

# Regulatory Notice

18-24

## Security Futures

### Update to Security Futures Risk Disclosure Statement and Supplement

Implementation Date: September 5, 2018

#### Summary

FINRA has released an updated Security Futures Risk Disclosure Statement to replace the one that was originally issued in 2002, and a new integrated supplement.<sup>1</sup> The updated Security Futures Risk Disclosure Statement (Updated Statement) incorporates into the main body of the document the cumulative changes made to date. Among other changes, the Updated Statement reflects that the standard settlement cycle for most broker-dealer transactions is now two business days after the trade date (T+2) and the current cash limit protection of the Securities Investor Protection Corporation (SIPC).<sup>2</sup> The new supplement (2018 Supplement) integrates, in a single supplement, all the disclosure updates made through prior supplements released in 2010 and 2014, and the updated disclosures described herein.

The implementation date of the Updated Statement and 2018 Supplement is September 5, 2018.

The Updated Statement and 2018 Supplement are set forth in [Attachments A](#) and [B](#), respectively. These documents also are posted on FINRA's website at <http://www.finra.org/industry/security-futures>.

Questions concerning this *Notice* should be directed to Sarah Kwak, Assistant General Counsel, Office of General Counsel, at (202) 728-8471 or [sarah.kwak@finra.org](mailto:sarah.kwak@finra.org).

#### Background & Discussion

FINRA, the National Futures Association (NFA), and several other self-regulatory organizations jointly developed the uniform Security Futures Risk Disclosure Statement, which the SEC approved in 2002 (2002 Statement).<sup>3</sup> In 2010 and 2014, FINRA supplemented the 2002 Statement to update specified sections, and these supplements were intended to be read in conjunction with the 2002 Statement.<sup>4</sup>

August 10, 2018

#### Notice Type

- ▶ Guidance

#### Suggested Routing

- ▶ Compliance
- ▶ Institutional
- ▶ Legal
- ▶ Senior Management
- ▶ Trading

#### Key Topics

- ▶ Security Futures
- ▶ Security Futures Risk Disclosure Statement

#### Referenced Rules & Notices

- ▶ Information Notice 9/7/10
- ▶ Notice to Members 98-3
- ▶ Regulatory Notices 14-24, 17-19
- ▶ FINRA Rule 2370

The 2002 Statement, composed of nine sections, discusses the characteristics and risks of standardized security futures contracts traded on regulated U.S. exchanges. The 2002 Statement includes a section on settlement by physical delivery, which indicates that the normal clearance and settlement cycle for securities transactions is three business days (T+3). On September 5, 2017, the securities industry moved from a T+3 settlement cycle to a T+2 settlement cycle for most broker-dealer transactions.<sup>5</sup> Accordingly, Section 5.2 (Settlement by Physical Delivery) of the Updated Statement now reflects that the standard settlement cycle is T+2.

The 2002 Statement also includes a section pertaining to protections for securities accounts, which indicates, among other things, that a customer may check whether a firm is a SIPC member by accessing SIPC's website or contacting SIPC by telephone or mail, and that SIPC's cash limit protection for customers is \$100,000. Section 6.1 (Protections for Securities Accounts) of the Updated Statement now correctly reflects SIPC's current mailing address<sup>6</sup> and that the cash limit protection for customers is \$250,000.<sup>7</sup> Finally, the Updated Statement incorporates non-substantive and technical changes made to Section 2.4 (How Security Futures Differ from the Underlying Security), Section 5.2, Section 8.1 (Corporate Events), and Section 8.2 (Position Limits and Large Trader Reporting).<sup>8</sup>

FINRA Rule 2370(b)(11)(A) requires a firm to deliver a security futures risk disclosure statement to each customer at or prior to the time such customer's account is approved for trading security futures. Thereafter, the firm must distribute each new or revised security futures risk disclosure statement to each customer having an account approved for such trading or, in the alternative, not later than the time a confirmation of a transaction is delivered to each customer that enters into a security futures transaction. The rule requires FINRA to advise members when a new or revised security futures risk disclosure statement is available. The Updated Statement is accessible on FINRA's website.

