

FOCUS Reporting

Guidance on FAS 167 for FOCUS Reporting

Executive Summary

This *Notice* provides FINRA member firms with guidance from the staff of the Division of Trading and Markets of the Securities and Exchange Commission (SEC) on the procedures for reporting adjustments on the FOCUS Report resulting from the Financial Accounting Standard Board's Statement of Financial Accounting Standards No. 167 (FAS 167), *Amendments to FASB Interpretation No. 46(R)*. The provisions of FAS 167 are effective at the start of a firm's first fiscal year beginning after November 15, 2009, or as of January 1, 2010, for firms reporting earnings on a calendar-year basis.

Questions concerning this *Notice* should be directed to:

- Kris Dailey, Vice President, Risk Oversight & Operational Regulation (ROOR), at (646) 315-8434;
- Yui Chan, Managing Director, ROOR, at (646) 315-8426; or
- Susan DeMando Scott, Associate Vice President, Financial Operations Department, at (202) 728-8411.

Questions regarding the applicability of FAS 167 to your firm should be discussed with your independent public accountant. Questions regarding the procedures for reporting the adjustments resulting from the application of FAS 167 on the FOCUS Report may be directed to your FINRA Regulatory Coordinator.

February 2010

Notice Type

- Guidance

Suggested Routing

- Accounting
- Compliance
- Legal
- Regulatory Reporting
- Senior Management

Key Topic(s)

- FAS 167
- FOCUS Reporting
- Variable Interest Entities

Referenced Rules & Notices

- SEA Rule 15c3-1
- SEA Rule 15c3-3
- SEA Rule 17a-5

Background and Discussion

FAS 167, among other things, established new standards for reporting transfers of assets to special-purpose entities, known as variable interest entities (VIEs) under Generally Accepted Accounting Principles (GAAP) and for consolidating VIEs. FAS 167 may require firms to consolidate assets, liabilities and equity in certain VIEs that were not previously consolidated. Rule 15c3-1 of the Securities Exchange Act of 1934 (SEA) requires that broker-dealers' FOCUS Reports be prepared in accordance with GAAP. Accordingly, firms are required to consider the impact of the FAS 167 provisions on all future FOCUS Report filings, commencing with the January 2010 FOCUS Report.

FINRA has sought guidance from the staff of the Division of Trading and Markets of the SEC as to the appropriate reporting of balances resulting from the application of FAS 167 on firms' FOCUS Reports. Based on the SEC staff's guidance, firms shall report balances resulting from the application of FAS 167 within existing line items on the FOCUS Report, in accordance with the procedures outlined below.

Firms affected by the requirements of FAS 167 shall report the balances resulting from the application of such standards on their FOCUS Report as follows:

- ▶ Any assets and liabilities resulting from the application of FAS 167 shall be reported in FOCUS line items #537 (SPE Assets) and #1687 (SPE Liabilities), respectively. As these line items are not exclusively designated for FAS 167-related adjustments, the line items may also contain balances unrelated to FAS 167 assets and liabilities. Firms shall use the line item "memo" function within the eFOCUS Filing System¹ to identify the amount of the total balances reported in these line items that resulted from the application of FAS 167. Assets and liabilities reported on FOCUS resulting from the application of FAS 167 shall have no impact on the computation of net capital under SEA Rule 15c3-1 and the reserve formula computation under SEA Rule 15c3-3. Haircut charges and aggregate indebtedness shall not be applicable on FAS 167 balance sheet classifications.
- ▶ Any revenues and expenses resulting from the application of FAS 167 shall be reported in FOCUS line items #3995 (Other Revenue) and #4100 (Other Expenses), respectively. Firms shall use the line item "memo" function within the eFOCUS Filing System to identify the amount of the total balances reported in these line items that resulted from the application of FAS 167.
- ▶ Any changes to a firm's ownership equity accounts shall be reported in the respective line item on the FOCUS Report. Firms shall use the line item "memo" function within the eFOCUS Filing System to identify the amount of the total balances reported in these line items that resulted from the application of FAS 167.

- Any asset or liability, such as a proprietary inventory position, that is eliminated as a result of a consolidation from the application of FAS 167 shall be reclassified for FOCUS reporting purposes, so that it continues to be reflected in the FOCUS line item on which it was reported prior to the consolidation. Firms shall use the line item “memo” function within the eFOCUS Filing System to disclose each balance that is reclassified. Firms shall continue to mark to market such reclassified proprietary inventory positions and apply the appropriate net capital treatment (*e.g.*, haircuts) related to these reclassified items in their computation of net capital, as well as continue to include such reclassified items as proprietary inventory positions for purposes of the reserve formula computation allocation.

The consolidation resulting from the application of FAS 167 does not preclude firms from the requirement to consolidate any subsidiary or affiliate for which it guarantees, pursuant to the requirements under Appendix C of SEA Rule 15c3-1.

Endnotes

- 1 FINRA's eFOCUS Filing System (eFOCUS) provides firms with the ability to use the line item “memo” feature to provide additional information about a particular balance reported on the FOCUS Report.