Firm Emergency Partner Program, a possible voluntary addition to your BCP designed to strengthen the assurance it provides.

In light of the tragic events of 9/11, hurricane Katrina, mass black-outs, and other significant business disruptions, this program will help small firms feel more confident that they can provide their customers with assistance during a crisis.

The concept is simple. Should a significant business disruption occur, through this program, your firm can rely on a pre-established partner firm unaffected by the event to step in temporarily and assist your customers regarding liquidating transactions. If the parties desire, they can expand their agreement to include limited categories of purchases, such as money market funds. The partner firm helps your customers access their funds and other assets when your firm is unable to. Once your firm has recovered, normal business operations may resume.

This program is intended to cover significant business disruptions caused by natural disasters, war or terrorist acts, or other similar disruptions. It is not contemplated that the partnership will be used to cover capital deficiencies, vacation schedules, or other similar situations.

The attached guide walks you through the entire process—from choosing a partner firm to invoking temporary support in response to a significant business disruption—and details what you need to know about your participation.

FINRA is also providing a template for introducing firms and their common clearing firm to establish a Small Firm Emergency Partnership. The template is available at www.finra.org/sfepp. Parties should customize the agreement—within the limitations and purposes of the Small Firm Emergency Partner Program—based on the needs of their partnership.

Please Note: *The template is intended to be used as a guide to facilitate the creation of your contract; parties should personalize the template according to your specific needs and should consider all issues that may require changes or additions to this template. Each partnership is unique and you should tailor this template to fit your particular situation.*

Establishing a Partnership

Step 1: Discuss the Program with Your Clearing Firm

The program contemplates the supporting firm obtaining access to the affected firm's records through their common clearing firm. Therefore, the shared clearing firm must be a participant in order for your firm to take part in the program.

Because your clearing firm will have information about the locations and business models of other firms—important criteria for the next step—they may be able to recommend other introducing firms that might be a good match as your emergency partner.

Step 2: Select a Partner Firm

Partner firms should be selected based on the following criteria:

- **Common clearing firm:** Both introducing firms should clear through the same clearing firm, which must participate in the program.
- **Similar business model:** Partner firms should have a substantially similar business model in size (measured by number of representatives or number of transactions) and business (*e.g.* retail vs. institutional) so that either firm could easily support the other introducing firm's customers.
- **Similar products:** Partner firms should sell substantially similar products, act as market makers in the same stocks, or have access to the same markets and NASDAQ trading levels, *i.e.* Level 1, Level 2, if applicable, making it easier to leverage each other's knowledge and infrastructure.
- **Location:** Partner firms should be in areas distant from one another to minimize the likelihood of both firms being impacted by the same disaster.
- **System Compatibility:** Partner firms should make sure that their systems are compatible with each other so that necessary files and back-up tapes can be shared and accessed in the event of a business disruption.
- **Reciprocity:** The relationship between partner firms should be reciprocal in that the partners both agree to support each other in the event of an emergency.
- **Capacity & Expertise:** Partner firms should have sufficient capacity and expertise to support each other's clients.

Before finalizing a partnership, firms should learn more about each other's operations to ensure that the arrangement will work. Further, firms are encouraged, to the extent possible, to select a partner firm that is registered in some of the same states in order to minimize any potential registration waivers that may be required. Firms should also ensure that their partner firm's registration has not been denied, revoked or suspended in any state or jurisdiction where registration will be required (this information can be verified on BrokerCheck).

Step 3: Establish an Agreement

After two firms have agreed to establish a partnership, the arrangement should be memorialized in a legal contract. A formal arrangement is necessary because all three parties involved (the two introducing firms and their common clearing firm) need to agree on each party's role during a potential business disruption, and the terms for invoking temporary support.

FINRA has developed a template that should be customized to guide you through this step. The template is available at www.finra.org/sfepp. You should view the template as a resource, and not as a mandate.

Step 4: Make Necessary Customer Disclosures

When a partnership is established, firms are obligated to disclose this to their customers (current and new). The purpose of such disclosure satisfies regulatory requirements:

- SEC's Regulation S-P;
- FINRA's BCP requirements; and
- Potential state requirements that would trigger necessary waivers.

Firms should distribute this information through their BCP disclosures (online and mail) and customer account statements.

If possible, firms should create an emergency Web page with alternative contact information and an emergency phone number for customers. This alternative contact information should be included in the disclosures so that customers can reach your firm in the event of a business disruption.