In accordance with existing guidance, a firm could also meet its Rule 2370(b)(11)(A) obligations by separately distributing a new supplement to those customers who have already received the 2002 Statement.<sup>9</sup> FINRA has released the 2018 Supplement that aggregates all the updates to the 2002 Statement made to date. The 2018 Supplement is posted on FINRA's website as a separate document to continue to afford members with the flexibility to comply with the requirements of the rule by separately distributing the 2018 Supplement to customers who have already received the 2002 Statement.<sup>10</sup>

FINRA reminds members that they may electronically transmit documents that they are required to furnish to customers under FINRA rules, including the Updated Statement or 2018 Supplement, provided that members adhere to the standards contained in the SEC's May 1996 and October 1995 releases on electronic delivery,<sup>11</sup> and as discussed in *Notice to Members 98-3*. Members also may transmit the Updated Statement or 2018 Supplement, as appropriate, to customers through the use of a hyperlink, provided that customers have consented to electronic delivery.

The implementation date of the Updated Statement and 2018 Supplement is September 5, 2018. Firms may elect to use the Updated Statement and 2018 Supplement prior to the implementation date.

## Endnotes

1. See Securities Exchange Act Release No. 83407 (June 11, 2018), 83 FR 28045 (June 15, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2018-024) and Securities Exchange Act Release No. 83825 (August 10, 2018), 83 FR 40819 (August 16, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2018-028).
2. The NFA is expected to make conforming changes to the Statement. See, e.g., Securities Exchange Act Release No. 83589 (July 3, 2018), 83 FR 31804 (July 9, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR-NFA-2018-03).
3. See Securities Exchange Act Release No. 46862 (November 20, 2002), 67 FR 70993 (November 27, 2002) (Order Approving File No. SR-NASD-2002-129). See also Securities Exchange Act Release No. 46613 (October 7, 2002), 67 FR 64176 (October 17, 2002) (Notice of Filing and Effectiveness of File No. SR-NFA-2002-05).
4. See Securities Exchange Act Release No. 62787 (August 27, 2010), 75 FR 53998 (September 2, 2010) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2010-045) and Securities Exchange Act Release No. 71981 (April 21, 2014), 79 FR 23034 (April 25, 2014) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2014-019).
5. See Securities Exchange Act Release No. 80295 (March 22, 2017), 82 FR 15564 (March 29, 2017) (Securities Transaction Settlement Cycle; Final Rule) (File No. S7-22-16). See also Securities Exchange Act Release No. 80004 (February 9, 2017), 82 FR 10835 (February 15, 2017) (Order Approving File No. SR-FINRA-2016-047) and Securities Exchange Act Release No. 80004A (March 6, 2017), 82 FR 13517 (March 13, 2017) (Correction to Order Approving File No. SR-FINRA-2016-047); and *Regulatory Notice 17-19* (May 2017).
6. SIPC's website address and telephone number remain unchanged in the Updated Statement. See Securities Investor Protection Corporation, Contact Us, <https://www.sipc.org/contact-us>.
7. See 15 U.S.C. 78fff-3. Effective January 1, 2017, and for the five years immediately thereafter, the Board of Directors of SIPC has determined that the maximum amount of the advance to satisfy a claim for cash will remain at the current level of \$250,000 per customer. See Securities Exchange Commission, Release No. SIPA-174 (February 22, 2016), 81 FR 9561 (February 25, 2016).
8. Specifically, the non-substantive and technical changes include correcting a cross-reference, removing an extraneous word, spelling "broker/dealer" as "broker-dealer," among other stylistic changes.

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9. *See Information Notice 9/7/10* (describing the various ways firms may comply with the requirements of Rule 2370(b)(11)(A) such as conducting a mass mailing of the supplement to all of its security futures customers who have already received the Statement). *See also Regulatory Notice 14-24* (May 2014).
10. The security futures risk disclosure statement, in its original language approved by the SEC in 2002, remains accessible on FINRA's website for those firms whose customers may still refer to the original version of the statement, with a notation that the original version of the statement has been updated and incorporates the paragraphs specified in the 2018 Supplement. In addition, the 2010 and 2014 supplements remain accessible on FINRA's website with a notation that these documents have been updated by the 2018 Supplement.
11. *See Securities Act Release No. 7288* (May 9, 1996), 61 FR 24644 (May 15, 1996) and *Securities Act Release No. 7233* (October 6, 1995), 60 FR 53458 (October 13, 1995). *See also Securities Act Release No. 7856* (April 28, 2000), 65 FR 25843 (May 4, 2000) (affirming the framework for electronic delivery established in the 1995 and 1996 releases).