

Reporting Requirements

FINRA Revises the Product and Problem Codes Used for Reporting Customer Complaints and Filing Required Documents Online

Implementation Date: October 1, 2014

Executive Summary

Starting on October 1, 2014, firms must select revised and new product and problem codes when: (1) reporting information regarding written customer complaints alleging theft or misappropriation of funds or securities, or forgery; (2) reporting quarterly statistical and summary information regarding written customer complaints; and (3) completing the online form to file copies of required documents.

For purposes of reporting statistical and summary information regarding written customer complaints, the first quarterly report using the revised and new codes is due by January 15, 2015, which is the reporting deadline for customer complaints received during the fourth calendar quarter (October 1, 2014, through December 31, 2014).

The revised and new product and problem codes are provided in Attachment A.

Questions concerning this *Notice* should be directed to Anthony Cavallaro, Central Review Group, at (646) 315-7319.

Background & Discussion

FINRA Rule 4530 (Reporting Requirements) requires firms to report, among other events, written customer complaints alleging theft or misappropriation of funds or securities, or forgery.¹ The rule also requires firms to report quarterly statistical and summary information regarding written customer complaints.² All customer complaint information must be electronically reported to FINRA via an application on the FINRA Firm Gateway. In addition, the rule requires firms to file with FINRA copies of specified criminal and civil actions,³ which firms have the option of filing online via a form on the Firm Gateway.⁴

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Notice Type

- ▶ Guidance

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Senior Management
- ▶ Systems

Key Topics

- ▶ Customer Complaints
- ▶ Filing Requirements
- ▶ Online Filing
- ▶ Product and Problem Code Changes
- ▶ Reporting Requirements

Referenced Rules & Notices

- ▶ FINRA Rule 2111
- ▶ FINRA Rule 4530
- ▶ NASD Rule 3070

Firms are required to select the appropriate product and problem code when reporting customer complaint information and when completing the online form to file copies of required documents. FINRA periodically reviews the product and problem codes to determine whether the codes need to be revised to provide more clarity and whether new categories need to be added. Based on this review, FINRA is revising the codes and adding new categories. FINRA is also making non-substantive technical and stylistic changes to the codes. The substantive changes are described below.

Product Codes

FINRA is amending Code 10 – Money Markets, which was previously used for reporting allegations relating to money markets under NASD Rule 3070 (Reporting Requirements) (the predecessor to FINRA Rule 4530). As revised, firms must use Code 10 – Certificate of Deposit (CD) (coupon and zero CDs) if the matter relates to a CD, and Code 38 – Money Markets (*e.g.*, commercial paper, Banker’s Acceptance (BA), not money market funds) if the matter relates to money markets.

In addition, FINRA is adding the following new product codes:

- Code 46 Viatical Settlement**—The sale of a terminally ill policy owner’s existing life insurance policy to a third party for more than its cash surrender value, but less than its net death benefit. Such a sale provides the policy owner with a lump sum. The third party becomes the new owner of the policy, pays the monthly premiums, and receives the full benefit of the policy when the insured dies.
- Code 47 Private Securities**—Securities that are not registered; not listed on an exchange; and otherwise not publicly available for trade.
- Code 48 Non-Broker-Dealer Affiliate Product**—Such as banking and insurance instruments or services related to non-broker-dealer affiliate activity and not otherwise characterized by another Product Code.
- Code 49 Exchange-Traded Notes (ETNs)** —Senior, unsecured, unsubordinated debt security issued by an underwriting bank designed to provide investors access to the returns of various market benchmarks. ETNs do not actually own anything they are tracking. The note is backed by the credit of the underwriting bank that is promising to pay the amount reflected in the index, minus fees upon maturity.

Problem Codes

FINRA is revising the description of Code 04 – Suitability to reflect the requirements of FINRA Rule 2111 (Suitability). In addition, FINRA is revising the title and description of Code 63 from “Poor Service – Where the customer alleges that service from the firm or any of its employees was inadequate and/or unsatisfactory (*e.g.* failure to return phone calls, rudeness, lack of administrative attention to the account, etc.)” to “Service Issues – Allegations concerning inadequate or unsatisfactory service from the firm or any of its employees.”

