

## Compliance With SEC Rule 15c2-11

### FINRA Adopts Amendments to Rule 6432 Regarding Compliance With the Information Requirements of SEC Rule 15c2-11

Effective Date: September 28, 2021

#### Summary

FINRA adopted amendments to Rule 6432 (Compliance with the Information Requirements of SEA Rule 15c2-11)<sup>1</sup> in light of the Securities and Exchange Commission's (SEC) amendments to SEC Rule 15c2-11 (SEC Rule 15c2-11).<sup>2</sup> As amended, Rule 6432 will require a qualified inter-dealer quotation system (Qualified IDQS)<sup>3</sup> to submit a modified Form 211 filing to FINRA in connection with each initial information review, and a daily security file to FINRA containing summary information for all securities quoted on its system on each day that it makes a publicly available determination permitted under SEC Rule 15c2-11, among other amendments. The amendments to Rule 6432 will take effect on September 28, 2021—in line with the compliance date for the amendments to SEC Rule 15c2-11.

The amended rule text is available in the online FINRA Manual.

Questions regarding this *Notice* should be directed to:

- ▶ for legal and interpretive questions, Robert McNamee, Associate General Counsel, Office of General Counsel, at (202) 728-8012 or [robert.mcnamee@finra.org](mailto:robert.mcnamee@finra.org); or
- ▶ for questions regarding Form 211 or daily security file submissions, Yvonne Huber, Vice President, Market Regulation, at (240) 386-5034 or [yvonne.huber@finra.org](mailto:yvonne.huber@finra.org).

#### Background and Discussion

Rule 6432 provides that a member may not initiate or resume a quotation in a non-exchange-listed security<sup>4</sup> in any quotation medium unless it has demonstrated compliance with Rule 6432 and the applicable requirements for information maintenance under SEC Rule 15c2-11 by making a filing with, and in the form required by, FINRA (*i.e.*, Form 211). Form 211 is designed

September 17, 2021

#### Notice Type

- ▶ Rule Amendment

#### Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Senior Management
- ▶ Systems
- ▶ Technology
- ▶ Trading and Market Making
- ▶ Training

#### Key Topics

- ▶ Alternative Trading System
- ▶ Form 211
- ▶ Inter-dealer Quotation System
- ▶ Market Making
- ▶ OTC Equity Security
- ▶ Over-the-Counter Trading
- ▶ Qualified Interdealer Quotation System
- ▶ Quoting

#### Referenced Rules

- ▶ Exchange Act Rule 15c2-11
- ▶ FINRA Rule 6432

to gather pertinent information regarding the subject issuer and security, the member's knowledge of and relationship with the issuer and the member's intended quotation activities with respect to the security. FINRA uses Form 211 in connection with its oversight of member compliance with SEC Rule 15c2-11.

In light of the SEC's amendments to SEC Rule 15c2-11, FINRA has adopted amendments to Rule 6432 to:

- i. require that any Qualified IDQS making a publicly available determination regarding an initial information review submit a modified Form 211 filing to FINRA by 6:30:00 p.m. Eastern Time (ET) on the following business day;
- ii. require that any Qualified IDQS making a publicly available determination pursuant to SEC Rule 15c2-11 on a given day, including regarding the availability of an SEC Rule 15c2-11 exception, submit a daily security file to FINRA containing summary information for all securities quoted on its system on that day by 6:30:00 p.m. ET on the following business day; and
- iii. make other changes to Rule 6432 and Form 211 to further clarify the operation of the rule and conform to amended SEC Rule 15c2-11.

#### Modified Form 211 for Qualified IDQs

Paragraph (b) of Rule 6432 establishes an after-the-fact filing requirement for any Qualified IDQS that performs an initial review under SEC Rule 15c2-11(a)(2). Specifically, a Qualified IDQS must demonstrate compliance with SEC Rule 15c2-11 by filing a Form 211 with FINRA no later than 6:30:00 p.m. ET on the business day following the Qualified IDQS's publicly available determination under SEC Rule 15c2-11(a)(2) (*i.e.*, a "modified Form 211" filing).<sup>5</sup> Quotations published or submitted for publication in reliance on the publicly available determination of a Qualified IDQS under SEC Rule 15c2-11(a)(2) may occur prior to the submission of the modified Form 211 to FINRA by the Qualified IDQS, so long as the other requirements of SEC Rule 15c2-11 have been met.

FINRA will begin accepting submissions of the modified Form 211 from Qualified IDQs on September 28, 2021. A Qualified IDQS with a filing requirement must access the modified Form 211 through FINRA Gateway.<sup>6</sup>

A quoting member relying on the publicly available determination of a Qualified IDQS will no longer be required to separately submit a Form 211 in connection with its initiation of quotations pursuant to SEC Rule 15c2-11(a)(1)(ii). However, members who are not relying on the initial information review of a Qualified IDQS must continue to submit a standard Form 211 to FINRA and receive notification that the form has been processed *prior to initiating quotes in the subject security*.