Step 5: Notify FINRA of the Agreement

While FINRA's primary role is to facilitate the Program, firms should advise FINRA of an agreement so that it is aware of who is servicing the affected firm's customers in the event of a business disruption. Once the agreement is reached, contact FINRA to let us know the names of the firms and the contact persons who have agreed to the partnership. You can do this by either emailing notice to compliancetools@finra.org or by faxing your notice to (202) 728-8915. FINRA will notify the North American Securities Administrators Association (NASAA) so that state regulators will be informed of the partnership*. You should also update your BCP to reflect the addition of this partnership.

While FINRA will notify the state regulators of the agreement, firms may choose to contact the state regulator in their partner firm's primary state in order to introduce themselves and discuss their agreement directly with the regulator.

* Should you decide to terminate your agreement for any reason, please notify FINRA.

Step 6: Address Operational Issues with Clearing Firm

Once two firms have established a partnership, they should work with their clearing firm to address operational issues and establish the required technical set-up for the program. Firms must establish a tracking mechanism to record all activity a supporting firm undertakes to assist the affected firm. Some clearing firms can establish a separate unique branch or a representative code to track such activity.

FINRA suggests that firms test the temporary support to ensure that all operational and technical requirements have been addressed.

Step 7: Ongoing Communication & Due Diligence with Partner Firm

Partner firms should build a relationship and be willing to help each other during times of need, and should regularly discuss their plans to back each other up. To make sure that the terms of the agreement and the procedures outlined within remain valid, FINRA suggests that firms schedule regular conference calls or meetings to review the arrangement.

Invoking Temporary Support During a Significant Business Disruption

A significant business disruption will require each party to take appropriate actions. Should one occur, these steps will guide the parties through the process.

The steps listed below are a guide. Every arrangement and potential situation will be unique. Therefore, your specific agreement with your partner firm and clearing firm should dictate the actual procedures when temporary support is necessary.

Providing Support

Step 1: Contact Partner and Clearing Firms

If the affected firm needs temporary support and has access to phone or email, it should:

- call the clearing firm and supporting firm as soon as possible to convey the level of support it requires and request temporary support;
- inform FINRA of the situation and the execution of temporary support—FINRA will contact NASAA, who will notify the appropriate state regulators;
- notify the SEC at marketreg@sec.gov of the emergency and that the partnership has been invoked;
- forward calls to the supporting firm's office, if possible; and
- arrange for the pre-established emergency Web page to be published on the firm's Web site, if available; and
- keep and maintain precise records of the date and time that support is invoked.

In especially severe business disruptions, the affected firm may not be able to communicate its situation. Firms may agree in advance that if no communications occur for a designated time period following a significant business disruption—as outlined in the Small Firm Emergency Partner Program agreement—the supporting and clearing firms can invoke temporary support. In such an event, the supporting firm should attempt to contact the affected firm, and if contact is not possible, the supporting firm must notify FINRA.

Step 2: Period of Disruption

Once temporary support has been invoked, the clearing firm will provide the supporting firm with access to the affected firm's customer accounts as previously arranged by the parties. Once this access has been granted, customer support should be limited to asset liquidation and qualified advice regarding such liquidation, unless the parties have agreed to allow limited categories of purchases, such as money market funds.

The temporary support by the partner firm should last no more than 90 days. Within that period, the impaired firm should be able to reestablish their office or set up an alternative work location to deal with customers directly. If needed, an extension can be granted by FINRA and the State commissioners on an as needed basis.

During this time, the supporting firm should keep copies of all transactions for the affected firm.

Resuming Operations

Step 3: Contact Partner and Clearing Firms

As soon as the affected firm is able to return to its office or secure an alternative work location—which may be at the supporting firm—it should end the temporary support by notifying its partner firm and clearing firm to disable its partner firm's access to the relevant customer accounts.

Step 4: Notify Customers & Regulators

Once temporary support has been terminated, the affected firm should communicate to its customers and FINRA that it is performing business as usual, and should remove the emergency notification from its Web site.

Step 5: Review and Reconciliation

Once the affected firm has returned to normal business operation, the introducing firms should review all activity which incurred during the period of temporary support to verify and reconcile all transactions. The affected firm should review and sign-off again on all trades, and contact customers if any issues are identified.

Finally the introducing firms should reconcile service fees and payment, if agreed upon in the contract.