FINRA is also adding the following new problem codes:

- Code 13 Selling Away**—Allegations concerning the RR engaging in a securities transaction outside the scope of his or her relationship with the firm and without the knowledge or approval of the firm.
- Code 14 Outside Business Activities**—Allegations concerning the RR engaging in an undisclosed business activity (other than a securities transaction) outside the scope of his or her relationship with the firm (*e.g.*, employment with another entity without the knowledge of the firm).
- Code 33 Non-Broker-Dealer Affiliate Activity**—Non-Broker-Dealer Affiliate activity not otherwise characterized by another Problem Code.
- Code 68 Firm Policy**—Allegations concerning a customer’s dissatisfaction with the RR or the firm as a result of a firm policy or procedure (that is not otherwise better characterized by another Problem Code).

Availability of the Revised and New Codes

The revised and new product and problem codes are provided in Attachment A and are also available on [FINRA’s website](#).

Endnotes

1. See FINRA Rule 4530(a)(1)(B).
2. See FINRA Rule 4530(d). Firms must report this information by the 15th calendar day of the month following the end of each calendar quarter (*e.g.*, by April 15 for the first quarter). The statistics that firms report provide FINRA with important regulatory information that assists with the timely identification of potential sales practice and operational issues.
3. See FINRA Rule 4530(f).
4. See FINRA Rule 4530(g). Firms also have the option of filing the documents required under FINRA Rule 4530(f) via mail or email.

FINRA Rule 4530 Product Codes

Select the most prominent in the complaint from the following codes:

- 00 **Miscellaneous**
- 01 **Equity-Listed** (common and preferred stock)
- 02 **Debt-Corporate** (not asset-backed, includes convertible, corporate and zeros)
- 03 **Debt-U.S. Government/U.S. Government Agency/U.S. Government Zeros and U.S. Zero Receipts** (e.g., Treasury Investors Growth Receipt (TIGR), Certificate of Accrual on Treasury Securities (CATS)).
- 04 **Commodities/Futures** (except commodity options and financial futures)
- 05 **Commodity Options**
- 06 **Options** (except index)
- 07 **Index Options**
- 08 **Insurance** (not annuities)
- 09 **Mutual Funds** (open-ended, includes money market funds)
- 10 **Certificate of Deposit** (CD) (coupon and zero CDs)
- 11 **Unit Investment Trusts** (UITs) (corporate, government and municipal defined asset funds)
- 12 **Direct Investments** (limited partnerships, etc.)
- 13 **Financial Futures**
- 14 **Equity-OTC** (common and preferred stock, new issue)
- 15 **Debt-Municipal** (bonds, notes and zeros, not Municipal Investment Trusts (MITs))
- 16 **Debt-Asset Backed** (Collateralized Mortgage Obligations (CMOs), credit card receivables, etc.)
- 17 **Managed/Wrap Accounts** (in-house money manager)**
- 18 **No Product**
- 19 **Managed/Wrap Accounts** (outside money manager)**
- 20 **Variable Annuities** – A variable annuity is an insurance company contract that allows the owner to elect to receive immediate or future periodic payments. A variable annuity is purchased, either with a lump sum or over time, with premiums allocated among various, separate account funds offered in the annuity contract. During the accumulation phase, the rate of return and the contract fund value on a variable annuity fluctuates with the performance of the underlying investments in the separate account funds, sometimes called investment portfolios or subaccounts.

- 21 **Warrants/Rights**
- 22 **Real Estate Investment Trusts (REITS)**
- 23 **Employee/Employer Stock Option Plan** (not listed options)**
- 24 **Equity-Foreign**
- 25 **Debt-Foreign**
- 26 **Exchange-Traded Funds (ETFs)**
- 27 **Single Stock Futures**
- 28 **529 Plans****
- 29 **Hedge Funds**
- 30 **Private Placements** (*e.g.*, Private Investments in Public Equity Securities (PIPES), etc.)
- 31 **Promissory Notes**
- 32 **Mortgage** (pledged assets, reverse mortgage)
- 33 **Closed-End Funds**
- 34 **Cash Management Accounts** (*e.g.*, debit/credit card) **
- 35 **Self-Directed Fee-Based Accounts** (non-managed) **
- 36 **Contractual Plans/Systematic Investment Plans**
- 37 **Tenant in Common** (*e.g.*, 1031 Exchanges)
- 38 **Money Markets** (*e.g.*, commercial paper, Banker's Acceptance (BA), not money market funds)
- 39 **Auction Rate Securities – Municipal Debt**
- 40 **Auction Rate Securities – Corporate Debt**
- 41 **Auction Rate Securities – Closed-End Funds**
- 42 **Structured Products** – For the purpose of this reporting, structured products are investment instruments designed to facilitate a particular risk-return objective, the performance of which is based on one or more referenced asset, index, interest rate, or other market measure. Some structured products offer full protection of the principal invested, whereas others offer limited or no protection of the principal. Structured products may be listed on a securities exchange or traded in the over-the-counter market.
- 43 **Fixed Annuities** – A fixed annuity is an insurance contract that is purchased either in a lump sum or over time. A fixed annuity is credited with a fixed or set interest rate and allows the owner to elect to receive immediate or future periodic payments. The insurance company guarantees both earnings and principal.

