



March 2024

# Firm Element Needs Analysis Quarterly Highlights

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## Introduction

The Securities Industry/Regulatory Council on Continuing Education (Council) publishes the Firm Element Needs Analysis Quarterly Highlights to assist industry participants with identification of potential topics to include in Firm Element training plans. Topics are identified from a review of industry, regulatory and self-regulatory organization (SRO) announcements, publications of significant events, and the annual report from FINRA's Examination and Risk Monitoring Program, and the adoption by the U.S. Securities and Exchange Commission (SEC or Commission) of new rules or amendments.

The Council suggests that firms use the Firm Element Needs Analysis Quarterly Highlights as an aid in evaluating and prioritizing their Firm Element needs and developing written training plans.

Firms are reminded not to rely on the Firm Element Needs Analysis Quarterly Highlights as a comprehensive list of all areas they should consider. The Council recommends using all available tools to make Firm Element planning as efficient and effective as possible.

For more information, contact

[cecounciladmin@finra.org](mailto:cecounciladmin@finra.org)

## New Content Quick Reference

- [FINRA Regulatory Notice: 23-20 \(December 5, 2023\)](#): FINRA Highlights Guidance and Resources Related to Regulation Best Interest
- [FINRA Regulatory Notice: 23-21 \(December 22, 2023\)](#): FINRA Reminds Member Firms of Net Capital, Recordkeeping and Financial Reporting Requirements in Connection with Revenue Recognition Practices
- [FINRA Regulatory Notice: 24-02 \(January 23, 2024\)](#): FINRA Adopts FINRA Rule 3110.19 (Residential Supervisory Location) and FINRA Rule 3110.18 (Remote Inspections Pilot Program), and Announces End of Temporary Relief Related to Updates of Office Information on Forms U4 and BR
- [SEC Release Number 33-11265, 34-99418 and IC-35096 \(January 24, 2024\)](#): Special Purpose Acquisition Companies, Shell Companies, and Projections (Final Rule)

## Firm Operations

### Book & Records

#### **(New) FINRA Reminds Member Firms of Net Capital, Recordkeeping and Financial Reporting Requirements in Connection with Revenue Recognition Practices**

Through its examinations of member firms, FINRA has observed instances of non-compliance with SEA Rule 15c3-1, SEA Rule 17a-3 and SEA Rule 17a-5 resulting from misapplication of the Financial Accounting Standards Board's Accounting Standard Codification 606, Revenue from Contracts with Customers ("ASC 606"). This Notice provides guidance regarding potential compliance issues with respect to these rules that may result from the misapplication of ASC 606.

- [FINRA Regulatory Notice: 23-21 \(December 22, 2023\)](#): FINRA Reminds Member Firms of Net Capital, Recordkeeping and Financial Reporting Requirements in Connection with Revenue Recognition Practices

#### **Modernization of Beneficial Ownership Reporting**

On October 10, 2023, the Commission adopted amendments to certain rules that govern beneficial ownership reporting. The amendments generally shorten the filing deadlines for initial and amended beneficial ownership reports filed on Schedules 13D and 13G. The amendments also clarify the disclosure requirements of Schedule 13D with respect to derivative securities. The SEC also expanded the timeframe within a given business day by which Schedules 13D and 13G must be filed, and separately requiring that Schedule 13D and 13G filings be made using a structured, machine-readable data language. Further, as discussed in the

adopting release, under the current rules, an investor’s use of a cash-settled derivative security may result in the person being treated as a beneficial owner of the class of the reference equity security. The SEC also provided guidance on the application of the current legal standard found in Section 13(d)(3) and 13(g)(3) of the Securities Exchange Act of 1934 to certain common types of shareholder engagement activities. Finally, the SEC made certain technical revisions. The amendments became effective on February 5, 2024, but the adopting release specifies compliance dates.

