

Regulatory Notice

08-71

Reporting Requirements

FINRA Requests Comment on Proposed Consolidated FINRA Rule Governing Reporting Requirements

Comment Period Expires: December 29, 2008

Executive Summary

As part of the process of developing a new, consolidated rulebook (the Consolidated FINRA Rulebook),¹ FINRA is requesting comment on a proposal relating to the FINRA reporting requirements.

The text of the proposed rule is set forth in Attachment A.

Questions regarding this *Notice* should be directed to Afshin Atabaki, Assistant General Counsel, Office of General Counsel, at (202) 728-8902.

Action Requested

FINRA encourages all interested parties to comment on the proposal. Comments must be received by December 29, 2008.

Member firms and other interested parties can submit their comments using the following methods:

- Emailing comments to pubcom@finra.org; or
- Mailing comments in hard copy to:

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

To help FINRA process and review comments more efficiently, persons should use only one method to comment on the proposal.

November 2008

Notice Type

- Request for Comment
- Consolidated FINRA Rulebook

Suggested Routing

- Compliance
- Legal
- Operations
- Senior Management
- Systems

Key Topic(s)

- Customer Complaints
- Disciplinary-Related Events
- Regulatory Actions
- Reporting Requirements
- Statistical Information

Referenced Rules & Notices

- NASD Rule 3070
- NYSE Rule 351

Important Notes:

The only comments that FINRA will consider are those submitted pursuant to the methods described above. All comments received in response to this *Notice* will be made available to the public on the FINRA Web site. Generally, FINRA will post comments on its site one week after the end of the comment period.²

Before becoming effective, a proposed rule change must be authorized for filing with the SEC by the FINRA Board of Governors, and then must be approved by the SEC, following publication for public comment in the *Federal Register*.³

Background

NASD Rule 3070 (Reporting Requirements) and Incorporated NYSE Rule 351 (Reporting Requirements)⁴ require member firms to report to FINRA certain specified events (*e.g.*, regulatory actions) and quarterly statistical information regarding written customer complaints.⁵ (The similarities and differences between the rules are described in greater detail in the table below.) FINRA uses the reported information for regulatory purposes. Among other things, the information assists FINRA to identify and investigate firms, offices and associated persons that may pose a regulatory risk.

Proposal

FINRA proposes replacing NASD Rule 3070 and NYSE Rule 351 with a single rule, proposed FINRA Rule 4530 (Reporting Requirements),⁶ in the Consolidated FINRA Rulebook. Proposed FINRA Rule 4530 is based in large part on NASD Rule 3070, taking into account requirements under NYSE Rule 351. The proposed rule also includes a “Supplementary Material” section that contains certain clarifications and definitions as well as codifications of existing staff guidance. The most significant proposed changes are described generally below. However, FINRA urges firms to carefully review the entire attached proposed rule text to understand the full extent of the proposed changes.

External Findings (Proposed FINRA Rule 4530(a)(1)(A))

NASD Rule 3070(a)(1) requires that a firm report whenever the firm or an associated person of the firm has been found to have violated, among other things, “any” rule or standard of conduct of any governmental agency, self-regulatory organization (SRO), or financial business or professional organization, or engaged in conduct that is inconsistent with just and equitable principles of trade. This provision requires firms to report findings of violations by an external body.

The proposal generally retains the requirement under NASD Rule 3070(a)(1), though it limits the scope of reportable findings of violation by an external body to violations of any securities, insurance, commodities, financial or investment-related laws, rules, regulations or standards of conduct of any domestic or foreign regulatory body, SRO or business or professional organization. FINRA believes that defining the scope of the rule in this manner will make it more effective and relevant to FINRA's program, as well as enhance firms' ability to more accurately report such information.

Internal Conclusions (Proposed FINRA Rule 4530(a)(3))

NYSE Rule 351(a)(1) requires that a firm report whenever it or its associated persons have violated, among other things, "any" rule or standard of conduct of any governmental agency, SRO, or business or professional organization, or engaged in conduct that is inconsistent with just and equitable principles of trade. This provision requires firms to report their internal conclusions of the enumerated violative conduct.

