

Regulatory Notice

10-28

Extension of Time Requests

New System for Processing Regulation T and SEA Rule 15c3-3 Extension of Time Requests

Effective Dates: August 23, 2010 (Phase I); November 8, 2010 (Phase II)

Executive Summary

Beginning August 23, 2010, FINRA will introduce, in phases, a new Regulatory Extension (REX) system that replaces FINRA's existing Reg T system to collect Regulation T and SEA Rule 15c3-3 extension of time requests. The new REX system offers enhanced functionality that will:

- give firms the ability to amend or update submitted extension requests;
- offer firms a wider variety of search fields for reviewing their submitted extension requests;
- introduce text fields that firms can use to input their own, internal identifiers for each extension request; and
- offer firms that submit extension requests via batch submission a daily report of submissions.

Also effective August 23, 2010, clearing firms must submit their monthly reporting of correspondent firms' extensions to transaction ratio by completing an online form accessible via the FINRA Firm Gateway through the new REX system. FINRA has revised the layout of the form, but it is otherwise unchanged.

June 2010

Notice Type

- Guidance

Suggested Routing

- Compliance
- Institutional
- Legal
- Operations
- Registered Representatives
- Senior Management
- Systems

Key Topic(s)

- Extension Processing

Referenced Rules & Notices

- NASD Rule 3160
- NTM 06-62
- Regulatory Notice 08-32
- Regulation T §§ 220.4 and 220.8
- SEA Rule 15c3-3

This *Notice* also details new and modified data elements for the REX system.

Questions concerning this *Notice* should be directed to:

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Background & Discussion

Regulation T, issued by the Federal Reserve Board pursuant to the Securities Exchange Act of 1934 (SEA), governs, among other things, the extension of credit by broker-dealers to customers to pay for the purchase of securities.¹ SEA Rule 15c3-3, among other things, requires broker-dealers to promptly obtain and maintain physical possession or control of customer securities, and designates periods of time within which broker-dealers must satisfy any deficiency (including those that arise from a customer “long” sale for which the customer has not delivered the securities within the requisite time period) by buying-in or otherwise obtaining possession or control of the securities.²

Under SEA Rule 15c3-3(n), a self-regulatory organization (SRO) may extend certain specified periods to buy-in a security, for one or more limited periods commensurate with the circumstances, where the SRO: (1) is satisfied that the broker-dealer is acting in good faith in making the request; and (2) exceptional circumstances warrant such action.³ Regulation T has a similar standard to allow an extension of time for payment for the purchase of securities.⁴

NASD Rule 3160 requires all clearing firms for which FINRA is the designated examining authority (DEA) to submit extension of time requests under Regulation T or SEA Rule 15c3-3(n) to FINRA. Since the SRO designated as a firm’s DEA has responsibility for examining its firms’ compliance with applicable financial responsibility rules such as Regulation T and SEA Rule 15c3-3, requiring a firm to submit extension requests to its DEA helps to ensure that the DEA receives complete extension information to assist it in performing this regulatory function. As further detailed below, each clearing firm for which FINRA is the DEA also must file a monthly report with FINRA indicating all broker-dealers for which it clears that exceed a given ratio of requested extensions of time to total transactions.

Personnel preparing extension of time requests are expected to obtain supporting documentation authorizing or requesting them to apply for an extension of time on behalf of a customer. Firms are reminded that a customer is not entitled to an extension of time. As noted above, firms may only request extensions of time in exceptional circumstances, and they are responsible for determining the appropriateness of requesting any such extension.

New REX System

The new REX system will permit FINRA to process, monitor and service firms' extension of time requests more accurately and efficiently. It will also enhance FINRA's surveillance and examination capabilities. Historically, firms have requested extensions of time through FINRA's Reg T system via the FINRA Firm Gateway and Regulation Filing Applications system. Effective August 23, 2010, the new REX system will replace the Reg T system. As with the legacy Reg T system, firms will be able to request extensions of time through the new REX system via the FINRA Firm Gateway by completing an online request form, or by transmitting a file via a batch-processing feed using FTP or SFTP. However, firms will no longer have the ability to upload files directly on the REX system interface, as was permitted with the Reg T system.

Following are the implementation dates for the new REX System:

Submission Method for Extension of Time Requests	Date Firm Must Use New REX Online Format for Extension of Time Requests
Online Request Form	August 23, 2010
Batch File*	No Later Than November 8, 2010**

* Firms that file through the batch process will be required to use a new directory for batch submissions beginning August 23, 2010 (the location of the "drop off" and "pick up" directory will be changing). See the "Testing" section below for details.

