(B) Background and financial information of customers who have been approved for options trading shall be maintained at both the branch office servicing the customer's account and the principal supervisory office having jurisdiction over that branch office. Copies of account statements of options customers shall also be maintained at both the branch office supervising the accounts and the principal supervisory office having jurisdiction over that branch for the most recent six-month period. With respect solely to the above-noted record retention requirements applicable to principal supervisory offices, however, the customer information and account statements may be maintained at a location other than the principal supervisory office if such documents and information are readily accessible and promptly retrievable. Other records necessary to the proper supervision of accounts shall be maintained at a place easily accessible both to the branch office servicing the customer's account and to the principal supervisory office having jurisdiction over that branch office.

(18) Discretionary Accounts

(A) Authorization and Approval

(i) No member and no person associated with a member shall exercise any discretionary power with respect to trading in option contracts in a customer's account, or accept orders for option contracts for an account from a person other than the customer, except in compliance with the provisions of Rule 3260 and unless:

a. The written authorization of the customer required by Rule 3260 shall specifically authorize options trading in the account; and

b. the account shall have been accepted in writing by a Registered Options Principal or Limited Principal—General Securities Sales Supervisor.

(ii) Each firm shall designate specific Registered Options Principals as described below to review discretionary accounts. A Registered Options Principal other than the Registered Options Principal or Limited Principal—General Securities Sales Supervisor who accepted the account shall review the acceptance of each discretionary account to determine that the Registered Options Principal or Limited Principal—General Securities Sales Supervisor accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risk of the strategies or transactions proposed, and shall maintain a record of the basis for such determination. Every discretionary order shall be identified as discretionary on the order at the time of entry. Discretionary accounts shall receive frequent appropriate supervisory review by a Registered Options Principal who is not exercising the discretionary authority. The provisions of this subparagraph (18) shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite number of option contracts in a specified security shall be executed, except that the authority to exercise time and price discretion will be considered to be in effect only until the end of the business day on which the customer granted such discretion, absent specific, written contrary indication signed and dated by the customer. This limitation shall not apply to time and price discretion exercised in an institutional account, as defined in Rule 4512(c), pursuant to valid Good-Till-Cancelled instructions issued on a "not held" basis. Any exercise of time and price discretion must be reflected on the order ticket.

(iii) Any member that does not utilize computerized surveillance tools for the frequent and appropriate review of discretionary activity must establish and implement procedures to require specific Registered Options Principals who have been designated to review discretionary accounts to approve and initial each discretionary order on the day entered.

(B) Record of Transactions

A record shall be made of every transaction in option contracts in respect to which a member or person associated with a member has exercised discretionary authority, clearly reflecting such fact and indicating the name of the customer, the designation and number of the option contracts, the premium and the date and time when such transaction was effected.

(C) Option Programs

Where the discretionary account utilizes options programs involving the systematic use of one or more options strategies, the customer shall be furnished with a written explanation of the nature and risks of such programs.

(19) Suitability

(A) No member or person associated with a member shall recommend to any customer any transaction for the purchase or sale (writing) of an option contract unless such member or person associated therewith has reasonable grounds to believe upon the basis of information furnished by such customer after reasonable inquiry by the member or person associated therewith concerning the customer's investment objectives, financial situation and needs, and any other information known by such member or associated person, that the recommended transaction is not unsuitable for such customer.

(B) No member or person associated with a member shall recommend to a customer an opening transaction in any option contract unless the person making the recommendation has a reasonable basis for believing, at the time of making the recommendation, that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommended position in the option contract.

(20) Supervision of Accounts

(A) Duty to Supervise

Each member that conducts a public customer options business shall ensure that its written supervisory system policies and procedures pursuant to Rules 3110, 3120, and 3130 adequately address the member's public customer options business.

(B) Branch Offices

No branch office of a member shall transact an options business unless the principal supervisor of such branch office accepting options transactions has been qualified as either a Registered Options Principal or a Limited Principal—General Securities Sales Supervisor; provided that this requirement shall not apply to branch offices in which no more than three registered representatives are located, so long as the options activities of such branch offices are appropriately supervised by either a Registered Options Principal or a Limited Principal—General Securities Sales Supervisor.

(C) Headquarters Review of Accounts

Each member shall maintain at the principal supervisory office having jurisdiction over the office servicing customer accounts, or have readily accessible and promptly retrievable, information to permit review of each customer's options account on a timely basis to determine:

(i) the compatibility of options transactions with investment objectives and with the types of transactions for which the account was approved;

(ii) the size and frequency of options transactions;

(iii) commission activity in the account;

(iv) profit or loss in the account;

(v) undue concentration in any options class or classes, and

(vi) compliance with the provisions of Regulation T of the Federal Reserve Board.

(21) Violation of By-Laws and Rules of FINRA or The Options Clearing Corporation

(A) In FINRA disciplinary proceedings, a finding of violation of any provision of the rules, regulations or by-laws of The Options Clearing Corporation by any member or person associated with a member engaged in transactions involving options issued, or subject to issuance, by The Options Clearing Corporation, may be deemed to be conduct inconsistent with just and equitable principles of trade and a violation of Rule 2010.