The proposal generally incorporates the requirement under NYSE Rule 351(a)(1). Similar to the scope of proposed FINRA Rule 4530(a)(1)(A) discussed above, the proposed rule requires a firm to report whenever the firm has concluded *on its own* that an associated person of the firm or the firm itself has violated any securities, insurance, commodities, financial or investment-related laws, rules, regulations or standards of conduct of any domestic or foreign regulatory body or SRO. However, the requirement to report certain internal conclusions of violations would not extend to violations of rules or standards of conduct of business or professional organizations. In addition, proposed Supplementary Material .01 states that FINRA does not expect a firm to report an isolated violation by the firm or an associated person of the firm that can be reasonably viewed as a ministerial violation of the applicable rules that did not result in customer harm and was remedied promptly upon discovery.

Reporting Obligation (Proposed FINRA Rule 4530(d))

The proposal clarifies that a firm has an obligation to report under the rule the specified events and quarterly statistical information regarding written customer complaints, regardless of whether such information is reported or disclosed pursuant to any other rule or requirement, including the requirements of the Forms BD (Uniform Application for Broker-Dealer Registration), U4 (Uniform Application for Securities Industry Registration or Transfer) or U5 (Uniform Termination Notice for Securities Industry Registration) (collectively referred to as the Uniform Forms). (FINRA notes that it will work toward the goal of eliminating duplicative reporting of information disclosed on the Uniform Forms.)

Reporting Deadline (Proposed FINRA Rule 4530(a))

Consistent with the requirements of NYSE Rule 351, the proposal extends the time period for reporting any of the specified events to no later than 30 calendar days after the firm knows or should have known of the existence of the event (rather than the 10 business days currently provided under NASD Rule 3070(b)).

Domestic and Foreign Actions (Proposed FINRA Rule 4530)

Currently, both NASD Rule 3070 and NYSE Rule 351 make frequent reference to, for example, “any” regulatory or self-regulatory body, without denoting that it includes both domestic and foreign regulators. The proposal clarifies that the rule applies to both domestic and foreign actions and that it applies to actions by a “regulatory body,” which includes governmental regulatory bodies and authorized non-governmental regulatory bodies, such as the Financial Services Authority.

Civil Litigation or Arbitration; Other Claims for Damages (Proposed FINRA Rule 4530(a)(1)(G))

The proposal merges for simplification the reporting provisions pertaining to any securities or commodities-related civil litigation or arbitration and any other claim for damages disposed of by judgment, award or settlement for certain monetary thresholds (current NASD Rules 3070(a)(7) and (a)(8) and NYSE Rules 351(a)(7) and (a)(8)). In addition, consistent with other provisions of the current rules, the proposal extends the provision to include any insurance-related civil litigation or arbitration.

Statutory Disqualifications (Proposed FINRA Rule 4530(a)(1)(H))

Consistent with NYSE Rule 351(a)(9), the proposal requires a firm to report whenever the firm itself is subject to a “statutory disqualification” and clarifies that a firm is required to report whenever an associated person of the firm is subject to a “statutory disqualification.” The proposal also replaces the requirement in NASD Rule 3070(a)(9) and NYSE Rule 351(a)(9) to report whenever a firm or an associated person of the firm “is associated in any business or financial activity” with a person subject to a “statutory disqualification” with a requirement to report whenever the firm or an associated person of the firm “is involved in the sale of any financial instrument, the provision of any investment advice or the financing of any such activities” with a person subject to a “statutory disqualification.” FINRA believes that this change provides greater clarity as to the scope of the provision.

Internal Disciplinary Actions Against Associated Persons (Proposed FINRA Rule 4530(a)(2))

Similar to NASD Rule 3070(a)(10) and NYSE Rule 351(a)(10), the proposal continues to require a firm to report certain disciplinary actions taken by the firm against its associated persons. However, the proposal clarifies that any such disciplinary action involving the withholding of compensation or of any other remuneration (not just commissions) in excess of \$2,500 is a reportable event.