- 44 Equity-Indexed Annuities** – An equity-indexed annuity is an insurance company product purchased either in a lump sum or with a series of payments. The insurance company credits the holder with a return that is based on performance of an equity index, such as the S&P 500 Composite Stock Price Index. The insurance company may guarantee a minimum return. After the accumulation period, the insurance company makes periodic payments under the terms of the contract or in a lump sum.
- 45 Life Settlements** – A life settlement is a financial transaction in which a policy owner sells an existing life insurance policy to a third party for more than the policy's cash surrender value, but less than the net death benefit.
- 46 Viatical Settlement** – The sale of a terminally ill policy owner's existing life insurance policy to a third party for more than its cash surrender value, but less than its net death benefit. Such a sale provides the policy owner with a lump sum. The third party becomes the new owner of the policy, pays the monthly premiums, and receives the full benefit of the policy when the insured dies.
- 47 Private Securities** – Securities that are not registered; not listed on an exchange; and otherwise not publicly available for trade.
- 48 Non-Broker-Dealer Affiliate Product** – Such as banking and insurance instruments or services related to non-broker-dealer affiliate activity and not otherwise characterized by another Product Code.
- 49 Exchange-Traded Notes (ETNs)** – Senior, unsecured, unsubordinated debt security issued by an underwriting bank designed to provide investors access to the returns of various market benchmarks. ETNs do not actually own anything they are tracking. The note is backed by the credit of the underwriting bank that is promising to pay the amount reflected in the index, minus fees upon maturity.

** These account types are to be used when the allegations relate specifically to the type of account and not to an underlying security within the account.

FINRA Rule 4530 Problem Codes

Select the most egregious allegation in the complaint from the following codes:

- 00 Miscellaneous (Sales Practice Only)** – “Sales Practice” only (“Non-Sales Practice” Miscellaneous code is “99”).
- 01 Misrepresentation** – Allegations concerning false or misleading statements, claims, comparisons or omissions of material fact. Includes, but is not limited to, assurances and guarantees that are part of either oral or written communications or correspondence from the Registered Representative (RR) to a customer or prospect (not research/trading/investment banker/issuer/sponsor material).
- 02 Unauthorized Trading** – Allegations concerning one or more transactions that were effected without the customer’s specific knowledge and approval. (Note: Not margin liquidation or dividend reinvestment type problems.)
- 03 Excessive Trading** – Allegations concerning trading that was controlled by the RR and was excessive given the size, frequency, and character of the account in which trading was done solely to generate commissions or other compensation with disregard to the customer’s investment objectives.
- 04 Suitability** – Allegations concerning an unsuitable recommended transaction or investment strategy involving a security or securities, including possible violations of, among others, the following main suitability obligations: reasonable-basis suitability (must perform reasonable diligence to understand the nature of the recommended security or investment strategy involving a security or securities, as well as the potential risks and rewards, and determine whether the recommendation is suitable for at least some investors based on that understanding); customer-specific suitability (must have a reasonable basis to believe that a recommendation of a security or investment strategy involving a security or securities is suitable for the particular customer based on the customer’s investment profile); and quantitative suitability (must have a reasonable basis to believe that a series of recommended securities transactions are not excessive where there is control over the account).
- 05 Failure to Follow Instructions** – Allegations concerning the RR’s failure to follow specific instructions from the customer’s proper power of attorney holder or authorized parties of corporate or other entity accounts.
- 06 Documentation** – Allegations concerning material inaccuracies, omissions, or failures to obtain or provide required documents.
- 07 Solicitation** – Allegations concerning improper solicitation of an account or a transaction.