(B) In FINRA disciplinary proceedings, a finding of violation of any provision of the FINRA rules, regulations or By-Laws by any member engaged in option transactions may be deemed to be conduct inconsistent with just and equitable principles of trade and a violation of Rule 2010.

(22) Stock Transfer Tax

Any stock transfer or similar tax payable in accordance with applicable laws and regulations of a taxing jurisdiction upon the sale, transfer or delivery of securities pursuant to the exercise of an option contract shall be the responsibility of the seller (writer) to whom the exercise notice is assigned in the case of a call option contract or the exercising holder in the case of a put option contract except that (A) in the case of a call option contract where the incidents of the tax are attributable solely to the exercising holder, the member representing such holder or another member which acts on its behalf as a clearing member of The Options Clearing Corporation, the tax shall be the responsibility of the exercising holder, and (B) in the case of a put option contract where the incidents of the tax are attributable solely to the seller (writer) to whom the exercise notice is assigned, the member representing such seller (writer) or another member which acts on its behalf as a clearing member of The Options Clearing Corporation, the tax shall be the responsibility of such seller (writer). Each delivery of securities subject to such tax must be accompanied by a sales ticket stamped in accordance with the regulations of the State imposing such tax, or if required by applicable law, such tax shall be remitted by the clearing member having responsibility therefor to the clearing corporation through which it customarily pays stock transfer taxes, in accordance with the applicable rules of such clearing corporation.

(23) Tendering Procedures for Exercise of Options

(A) Exercise of Options Contracts

(i) Subject to the restrictions established pursuant to paragraphs (b)(4) and (b)(8) hereof and such other restrictions that may be imposed by FINRA, The Options Clearing Corporation or an options exchange pursuant to appropriate rules, an outstanding option contract issued by The Options Clearing Corporation may be exercised during the time period specified in the rules of The Options Clearing Corporation by the tender to The Options Clearing Corporation of an exercise notice in accordance with rules of The Options Clearing Corporation. An exercise notice may be tendered to The Options Clearing Corporation only by the clearing member in whose account the option contract is carried. Members may establish fixed procedures as to the latest time they will accept exercise instructions from customers.

(ii) Special procedures apply to the exercise of standardized equity options on the business day of their expiration, or, in the case of standardized equity options expiring on a day that is not a business day, on the last business day before their expiration ("expiring options"). Unless waived by The Options Clearing Corporation, expiring standardized equity options are subject to the Exercise-by-Exception ("Ex-by-Ex") procedure under The Options Clearing Corporation Rule 805. This Rule provides that, unless contrary instructions are given, standardized equity option contracts that are in-the-money by specified amounts shall be automatically exercised. In addition to The Options Clearing Corporation rules, the following FINRA requirements apply with respect to expiring standardized equity options. Option holders desiring to exercise or not exercise expiring standardized equity options must either:

a. take no action and allow exercise determinations to be made in accordance with The Options Clearing Corporation's Ex-by-Ex procedure where applicable; or

b. submit a "Contrary Exercise Advice" by the deadline specified below.

(iii) Exercise cut-off time. Option holders have until 5:30 p.m. Eastern Time ("ET") on the business day of expiration, or, in the case of a standardized equity option expiring on a day that is not a business day, on the business day immediately prior to the expiration date to make a final exercise decision to exercise or not exercise an expiring option. Members may not accept exercise instructions for customer or non-customer accounts after 5:30 p.m. ET.

(iv) Submission of Contrary Exercise Advice. A Contrary Exercise Advice is a form approved by the national options exchanges, FINRA or The Options Clearing Corporation for use by a member to submit a final exercise decision committing an options holder to either: (1) not exercise an option position which would automatically be exercised pursuant to The Options Clearing Corporation's Ex-by-Ex procedure; or (2) to exercise a standardized equity option position which would not automatically be exercised pursuant to The Options Clearing Corporation's Ex-by-Ex procedure. A Contrary Exercise Advice may be canceled by filing an "Advice Cancel" or resubmitted at any time up to the submission cut-off times specified herein. For customer accounts, members have until 7:30 p.m. ET to submit a Contrary Exercise Advice. For non-customer accounts, members have until 7:30 p.m. ET to submit a Contrary Exercise Advice if such member employs an electronic submission procedure with time stamp for the submission of exercise instructions by option holders. Members are required to manually submit a Contrary Exercise Advice by 5:30 p.m. ET for non-customer accounts if such members do not employ an electronic submission procedure with time stamp for the submission of exercise instructions by option holders. Each member shall establish fixed procedures to ensure secure time stamps in connection with their electronic systems employed for the recording of submissions to exercise or not exercise expiring options. For purposes of this Rule 2360(b)(23)(A), the terms "customer account" and "non-customer account" shall have the meanings as defined in The Options Clearing Corporation By-laws. Contrary Exercise Advices and/or Advice Cancels may be submitted by any member to:

a. a place designated for that purpose by any national options exchange of which it is a member and where the standardized equity option is listed;

b. a place designated for that purpose by any national options exchange that lists and trades the standardized equity option via a member of such exchange if the member is not a member of such exchange;

c. any national options exchange of which it is a member and where the standardized equity option is listed via The Options Clearing Corporation in a form prescribed by The Options Clearing Corporation; or

d. any national options exchange where the standardized equity option is listed via The Options Clearing Corporation in a form prescribed by The Options Clearing Corporation, provided the member is a member of The Options Clearing Corporation.