Elimination of the Exemption for Dual Members Subject to Another SRO's Rule

NASD Rule 3070(e) provides an exemption for firms subject to substantially similar reporting requirements of another SRO. This provision is intended to exempt Dual Members subject to the reporting requirements of NYSE Rule 351. The proposal eliminates this exemption since FINRA proposes creating a single rule and deleting the applicable reporting requirements of NYSE Rule 351 (as noted below). Accordingly, all FINRA member firms will be subject to proposed FINRA Rule 4530.

Filing of Related Documents with FINRA (Proposed FINRA Rule 4530(e))

NASD Rule 3070(f) requires firms to file copies of certain criminal and civil complaints and arbitration claims with FINRA, including copies of any securities or commodities-related private civil complaint or arbitration claim filed against the firm in any forum other than FINRA Dispute Resolution. Consistent with revisions discussed above, the proposal extends such filing requirement to copies of insurance-related private civil complaints and arbitration claims.

Addition of Supplementary Material

FINRA also proposes adding supplementary material to, among other things:

- Clarify the distinction between a firm's internal conclusion of violative conduct and an external finding of violative conduct;
- Define the term "found" as used in the rule generally consistent with the definition of the term in the Uniform Forms, and clarify that the term also includes any formal finding (regardless of whether the finding will be appealed), but that it does not include a minor rule violation involving a fine of \$2,500 or less;

- Clarify that when calculating the monetary thresholds for reporting civil litigations, arbitrations or other claims for damages, firms must include any attorneys fees and interest in the total amount;
- Clarify the application of the rule to former associated persons;
- Codify existing staff guidance regarding a firm's obligation to report quarterly statistical information with respect to written customer complaints alleging theft or misappropriation of funds or securities, or forgery;⁷ and
- Codify existing staff guidance regarding the calculation of the monetary thresholds when the parties are subject to "joint and several" liability.⁸

FINRA proposes to delete paragraphs (a) through (d) of NYSE Rule 351 and NYSE Rules 351.10 and 351.13 relating to the reporting of specified events and quarterly statistical information regarding written customer complaints because these provisions are substantially similar to the provisions of proposed FINRA Rule 4530.

Similar Requirements

Description	Applicable NASD/NYSE Provisions
NASD Rule 3070 and NYSE Rule 351 require a firm to promptly report to FINRA whenever the firm or an associated person of the firm is:	
the subject of a written customer complaint alleging theft or misappropriation of funds or securities, or forgery;	NASD Rule 3070(a)(2) NYSE Rule 351(a)(2)
named as a defendant or respondent in any proceeding brought by a regulatory body or SRO alleging the violation of the federal or state securities, insurance or commodities laws or the by-laws, rules and regulations of any securities, insurance or commodities regulatory body or SRO;	NASD Rule 3070(a)(3) NYSE Rule 351(a)(3)
denied registration or expelled, enjoined, directed to cease and desist, suspended or otherwise disciplined by any securities, insurance or commodities industry regulatory body or SRO or denied membership or continued membership in any such SRO, or barred from becoming associated with any member of any such SRO;	NASD Rule 3070(a)(4) NYSE Rule 351(a)(4)