** Firms that transmit extension of time requests by batch file may begin using the new REX batch file format on August 23, 2010, but may continue to submit extension of time requests using the current Reg T batch file format until November 8, 2010.

Firms that use a service bureau to submit extension of time requests on their behalf must ensure that the information in this *Notice* is promptly communicated to their service bureaus so that any programming changes are effective by August 23, 2010. Please note that new user access is not required for the REX system: all user IDs and passwords will automatically transfer from the Reg T system to the new REX system. See the “Testing” section below for details regarding submission procedures.

The new REX system, which is XML-based,⁵ will allow firms to amend and re-submit extension requests that, for example, do not initially meet the rule requirements upon submission. Firms can review extension request status immediately using the online Web interface and on the firm’s daily extension report that will be delivered on the business day following submission (see the “Reports” section below). It is the firm’s responsibility to review these reports on a daily basis. FINRA expects firms to submit all changes to extension requests by the business day following initial submission. Clearing firms will have the capability to correct extension requests both online and through the batch submission process. All firm-initiated corrections will require final approval from FINRA’s Credit Regulation Department. It will be the firm’s responsibility to follow up on amended extension requests and take any necessary action if the extension request does not get approved.

Expanded File Format/Layout and Data Elements

As noted above, the REX system contains new and modified data elements that firms must implement depending on their submission method. Firms that submit extension of time requests via the online request form must use the new REX online format effective August 23, 2010. Accordingly, such firms must implement the new and modified data elements by August 23, 2010. Firms that transmit extension of time requests by batch file have the option to begin using the new REX batch file format on August 23, 2010; if they elect to do so, they must implement the new and modified data elements at that time (firms may continue to submit extension of time requests using legacy Reg T batch file format until November 8, 2010). The system will assign default values for the new and modified data elements when the legacy Reg T batch file format is used as specified in the table below. On November 8, 2010, firms must submit all batch file extension of time requests via the new REX batch format, and the new and modified data elements will be required from all batch submitters.

The table below lists and describes the new and modified data elements. FINRA reminds firms to review *Regulatory Notice 08-32* (June 2008), which discusses in detail the current data elements’ requirements.

DATA ELEMENT	OPTIONAL/ REQUIRED	NOTES	DEFAULT VALUE FOR LEGACY FORMAT BATCH FILE SUBMISSIONS ⁶
Product Code	Required	This data field captures the type of product traded for which an extension is being requested (<i>e.g.</i>, the type of product identified by the <i>Issue Symbol/CUSIP</i> field value). Firms must select one of the following values: • Equity • Option • Derivative • Mutual fund • Bond In the case of <i>multiple trades</i>, firms must choose one product code, Issue Symbol/CUSIP and share amount, and enter the aggregate value of all of the trades in the submission for that account.	Equity
Correspondent Firm Type	Required	Firms must indicate if they are submitting the extension on behalf of a correspondent firm. This element is a modification of the <i>Correspondent Firm Flag</i> data element in the legacy Reg T system. Firms must select one of the following values: • Domestic ➤ If this value is selected, the Correspondent Firm CRD Number, the Correspondent Branch CRD Number, Customer Contact CRD Type and Customer Contact CRD ID fields must be completed.	Legacy “Y” → <i>Domestic</i> Any other value → <i>None</i>

DATA ELEMENT	OPTIONAL/ REQUIRED	NOTES	DEFAULT VALUE FOR LEGACY FORMAT BATCH FILE SUBMISSIONS ⁶
		- Foreign ➤ If this value is selected, the name of the foreign correspondent broker-dealer must be submitted in the new Foreign IB Name data field below. - None ➤ If this value is selected, the Branch CRD Number of the clearing firm must be completed.⁷	
Foreign IB Name	Required	Foreign correspondent firm name must be provided if the extension is being requested on behalf of a foreign correspondent firm and the <i>Correspondent Firm Type</i> indicator has been set to <i>Foreign</i>. <i>***Note: It is important to be consistent when submitting names in this field. For example, please do not use "Acme, Inc." in one extension request, and "Acme, Incorporated" in another extension request for the same firm.</i>	Field will be blank
Customer Contact CRD Type	Required	This field indicates the CRD number of the Registered Representative assigned to the account, if any. Firms must select one of the following values: - RegisteredRep ➤ If this value is selected, the customer contact CRD ID field must contain the Registered Representative CRD number.	RegisteredRep.

