

# Regulatory Notice

08-76

## Reporting Clearing Arrangements

### Technology Changes for Reporting Clearing Methods and Arrangements

**Effective Date: December 15, 2008**

#### Executive Summary

As part of FINRA's ongoing effort to integrate NASD and NYSE technology systems, FINRA is revising the information reporting process regarding firms' clearing arrangements, memberships in clearing organizations and certain other information described in this *Notice*.

Effective December 15, 2008, member firms that carry accounts and/or clear transactions or act as an intermediary to facilitate the clearance of accounts through another firm must report their clearing method and clearing arrangements through the FINRA Firm Gateway, a tool that provides firms consolidated access to FINRA applications. Firms that are members of both FINRA and the NYSE must report their clearing method and arrangements under Incorporated NYSE Rule 416A. FINRA-only member firms are requested to provide this information on a voluntary basis. However, as part of FINRA's rulebook consolidation, FINRA staff anticipates proposing a similar rule that would apply to all FINRA member firms.

Member firms that do *not* carry accounts, clear transactions or act as an intermediary in a clearing arrangement are not subject to this reporting obligation. Such firms will, however, be able to view information pertaining to them that has been filed by the reporting firms and will receive an email notice if a reporting firm adds or removes them as a correspondent.

Questions related to the information to be reported under this *Notice* should be directed to Ornella Bergeron at [ornella.bergeron@finra.org](mailto:ornella.bergeron@finra.org) or (646) 315-8410. Technical questions should be directed to Elena Shuvalov at [elena.shuvalov@finra.org](mailto:elena.shuvalov@finra.org) or (240) 386-4747.

**December 2008**

#### Notice Type

- Guidance

#### Suggested Routing

- Compliance
- Legal
- Operations
- Senior Management
- Systems

#### Key Topic(s)

- Electronic Filing Requirements
- Firm Clearing Arrangement Filings
- NYSE Electronic Filing Platform
- NYSE Firm Profiler

#### Referenced Rules & Notices

- NASD Rule 3230
- NYSE Rule 382
- NYSE Rule 416A
- NYSE Rule 407A
- SEA Rule 15c3-3

## Background & Discussion

Beginning December 15, 2008, firms that carry accounts and/or clear transactions or act as an intermediary to facilitate the clearance of accounts through another firm must use the FINRA Firm Clearing Arrangement Form to report their clearing data, including (as applicable):

- Firm clearing method and clearing arrangement details\*\*;
- Memberships in clearing organizations;
- SEA Rule 15c3-3 reserve bank account information; and
- EDP System/Books and Records Information.

\*\* The FINRA Firm Clearing Arrangement Form provides an electronic *notification* of current and new arrangements; the FINRA Firm Clearing Arrangement Form does not replace the review and/or approval requirements of NYSE Rule 382 or NASD Rule 3230. Firms should continue to follow their current process for obtaining regulatory approval of their clearing arrangements in accordance with NYSE Rule 382 or NASD Rule 3230.

FINRA will pre-populate the Firm Clearing Arrangement Form with information that it has in its possession.<sup>1</sup> Firms must either update the pre-populated information in the new system or make their initial submission of the Firm Clearing Arrangement Form information—available through the Firm Gateway at <https://firms.finra.org>—by January 31, 2009. Firms also must update the form on an ongoing basis with any changes no later than 30 days after the information has changed. All information collected through the Firm Clearing Arrangement Form may be accessed by firms through a new Firm Profile on the Firm Gateway.<sup>2</sup>

## FINRA Firm Clearing Arrangements Form Data Elements

The FINRA Firm Clearing Arrangements Form (see Attachment A) incorporates the data elements that are currently collected via the NYSE Firm Profiler system<sup>3</sup> related to a firm's clearing arrangements and membership in clearing organizations and also includes additional data elements that were not previously included in the NYSE Firm Profiler system or any NASD system.

The following is a list of the data elements:

#### **Firm Clearing Method**

- How a firm clears and settles transactions. Options include:
  - Carries accounts or maintains funds or securities or provides clearing services for a correspondent/introducing broker-dealer.
  - Carries and clears futures accounts or provides clearing services as a futures commission merchant under the Commodity Exchange Act.
  - Acts as a broker for municipal securities brokers and clears municipal accounts.
  - Clears fixed income transactions broker-to-broker.
  - Self clears and carries general securities accounts, which may include mutual funds or variable annuities.
  - Self clears but does not carry general securities accounts, which may include mutual funds or variable annuities.
  - Self clears only redeemable shares of registered investment companies or of interests or participations in an insurance company separate account directly from or to the issuer on other than a subscription way basis.
  - Is either an introducing or self-clearing firm and also acts as an intermediary to a clearing firm for the purpose of clearing or settling accounts for another broker or dealer.