Description	Applicable NASD/NYSE Provisions
indicted or convicted of, pleaded guilty or no contest to any felony, certain enumerated misdemeanors or substantially equivalent activity;	NASD Rule 3070(a)(5) NYSE Rule 351(a)(5)
a director, controlling stockholder, partner, officer or sole proprietor of, or an associated person with, a financial institution that was suspended, expelled or had its registration denied or revoked or is associated in such a capacity with a bank, trust company or other financial institution that was convicted of or pleaded no contest to any felony or misdemeanor;	NASD Rule 3070(a)(6) NYSE Rule 351(a)(6)
a defendant or respondent in any securities or commodities-related civil litigation or arbitration that has been disposed of by judgment, award or settlement for certain monetary thresholds;	NASD Rule 3070(a)(7) NYSE Rule 351(a)(7)
the subject of any other claim for damages by a customer or broker-dealer that is settled for certain monetary thresholds;	NASD Rule 3070(a)(8) NYSE Rule 351(a)(8)
associated in any business or financial activity with any person who is subject to a “statutory disqualification”; or,	NASD Rule 3070(a)(9) NYSE Rule 351(a)(9)
the subject of any disciplinary action by the employing member firm involving suspension, termination, the withholding of commissions or fines in excess of \$2,500, or involving a significant limitation on the associated person’s activities.	NASD Rule 3070(a)(10) NYSE Rule 351(a)(10)
NASD Rule 3070 and NYSE Rule 351 require an associated person to promptly report to the firm the existence of any of the specified events described above.	NASD Rule 3070(b) NYSE Rule 351(b)
NASD Rule 3070 and NYSE Rule 351 also require firms to report to FINRA quarterly statistical information regarding written customer complaints.	NASD Rule 3070(c) NYSE Rules 351(d) and 351.13

Differing Requirements

Description	Applicable NASD/NYSE Provisions
NASD Rule 3070 requires a firm to promptly report to FINRA whenever the firm or an associated person of the firm has been found by a court, governmental agency, SRO or financial business or professional organization to have violated the securities laws, any rule or standards of conduct of any governmental agency, SRO or financial business or professional organization, or to have engaged in conduct that is inconsistent with just and equitable principles of trade.	NASD Rule 3070(a)(1)
NYSE Rule 351 requires a firm to promptly report to FINRA whenever it has concluded that the firm or an associated person of the firm has violated any provision of the securities laws, any agreement with, rule or standards of conduct of any governmental agency, SRO or business or professional organization, or has engaged in conduct that is inconsistent with just and equitable principles of trade or detrimental to the interests or welfare of the NYSE.	NYSE Rule 351(a)(1) NYSE Information Memorandum 06-11
NYSE Rule 351 requires a firm to report whenever the firm itself is subject to a “statutory disqualification.” NYSE Rule 351 also requires an “approved person” to promptly report to the firm whenever such person is subject to a “statutory disqualification” and further requires the firm to so notify the NYSE.⁹	NYSE Rules 351(a)(9) and (c)
NYSE Rule 351 requires firms to report the specified events within 30 days of their occurrence; NASD Rule 3070 requires a firm to report an event not later than 10 business days after the firm knows or should have known of the event’s existence.	NYSE Information Memorandum 90-17 NASD Rule 3070(b)

Description	Applicable NASD/NYSE Provisions
NASD Rule 3070 provides an exemption from the reporting requirements of the rule for firms subject to substantially similar reporting requirements of another SRO. (As noted above, this provision is intended to exempt Dual Members subject to the reporting requirements of NYSE Rule 351.)	NASD Rule 3070(e)
NASD Rule 3070 requires firms promptly to file with FINRA copies of certain criminal and civil complaints and arbitration claims, including, but not limited to, any securities or commodities-related private civil complaint or arbitration claim filed against the firm (other than arbitration claims that are originally filed in the FINRA Dispute Resolution forum).	NASD Rule 3070(f)

Endnotes

- 1 The current FINRA rulebook includes (1) NASD Rules and (2) rules incorporated from NYSE (Incorporated NYSE Rules). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (Dual Members). For more information about the rulebook consolidation process, *see Information Notice 03/12/08* (Rulebook Consolidation Process).
- 2 FINRA will not edit personal identifying information, such as names or email addresses, from submissions. Persons should submit only information that they wish to make publicly available. *See NASD Notice to Members 03-73* (November 2003) (NASD Announces Online Availability of Comments) for more information.
- 3 Section 19 of the Securities Exchange Act of 1934 (SEA) permits certain limited types of proposed rule changes to take effect upon filing with the SEC. The SEC has the authority to summarily abrogate these types of rule changes within 60 days of filing. *See* SEA Section 19 and rules thereunder.
- 4 For convenience, Incorporated NYSE Rule 351 is hereinafter referred to as “NYSE Rule 351.”
- 5 NYSE Rule 351(e) and NYSE Rule Interpretation 351(e)/01 (Reports of Investigation) govern trade investigation reporting requirements. NYSE Rules 351(f), 351.11 and 351.12 govern the annual attestation requirement of the research analyst conflict of interest rules. These provisions will be addressed as part of the supervision rules and research analyst conflict of interest rules, respectively. *See Regulatory Notice 08-24* (May 2008) (Proposed Consolidated FINRA Rules Governing Supervision and Supervisory Controls) and *Regulatory Notice 08-55* (October 2008) (FINRA Requests Comment on Proposed Research Registration and Conflict of Interest Rules).
- 6 The proposed rule may be renumbered as part of the final Consolidated FINRA Rulebook.
- 7 *See NASD Notice to Members 96-85* (December 1996) (Customer Complaint Reporting Rule Update).
- 8 *See id.*
- 9 As defined under the NYSE Rules, an “approved person” is a person who either controls a member or is engaged in a securities or kindred business and is controlled by or under common control with a member.