(v) In those instances when The Options Clearing Corporation has waived the Ex-by-Ex procedure for an options class, members must either:

a. submit to any of the places listed in subparagraphs (iv)a. through d. above, a Contrary Exercise Advice, within the time limits specified in subparagraph (iv) above if the holder intends to exercise the standardized equity option, or

b. take no action and allow the standardized equity option to expire without being exercised.

The applicable underlying security price in such instances will be as described in The Options Clearing Corporation Rule 805(1), which is normally the last sale price in the primary market for the underlying security. In cases where the Ex-by-Ex procedure has been waived for an options class, The Options Clearing Corporation rules require that members wanting to exercise such options must submit an affirmative Exercise Notice to The Options Clearing Corporation, whether or not a Contrary Exercise Advice has been filed.

(vi) Members that maintain proprietary or public customer positions in expiring standardized equity options shall take necessary steps to ensure that final exercise decisions are properly indicated to the relevant national options exchange with respect to such positions. Members that have accepted the responsibility to indicate final exercise decisions on behalf of another member also shall take necessary steps to ensure that such decisions are properly indicated to the relevant national options exchange. Members may establish a processing cut-off time prior to FINRA's exercise cut-off time at which they will no longer accept final exercise decisions in expiring standardized equity options from customers.

(vii) Members may effect or amend exercise decisions for standardized equity options after the exercise cut-off time (but prior to expiration) under the following circumstances:

a. in order to remedy mistakes or errors made in good faith;

b. to take appropriate action as the result of a failure to reconcile unmatched option transactions; or

c. where extraordinary circumstances restricted a customer's or member's ability to inform the respective member of such decisions (or a member's ability to receive such decisions) by the cut-off time.

The burden of establishing an exception for a proprietary or customer account of a member rests solely on the member seeking to rely on such exception.

(viii) In the event a national options exchange or The Options Clearing Corporation provides advance notice on or before 5:30 p.m. ET on the business day immediately prior to the business day of expiration, or, in the case of a standardized equity option expiring on a day that is not a business day, the business day immediately prior to the last business day before the expiration date, indicating that a modified time for the close of trading in standardized equity options on such business day of expiration, or, in the case of a standardized option expiring on a day that is not a business day, such last business day before expiration will occur, then the deadline for an option holder to make a final decision to exercise or not exercise an expiring option shall be 1 hour 30 minutes following the time announced for the close of trading on that day instead of the 5:30 p.m. ET deadline found in subparagraph (iii) above. However, members have until 7:30 p.m. ET to deliver a Contrary Exercise Advice or Advice Cancel to the places specified in subparagraphs (iv)a. through d. above for customer accounts and non-customer accounts where such member firm employs an electronic submission procedure with time stamp for the submission of exercise instructions. For non-customer accounts, members that do not employ an electronic procedure with time stamp for the submission of exercise instructions are required to manually deliver a Contrary Exercise Advice or Advice Cancel within 1 hour and 30 minutes following the time announced for the close of trading on that day instead of the 5:30 p.m. ET deadline found in subparagraph (iv) above.

(ix) The filing of a final exercise decision, exercise instruction, exercise advice, Contrary Exercise Advice or Advice Cancel required by subparagraph (A) hereof does not serve as a substitute to the effective notice required to be submitted to The Options Clearing Corporation for the exercise or non-exercise of expiring standardized equity options.

(x) Submitting or preparing an exercise instruction after the exercise cut-off time in any expiring standardized equity option on the basis of material information released after the exercise cut-off time is activity inconsistent with just and equitable principles of trade.

(xi) The exercise cut-off requirements contained in this subparagraph (A) do not apply to any currency option or standardized index option products listed on a national options exchange.

(B) In the event a member receives and acts on an exercise instruction (for its own proprietary account or on behalf of a customer's account) pursuant to an exception set forth in subparagraphs a., b., or c. of subparagraph (A)(vii) hereof, the member shall maintain a memorandum setting forth the circumstances giving rise to such exception and shall file a copy of the memorandum with the Market Regulation Department of the national options exchange trading the option, if it is a member of such exchange, or FINRA's Market Regulation Department if it is not a member of such exchange, no later than 12:00 p.m. ET, on the business day following that expiration. Such memorandum must additionally include the time when such final exercise decision was made or, in the case of a customer, received, and shall be subject to the requirements of SEA Rules 17a-3(a)(6) and 17a-4(b).

(C) Allocation of Exercise Assignment Notices.

(i) Each member shall establish fixed procedures for the allocation to customers of exercise notices assigned in respect of a short position in option contracts in such member's customer accounts. Such allocation shall be on a "first in-first out" or automated random selection basis that has been approved by FINRA or on a manual random selection basis that has been specified by FINRA. Each member shall inform its customers in writing of the method it uses to allocate exercise notices to its customer's accounts, explaining its manner of operation and the consequences of that system.