DATA ELEMENT	OPTIONAL/ REQUIRED	NOTES	DEFAULT VALUE FOR LEGACY FORMAT BATCH FILE SUBMISSIONS ⁶
		- SelfDirected - This option is reserved explicitly for online accounts and hedge funds that are self directed and do not have a Registered Representative assigned to the account. <i>***Note: If the extension of time request relates to paragraph (d)(2),(d)(3) or (h) of SEA Rule 15c3-3, this field is not required. This field is also not required when the Correspondent Firm Type is Foreign.</i>	
Contra ID Code for (d)(2) extensions	Required	This field is a modification of the <i>Contra Broker Dealer CRD Number</i> field from the legacy Reg T system. This field indicates the type of identification from the broker-dealer failing to deliver the securities. Firms must select one of the following values: - CRD - If this value is selected, the <i>Contra ID</i> field must contain the CRD number of the contra firm. - DTCC - If this value is selected, the <i>Contra ID</i> field must contain the DTCC number of the contra firm.	DTCC

DATA ELEMENT	OPTIONAL/REQUIRED	NOTES	DEFAULT VALUE FOR LEGACY FORMAT BATCH FILE SUBMISSIONS ⁶
Original Request Date	Required	This field was previously named “Request Date” and is renamed to clarify the meaning of the data value. The <i>Original Request Date</i> does not change for subsequent requests on the same extension.	Existing required field so no default value is necessary
Submitter’s Job Reference ID	Optional	This field allows the submitting firm to include its own identifier for a batch submission for firm internal tracking purposes. It is being maintained and available for searching by FINRA systems.	Field will be blank
Request Action	Required	This field will indicate if the current extension request is an <i>Amendment</i> or <i>New</i> extension request. Note that if the value <i>Amendment</i> is selected, it means the submitter is correcting an error in a previously submitted extension request. Creating a “follow-on” (or “subsequent extension,” “second extension,” “third extension,” etc.) for an expired extension request is <i>not</i> an Amendment. It is considered a <i>New</i> extension request (albeit a new extension request that is requesting additional time for the expired request). ***Note that Amendments for an extension request are expected to be submitted within one business day following the submission of the original extension request.	New

DATA ELEMENT	OPTIONAL/ REQUIRED	NOTES	DEFAULT VALUE FOR LEGACY FORMAT BATCH FILE SUBMISSIONS ⁶
Submitter Comment	Required for Amendments	Submitters must include in this field a detailed explanation of the reason for the amendment.	Field will be blank
Received By	Required	This field indicates the pathway by which the extension request was entered into the REX system. Firms must select one of the following values: • Batch V1 (Legacy Reg T batch file format) • Batch V2 (new REX batch file format) • UI (online request form).	BatchV1
Withdrawn Flag	Required	This field should be set to <i>Yes</i> when a firm is withdrawing a previously submitted extension request. A withdrawal is considered an amendment, and therefore the submitter must complete the <i>Submitter Comment</i> field as to why the extension request is being withdrawn. This field should be set to <i>No</i> unless the intent is to withdraw the extension request.	No
Submitter's Filing Reference ID	Optional	This field allows the submitting firm to include its own identifier for a particular extension request for firm internal tracking purposes. This field will be maintained and available for searching by FINRA systems.	Field will be blank

DATA ELEMENT	OPTIONAL/ REQUIRED	NOTES	DEFAULT VALUE FOR LEGACY FORMAT BATCH FILE SUBMISSIONS ⁶
FINRA Filing ID	Future use	This field will be blank at the time of initial release and will be programmed at a later date. FINRA will issue a subsequent <i>Regulatory Notice</i> with details about the requirements and timing.	Field will be blank
FINRA Filing Version	Future Use	This field will be blank at the time of initial release and will be programmed at a later date. FINRA will issue a subsequent <i>Regulatory Notice</i> with details about the requirements and timing.	Field will be blank

Additional information about the new file format is available at www.finra.org/rex/technicalinformation, including a mapping of legacy batch file data elements to the new XML-based batch file data elements, and the technical XSD, which provides a standards-based definition for the new batch XML file format. To accommodate the new batch XML file format, firms will need to make significant changes to their automated processes that generate batch files that adhere to the legacy Reg T file format in order to submit extension of time requests using the new file format. See the “Testing” section below for details about submission procedures.

