

## Supplemental FOCUS Information

### SEC Approves Expanded Application of Supplemental Schedule for Derivatives and Other Off-Balance Sheet Items

**Implementation Date:** The supplemental schedule disclosing off-balance sheet information as of June 30, 2016, must be filed with FINRA on or before August 2, 2016.

#### Summary

The SEC has approved FINRA's proposal to amend the instructions to the Derivatives and Other Off-Balance Sheet Items Schedule (OBS) to expand the application of the OBS to certain non-carrying/non-clearing firms that have significant amounts of off-balance sheet obligations. Subject to a *de minimis* exception, the OBS must be filed by (1) all FINRA member firms that self-clear their proprietary transactions or clear transactions for others or carry customer accounts; and (2) all other FINRA member firms that have, pursuant to Rule 15c3-1 under the Securities Exchange Act of 1934 (SEA),<sup>1</sup> a minimum dollar net capital requirement equal to or greater than \$100,000 and at least \$10 million in reportable items pursuant to the OBS. Newly filing firms must file with FINRA their initial OBS disclosing off-balance sheet information as of June 30, 2016, on or before August 2, 2016. Carrying or clearing firms that were subject to the OBS's reporting requirements before the recently approved expansion shall continue to file on a quarterly basis, as required, without interruption.

The OBS and its amended instructions are available at <http://www.finra.org/industry/notices/16-11>.

Questions concerning this *Notice* should be directed to:

- ▶ Kris Dailey, Vice President, Risk Oversight & Operational Regulation (ROOR), at (646) 315-8434 or by email at [kris.dailey@finra.org](mailto:kris.dailey@finra.org);
- ▶ Peter Tennyson, Director, Broker-Dealer Operations and Financial Responsibility (BDOFR), at (646) 315-8403 or by email at [peter.tennyson@finra.org](mailto:peter.tennyson@finra.org); or
- ▶ Meredith Cordisco, Assistant General Counsel, Office of General Counsel, at (202) 728-8018 or by email at [meredith.cordisco@finra.org](mailto:meredith.cordisco@finra.org).

#### April 2016

##### Notice Type

- ▶ Supplemental Schedule

##### Suggested Routing

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

##### Key Topics

- ▶ FOCUS Reporting

##### Referenced Rules & Notices

- ▶ FINRA Rule 4524
- ▶ SEA Rule 15c3-1

## Background & Discussion

FINRA Rule 4524 (Supplemental FOCUS Information) requires each firm, as FINRA shall designate, to file such additional financial or operational schedules or reports as FINRA may deem necessary or appropriate for the protection of investors or in the public interest as a supplement to the FOCUS Report. In February 2013, the SEC approved FINRA's adoption of the OBS,<sup>2</sup> which requires all firms that carry customer accounts or self-clear or clear transactions for others (referred to, collectively, as "carrying or clearing firms") to file with FINRA the OBS within 22 business days of the end of each calendar quarter, unless the carrying or clearing firm meets the *de minimis* exception set forth in the instructions to the OBS.

The OBS captures important information that is not otherwise reported on firms' balance sheets,<sup>3</sup> and it enables FINRA to effectively monitor on an ongoing basis the potential impact that such off-balance sheet activities may have on carrying or clearing firms' net capital, leverage and liquidity, and their ability to fulfill their customer protection obligations. To ensure that all firms with significant derivative and off-balance sheet positions report these positions to FINRA on a consistent and regular basis, FINRA is expanding the application of the OBS beyond carrying or clearing firms to include non-clearing firms that have significant off-balance sheet obligations. As a result, unless a firm meets the *de minimis* exception for the reporting period, the OBS must be filed by (1) all FINRA members that self-clear their proprietary transactions or clear transactions for others or carry customer accounts; and (2) all other FINRA members that have, pursuant to SEA Rule 15c3-1, a minimum dollar net capital requirement equal to or greater than \$100,000 and at least \$10 million in reportable items pursuant to the OBS.

The amended instructions to the OBS preserve the *de minimis* exception for any firm that conducts limited off-balance sheet activity during a reporting period. Accordingly, if the aggregate of all gross amounts of off-balance sheet items is less than 10 percent of the firm's excess net capital on the last day of the reporting period, the firm will not be required to file the OBS for the reporting period. A firm that claims the *de minimis* exception must affirmatively indicate through the eFOCUS system that no filing is required for the reporting period by using the "NOT FILE" option on the submission.

Any firm that is required to file the OBS must do so as of the last day of a reporting period within 22 business days of the end of each calendar quarter by using the eFOCUS system available through FINRA's Firm Gateway. Firms must use their current FINRA entitlement user ID and password to access the Firm Gateway. Questions regarding access to the Firm Gateway should be directed to the firm's Super Account Administrator (SAA).<sup>4</sup>

## Endnotes

1. 12 CFR 240.15c3-1 (Net Capital Requirements for Brokers or Dealers).
2. See Securities Exchange Act Release No. 68832 (February 5, 2013), 78 FR 9754 (February 11, 2013) (Order Approving File No. SR-FINRA-2012-050).
3. The OBS requires firms to report their gross exposures in financing transactions (*e.g.*, reverse repos, repos and other transactions that are otherwise netted under generally accepted accounting principles, reverse repos and repos to maturity and collateral swap transactions), interests in and exposure to variable interest entities, non-regular way settlement transactions (including to-be-announced or TBA securities and delayed delivery/settlement transactions), underwriting and other financing commitments, and gross notional amounts in centrally cleared and non-centrally cleared derivative transactions.
4. For more information about system entitlement and SAA, please visit FINRA's [Entitlement Program](#) page.