

Regulatory Notice

13-32

Minor Rule Violations

SEC Approves Amendments to FINRA Rule 9217 to Include Additional Rule Violations Eligible for Disposition under FINRA's Minor Rule Violation Plan

Effective Date: September 26, 2013

Executive Summary

The Securities and Exchange Commission (SEC) approved amendments to FINRA Rule 9217 to include additional rules for disposition pursuant to FINRA's Minor Rule Violation Plan (MRVP). The additional rules are set forth in Attachment A. The amendment became effective September 26, 2013.

The text of the amended rules is available at www.finra.org/notices/13-32.

Questions concerning this *Notice* should be directed to Philip Shaikun, Associate Vice President and Associate General Counsel, Office of General Counsel, at (202) 728-8451.

Background & Discussion

FINRA Rule 9216(b) provides procedures for disposition of certain rule violations designated as minor rule violations pursuant to a plan declared effective by the SEC in accordance with Section 19(d)(1) of the Exchange Act and Rule 19d-1(c)(2) thereunder. FINRA's MRVP allows FINRA to impose a fine of up to \$2,500 on any firm it regulates or person associated with a FINRA-regulated firm for a minor violation of an eligible rule. On September 26, 2013, the SEC approved amendments to expand Rule 9217, which sets forth the rules eligible for MRVP disposition.

October 2013

Notice Type

- ▶ Rule Amendment

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Registered Representatives
- ▶ Senior Management

Key Topics

- ▶ Code of Procedure
- ▶ Minor Rule Violation Plan

Referenced Rules & Notices

- ▶ FINRA By-Laws Schedule A, Sec. 1(b)
- ▶ FINRA Rules 1250, 2251, 2266, 2360, 3160, 4360, 4370, 4524, 5110, 5121, 5122, 5190, 6181, 6182, 6250, 6380B, 6623, 6624, 6760, 7230B, 7260B, 7330, 7360, 7430 and 9217
- ▶ MSRB Rules G-2, G-3, G-6, G-8, G-9, G-10, G-21, G-27 and G-40
- ▶ NASD Rules 1021, 1150, 1160 and 3010
- ▶ SEA Rules 10b-10, 17a-3 and 17a-4
- ▶ SEC Regulation NMS Rules 605 and 606
- ▶ SEC Regulation SHO Rule 200(g)



Financial Industry Regulatory Authority

The purpose of the MRVP is to provide reasonable but meaningful sanctions for minor or technical violations of rules. The option to impose an MRVP sanction gives FINRA additional flexibility to administer its enforcement program in the most effective and efficient manner, while still fully meeting FINRA's remedial objectives in addressing violative conduct. For example, MRVP dispositions provide a useful tool for implementing the concept of progressive discipline to remediate misconduct.

The inclusion of a rule in FINRA's MRVP does not minimize the importance of compliance with the rule. FINRA will continue to examine and surveil for compliance with eligible rules in a manner consistent with its examination programs and will determine on a case-by-case basis whether disposition pursuant to the MRVP is appropriate. The inclusion of a rule in the MRVP does not require FINRA to treat any particular violation of that rule pursuant to the MRVP. FINRA therefore retains the discretion to resolve minor violations as informal matters or through an Acceptance, Waiver and Consent or filing of a complaint, depending on the facts and circumstances. FINRA does not intend to develop a formula as to when a matter must be handled pursuant to the MRVP, as opposed to other alternatives, including informal action. Similarly, a firm or associated person is not required to accept an MRV disposition and may always avail itself of the procedural rights under FINRA rules to challenge an allegation in any complaint that may be filed.

Endnote

1. See Securities Exchange Act Release No. 70521 (September 26, 2013), 78 FR 60982 (October 2, 2013) (Order Approving File No. SR-FINRA-2013-033).

Attachment A

Additional Rules Included in FINRA's MRVP as of September 26, 2013

- (1) Schedule A. Sec. 1(b) of the FINRA By-Laws — Failure to make accurate payment of Trading Activity Fee.
- (2) Rule 1250(a) — Failure to comply with the Regulatory Element of the continuing education requirements.
- (3) Rule 2251(a) — Failure to timely forward proxy and other issuer-related materials.
- (4) Rule 2266 — Failure to provide written notification of availability of SIPC information at account opening or annually thereafter.
- (5) Rule 2360(b)(5) — Failure to report options positions.
- (6) Rule 3160(a)(1), (3), (4) and (5) — Standards of conduct for conducting broker-dealer services on or off the premises of a financial institution pursuant to a networking arrangement, but excluding the networking agreement requirements.
- (7) Rule 4360(b) — Failure to maintain adequate fidelity bond coverage.
- (8) Rule 4370(a), (b), (c), (e) and (f) — Requirements to create, maintain and update a written business continuity plan and disclosure of such to customers.
- (9) Rule 4524 — Failure to timely file or filing of incomplete reports or information.
- (10) Rule 5110(b) — Failure to timely file or filing of incomplete documents or information.
- (11) Rule 5121(a) — Failure to prominently disclose conflict of interest.
- (12) Rule 5121(b)(2) — Failure to give timely notification of termination or settlement of public offering, or failure to file net capital computation.
- (13) Rule 5122(b)(2) — Failure to timely file private placement documents.
- (14) Rule 5190 — Failure to give timely notification of participation in offerings.
- (15) Rules 6380B, 7230B, 7260B, 7330, and 7360 — Transaction reporting in equity and debt securities.
- (16) Rules 6181 and 6623 — Failure to timely report transactions in NMS, OTC and restricted equity securities.
- (17) Rules 6182 and 6624 — Failure to accurately mark short sale transactions in NMS and OTC equity securities.

(18) Rule 6250 — Failure to comply with quote and order access requirements for FINRA's Alternative Display Facility.

(19) Rule 6760 — Failure to give timely or complete notification concerning offerings of TRACE-Eligible Securities.

(20) Rule 7430 — Failure to synchronize business clocks used for recording date and time as required by applicable FINRA By-laws and rules.

(21) NASD Rules 1021(d) — Failure to timely register.

(22) NASD Rule 1150 — Failure to review and update executive representative designation and contact information.

(23) NASD Rule 1160 — Failure to report or update contact information.

(24) NASD Rule 3010 — Failure to maintain adequate written supervisory procedures where the underlying conduct is subject to Rule 9217.

(25) SEA Rules 17a-3(a) and 17a-4 — Record retention rule violations.

(26) SEA Rule 10b-10 — Confirmation of Transactions.

(27) Rule 200(g) of SEC Regulation SHO — Failure to accurately mark sell orders of equity securities.

(28) Rule 605(a)(1) and (3) of SEC Regulation NMS — Failure to timely report or provide complete order execution information.

(29) Rule 606 of SEC Regulation NMS — Failure to timely disclose or provide complete order routing information.

(30) MSRB Rules G-2 and G-3 (b)(ii)(D) and (c)(ii)(D) — Failure to timely register.

(31) MSRB Rule G-3(h) — Failure to comply with the continuing education requirements.

(32) MSRB Rule G-6 — Failure to maintain adequate fidelity bond coverage.

(33) MSRB Rules G-8 and G-9 — Record retention rule violations.

(34) MSRB Rule G-10(a) — Failure to deliver investor brochure to customers promptly.

(35) MSRB Rule G-21 — Advertising.

(36) MSRB Rule G-27(c) — Failure to maintain adequate written supervisory procedures where the underlying conduct is subject to Rule 9217.

(37) MSRB Rule G-40(a) and (c) — Failure to designate and update electronic mail contact information for communications with MSRB.