

Regulatory Notice

14-13

Regulatory Extension (REX) System Update

Extension of Time Requests Relating to New SEA Rule 15c3-3(d)(4)

Effective Date: April 2, 2014

Executive Summary

FINRA is updating the Regulatory Extension (REX) system¹ to enable firms to file extension of time requests relating to new SEA Rule 15c3-3(d)(4) as adopted by the SEC in July 2013.² Firms may file such requests beginning April 2, 2014, by completing the currently available online request form that is accessible by logging in to the REX system via the FINRA Firm Gateway. Firms should note, however, that the REX system will not be able to accept extension of time requests relating to Rule 15c3-3(d)(4) that are submitted via batch file process.³

Questions concerning this *Notice* should be directed to:

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- ▶ Steve Yannolo, Project Manager, Credit Regulation, at (646) 315-8621; or
- ▶ Theresa Reynolds, Senior Credit Regulation Coordinator, at (646) 315-8567.

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Notice Type

- ▶ Guidance

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Regulatory Reporting
- ▶ Senior Management

Key Topics

- ▶ Extension of Time Requests Relating to SEA Rule 15c3-3(d)(4)

Referenced Rules & Notices

- ▶ SEA Rule 15c3-3(d)(4)
- ▶ SEA Rule 15c3-3(n)
- ▶ Regulatory Notice 10-28



Financial Industry Regulatory Authority

Background & Discussion

In July 2013, the SEC adopted new paragraph (d)(4) under SEA Rule 15c3-3, which, among other things, requires a broker-dealer to take prompt steps to obtain physical possession or control over securities of the same issue and class as those included “on the broker’s or dealer’s books or records that allocate to a short position of the broker or dealer or a short position for another person, excluding positions covered by paragraph (m) [of Rule 15c3-3], for more than 30 calendar days.”⁴

The SEC staff has stated that the 30-calendar day period specified in paragraph (d)(4) begins to run when a broker-dealer identifies a segregation deficit in fully paid and excess margin securities that allocates to a short position (*e.g.*, when the deficit is created).⁵ Paragraph (d)(4) of Rule 15c3-3 is triggered if the segregation deficit persists for 30 consecutive calendar days without cure.⁶ Further, the SEC staff has stated that broker-dealers are not required to buy-in securities and, instead, may borrow securities to meet the requirements of Rule 15c3-3(d)(4).⁷ The SEC also adopted an amendment to paragraph (n) of SEA Rule 15c3-3 to permit FINRA under specified conditions to grant an extension of the 30-calendar day period for purposes of paragraph (d)(4) under the rule.

REX System Update

Beginning April 2, 2014, firms may file extension of time requests relating to new Rule 15c3-3(d)(4) by completing the currently available online request form that is accessible by logging in to the REX system via the FINRA Firm Gateway. Firms may submit the extension of time requests on either the first or second business day following the 30th calendar day from the date the deficit under Rule 15c3-3(d)(4) is created. Firms should note that the REX system will not be able to accept extension of time requests relating to Rule 15c3-3(d)(4) that are submitted via batch file process. FINRA will monitor the volume and nature of extension of time requests and may at a future date modify the REX system to enable firms to submit such requests via batch file process using File Transfer Protocol (FTP) or Secure File Transfer Protocol (SFTP). Firms that currently submit their extension of time requests exclusively via batch file process must ensure that they have an active user ID and password to be able to access the online REX system. To ensure they have an active user ID and password to access the online REX system, firms should contact their designated Super Account Administrator (SAA) as soon as possible prior to April 2, 2014.

Firms are encouraged to review the status of each extension of time request immediately after it is submitted through the online REX system interface and on the firm’s daily extension report provided by FINRA (*see* the “Available Reports” section below). An extension of time request that is denied due to incomplete or inaccurate information may be eligible for reconsideration if corrected and resubmitted via the online REX system by the close of business on the second business day after the 30th calendar day of the paragraph (d)(4) deficit.