(ii) Each member shall report its proposed method of allocation to FINRA and obtain FINRA's prior approval thereof, and no member shall change its method of allocation unless the change has been reported to and been approved by FINRA. The requirements of this subparagraph (C) shall not be applicable to allocation procedures submitted to and approved by another self-regulatory organization having comparable standards pertaining to methods of allocation.

(iii) Each member shall preserve for a three-year period sufficient work papers and other documentary materials relating to the allocation of exercise assignment notices to establish the manner in which allocation of such exercise assignment notices is in fact being accomplished.

(D) Delivery and Payment

Delivery of the shares of an underlying security upon the exercise of an option contract and payment of the aggregate exercise price in respect thereto, shall be effected in accordance with the rules of The Options Clearing Corporation. As promptly as practicable after the exercise of an option contract by a customer, the member shall require the customer to make full cash payment of the aggregate exercise price in the case of a call option contract or to deposit the underlying stock in the case of a put option contract, or, in either case, to make the required margin deposit in respect thereto if such transaction is effected in a margin account, in accordance with the applicable regulations of the Federal Reserve Board and Rule 4210. As promptly as practicable after the assignment to a customer of an exercise notice, the member shall require the customer to deposit the underlying stock in the case of a call option contract if the shares of the underlying security are not carried in the customer's account, or to make full cash payment of the aggregate exercise price in the case of a put option contract, or, in either case, to make the required market deposit in respect thereof, if such transaction is effected in a margin account, in accordance with Rule 4210 and the applicable regulations of the Federal Reserve Board.

(24) Options Transactions and Reports by Market Makers in Listed Securities

Every member who is an off-board market maker in a security listed on a national securities exchange shall report to FINRA in accordance with such procedures as may be prescribed by the Board of Governors, transactions involving 50 or more option contracts on such listed securities which are either directly for the benefit of (A) the member or (B) any employee, partner, officer, or director of the member who, by virtue of his position with the member, is directly involved in the purchase or sale of the underlying security for the firm's proprietary account(s) or is directly responsible for supervision of such persons; or who by virtue of his position in the firm, is authorized to, and regularly does, obtain information on the proprietary account(s) of the member in which the underlying security is traded. This subparagraph shall apply to all options transactions including those executed on an exchange to which the member may belong.

(c) Portfolio Margining Disclosure Statement and Acknowledgement

The special written disclosure statement describing the nature and risks of portfolio margining, and acknowledgement for an eligible participant signature, required by Rule 4210(g)(5)(C) shall be in a format prescribed by FINRA or in a format developed by the member, provided it contains substantially similar information as in the prescribed FINRA format and has received the prior written approval of FINRA.

• • • Supplementary Material: ----------

.01 Position Limit Examples

The following examples illustrate the operation of position limits established by Rule 2360(b)(3) (all examples assume a position limit of 25,000 contracts and that the options are standardized options):

(a) Customer A, who is long 25,000 XYZ calls, may at the same time be short 25,000 XYZ calls, since long and short positions in the same class of options (i.e., in calls only, or in puts only) are on opposite sides of the market and are not aggregated for purposes of paragraph (b)(3).

(b) Customer B, who is long 25,000 XYZ calls, may at the same time be long 25,000 XYZ puts. Paragraph (b)(3) does not require the aggregation of long call and long put (or short call and short put) positions, since they are on opposite sides of the market.

(c) Customer C, who is long 20,000 XYZ calls, may not at the same time be short more than 5,000 XYZ puts, since the 25,000 contract limit applies to the aggregation of long call and short put positions in options covering the same underlying security. Similarly, if Customer C is also short 20,000 XYZ calls, he may not at the same time be long more than 5,000 puts, since the 25,000 contract limit applies separately to the aggregation of short call and long put positions in options covering the same underlying security.

(d) Customer D, who is short 2,000,000 shares of XYZ, may be long up to 45,000 XYZ calls, since the "hedge" exemption contained in paragraph (b)(3)(A)(ii)a.1. permits Customer D to establish an options position up to 25,000 contracts in size. In this instance, 25,000 of the 45,000 contracts are permissible under the basic 25,000 position limit and the remaining 20,000 contracts are permissible because they are hedged by the 2,000,000 short stock position.

