

BC/DR Testing Under Regulation SCI

FINRA Updates Designation Criteria to Require Firms Reporting U.S. Treasury Securities to TRACE to Participate in FINRA's Business Continuity/Disaster Recovery Testing

Summary

As required by Regulation Systems Compliance and Integrity (Regulation SCI), FINRA, in 2015, adopted Rule 4380 requiring member firm participation in business continuity and disaster recovery (BC/DR) testing.¹ The rule authorizes FINRA to designate firms that must participate in FINRA's annual BC/DR test based on established standards, which FINRA published in [Regulatory Notice 15-43](#). Since FINRA published *Notice 15-43*, it began collecting transaction reports for U.S. Treasury securities. This *Notice* updates the criteria in *Notice 15-43* to include criteria for designating firms that report a significant volume of transactions in U.S. Treasury securities to TRACE for mandatory BC/DR testing participation.

Questions regarding this *Notice* should be directed to:

- ▶ Ron Miller, Senior Principal Compliance Analyst, Transparency Services, at (212) 858-5178 or ron.miller@finra.org; or
- ▶ Alex Ellenberg, Associate General Counsel, Office of General Counsel, at (202) 728-8152 or alexander.ellenberg@finra.org.

Background and Discussion

Regulation SCI requires that FINRA, as an SCI entity, establish, maintain, and enforce written policies and procedures that address, among other things, "[b]usiness continuity and disaster recovery plans that include maintaining backup and recovery capabilities sufficiently resilient and geographically diverse..."² In addition, Regulation SCI requires each SCI entity, including FINRA, to designate firms that must participate in the testing of the entity's BC/DR plans.³

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Notice Type

- ▶ Guidance

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Systems
- ▶ Trading
- ▶ Training

Key Topics

- ▶ Business Continuity
- ▶ Disaster Recovery Planning
- ▶ Regulation SCI
- ▶ TRACE
- ▶ U.S. Treasury Securities

Referenced Rules & Notices

- ▶ FINRA Rule 4380
- ▶ SEC Rule 1001
- ▶ SEC Rule 1004
- ▶ Regulatory Notice 15-43

To comply with these Regulation SCI requirements, FINRA, in 2015, adopted Rule 4380, which authorizes FINRA to designate member firms according to established criteria that are designed to ensure participation by those firms that FINRA reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of its BC/DR plan.

FINRA then published *Regulatory Notice 15-43* to establish the criteria that FINRA uses to designate firms under Rule 4380. Consistent with *Notice 15-43*, FINRA designates firms for mandatory BC/DR test participation that account for significant activity on FINRA's equity trade reporting facilities (the FINRA/NYSE TRF, the FINRA/Nasdaq TRF and ORF), equity order audit trail system (OATS), equity quotation display and trade reporting facility (ADF), unlisted equity quotation display facility (OTCBB) and fixed income trade reporting system (TRACE).

Since *Notice 15-43*, FINRA expanded its TRACE system to create a new reporting process for U.S. Treasury securities.⁴ This *Notice* updates the criteria from *Notice 15-43* to include criteria for designating firms that report a significant volume of transactions in Treasury securities to TRACE for mandatory BC/DR test participation. Specifically:

- ▶ With respect to **TRACE for Treasuries**, FINRA will designate participants that account for at least 5 percent or more of the average dollar volume over the six-month period immediately preceding designation, provided that the cumulative dollar volume represented by designated firms amounts to at least 50 percent of all dollar volume in Treasury securities reported to TRACE during the applicable six-month period.

The criteria contained in *Notice 15-43*, including the criteria for designating TRACE participants that account for specified activity in corporate and agency debt securities and securitized products, remain otherwise unchanged. The designation process and test-related guidance in *Notice 15-43* also remain unchanged. FINRA expects that the designation and test schedule will be similar this year to last year, with designation occurring in April and the test occurring in October.

Endnotes

1. See Securities Exchange Act Release No. 76360 (November 5, 2015), 80 FR 70043 (November 12, 2015) (Notice of Filing and Immediate Effectiveness of SR-FINRA-2015-046).
2. SEC Rule 1001(a)(2)(v).
3. SEC Rule 1004.
4. See *Regulatory Notice 16-39* (October 2016).