### Qualified IDQS Daily Security File Submission Requirement

Rule 6432.02 provides that a Qualified IDQS that makes a publicly available determination under amended SEC Rule 15c2-11, including regarding the availability of an SEC Rule 15c2-11 exception, is required to submit a daily security file to FINRA. Specifically, where a Qualified IDQS has made one or more publicly available determinations described in SEC Rule 15c2-11(a)(2), (f)(2)(iii)(B), (f)(3)(ii)(A), or (f)(7), the Qualified IDQS must submit to FINRA a daily security file containing the following information for all non-exchange-listed equity securities quoted on its system on the day of such publicly available determination, and such file must be submitted by 6:30:00 p.m. ET on the following business day:

- i. security symbol;
- ii. issuer name;
- iii. if the non-exchange-listed security is being quoted pursuant to a processed Form 211 under Rule 6432(a);
- iv. if applicable, the type of publicly available determination made by the Qualified IDQS (*e.g.*, pursuant to SEC Rule 15c2-11(a)(2), 15c2-11(f)(2)(iii)(B), 15c2-11(f)(7), etc.) and the date on which such publicly available determination was made by the Qualified IDQS;
- v. with respect to a non-exchange-listed security for which the Qualified IDQS has made a publicly available determination under SEC Rule 15c2-11(f)(7) relating to the availability of the piggyback exception under SEC Rule 15c2-11(f)(3), whether the issuer is a shell company and, if a shell company, the number of days remaining in the applicable 18-month period under SEC Rule 15c2-11(f)(3)(i)(B)(2);
- vi. if applicable, that the security is being quoted pursuant to an exception that does not rely on the Qualified IDQS's publicly available determination and, if so, identify the exception relied upon by the subscriber; and
- vii. such other information as specified by FINRA in a *Regulatory Notice* (or similar communication).

Please see the **Attachment** for file format and delivery technical specifications for the daily security file.

The initial daily file must be submitted to FINRA by 6:30:00 p.m. ET on October 12, 2021 (covering the days on which the Qualified IDQS made a publicly available determination from September 28, 2021, through October 11, 2021). Thereafter, the daily security file is due to FINRA by 6:30:00 p.m. ET on the following business day after the Qualified IDQS makes a publicly available determination under amended SEC Rule 15c2-11. For example, if on October 12, 2021, a Qualified IDQS makes one or more publicly available determinations described in SEC Rule 15c2-11(a)(2), (f)(2)(iii)(B), (f)(3)(ii)(A), or (f)(7), the Qualified IDQS must submit the daily security file containing the required information for all non-exchange-listed equity securities quoted on its system on October 12, 2021, and such file must be submitted to FINRA by 6:30:00 p.m. ET on October 13, 2021.

### Other Amendments and Form 211 Updates

FINRA also adopted conforming and clarifying amendments to Rule 6432 to, among other things:

- i. add a new definition of “qualified inter-dealer quotation system” in line with the SEC’s definition;
- ii. clarify that a member must receive notification from FINRA that a standard Form 211 has been processed before initiating or resuming quotations in a quotation medium; and
- iii. simplify filing obligations where the required issuer information is available on the website of a Qualified IDQS.<sup>7</sup>

FINRA is also revising the standard Form 211 to update language and cross-references to correspond with amended SEC Rule 15c2-11, among other changes.

The updated Form 211 will be available through FINRA Gateway beginning on September 28, 2021, and members filing a Form 211 must use the updated Form 211 beginning on that date (the previous version of Form 211 will no longer be available as of that date). Members that wish to proceed with a previously submitted Form 211 that is still pending with FINRA as of September 28, 2021, must resubmit using the updated Form 211.

## Endnotes

1. See Securities Exchange Act Release No. 92932 (September 10, 2021); 86 FR 51700 (September 16, 2021) (Order Approving File No. SR-FINRA-2021-014).
2. The SEC recently adopted amendments to SEC Rule 15c2-11, which sets forth the information review and maintenance requirements for broker-dealers that publish quotations in a quotation medium for securities in the over-the-counter market. Among other things, these amendments permit broker-dealers quoting on an inter-dealer quotation system to rely on the publicly available determinations of a Qualified IDQS with respect to the required information review, the availability of specified exceptions to SEC Rule 15c2-11, and the public availability of current issuer information. See Securities Exchange Act Release No. 89891 (September 16, 2020), 85 FR 68124 (October 27, 2020). The SEC specified a compliance date for amended SEC Rule 15c2-11 (except for paragraph (b)(5)(i)(M)) of nine months after the amended rule's December 28, 2020 effective date, which is September 28, 2021. The compliance date for SEC Rule 15c2-11 paragraph (b)(5)(i)(M) will be two years after the December 28, 2020 effective date, which is December 28, 2022.
3. Amended SEC Rule 15c2-11 (and Rule 6432) defines a "qualified interdealer quotation system" as any "interdealer quotation system" that meets the definition of an "alternative trading system" under Rule 300(a) of Regulation ATS and operates pursuant to the exemption from the definition of an "exchange" under Regulation ATS. See 17 CFR 240.15c2-11(e)(6) and Rule 6432(g).
4. The term "non-exchange-listed security" is defined in Rule 6432(f) to mean any equity security, other than a Restricted Equity Security, that is not traded on any national securities exchange. A "Restricted Equity Security" means any equity security that meets the definition of "restricted security" as contained in Securities Act Rule 144(a)(3). See 17 CFR 230.144.
5. Like the standard Form 211, the modified Form 211 contains requests for the items of information specified in SEC Rule 15c2-11 for the type of issuer involved. In addition, like the standard Form 211, the modified Form 211 must be reviewed and signed by a principal of the Qualified IDQS and the principal must certify, among other things, that neither the firm nor its associated persons have accepted or will accept any payment or other consideration for filing Form 211.
6. FINRA Gateway is a single point of service that allows firms to quickly interact with FINRA. FINRA Gateway provides consolidated access to regulatory applications and filings, and FINRA's electronic billing system; one-click quick access to common tasks, useful resources and key firm information; an at-a-glance view of important filing dates, tasks and events; and centralized FINRA Information Requests. Please contact the FINRA Gateway Call Center at (301) 869-6699 to request account access and entitlement to the Form 211 filing cabinet. For more information on entitlement, please see FINRA's [Entitlement Program](#) webpage.
7. In such cases, instead of providing copies of required issuer information to FINRA, members may provide the permanent website address of the relevant document on the Qualified IDQS's website (similar to the treatment allowed for documents available through EDGAR).