- 08 **Misappropriation/Forgery** – Allegations concerning theft or misappropriation of funds or securities or forgery. (Note: Not dividend reinvestment, customer checking/debit card activity or routine transfer instructions problems.)
- 09 **Communications with the Public** – Allegations concerning false or misleading statements, claims, comparisons, or material omissions in communications or correspondence to a customer or prospect (including flyers, retail communications, sales materials and advertisements prepared by the RR).
- 10 **Disclosure of Fees** – Allegations concerning the RR’s failure to advise or the RR’s incorrect advice of back-end fees associated with the product. (Includes Contingent Deferred Sales Charges (CDSC), surrender penalties, but not commissions or managed account fees.)
- 11 **Failure to Supervise** – Allegations concerning a sales practice violation involving the customer’s account or the RR and also a failure to supervise on the part of the named supervisor, such as the branch office manager, at the time the activity occurred.
- 12 **Poor Recommendation/Poor Advice** – Allegations concerning a recommendation to purchase, sell or exchange a security that constituted poor advice.
- 13 **Selling Away** – Allegations concerning the RR engaging in a securities transaction outside the scope of his or her relationship with the firm and without the knowledge or approval of the firm.
- 14 **Outside Business Activities** – Allegations concerning the RR engaging in an undisclosed business activity (other than a securities transaction) outside the scope of his or her relationship with the firm (e.g., employment with another entity without the knowledge of the firm).
- 20 **Research** – Allegations concerning a transaction(s) that was made based upon a firm’s research opinion that allegedly contained a material misstatement(s) or the omission of a material fact(s) communicated to the RR/customer. (This will usually be coded as a “Firm” vs. “RR” problem.)
- 21 **Product Origination/Investment Banking** – Allegations concerning a transaction(s) that was based on investment banking/issuer/sponsor disclosure(s) that allegedly lacked “due diligence” in that such disclosure(s) contained a material misstatement(s) or the omission of a material fact(s) communicated to the RR/customer. (This will usually be coded as a “Firm” vs. “RR” problem.)
- 22 **Trading** – Allegations concerning a transaction(s) that was based on a Trading Department (or support staff) disclosure(s) that contained a material misstatement(s) or the omission of a material fact(s) relating to secondary market conditions or security feature communicated to the RR/customer. (This will usually be coded as a “Firm” vs. “RR” problem.)

- 23 Poor Performance** – Allegations concerning the poor performance of the customer’s account, but does not allege any specific sale practice violations against the RR or attribute damages to a research analyst recommendation. (Not otherwise reportable under Sales Practice Codes 20, 21 or 22.)
- 24 Managed Accounts** – Allegations concerning the practice of an in-house or outside money manager. (Not to be used when the RR is the money manager and allegations are of a sales practice nature against the RR.)
- 25 Marketing/Sales Literature** – Allegations concerning false or misleading statements, claims, comparisons or material omissions found in *retail communications*, advertisements, sales literature and other written firm communications. (Not research trading/investment banking/issuer/sponsor materials.)
- 26 Regulation B** – Allegations concerning a denial of credit on the basis of race, color, religion, national origin, sex, marital status, age, receipt of income from public assistance programs or good faith exercise of any rights under the Consumer Credit Protection Act (CCPA) (Usually coded as a “firm vs. RR” problem.)
- 27 Regulation E** – Allegations concerning a failure by the firm to comply with Regulation E – the Electronic Transfer Act. (Usually coded as a “firm vs. RR” problem.)
- 28 Regulation S-P** – Allegations concerning a failure by the firm to comply with Regulation S-P, which was adopted to implement Title V of the Gramm-Leach-Bliley Act. Pursuant to Regulation S-P, a financial institution must:
- ▶ Disclose to customers - on an initial and annual basis - its policies for collecting and sharing a customer’s non-public personal information with affiliated and nonaffiliated third parties;
 - ▶ Provide the Firm’s customers with the ability to “opt out” of certain disclosures of their non-public personal information to non-affiliated third parties, with certain exceptions; and
 - ▶ State the financial institution’s security standards to protect a customer’s nonpublic personal information. (Usually coded as a “firm vs. RR” problem.)
- 29 Third Party/Anonymous** – Allegations received by an unauthorized third party or anonymous source. (Note: If the firm received authorization from the customer subsequent to the receipt of a third party/anonymous complaint, it is obligated to file an amendment via the Firm Gateway application within 45 days of receipt of the authorization to identify the true problem code.)
- 30 Complaints Referred to Previous Employer** – Allegations received by a firm against a current or previously employed RR regarding activities that occurred at the RR’s former employer firm.