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ATTACHMENT A

Below is the text of the proposed rule change. New language is underlined; deletions are in brackets.¹

[3070]4530. Reporting Requirements

(a) Each member shall promptly report to FINRA, [the Association whenever such member or person associated with the member] but in any event not later than 30 calendar days, after the member knows or should have known of the existence of any of the following:

(1) the member or an associated person of the member:

(A) has been found to have violated any securities, insurance, commodities, financial or investment-related [provision of any securities] laws, rules, [or] regulations[, any rule] or standards of conduct of any domestic or foreign [governmental agency,] regulatory body, self-regulatory organization[, or [financial] business or professional organization[, or engaged in conduct which is inconsistent with just and equitable principles of trade; and the member knows or should have known that any of the aforementioned events have occurred];

[(2)](B) is the subject of any written customer complaint involving allegations of theft or misappropriation of funds or securities or of forgery;

[(3)](C) is named as a defendant or respondent in any proceeding brought by a domestic or foreign regulatory body or self-regulatory [body] organization alleging the violation of any provision of the Exchange Act, or of any other federal, [or] state or foreign securities, insurance[, or] commodities statute, or of any rule or regulation thereunder, or of any provision of the [B]by-laws, rules or similar governing instruments of any securities, insurance or commodities domestic or foreign regulatory body or self-regulatory organization;

[(4)](D) is denied registration or is expelled, enjoined, directed to cease and desist, suspended or otherwise disciplined by any securities, insurance or commodities industry domestic or foreign regulatory body or self-regulatory organization or is denied membership or continued membership in any such self-regulatory organization; or is barred from becoming associated with any member of any such self-regulatory organization;

¹ Attachment A sets forth the text of current NASD Rule 3070 marked to show changes between NASD Rule 3070 and proposed FINRA Rule 4530. The proposal would delete NASD Rule 3070, paragraphs (a) through (d) of NYSE Rule 351 and NYSE Rules 351.10 and 351.13. Proposed Supplementary Material .08 reminds firms of their obligations under proposed FINRA Rule 3110(b)(5), which is part of the proposed supervision rules. See *Regulatory Notice 08-24* (May 2008) (Proposed Consolidated FINRA Rules Governing Supervision and Supervisory Controls).

[(5)](E) is indicted, or convicted of, or pleads guilty to, or pleads no contest to, any felony; or any misdemeanor that involves the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or a conspiracy to commit any of these offenses, or substantially equivalent activity in a domestic, military[,] or foreign court;

[(6)](F) is a director, controlling stockholder, partner, officer or sole proprietor of, or an associated person with, a broker, dealer, investment company, investment advisor, underwriter or insurance company [which] that was suspended, expelled or had its registration denied or revoked by any domestic or foreign [agency] regulatory body, jurisdiction or organization or is associated in such a capacity with a bank, trust company or other financial institution [which] that was convicted of or pleaded no contest to, any felony or misdemeanor in a domestic or foreign court;