## Attachment

### Rule 6432.02 – Daily Security File

The below details the technical requirements for data formatting and delivery with respect to the daily security file required pursuant to Rule 6432.02, which is due to FINRA by 6:30:00 p.m. ET on the following business day after a Qualified IDQS makes a publicly available determination pursuant to SEC Rule 15c2-11 regarding an initial review or the availability of an SEC Rule 15c2-11 exception.

#### Daily File Data Delivery

Member Qualified IDQs with a daily file reporting obligation pursuant to Rule 6432 must report the required daily file information to FINRA via fileX, which is a centralized, secure file transfer platform where firms can send, track and receive files. fileX offers three file transfer mechanisms—SFTP, HTTPS REST, and AWS S3 Direct. Firms must establish network connectivity and use credentials provided by FINRA with the appropriate permissions granted by the FINRA Entitlement Group to connect to fileX. Please contact the FINRA Gateway Call Center at (301) 869-6699 and request an FTP account for access. For more information on entitlement, please see FINRA's [Entitlement Program](#) web page.

#### Daily File Data Specifications

DATA ELEMENT	DESCRIPTION	FIELD TYPE	DATA TYPE
Date	Quotation Date	Required	Date
Security Symbol	U.S. Trading Symbol	Required	Characters (10)
Issuer Name	Issuer Name	Required	Variable Character (75)
CUSIP	Security CUSIP	Optional	Variable Character (25)
Quote Eligible Reason Code(s)	Identifies 15c2-11 compliance basis for quote eligibility (See Rule 6432.02 (c), (d), (f), except unsolicited quotations). Multiple reason codes are possible and should be delimited with a semi-colon (;).	Conditional	Integers (75)  See Daily File Data Index
Shell Company	Indicates issuer is a shell company pursuant to 15c2-11 and as defined under paragraph (e)(9).	Required	Character (1)  (Y)es/(N)o
Remaining Shell Status Days	Time remaining in the 18-month piggyback eligibility period for shell companies pursuant to Rule 15c2-11(f)(3)(i)(B)(2).	Conditional	Integer (3)
Rule 15c2-11(f)(2) Unsolicited Quotes Only	Unsolicited Quoting Only	Conditional	Character (1)  (Y)es/(N)o

## Daily File Data Index

REASON CODE	REASON DESCRIPTION	RULE SECTION
1	Form 211 Processed by FINRA	(a)(1)
2	Q-IDQS Initial Information Review - SEC Registration Statement Filed Within 90 Days	(a)(2), (b)(1)
3	Q-IDQS Initial Information Review - Reg A Offering Qualified Within 40 Days	(a)(2), (b)(2)
4	Q-IDQS Initial Information Review - SEC Reporting	(a)(2), (b)(3)
5	Q-IDQS Initial Information Review - 12g3-2(b) (Foreign Private Issuer)	(a)(2), (b)(4)
6	Q-IDQS - Initial Information Review - Catch-All	(a)(2), (b)(5)
7	Q-IDQS - Exchange Delist Exception Determination	(a)(3), (f)(7), (f)(1)
8	Q-IDQS - Current and Publicly Available Determination (use only where Reason Code 10 does not apply)	(a)(3), (f)(2)(iii)(B)
9	Q-IDQS - Non-Current Information Determination	(f)(3)(ii)(A)
10	Q-IDQS Piggyback Eligibility Determination	(f)(3)
11	Q-IDQS - Municipal Security Exception Determination	(a)(3), (f)(7), (f)(4)
12	Q-IDQS - ADTV, Assets, Shareholder Equity Exception Determination	(a)(3), (f)(7), (f)(5)
13	Reliance on another Q-IDQS Determination	
14	Subscriber Not Relying on Q-IDQS (except unsolicited)	