.02 In connection with the delta hedging exemptions for members and non-member affiliates in Rule 2360(b)(3)(A)(ii)b., FINRA will require broker-dealer(s) to satisfy the following conditions in order for FINRA to deem no control relationship, in accordance with Rule 2360(a)(6), to exist between affiliates and between separate and distinct trading units within the same entity:

- operate the trading unit(s) requesting non-aggregation treatment independently of other trading units controlled by the broker-dealer, and disclose to FINRA the trading objective of the trading unit(s) requesting non-aggregation treatment;
- create internal firewalls and information barriers to segregate the trading unit(s) receiving non-aggregation treatment from other trading units controlled by the broker-dealer to prevent the flow of information (e.g., trades, positions, trading strategies);
- conduct all trading activity of the trading unit(s) requesting non-aggregation in a segregated account, which shall be reported to FINRA as such;
- maintain regulatory compliance oversight and internal controls and procedures addressing the non-aggregation arrangement;
- retain written records of information concerning the non-aggregated account, including, but not limited to, trading personnel, names of personnel making trading decisions, unusual trading activities, disciplinary action resulting from breach of the broker-dealer's systems firewalls and information-sharing policies, and the transfer of securities between the broker-dealer's non-aggregated accounts, which information shall be promptly made available to FINRA upon its request;
- promptly provide to FINRA a written report at such time there is any material change with respect to the non-aggregated account, which FINRA will use as a basis to reexamine its determination of non-aggregation; and
- provide a written acknowledgement that FINRA reserves the right to (1) impose additional restrictions and conditions with respect to the granting and removal of non-aggregation, and (2) freeze any position above the applicable position limit if FINRA determines that aggregation has become necessary due to changed circumstances.

Generally, the presumption of control in these types of arrangements will become easier to rebut as the physical separation between the trading units increases. For example, FINRA will require that trading units located on the same floor of a building be physically isolated from each other to ensure that no inappropriate communication will take place between individuals staffed in the applicable trading units.

.03 Position Limits for Exchange-Traded Funds

The position limit for a conventional option contract on an ETF that is not listed in Rule 2360(b)(3)(A)(iii)a.6. and does not also underlie a standardized option shall be the basic limit of 25,000 contracts. To qualify for a position limit of more than 25,000 contracts, a member must apply for an increased position limit in accordance with Rule 2360(b)(3)(A)(iii)b.

Cross Reference—

Rule 2220, Options Communications with the Public

Amended by SR-FINRA-2022-007 eff. March 29, 2022.
Amended by SR-FINRA-2020-021 eff. July 14, 2020.
Amended by SR-FINRA-2019-009 eff. May 8, 2019.
Amended by SR-FINRA-2018-034 eff. Aug. 31, 2018.
Amended by SR-FINRA-2014-051 eff. Dec. 11, 2014.
Amended by SR-FINRA-2014-045 eff. Dec. 1, 2014.
Amended by SR-FINRA-2014-027 eff. July 17, 2014.

Amended by SR-FINRA-2013-055 eff. Dec. 23, 2013.
Amended by SR-FINRA-2013-027 eff. Nov. 7, 2013.
Amended by SR-FINRA-2011-065 eff. Dec. 5, 2011.
Amended by SR-FINRA-2011-036 eff. July 29, 2011.
Amended by SR-FINRA-2010-060 eff. Dec. 15, 2010.
Amended by SR-FINRA-2009-041 eff. Sep. 7, 2010.
Amended by SR-FINRA-2009-032 eff. May 11, 2009.
Amended by SR-FINRA-2008-032 and SR-FINRA-2009-005 eff. Feb. 17, 2009.
Amended by SR-FINRA-2007-035 eff. June 23, 2008.
Amended by SR-FINRA-2008-007 eff. Feb. 28, 2008.
Amended by SR-NASD-2007-044 eff. Feb. 1, 2008.
Amended by SR-FINRA-2007-002 eff. July 31, 2007.
Amended by SR-NASD-2007-013 eff. April 2, 2007.
Amended by SR-NASD-2006-007 eff. Feb. 12, 2007.
Amended by SR-NASD-2007-007 eff. Jan. 25, 2007.
Amended by SR-NASD-2006-100 eff. Oct. 26, 2006.
Amended by SR-NASD-2006-099 eff. Oct. 12, 2006.
Amended by SR-NASD-2006-097 eff. Aug. 10, 2006.
Amended by SR-NASD-2006-087 eff. Aug. 1, 2006.
Amended by SR-NASD-2005-087 eff. Aug. 1, 2006.
Amended by SR-NASD-2006-025 eff. Feb. 16, 2006.
Amended by SR-NASD-2005-097 eff. Aug. 10, 2005.
Amended by SR-NASD-2005-040 eff. March 30, 2005.
Amended by SR-NASD-2004-153 eff. Feb. 28, 2005.
Amended by SR-NASD-2002-134 eff. Feb. 3, 2003.
Amended by SR-NASD-00-36 eff. Feb. 15, 2001.
Amended by SR-NASD-98-92 eff. Jan. 11, 1999.
Amended by SR-NASD-98-78 eff. Dec. 21, 1998.
Amended by SR-NASD-98-23 eff. June 12, 1998.
Amended by SR-NASD-98-02 eff. April 14, 1998.
Amended by SR-NASD-98-15 eff. March 19, 1998.
Amended by SR-NASD-97-28 eff. Aug. 7, 1997.
Amended by SR-NASD-95-55 eff. Jan. 22, 1996.
Amended by SR-NASD-95-56 eff. Dec. 29, 1995.
Amended by SR-NASD 94-60 eff. June 21, 1995.
Amended by SR-NASD-94-54 eff. Apr. 20, 1995.
Amended by SR-NASD-93-03 eff. Nov. 1, 1994.
Amended by SR-NASD-94-27 eff. Aug. 19, 1994.
Amended by SR-NASD-94-07 eff. Mar. 18, 1994.
Amended to include former Appendix E by SR-NASD-93-48 eff. Mar. 8, 1994.
Amended by SR-NASD-93-73 eff. Jan. 5, 1994.
Amended by SR-NASD-88-54 eff. Feb. 9, 1990;
Amended by SR-NASD-89-17 eff. June 28, 1989; Jan. 7, 1987; Amended by SR-NASD-86-23 eff. Oct. 6, 1986; Amended by SR-NASD-85-21; SR-NASD-85-10; SR-NASD-85-05 & SR-NASD-80-10 eff. Sept. 13, 1985. Amended by SR-NASD-80-26 eff. Apr. 1, 1985; Nov. 30, 1983; Aug. 2, 1983; July 5, 1983; Dec. 15, 1981; Dec. 7, 1981; Jan. 15, 1981.
Amended by SR-NASD-80-14 eff. Oct. 22, 1980.
Amended by SR-NASD-80-07 eff. May 16, 1980.
Amended by SR-NASD-79-16 eff. May 15, 1980.
Amended by SR-NASD-77-23 eff. Nov. 15, 1978.
Adopted by SR-NASD-76-08 eff. Jan. 13, 1977.

