

## Security Futures

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

Implementation Date: September 14, 2020

#### Summary

FINRA has released an updated Security Futures Risk Disclosure Statement (2020 Statement) to replace the one that was last updated in 2018, and a supplement (2020 Supplement) that reflects the disclosure updates described herein.<sup>1</sup> The 2020 Statement incorporates all cumulative changes made to date, which include, among others, conforming changes for updates to the market-wide circuit breaker benchmark and thresholds, the higher position limits for security futures contracts and changes to the large trader reporting timeframe.<sup>2</sup>

The implementation date of the 2020 Statement and 2020 Supplement is September 14, 2020.

The 2020 Statement and 2020 Supplement are posted on FINRA's website at [www.finra.org/rules-guidance/key-topics/security-futures](http://www.finra.org/rules-guidance/key-topics/security-futures).

Questions concerning this *Notice* should be directed to Nick Vitalo, Principal Counsel, Office of General Counsel, at (646) 315-8474 or [nicholas.vitalo@finra.org](mailto:nicholas.vitalo@finra.org).

#### Background & Discussion

FINRA, the NFA and several other self-regulatory organizations jointly developed the uniform Security Futures Risk Disclosure Statement (Statement).<sup>3</sup> This Statement, composed of nine sections, discusses the characteristics and risks of standardized security futures contracts traded on regulated U.S. exchanges. Since its adoption, the Statement has been periodically amended to discuss, among other information, special dividends,<sup>4</sup> settlement by physical delivery,<sup>5</sup> and settlement and clearance cycles,<sup>6</sup> and information related to Securities Investor Protection Corporation's cash limit protection for customers.<sup>7</sup>

August 14, 2020

#### Notice Type

- ▶ Guidance

#### Suggested Routing

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

#### Key Topics

- ▶ Security Futures
- ▶ Security Futures Risk Disclosure Statement

#### Referenced Rules & Notices

- ▶ FINRA Rule 2370
- ▶ Information Notice 9/7/10
- ▶ Notice to Members 98-3
- ▶ Regulatory Notices 14-24, 17-19 and 18-24

The 2020 Statement has been updated and now reflects changes to the Introduction and to Sections 2.7 (Trading Halts) and 8.2 (Position Limits and Large Trader Reporting). The introductory section to the 2020 Statement has been updated to reflect that exchanges may now list security futures on certain debt securities.<sup>8</sup> Also, Section 2.7 has been updated to reflect a shift to the S&P 500 as the benchmark against which to assess serious market volatility and a decrease in the threshold percentage declines that trigger a trading halt to seven, 13 and 20 percent.<sup>9</sup> Finally, Section 8.2 has been updated to reflect the current terms of CFTC Regulation 41.25 and Rule 17.02(b)(2) that increase the default position limits, modify the criteria for setting a higher position limit and position accountability level, and adjust the time during which position limits must be in effect and the time by which firms must submit Form 102 to the CFTC and the exchange on which the reportable position exists.<sup>10</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 2020 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 2018 Statement.<sup>11</sup> The 2020 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 2020 Supplement to customers who have already received the 2018 Statement.<sup>12</sup>

FINRA reminds members that they may electronically transmit documents that they are required to furnish to customers under FINRA rules, including the 2020 Statement or 2020 Supplement, provided that members adhere to the standards contained in the SEC's May 1996 and October 1995 releases on electronic delivery,<sup>13</sup> and as discussed in *Notice to Members 98-3*. Members also may transmit the 2020 Statement or 2020 Supplement, as appropriate, to customers through the use of a hyperlink, provided that customers have consented to electronic delivery.

The implementation date of the 2020 Statement and 2020 Supplement is September 14, 2020. Firms may elect to use the 2020 Statement and 2020 Supplement prior to the implementation date.

## Endnotes

1. See Securities Exchange Act Release No. \_\_\_\_\_ (August \_\_, 2020), \_\_ FR \_\_\_\_\_ (August \_\_, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2020-025).
2. The National Futures Association (NFA) has made conforming changes to the Statement. See letter dated May 29, 2020, from Carol A. Wooding, NFA's Senior Vice President and General Counsel to Christopher J. Kirkpatrick, Office of the Secretariat, CFTC.
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).
5. See 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).
6. 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). See also [Regulatory Notice 18-24](#) (August 10, 2018) (Notice 18-24).
7. 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). See also [Notice 18-24](#).
8. See Securities Exchange Act Release No. 54106 (July 6, 2006), 71 FR 39534 (July 13, 2006).
9. See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (Order Approving File No. SR-FINRA-2011-054).
10. See Position Limits and Position Accountability for Security Futures Products, 84 FR 51005 (September 27, 2019) (amending CFTC Regulation 41.25); see also Ownership and Control Reports, Forms 102/102S, 40/40S, and 71, 78 FR 69178 (November 18, 2013) (amending CFTC Rule 17.02, among others).
11. 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).
12. The 2018 Statement and 2018 Supplement remain accessible on FINRA's website with a notation that these documents have been updated by the 2020 Statement.
13. 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).