Monthly Reporting Requirement—Correspondent Firm Extensions

NASD Rule 3160(b) requires each clearing firm for which FINRA is the DEA to file a monthly report with FINRA indicating all broker-dealers for which it clears (*i.e.*, correspondent firms) that have overall ratios of extension of time requests to total transactions for the month that exceed a percentage specified by FINRA (the current extension-to-transaction ratio is 2 percent).⁸ Clearing firms must continue to submit the monthly report by completing an online form via the FINRA Firm Gateway; however, with the introduction of the REX system, firms will need to use a revised form beginning August 23, 2010. A sample of the form is available at www.finra.org/rex/sampleextensionform. The same information and reporting time periods and thresholds are required as detailed in *Notice to Members 06-62*, though the REX application will pre-populate the correspondent broker-dealer's CRD number(s) and the number of extension requests submitted (based on the Regulation T and SEA Rule 15c3-3 extension requests received during the previous month). Firms will be able to override the pre-populated information as necessary.

Reports

Firms will have access, via the new REX system, to functionality that will allow users to search for specific extensions or groups of extensions, based on a wide variety of search criteria, including *Disposition Status (Granted, Denied, Pending)*. From the search results, users will be able to view all of the data for any submitted extension of time request.

Effective August 23, 2010, if a firm elects to use the new REX batch file format, the firm will receive an enhanced XML result report via FTP or SFTP (depending on how the batch file was submitted). Firms that continue to use the legacy flat file batch submission format will continue to receive a results report file similar to the one they receive today. This flat file format for the results report will not be available after November 8, 2010.

The enhanced results report is an XML-formatted file that contains all of the information regarding all extension of time requests the firm submitted, including extension requests submitted via the online request form. This file will be delivered to batch submitters on a nightly basis, and will also contain information regarding "finalized"⁹ customers. The details regarding the format for this XML file can be reviewed at www.finra.org/rex/technicalinformation. This results report will be available beginning August 23, 2010. This results report will also be available online upon request for firms that submit extension requests via the online request form.

The *Disposition Status (Granted, Denied, Pending)* of submitted extensions can be viewed on the daily report. Firms need to review this report on a daily basis and all necessary change requests are expected to be submitted by the following business day.

Testing

Because the new REX system will require firms to make modifications to their systems, FINRA has created a REX Customer Test Environment (CTE) for the online request form, which is available now for testing at <https://gateway1.firms.qc.finra.org>.

For firms that will transmit batch files via FTP or SFTP, FINRA will now accept test data files transmitted through its testing environment. Firms should send files via FTP or SFTP to their current Reg T FTP or SFTP test server, **but dropped off in the RPT_REGT2/in** subdirectory. The results reports will be posted to the same server, in the firm's **RPT_REGT2/out** subdirectory. **Please Note:** *to test batch submissions in the new REX system, regardless of which file format is used, firms must drop off files in the RPT_REGT2/in subdirectory.*

Firms must use the same subdirectory names in the production environment once the REX system goes live on August 23, 2010. Users should be able to use their existing FINRA CTE user ID and password for the testing. Firms that encounter technical problems, or need to request a FINRA user ID and password, should contact the FINRA Help Desk at (800) 321-6273. FINRA encourages firms to begin testing as soon as possible to ensure a smooth transition to the REX system.

File Format Layout

The REX and Reg T file format layouts are available at www.finra.org/rex/technical information.

Additional Support

For additional support with the changes addressed in this Notice, see the REX tutorial at www.finra.org/Industry/Tools.

Endnotes

- 1 12 CFR 220.4(c) and 220.8(d). Regulation T provides that a customer has one payment period (currently five business days) to submit payment for purchases of securities in a cash account or in a margin account.
- 2 17 CFR 240.15c3-3.
- 3 See SEA Rule 15c3-3(n), authorizing SROs to extend the periods of time to buy-in a security specified in SEA Rules 15c3-3(d)(2), (d)(3), (h) and (m).
- 4 Under Regulation T, a firm's examining authority may grant an extension unless the examining authority believes that the broker-dealer is not acting in good faith or that the broker-dealer has not sufficiently determined that exceptional circumstances warrant such action. See Regulation T §§ 220.4(c) and 220.8(d).
- 5 XML (extensible mark up language) is a commonly used file formatting standard that is easily validated, human-readable, and readily digested by computer systems.
- 6 Since these data elements do not exist in the legacy Reg T batch file format, the application will provide a default value for these data elements for all extension requests submitted between August 23 and November 8, 2010, using the legacy Reg T batch file format.
- 7 See *Regulatory Notice 08-32* for further discussion of the Branch CRD Number data element.
- 8 See *NTM 06-62*. Self-clearing firms that do not clear for other firms are not required to file these reports because such firms do not have any correspondent broker extension information to provide to FINRA.
- 9 The term "finalized" refers to individual customers who have reached their allowable limit of extensions; *i.e.*, the customer has received five Regulation T extensions or nine SEA Rule 15c3-3 extensions in the preceding 12 months.