Selected Notices: 76-8, 76-24, 76-31, 77-5, 78-50, 78-54, 79-41, 79-42, 79-43, 80-22, 80-23, 80-29, 80-36, 80-46, 80-55, 81-04, 82-42, 85-18, 86-74, 89-64, 93-15, 94-24, 94-46, 95-25, 95-47; 96-15, 99-20; 01-01, 05-06, 06-54, 07-03, 07-11, 07-37, 08-04, 08-28, 08-78, 10-36, 13-39.

‹ 2359. POSITION AND EXERCISE LIMITS; LIQUIDATIONS UP 2370. SECURITY FUTURES ›

VERSIONS

Mar 29, 2022 onwards

2370. Security Futures

The Rule | Notices

(a) For purposes of this Rule, the term "security future" shall have the definition specified in Section 3(a)(55) of the Exchange Act.

(b) Requirements

(1) General

(A) Applicability — This Rule shall be applicable to the trading of security futures.

(B) Subparagraph (15) shall apply only to security futures carried in securities accounts.

(C) Except to the extent that specific provisions in this Rule govern, or unless the context otherwise requires, the provisions of the FINRA By-Laws and rules and all other interpretations and policies of the Board of Governors shall also be applicable to the trading of security futures.

(2) Definitions

(A) The terms "Control," and "Controls," "Is Controlled by" or "Is Under Common Control With" shall have the same meanings as in Rule 2360.

(B) The term "principal qualified to supervise security futures activities" means a Registered Options Principal who, consistent with Rule 1220(a), has either completed a firm-element continuing education requirement that addresses security futures and a principal's responsibilities for security futures or has passed a revised qualification examination for Registered Options Principals that covers security futures, or a Limited Principal-General Securities Sales Supervisor who, consistent with Rule 1220(a), has either completed a firm-element continuing education requirement that addresses security futures and a principal's responsibilities for security futures or has passed a revised qualification examination for Limited Principal-General Securities Sales Supervisor.

(3) Reserved

(4) Reserved

(5) Reserved

(6) Reserved

(7) Reserved

(8) Restrictions on Security Futures Transactions

FINRA may impose from time to time such restrictions on security futures transactions that it determines are necessary in the interest of maintaining a fair and orderly market in security futures, or in the underlying securities covered by such security futures, or otherwise necessary in the public interest or for the protection of investors. During the period of any such restriction, no member shall effect any security futures transaction in contravention of such restriction.

(9) Reserved

(10) Reserved

(11) Delivery of Security Futures Risk Disclosure Statement

(A) Every member shall deliver the current 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, each new or revised security futures risk disclosure statement shall be distributed to every customer having an account approved for such trading or, in the alternative, shall be distributed not later than the time a confirmation of a transaction is delivered to each customer who enters into a security futures transaction. FINRA will advise members when a new or revised current security futures risk disclosure statement is available.

(B) Where a broker or dealer enters its orders with another member in a single omnibus account, the member holding the account shall take reasonable steps to assure that such broker or dealer is furnished reasonable quantities of the current security futures risk disclosure statement.

(C) Where an introducing broker or dealer enters orders for its customers with, or clears transactions through, a member on a fully disclosed basis and that member carries the accounts of such customers, the responsibility for delivering the current security futures risk disclosure statement as provided in this paragraph (b)(11) shall rest with the member carrying the accounts. However, such member may rely upon the good faith representation of the introducing broker or dealer that the current security futures risk disclosure statement has been delivered in compliance with paragraph (b)(11).