[(7)](G) is a defendant or respondent in any securities, insurance or commodities-related civil litigation or arbitration, or is the subject of any other claim for damages by a customer, broker or dealer [which] that has been disposed of by judgment, award or settlement for an amount exceeding \$15,000. However, when the member is the defendant or respondent or is the subject of any claim for damages by a customer, broker or dealer, then the reporting to [the Association] FINRA shall be required only when such judgment, award[,] or settlement is for an amount exceeding \$25,000; or

[(8)] is the subject of any claim for damages by a customer, broker, or dealer which is settled for an amount exceeding \$15,000. However, when the claim for damages is against a member, then the reporting to the Association shall be required only when such claim is settled for an amount exceeding \$25,000;]

[(9)](H) is, or is involved [associated] in the sale of any [business or] financial [activity] instrument, the provision of any investment advice or the financing of any such activities with any person who is, subject to a “statutory disqualification” as that term is defined in the Exchange Act[, and the member knows or should have known of the association]. The report shall include the name of the person subject to the statutory disqualification and details concerning the disqualification;

~~[(10)](2)~~ an associated person of the member is the subject of any disciplinary action taken by the member [against any person associated with the member] involving suspension, termination, the withholding of [commissions] compensation or of any other remuneration in excess of \$2,500, [or] the imposition of fines in excess of \$2,500[,] or is otherwise disciplined in any manner [which] ~~that~~ would have a significant limitation on the individual's activities on a temporary or permanent basis[.]; or

(3) the member has concluded that an associated person of the member or the member itself has violated any securities, insurance, commodities, financial or investment-related laws, rules, regulations or standards of conduct of any domestic or foreign regulatory body or self-regulatory organization.

(b) Each person associated with a member shall promptly report to the member the existence of any of the [conditions] events set forth in paragraph (a)~~(1)~~ of this Rule. [Each member shall report to the Association not later than 10 business days after the member knows or should have known of the existence of any of the conditions set forth in paragraph (a) of this rule.]

(c) Each member shall report to [the Association] FINRA statistical and summary information regarding customer complaints in such detail as [the Association] FINRA shall specify by the 15th day of the month following the calendar quarter in which customer complaints are received by the member. For the purposes of this paragraph, “customer” includes any person other than a broker or dealer with whom the member has engaged, or has sought to engage, in securities activities, and “complaint” includes any written grievance by a customer involving the member or person associated with [a] the member.

(d) Nothing contained in this Rule shall eliminate, reduce[,] or otherwise abrogate the responsibilities of a member or person associated with a member to promptly [file with full disclosure,] disclose required [amendments to] information on the Forms BD, [Forms] U[-]4 [and] or U[-]5, as applicable, [or] to make any other required filings[, and] or to respond to [NASD] FINRA with respect to any customer complaint, examination[,] or inquiry. In addition, members are required to comply with the reporting obligations under paragraphs (a) and (c) of this Rule, regardless of whether the information is reported or disclosed pursuant to any other rule or requirement, including the requirements of the Forms BD, U4 or U5.

[(e)] Any member subject to substantially similar reporting requirements of another self-regulatory organization of which it is a member is exempt from paragraphs (a), (b) and (c) of this Rule.]

[(f)](e) Each member shall promptly file with [NASD] FINRA copies of:

(1) any indictment, information or other criminal complaint or plea agreement for conduct reportable under paragraph (a)[(5)](1)(E) of this Rule;

(2) any complaint in which a member is named as a defendant or respondent in any securities, insurance or commodities-related private civil litigation;

(3) any securities, insurance or commodities-related arbitration claim filed against a member in any forum other than the [NASD] FINRA Dispute Resolution forum;

(4) any indictment, information or other criminal complaint, any plea agreement, or any private civil complaint or arbitration claim against a person associated with a member that is reportable under question 14 on Form U[-]4, irrespective of any dollar thresholds Form U[-]4 imposes for notification, unless, in the case of an arbitration claim, the claim has been filed in the [NASD] FINRA Dispute Resolution forum.