- [SEC Release Number 33-11253 and 34-98704 \(October 10, 2023\)](#): Modernization of Beneficial Ownership Reporting (Final Rule)

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## Cybersecurity and Technology Governance

### **(New) Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure**

The Commission is adopting new rules to enhance and standardize disclosures regarding cybersecurity risk management, strategy, governance, and incidents by public companies that are subject to the reporting requirements of the Securities Exchange Act of 1934. Specifically, the SEC is adopting amendments to require current disclosure about material cybersecurity incidents. The SEC is also adopting rules requiring periodic disclosures about a registrant’s processes to assess, identify, and manage material cybersecurity risks, management’s role in assessing and managing material cybersecurity risks, and the board of directors’ oversight of cybersecurity risks. Lastly, the final rules require the cybersecurity disclosures to be presented in Inline eXtensible Business Reporting Language (“Inline XBRL”).

The amendments became effective September 5, 2023.

- [SEC Release No. 33-11216; 34-97989; File No. S7-09-22 \(July 26, 2023\)](#): Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure

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## Reporting

### **(New) FINRA Adopts FINRA Rule 3110.19 (Residential Supervisory Location) and FINRA Rule 3110.18 (Remote Inspections Pilot Program), and Announces End of Temporary Relief Related to Updates of Office Information on Forms U4 and BR**

FINRA is issuing this Notice to announce the effective dates of two new supplementary materials under FINRA Rule 3110 (Supervision) as follows:

- Rule 3110.19 (Residential Supervisory Location) becomes effective on June 1, 2024; and
- Rule 3110.18 (Remote Inspections Pilot Program) becomes effective on July 1, 2024.

FINRA expects to publish additional guidance outlining in greater detail operational processes for compliance with the data and information requirements of Rules 3110.18 and 3110.19.

The rule text for Rules 3110.18 and 3110.19 is available in Attachment A.

In addition, FINRA is announcing May 31, 2024, as the end date of the regulatory relief set forth in Regulatory Notice 20-08 (March 2020) (Notice 20-08 Relief) with respect to the obligation of firms to maintain current information for employment addresses and branch offices on specified uniform registration forms. In light of these changes, firms are encouraged to consult with FINRA's Membership Application Program (MAP) Group as they consider the materiality of any potential increase in the number of offices or locations.

- [FINRA Regulatory Notice: 24-02 \(January 23, 2024\)](#): FINRA Adopts FINRA Rule 3110.19 (Residential Supervisory Location) and FINRA Rule 3110.18 (Remote Inspections Pilot Program), and Announces End of Temporary Relief Related to Updates of Office Information on Forms U4 and BR

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## Sales & Trading

### Complex Products

#### **(New) Special Purpose Acquisition Companies, Shell Companies, and Projections**

The Securities and Exchange Commission (SEC) is adopting rules intended to enhance investor protections in initial public offerings by special purpose acquisition companies (commonly known as SPACs) and in subsequent business combination transactions between SPACs and private operating companies (commonly known as de-SPAC transactions). Specifically, the SEC is adopting disclosure requirements with respect to, among other things, compensation paid to sponsors, conflicts of interest, dilution, and the determination, if any, of the board of directors (or similar governing body) of a SPAC regarding whether a de-SPAC transaction is advisable and in the best interests of the SPAC and its shareholders. The SEC is adopting rules that require a minimum dissemination period for the distribution of security holder communication materials in connection with de-SPAC transactions. The SEC is adopting rules that require the re-determination of smaller reporting company ("SRC") status in connection with de-SPAC transactions. The SEC is also adopting rules that address the scope of the safe harbor for forward-looking statements under the Private Securities Litigation Reform Act of 1995. Further, the SEC is adopting a rule that would deem any business combination transaction involving a reporting shell company, including a SPAC, to be a sale of securities to the reporting shell company's shareholders and are adopting amendments to a number of financial statement requirements applicable to transactions involving shell companies. In addition, the SEC provided guidance on the status of potential underwriters in de-SPAC transactions and adopting updates to our guidance regarding the use of projections in Commission filings as well as requiring additional disclosure regarding projections when used in connection with business combination transactions involving SPACs. Finally, the SEC provided guidance for SPACs to consider when analyzing their status under the Investment Company Act of 1940.