(12) Reserved

(13) Reserved

(14) Reserved

(15) Statements of Account

Statements of account showing security and money positions, entries, interest charges, and any special charges that have been assessed against such account during the period covered by the statement shall be sent no less frequently than once every month to each customer in whose account there has been an entry during the preceding month with respect to a security futures contract and quarterly to all customers having an open security futures position or money balance. Interest charges and any special charges assessed during the period covered by the statement need not be specifically delineated if they are otherwise accounted for on the statement and have been itemized on transaction confirmations. With respect to security futures customers having a general (margin) account, such statements shall also provide the market price, and market-to-market value and nominal value of each security futures position and other security positions in the general (margin) account (i.e., the market-to-market value of all security futures positions and the market value of all other security positions), the total value of all positions in the account, the outstanding debit or credit balance in the account, and the general (margin) account equity. The statements shall bear a legend stating that further information with respect to commissions and other charges related to the execution of security futures transactions has been included in confirmations of such transactions previously furnished to the customer, and that such information will be made available to the customer promptly upon request. The statements shall also bear a legend requesting the customer promptly to advise the member of any material change in the customer's investment objectives or financial situation.

(16) Opening of Accounts

(A) Approval Required

No member or person associated with a member shall accept an order from a customer to purchase or sell a security future, or approve the customer's account for the trading of security futures, unless the broker or dealer furnishes or has furnished to the customer the appropriate security futures risk disclosure statement and the customer's account has been approved for security futures trading in accordance with the provisions of subparagraphs (B) through (D) hereof.

(B) Diligence in Opening Accounts

In approving a customer's account for security futures trading, a member or any person associated with a member shall exercise due diligence to ascertain the essential facts relative to the customer, the customer's financial situation and investment objectives. Members shall establish specific minimum net equity requirements for initial approval and maintenance of customers' security futures accounts. Based upon such information, a principal qualified to supervise security futures activities shall specifically approve or disapprove in writing the customer's account for security futures trading. For account approvals, the written record shall include the reasons for approval.

(i) With respect to security futures customers who are natural persons, members shall seek to obtain the following information at a minimum (information shall be obtained for all participants in a joint account):

a. Investment objectives (e.g., safety of principal, income, growth, trading profits, or speculation);

b. Employment status (name of employer, self-employed, or retired);

c. Estimated annual income from all sources;

d. Estimated net worth (exclusive of family residence);

e. Estimated liquid net worth (cash, securities, or other);

f. Marital status and number of dependents;

g. Age; and

h. Investment experience and knowledge (e.g., number of years, size, frequency and type of transactions) for futures, commodities, options, stocks, bonds, and other financial instruments.

(ii) In addition, a customer's account records shall contain the following information, if applicable:

a. Source or sources of background and financial information (including estimates) concerning the customer;

b. Discretionary authorization agreement on file, name, relationship to customer, and experience of person holding trading authority;

c. Date disclosure document(s) furnished to customer;

d. Name of registered representative;

e. Name of principal approving account and date of approval; and

f. Dates of verification of currency of account information.

(iii) Members should consider using a standard account approval form to ensure the receipt of all the required information.

(iv) Refusal of a customer to provide any of the information specified in subparagraph (i) shall be so noted on the customer's records at the time the account is opened. Information provided shall be considered together with the other information available in determining whether to approve the account for security futures trading.

(v) A record of the information obtained pursuant to this subparagraph (B) and of the approval or disapproval of each account shall be maintained by the member as part of its records in accordance with paragraph (b)(17) herein.

(C) Verification of Customer Background and Financial Information

For every natural person whose account has been approved for security futures trading, the background and financial information upon which the account was approved shall be sent to the customer for verification within fifteen (15) days after the customer's account has been approved for security futures trading. This verification requirement shall not apply if the background and financial information is included in the customer's account agreement or if the member has previously verified the customer's information in connection with an options account. A copy of the background and financial information on file with a member also shall be sent to the customer for verification within fifteen (15) days after the member becomes aware of any material change in the customer's financial situation.

Members shall satisfy the initial and subsequent verification of customer background and financial information by sending to the customer the information required in subparagraphs (B)(i)(a) through (i)(f) hereof, as contained in the member's records and providing the customer with an opportunity to correct or complete the information. In all cases, absent advice from the customer to the contrary, the information will be deemed to be verified.

(D) Account Agreement

Within fifteen (15) days after a customer's account has been approved for security futures trading, a member shall obtain from the customer a written agreement that the customer is aware of and agrees to be bound by FINRA rules applicable to the trading of security futures and, that the customer has received a copy of the current security futures risk disclosure statement. In addition, the customer shall indicate on such written agreement that the customer is aware of and agrees not to violate applicable security futures position limits.

(17) Maintenance of Records

(A) In addition to the requirements of Rules 4511, and 4513, every member shall maintain and keep current a separate central log, index, or other file for all security futures-related complaints, through which these complaints can easily be identified and retrieved. The central file shall be located at the principal place of business of the member or such other principal office as shall be designated by the member. At a minimum, the central file shall include:

(i) identification of complainant;

(ii) date complaint was received;

(iii) identification of registered representative servicing the account;

(iv) a general description of the matter complained of; and

(v) a record of what action, if any, has been taken by the member with respect to the complaint.