[(g)](f) Members shall not be required to comply separately with paragraph [(f)] (e) in the event that any of the documents required by paragraph [(f)] (e) have been the subject of a request by [NASD] FINRA's Registration and Disclosure staff, provided that the member produces those requested documents to the Registration and Disclosure staff not later than 30 days after receipt of such request. This paragraph does not supersede any [NASD] FINRA rule or policy that requires production of documents specified in paragraph [(f)] (e) sooner than 30 days after receipt of a request by the Registration and Disclosure staff.

• • • Supplementary Material: — — — — —

.01 Reporting of Firms' Conclusions of Violations. For purposes of paragraph (a)(3) of this Rule, with respect to violative conduct by an associated person, the reporting obligation under paragraph (a)(3) must be read in conjunction with the reporting obligation under paragraph (a)(2) of this Rule. If a member has concluded that an associated person has engaged in violative conduct and imposes the discipline set forth under paragraph (a)(2) of this Rule, then the member is required to report the event under paragraph (a)(2), and it need not report the event under paragraph (a)(3). In addition, for purposes of paragraph (a)(3) of this Rule, FINRA does not expect a member to report an isolated violation by the member or an associated person of the member that can be reasonably viewed as a ministerial violation of the applicable rules that did not result in customer harm and was remedied promptly upon discovery.

.02 Firms' Conclusions of Violations versus External Findings. Members should be aware that paragraph (a)(3) of this Rule is limited to situations where the member has concluded on its own that violative conduct has occurred. Paragraph (a)(1)(A) of this Rule is limited to situations where there has been a finding of violative conduct by an external body, such as a court, domestic or foreign regulatory body, self-regulatory organization or business or professional organization.

.03 Meaning of "Found." The term "found" as used in paragraph (a)(1)(A) of this Rule includes among other formal findings, adverse final actions, including consent decrees in which the respondent has neither admitted nor denied the findings, but does not include informal agreements, deficiency letters, examination reports, memoranda of understanding, cautionary actions, admonishments and similar informal resolutions of matters. For example, a Letter of Acceptance, Waiver and Consent or an Offer of Settlement is considered an adverse final action. The term "found" also includes any formal finding, regardless of whether the finding will be appealed. The term "found" does not include a violation of a self-regulatory organization rule that has been designated as "minor" pursuant to a plan approved by the SEC, if the sanction imposed consists of a fine of \$2,500 or less, and if the sanctioned person does not contest the fine.

.04 Meaning of "Regulatory Body." For the purposes of this Rule, the term "regulatory body" refers to governmental regulatory bodies and authorized non-governmental regulatory bodies, such as the Financial Services Authority.

.05 Reporting of Individual and Related Events. With respect to a reportable event under paragraph (a) of this Rule, members should not report the same event under more than one subparagraph. Members should report the event under the most appropriate subparagraph. However, members should be aware that they may be required to report related events under more than one subparagraph. For instance, if a member is named as a respondent in a proceeding brought by a self-regulatory organization alleging the violation of the self-regulatory organization's rules, the member would be required to report that event under paragraph (a)(1)(C) of this Rule. In addition, if the member subsequently is found to have violated the self-regulatory organization's rules, the member would be required to report that finding under paragraph (a)(1)(A) of this Rule.

.06 Calculation of Monetary Thresholds. For purposes of paragraph (a)(1)(G) of this Rule, when determining the dollar amount that would require a report, members must include any attorneys fees and interest in the total amount. In addition if the parties are subject to "joint and several" liability, the amount for each party must be aggregated and reported, if above the dollar thresholds under paragraph (a)(1)(G), as if each party is separately liable for the aggregated amount. For instance, if two parties have "joint and several" liability for \$40,000, the amount reported would be \$40,000 for each party.

.07 Former Associated Persons. For purposes of paragraphs (a) and (c) of this Rule, members should report an event relating to a former associated person if the event occurred while the individual was associated with the member.

.08 Customer Complaints. Any written customer complaint reported under paragraph (a)(1)(B) of this Rule also must be reported pursuant to paragraph (c) of this Rule. Members also should be aware that pursuant to Rule 3110(b)(5), their supervisory procedures must include procedures to capture, acknowledge and respond to all written (including electronic) customer complaints.

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