#### **Firm Clearing Arrangement Details**

- If a firm clears transactions for other firms, a list of the introducing firms, including Introducing Firm CRD#, Introducing Firm Name, Approximate Number of Accounts, Type of Arrangement (Omnibus or Fully Disclosed), Type of Accounts (Proprietary, Customer or Dealer), Type of Firm (Foreign or Domestic) and Arrangement Effective Date.
- If a firm acts as an intermediary to a clearing firm for the purpose of settling accounts for another broker or dealer, a list of the introducing firms including Firm CRD#, Firm Name and Arrangement Effective Date.
- If a firm clears fixed income transactions broker-to-broker, a list of the banks where the transaction(s) are cleared including Bank Name and Effective Date.

**Clearing Organization Membership Details**

- Whether the firm is a member of National Securities Clearing Corporation (NSCC), Fixed Income Clearing Corporation (GSD or MBS), Options Clearing Corporation (OCC) or a FUND/SERV Participant.
- Clearing Organization Member Identifiers
  - NSCC Number(s).
  - FICC Number(s).
  - OCC Number(s).
- FUND/SERV Participation Level

**SEA Rule 15c3-3 (Reserve) Bank Account Information**

- Indication of whether firm maintains a SEA Rule 15c3-3 (Reserve) bank account.
- Name(s) of bank(s) where a SEA Rule 15c3-3 bank account is held.

**Electronic Data Processing System Information**

- Name of the electronic data processing system(s).
- Description of the electronic data processing system(s).
- Effective date when system was deployed.

**Pre-populating of Clearing Arrangement Details and Memberships in Clearing Organizations**

FINRA has certain information regarding firms' clearing arrangement details and memberships in clearing organizations, obtained from the NYSE Firm Profiler system and Rule 3230(c) filings made by firms. Each clearing firm for which FINRA has such information, received a spreadsheet listing such information and was requested to verify the accuracy of the spreadsheet and add any missing data prior to December 15. The information in these spreadsheets and any other updates provided by firms will be used to pre-populate the FINRA Firm Clearing Arrangement Form data elements.

### **Submitting the FINRA Firm Clearing Arrangements Form**

Clearing, carrying and intermediary firms will have access to the FINRA Firm Clearing Arrangement Form and will be able to submit information from the “Forms and Filings” tab on the FINRA Firm Gateway.

FINRA will grant access to the Firm Clearing Arrangement Form to those individuals designated by firms as firm administrators for purposes of accessing the FINRA FOCUS applications. The firm administrator(s) should assign access privileges to the FINRA Firm Clearing Arrangement Form to other users at their firm. Any firm that is required to file the form and has not been granted the firm administrator privilege must request the new privilege as soon as possible, but no later than January 15, 2009, by contacting the FINRA Call Center at (301) 869-6699.

### **Notification Sent to Introducing /Correspondent Firms**

When a clearing firm files the form adding or removing an arrangement with an introducing/correspondent firm, the chief compliance officer and chief financial officer listed in the FINRA Contact System for the introducing/correspondent firm will receive an email informing them of the clearing firm’s filing. The email will list the change (addition or deletion) by the clearing firm and contain information on how to resolve any discrepancies. These emails will also be sent to the introducing firm’s chief compliance officer and chief financial officer when an intermediary firm files the FINRA Firm Clearing Arrangement Form, adding or removing the introducing firm.

### **New Firm Profile Information Available on the Firm Gateway on December 15, 2008**

All member firms will have access to the new Firm Profile information available on the Firm Gateway system effective December 15, 2008. The Firm Profile compiles information contained in various FINRA systems, including the information required to be submitted via the Firm Clearing Arrangement Form. In addition to the Firm Clearing Arrangement Form, firms may also use Firm Profile to view and update their information. Introducing firms should contact their clearing firm if they have questions about the details of the clearing arrangement contained in their Firm Profile.

### Retirement of the NYSE Firm Profiler System

All NYSE member firms are expected to file their final electronic certification for the fourth quarter of 2008 through the NYSE Firm Profiler system by December 31, 2008. The NYSE Firm Profiler system will be retired in January 2009.

Other data collected in the NYSE Firm Profiler system will be collected and maintained in the following FINRA systems and form filings upon retirement of that system.

#### Contact Information

The FINRA Contact System will serve as the reporting system for all key contact information required by FINRA rules. The contact information that currently exists in the NYSE Firm Profiler system will *not* be migrated to the FINRA Contact System.

#### NYSE Rule 407A Information

All NYSE Rule 407A information that is currently filed in the NYSE Firm Profiler system will be migrated to the FINRA Firm Gateway. NYSE members that are required to report account information pursuant to NYSE Rule 407A will have access to the NYSE Rule 407A form via the Firm Gateway system beginning December 15, 2008. NYSE members will be able to access and submit this filing from the Forms and Filings tab on the Firm Gateway.

#### Firm Name, Address, Legal Type, Owner and Control Affiliates

Information pertaining to a firm's owners and officers, name and address information, legal entity type, and control affiliates information will be maintained via Form BD in the Web CRD system, which is also accessible from the Firm Gateway.

### Endnotes

- 1 See "Pre-populating of Clearing Arrangement Details and Memberships in Clearing Organizations" section of this *Notice*.
- 2 See "New Firm Profile Information Available on the Firm Gateway on December 15, 2008" section of this *Notice*.
- 3 See "Retirement of the NYSE Firm Profiler System" section of this *Notice*.