- [SEC Release Number 33-11265, 34-99418 and IC-35096 \(January 24, 2024\)](#): Special Purpose Acquisition Companies, Shell Companies, and Projections (Final Rule)

#### **Amendments to Covered Agency Transaction Requirements under FINRA Rule 4210; Announcement of Effective Date**

FINRA has amended the requirements relating to Covered Agency Transactions that FINRA originally adopted in 2016. Covered Agency Transactions include:

1. To Be Announced transactions, inclusive of adjustable-rate mortgage transactions
2. Specified Pool Transactions

3. Transactions in Collateralized Mortgage Obligations, issued in conformity with a program of an agency or Government-Sponsored Enterprise, with forward settlement dates, as recapped more fully in this Notice.

This *Notice* provides an overview of the amendments. The SEC approved the amendments on July 27, 2023. FINRA stated in its rule filing, and the SEC noted in approving the rule change, that the amendments would become effective between nine and ten months following the SEC’s approval. Consistent with this timeframe, the amendments become effective on May 22, 2024.

- [FINRA Regulatory Notice: 23-14 \(August 18, 2023\)](#): Amendments to Covered Agency Transaction Requirements under FINRA Rule 4210; Announcement of Effective Date

### **FINRA Reminds Members of Their Obligation When Selling Private Placements**

This Notice highlights a member’s obligation, when recommending a security, to conduct a reasonable investigation of the security. This duty has long been rooted in the antifraud provisions of the federal securities laws and is a core component of a broker-dealer’s obligations under SEC Regulation Best Interest (Reg BI) and FINRA Rule 2111 (Suitability), the fundamental standards that members must meet when recommending securities. This Notice also addresses certain additional obligations for members when selling private placements, including FINRA’s filing requirements and its communications with the public and supervision rules.

- [FINRA Regulatory Notice 23-08 \(May 9, 2023\)](#): FINRA Reminds Members of Their Obligation When Selling Private Placements

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## Municipal Securities

### **MSRB Adopts Amendments to Rules G-12 and G-15, Shortening Regular-Way Settlement Transaction to T+1**

On May 25, 2023, the Municipal Securities Rulemaking Board (MSRB) received approval from the SEC on May 25, 2023, to amend MSRB Rules G-12, on uniform practice, and G-15, on confirmation, clearance, settlement and other uniform practice requirements with respect to transactions with customers.

MSRB Rules G-12 and G-15, as amended, define regular-way settlement for municipal securities transactions as occurring one business day after the trade date (“T+1”) and make a technical amendment to Rule G-12 to update an outdated cross-reference. The amendments align with regular-way settlement on T+1 for equities and corporate bonds under Exchange Act Rule 15c6-1 (“Amended SEC Rule 15c6-1”) to further shorten the settlement process, requiring the settlement of most equity and corporate bond transactions on T+1.

The compliance date for the amendments is May 28, 2024, which aligns with the implementation date for Amended SEA Rule 15c6-1.

- [MSRB Regulatory Notice 2023-06 \(May 30, 2023\)](#): MSRB Adopts Amendments to Rules G-12 and G-15, Shortening Regular-Way Settlement for Municipal Securities Transactions to T+1

### **SEC Approves New MSRB Rule G-46 on Duties of Solicitor Municipal Advisors and Related Amendments to MSRB Rule G-8**

On March 29, 2023, the MSRB received approval from the SEC to create a new rule, MSRB Rule G-46, on duties of solicitor municipal advisors and amend MSRB Rule G-8, on books and records. New MSRB Rule G-46 is designed to establish the core standards of conduct for solicitor municipal advisors when engaging in solicitation activities that would require them to register with the SEC and the MSRB as municipal advisors. The related amendments to Rule G-8 establish recordkeeping requirements to facilitate and document compliance with the new obligations of Rule G-46.

The adoption of Rule G-46 and the related amendments to Rule G-8 furthers the MSRB's mandate to protect municipal entities, obligated persons, investors, and the public interest. The compliance date for Rule G-46 and the related amendments to Rule G-8 is March 1, 2024.