- 31 **Other Theft / Forgery** – Allegations concerning theft or misappropriation of funds or securities or forgery against someone other than a RR of the firm.
- 32 **Identity Theft** – Allegations concerning improper use of a customer’s social security number or other non-public personal identity information by unauthorized individuals or entities.
- 33 **Non-Broker-Dealer Affiliate Activity** – Non-Broker-Dealer Affiliate activity not otherwise characterized by another Problem Code.
- 40 **Miscellaneous** – Firm related complaints only. Non sales practice miscellaneous code is 99. Sales practice miscellaneous code is 00.
- 50 **Transfer of Accounts** – Allegations concerning full or partial transfer of a customer’s account between broker-dealers. Includes both ACATS and manual transfers and internal transfers between branches.
- 51 **Receipt or Delivery of Securities** – Allegations concerning receipt or delivery of any type of security from broker-dealer to a customer or vice versa. Includes lost certificates, delayed securities transfers, non-transferable securities or securities not in transfer because of a fail.
- 52 **Receipt or Disbursement of Funds** – Allegations concerning funds received from or disbursed to a customer. Includes checks generated automatically, such as monthly dividend checks, IRS distribution, etc.
- 53 **Dividend and Interest Problems** – Allegations concerning payments or charges of dividends or interest, including stock dividends. Does not include disbursement of automatic monthly dividend checks or margin interest dependencies.
- 54 **Margin Problems** – Allegations concerning margin, including account liquidations, margin call notification and margin interest discrepancies.
- 55 **Reorganization/Redemption** – Allegations concerning stock splits, tenders, mergers, bond/unit trust redemption and called bonds.
- 56 **Proxy/Prospectus** – Allegations concerning the delay or non-receipt of a proxy, prospectus or shareholder mailing by a customer.
- 57 **Execution** – Allegations concerning non-execution, price discrepancy, delay in entry or report and delay in mutual fund purchases and redemptions.
- 58 **Statements/Confirms** – Allegations concerning physical characteristics and presentation of statements/confirms, failure to receive statement/confirms, and questions regarding the reported price, value of, or failure to, value a security.
- 59 **Tax Reporting** – Allegations concerning tax reporting to, or on behalf of, a customer. Includes 1099, TEFRA withholding, K-1, W2-p, 5498 and Year-to-Date information appearing on monthly statements as well as any other tax reporting forms.

- 60 **Fees and Commissions** – Allegations concerning customary fees (custodial, administrative), service charges (bounced checks, lost certificate, replacement, etc.) and commissions/markups (markdowns) and wrap fees.
- 61 **Account Administration and Processing** – Allegations concerning daily activity in a customer’s account (e.g., trade corrections, journal entries, un-invested credit balances, and erroneous or missing positions in account).
- 62 **On-Line Trading** – Allegations concerning trading initiated by a customer on-line, (including non-execution, price discrepancy, delays in execution and delays in trade confirmation).
- 63 **Service Issues** – Allegations concerning inadequate or unsatisfactory service from the firm or any of its employees.
- 64 **PATRIOT Act Liquidation** – Allegations concerning the liquidation of an account due to the firm’s inability to confirm the customer’s identity per Section 326 of the PATRIOT Act or failure to obtain foreign bank certifications per Sections 313 and 319(b) of the PATRIOT Act.
- 65 **Account Administration and Processing** – Account Opening – Allegations concerning problems establishing a new account (e.g., delays in opening account, and issues with account type and documentation).
- 66 **Account Administration and Processing** – Account Maintenance – Allegations concerning non-transaction-related problems with existing accounts (e.g., address changes, investment objective changes, title changes and account closing issues).
- 67 **On-Line Issues** – Allegations concerning access and functionality of a firm’s online system (connectivity and navigation).
- 68 **Firm Policy** – Allegations concerning a customer’s dissatisfaction with the RR or the firm as a result of a firm policy or procedure (that is not otherwise better characterized by another Problem Code).
- 99 **Miscellaneous (Non-Sales Practice Only)** – “Non-Sales Practice” only (“Sales Practice” Miscellaneous code is “00”).