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## ATTACHMENT A

FIRM NAME: \_\_\_\_\_

FIRM CRD#: \_\_\_\_\_

### FIRM CLEARING ARRANGEMENTS

Firm Clearing Method

Select how your firm clears and settles transactions:

- ☐ **a.** Carries accounts or maintains funds or securities or provides clearing services for a correspondent/introducing broker-dealer
- ☐ **b.** Carries and clears futures accounts or provides clearing services as a futures commission merchant under the Commodity Exchange Act
- ☐ **c.** Acts as a municipal securities brokers' broker and clears municipal accounts
- ☐ **d.** Clears fixed income transactions broker-to-broker
- ☐ **e.** Self clears and carries general securities accounts, which may include mutual funds or variable annuities
  - ☐ For customer accounts
  - ☐ For proprietary accounts
- ☐ **f.** Self clears but does not carry general securities accounts, which may include mutual funds or variable annuities
- ☐ **g.** Self clears only redeemable shares of registered investment companies or of interests or participations in an insurance company separate account directly from or to the issuer on other than a subscription way basis
- ☐ **h.** Introduces to a clearing firm
- ☐ **i.** Is either an introducing or self-clearing firm and also acts as an intermediary to a clearing firm for the purpose of settling accounts for another broker or dealer
- ☐ **j.** Relies on an intermediary to facilitate the clearance of its accounts by a clearing and carrying firm
- ☐ **k.** No Clearing Arrangement—*If No Clearing Arrangement, explain:*  
\_\_\_\_\_  
\_\_\_\_\_
- ☐ **l.** Other—*If Other, explain:*  
\_\_\_\_\_  
\_\_\_\_\_

The Tri-Party Firm Details will display and be required if the option i is selected from the above list.

**Tri-Party Firm Details**

Provide the CRD number and name of the firm(s) for whom you act as an intermediary to facilitate the clearance of accounts by a clearing and carrying firm:

| CRD# | Firm Name | Effective Date |
|------|-----------|----------------|
|      |           |                |
|      |           |                |

The Introducing/Correspondent Firm Details and Electronic Data Processing System Details sections will display and be required if option a is selected from above list

**Introducing/Correspondent Firm Details**

Provide the CRD number, name, approximate number of accounts, the type of accounts and the effective date of the firm(s) for whom you carry or clear transactions:

| CRD# | Firm Name | Approximate # of Accounts | Foreign or Domestic                                                   | Type of Arrangement                                                          | Type of Accounts                                                                                             | Effective Date |
|------|-----------|---------------------------|-----------------------------------------------------------------------|------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|----------------|
|      |           |                           | <input type="checkbox"/> Foreign<br><input type="checkbox"/> Domestic | <input type="checkbox"/> Omnibus<br><input type="checkbox"/> Fully Disclosed | <input type="checkbox"/> Proprietary<br><input type="checkbox"/> Customer<br><input type="checkbox"/> Dealer |                |
|      |           |                           | <input type="checkbox"/> Foreign<br><input type="checkbox"/> Domestic | <input type="checkbox"/> Omnibus<br><input type="checkbox"/> Fully Disclosed | <input type="checkbox"/> Proprietary<br><input type="checkbox"/> Customer<br><input type="checkbox"/> Dealer |                |

**Electronic Data Processing System Details**

Provide the Name and Description for all of your Electronic Data Processing Systems:

| Electronic Data Processing System Name | System Description | Effective Date |
|----------------------------------------|--------------------|----------------|
|                                        |                    |                |
|                                        |                    |                |

The Fixed Income Transaction Details section will display and be required if the option d is selected from the above list



**Fixed Income Transaction Details**

Provide the name of the bank where the transactions are cleared:

| Bank Name | Effective Date |
|-----------|----------------|
|           |                |

**Clearing Organization Membership Details**

Select whether your firm is a member of the following:

☐ **National Securities Clearing Corporation (NSCC)***Provide your firm's NSCC Number(s):*

|       |       |
|-------|-------|
| NSCC# | NSCC# |
| NSCC# | NSCC# |

☐ **Government Securities Division of Fixed Income Clearing Corporation (FICC)**☐ **Mortgage-Backed Securities Division of Fixed Income Clearing Corporation (FICC)***Provide your firm's FICC Number(s):*

|       |       |
|-------|-------|
| FICC# | FICC# |
| FICC# | FICC# |

☐ **Options Clearing Corporation (OCC)***Provide your firm's OCC Number(s):*

|      |      |
|------|------|
| OCC# | OCC# |
| OCC# | OCC# |

☐ **FUND/SERV Participant***Indicate the Level(s) that your firm participates in FUND/SERV:*

- ☐ Level Zero  
☐ Level One  
☐ Level Two  
☐ Level Three  
☐ Level Four

Does your firm maintain a 15c3-3(Reserve) bank account(s)? ☐ Yes ☐ No

If yes, provide the name of the bank where the account is held:

|                              |
|------------------------------|
| Bank Name                    |
| Name of Person Filing Form:  |
| Title of Person Filing Form: |
| Date:                        |