- [MSRB Regulatory Notice 2023-03 \(March 30, 2023\)](#): SEC Approves New MSRB Rule G-46 on Duties of Solicitor Municipal Advisors and Related Amendments to MSRB Rule G-8

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## Regulation Best Interest

### (New) FINRA Highlights Available Guidance and Resources Related to Regulation Best Interest

This Notice discusses the guidance and other resources available to assist members with their compliance efforts in connection with the Securities and Exchange Commission's (SEC) Regulation Best Interest (Reg BI). In particular, FINRA highlights the SEC's series of Staff Bulletins (Bulletins) reiterating standards of conduct for broker-dealers (BDs or members) and investment advisers (IAs): SEC Staff Bulletin: Standards of Conduct for Broker-Dealers and Investment Advisers Account Recommendations for Retail Investors; SEC Staff Bulletin: Standards of Conduct for Broker-Dealers and Investment Advisers Conflicts of Interest; and SEC Staff Bulletin: Standards of Conduct for Broker-Dealers and Investment Advisers Care Obligations. FINRA encourages members to review these Bulletins closely, along with the Reg BI Adopting Release and the other guidance and resources identified in this Notice, as part of their ongoing efforts to meet their best interest obligations.

This Notice does not create new legal or regulatory requirements or new interpretations of existing requirements, nor does it relieve firms of any existing obligations under federal securities laws and regulations.

- [FINRA Regulatory Notice: 23-20 \(December 5, 2023\)](#): FINRA Highlights Guidance and Resources Related to Regulation Best Interest

## Market Integrity

### Fraud

#### FINRA Shares Effective Practices to Address Risks of Fraudulent Transfers of Accounts Through ACATS

To bring attention to a rising trend in the fraudulent transfer of customer accounts through the Automated Customer Account Transfer Service (ACATS), FINRA issued *Regulatory Notice 22-21*, which alerted member firms about how bad actors effect fraudulent transfers of customer assets using ACATS (referred to as ACATS fraud). That Notice listed several existing regulatory obligations that may apply in connection with ACATS fraud and provided contact information for reporting the fraud.



FINRA's regulatory programs—through examinations and investigations, review of customer complaints and member firm engagement—have identified increased instances of ACATS fraud. Through recent industry engagement, FINRA has gained further insights from member firms and other industry representatives about their approaches to detect and mitigate the risk of ACATS fraud. This Notice provides an overview of some indicators of ACATS fraud and the practices some firms apply to address it.

- [FINRA Regulatory Notice 23-06 \(March 28, 2023\)](#): FINRA Shares Effective Practices to Address Risks of Fraudulent Transfers of Accounts Through ACATS

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## Trade Reporting

### Regulatory Extension (REX) System Update

The SEC has amended SEA Rule 15c6-1(a) to shorten the standard settlement cycle for most broker-dealer transactions from two business days after the trade date (T+2) to one business day after the trade date (T+1). To aid firms in preparing for this transition, FINRA is updating the Regulatory Extension (REX) system to enable firms to file extension of time requests under the shortened settlement cycle. Firms may file such requests beginning May 31, 2024, via the batch file process and by completing the online request form by logging into the REX system via FINRA Gateway. Further, FINRA is updating the REX Customer Test Environment to allow testing under various scenarios for both batch and online request form filings.

- [FINRA Regulatory Notice 23-15 \(September 5, 2023\)](#): Regulation T and SEA Rule 15c3-3 Extension of Time Requests Under a T+1 Settlement Cycle

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### Additional Resources

- For more information visit the [cecouncil.com](https://cecouncil.com) website or contact CE Council member organizations.
- For compliance resources on issues affecting the security issue please visit [FINRA Key Topics](#) page.
- For insight into FINRA's findings into recent oversight activities of FINRA's Member Supervision, Market Regulation and Enforcement programs, please visit the [Report on FINRA's Examination and Risk Monitoring Program](#).
- For the SEC's priorities of examinations of certain practices, products and services, please see The Division of Examinations [report](#).