File Format and Data Elements Required for Extension of Time Requests Relating to SEA Rule 15c3-3(d)(4)

Following are the data elements for extension of time requests relating to new SEA Rule 15c3-3(d)(4):

- ▶ **Request Type**—Select request type “15c3.”
- ▶ **Rule Type**—Select (d)(4) as the rule type.
- ▶ **Reason Code**—Select one of the following reason codes:
 - ▶ 073—Unable to Buy-In
 - ▶ 077—SRO Halted Trading or Buy-In Privilege
 - ▶ 080—Other
- ▶ **Request Number**—This field will be auto-populated to reflect the number of extension of time requests submitted for a specified request (e.g., whether it is a 1st, 2nd, 3rd extension of time request for the same deficit). Firms cannot edit this field.
- ▶ **Original Request Date**—Indicate the date the extension of time request is first made. For an initial request, this must be the date of the initial request. For subsequent requests, firms must use the date of the initial request.
- ▶ **Days Requested**—Indicate the number of days being requested for the extension of time request. For Reason Codes 073 and 077, the system will default to 14 calendar days for each request submitted. For Reason Code 080, firms may request up to 7 calendar days each time they submit a request.
- ▶ **Submitter Filing reference ID**—This field is optional and is provided to enable the submitting firm to identify or track each extension of time request for internal purposes.
- ▶ **Comment**—This field is mandatory for Reason Code 080 and optional for Reason Codes 073 and 077. Use this field to detail the reason for the extension of time request.
- ▶ **Received By**—This is a system generated field that indicates if the extension of time request was submitted via a batch file or submitted via User Interface (UI) online. For extension of time requests relating to Rule 15c3-3(d)(4), the indicator will default to “UI.”
- ▶ **Withdrawn Flag**—Indicate “Yes” if withdrawing a previously submitted extension of time request. Firms must complete the “*Comment*” field to indicate why the extension of time request is being withdrawn. If the extension of time request is not being withdrawn, this field will default to “No.”
- ▶ **Product Code**—Indicate the Product Code associated with the security for which the extension of time request is made. The following values are available for this field: *Equity; Option; Derivative; Mutual Fund; Bond.*

- ▶ **Issue Symbol or CUSIP**—Indicate either the Issue Symbol or the standard industry CUSIP associated with the security for which the extension of time request is made.
- ▶ **Share Amount**—Indicate the dollar value of the security for which the extension of time is request is made.
- ▶ **Share Quantity**—Indicate the number of shares of the security for which the extension of time request is made.
- ▶ **Date of Deficit**—Indicate the date when the deficit was created.
- ▶ **Deficit Allocation Information and Allocated Quantity**—Indicate what type of account(s) the security in deficit allocates to on the firm's books and records by selecting from as many of the following accounts as applicable: *Proprietary Accounts of BD (PAB); Firm Inventory; Customer; and Non-Customer*. Also indicate the quantity of shares allocated to each type of account. Note: The total in the "Allocated Quantity" field must equal the number of shares noted in the "Share Quantity" field.

Available Reports

Firms will have access via FINRA Firm Gateway to reports FINRA makes available that will include information on all the extension of time requests a firm submits and their associated data elements. Firms will also be able to query the REX system for information on all extension of time requests that are granted, denied or rejected.

Member firms that encounter technical problems, or otherwise require assistance, should contact the FINRA Gateway Call Center at (301) 869-6699.

Endnotes

1. FINRA introduced the REX system in August 2010. See [*Regulatory Notice 10-28*](#) (June 2010) (Extension of Time Requests).
2. See Securities Exchange Act Release No. 70072 (July 30, 2013), 78 FR 51824 (August 21, 2013) (Financial Responsibility Rules for Broker-Dealers).
3. FINRA may implement a batch file process capability for purposes of extension of time requests in connection with Rule 15c3-3(d)(4) at a future date. FINRA will announce the implementation in a *Regulatory Notice* (or similar communication).
4. The rule provides that the 30-day time period will not begin to run with respect to a syndicate short position established in connection with an offering of securities until the completion of the underwriter's participation in the distribution as determined pursuant to Rule 100(b) under the SEC's Regulation M.
5. See Question and Answer 4 in SEC Division of Trading and Markets, "[Frequently Asked Questions Concerning the Amendments to Certain Broker-Dealer Financial Responsibility Rules](#)" (March 6, 2014) (SEC Staff FAQs).
6. The SEC staff has further stated that, for purposes of aging deficits that began on or prior to March 3, 2014, broker-dealers may consider March 3, 2014, as "Day 1." See note 5.
7. See Question and Answer 5 in the SEC Staff FAQs.