

## Customer Complaint Reporting

### Reporting of Customer Complaints Relating to Auction Rate Securities

Effective Date: April 1, 2008

#### Executive Summary

FINRA has added three new product categories for use by member firms in reporting customer complaints relating to auction rate securities. NASD Rule 3070(c) and incorporated NYSE Rule 351(d) require all members and member organizations to report, on a quarterly basis, statistical information regarding customer complaints.<sup>1</sup> This information is required to be filed by the fifteenth calendar day of the month following the end of the quarter.

Member firms are required to submit quarterly statistical reports under NASD Rule 3070(c) and incorporated NYSE Rule 351(d) using the new product categories beginning with second quarter reports that are due to FINRA by July 15, 2008. FINRA member firms may voluntarily use the three new product categories when reporting customer complaints for the first quarter of 2008.

Questions regarding this Notice may be directed to Stephen Kasprzak, Director & Special Counsel, Sales Practice Policy, at (646) 315-8505; or Gregory Taylor, Principal Rule Counsel, Sales Practice Policy, at (646) 315-8599.

#### Background & Discussion

Auction rate securities are variable rate securities generally issued through a "Dutch auction," with interest rates that are reset at short-term intervals—usually 7, 28 or 35 days.<sup>2</sup> Recently, many investors have not been willing to participate in the auctions for these securities due to concerns about the current credit market environment. As a result, investors holding these securities have not been able to liquidate their positions. Due to these current liquidity issues in the auction rate securities market, three new product categories were introduced to capture the reporting of related complaints. The categories parallel the characteristics of the underlying securities which are mainly municipal debt, corporate debt and closed-end funds.

April 2008

#### Notice Type

- Guidance

#### Suggested Routing

- Compliance
- Legal
- Operations
- Senior Management
- Bullet

#### Key Topics

- Auction Rate Securities
- Customer Complaint Reporting

#### Referenced Rules & Notices

- NASD Rule 3070
- NYSE Rule 351

## New Product Codes & Descriptions

The product codes for reporting complaints under NASD Rule 3070(c) and incorporated NYSE Rule 351(d) now include the following new categories:

- ▶ **Auction Rate Securities—Municipal Debt—Code #39**  
Debt instruments issued and backed by a state, city or other local government or their agencies with variable interest rates that are reset periodically through a “Dutch auction” process.
- ▶ **Auction Rate Securities—Corporate Debt—Code #40**  
Debt instruments issued by a corporation for which the interest rates are reset through an auction, or preferred stocks for which dividends are reset through the same process.
- ▶ **Auction Rate Securities—Closed-end Funds—Code #41**  
Investment companies traded in the secondary market with a limited number of shares for which the interest or dividend rates are reset through an auction.

## Endnotes

- 1 FINRA has assumed regulatory responsibility for NYSE Rule 351 under an agreement pursuant to Section 17(d) of the Securities Exchange Act of 1934, and Rule 17d-2 thereunder.
- 2 A “Dutch auction” is a process by which securities are sold at the highest price at which sufficient bids are received to sell all securities offered. Generally, the securities will be sold at the clearing price established by the Dutch auction to all investors placing bids at or above the clearing price.