For purposes of this subparagraph, the term "security futures-related complaint" shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance arising out of or in connection with security futures. Each security futures-related complaint received by a branch office of a member shall be forwarded to the office in which the separate, central file is located not later than 30 days after receipt by the branch office that is the subject of the complaint. A copy of every security futures-related complaint shall also be maintained at the branch office that is the subject of the complaint.

(B) Background and financial information of customers who have been approved for security futures trading shall be maintained at both the branch office servicing the customer's account and the principal supervisory office having jurisdiction over that branch office. Copies of account statements of security futures customers shall also be maintained at both the branch office supervising the accounts and the principal supervisory office having jurisdiction over that branch for the most recent six-month period. With respect solely to the above-noted record retention requirements applicable to principal supervisory offices, however, the customer information and account statements may be maintained at a location other than the principal supervisory office if such documents and information are readily accessible and promptly retrievable. Other records necessary to the proper supervision of accounts shall be maintained at a place easily accessible both to the branch office servicing the customer's account and to the principal supervisory office having jurisdiction over that branch office.

(18) Discretionary Accounts

(A) Authorization and Approval

(i) No member or person associated with a member shall exercise any discretionary power with respect to trading in security futures in a customer's account, or accept orders for security futures for an account from a person other than the customer, except in compliance with the provisions of Rule 3260 and unless:

a. The written authorization of the customer required by Rule 3260 shall specifically authorize security futures trading in the account; and

b. the account shall have been accepted in writing by a principal qualified to supervise security futures activities.

(ii) When analyzing an account to determine if it should be approved for security futures trading, each firm shall designate specific principals qualified to supervise security futures activities to review discretionary accounts. A principal other than the principal who accepted the account shall have a reasonable basis for believing that the customer was able to understand and bear the risk of the strategies or transactions proposed, and shall maintain a record of the basis for such determination. Every discretionary order shall be identified as discretionary on the order at the time of entry. Discretionary accounts shall receive frequent appropriate supervisory review by a principal qualified to supervise security futures activities who is not exercising the discretionary authority. The provisions of this subparagraph (18) shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite number of security futures contracts in a specified security shall be executed, except that the authority to exercise time and price discretion will be considered to be in effect only until the end of the business day on which the customer granted such discretion, absent specific, written contrary indication signed and dated by the customer. This limitation shall not apply to time and price discretion exercised in an institutional account, as defined in Rule 4512(c), pursuant to valid Good-Till-Cancelled instructions issued on a "not held" basis. Any exercise of time and price discretion must be reflected on the order ticket.

(iii) Any member that does not utilize computerized surveillance tools for the frequent and appropriate review of discretionary activity must establish and implement procedures to require specific principals qualified to supervise security futures activities who have been designated to review discretionary accounts to approve and initial each discretionary order on the day entered.

(B) Record of Transactions

A record shall be made of every transaction in security futures contracts in respect to which a member or person has exercised discretionary authority, clearly reflecting such fact and indicating the name of the customer, the designation and number of the security futures contracts, the price of the contract, and the date and time when such transaction was effected.

(C) Security Futures Programs

Where the discretionary account uses security futures programs involving the systematic use of one or more security futures strategies, the customer shall be furnished with a written explanation of the nature and risks of such programs.

(19) Suitability

(A) No member or person associated with a member shall recommend to any customer any transaction or trading strategy for the purchase or sale of a security future unless such member or person associated with the member has reasonable grounds to believe upon the basis of information furnished by the customer after reasonable inquiry by the member or person associated with the member concerning the customer's investment objectives, financial situation and needs, and any other information known by the member or associated person, that the recommended transaction or trading strategy is not unsuitable for the customer.

(B) No member or person associated with a member shall recommend to a customer a transaction in any security future unless the person making the recommendation has a reasonable basis for believing, at the time of making the recommendation, that the customer has such knowledge and experience in financial matters that the customer may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommended position in the security future.

(20) Reserved

(21) Violation of By-Laws and Rules of FINRA or a Registered Clearing Agency

(A) In FINRA disciplinary proceedings, a finding of violation of any provision of the FINRA rules, regulations, or by-laws of a registered clearing agency under Section 17A(b)(8) of the Exchange Act by any member or person associated with a member engaged in security futures transactions cleared by such registered clearing agency, may be deemed to be conduct inconsistent with just and equitable principles of trade and a violation of Rule 2010.

(B) In FINRA disciplinary proceedings, a finding of violation of any provision of the FINRA rules, regulations or By-Laws by any member or person associated with a member engaged in security futures transactions may be deemed to be conduct inconsistent with just and equitable principles of trade and a violation of Rule 2010.

(22) Reserved

(23) Reserved

(24) Security Futures Transactions and Reports by Market Makers in Listed Securities

Every member that is an off-board market maker in a security listed on a national securities exchange shall report to FINRA in accordance with such procedures as may be prescribed by the Board of Governors, transactions involving 50 or more security futures contracts on such listed securities that are either directly for the benefit of (A) the member or (B) any employee, partner, officer, or director of the member who, by virtue of his or her position with the member, is directly involved in the purchase or sale of the underlying security for the firm's proprietary account(s) or is directly responsible for supervision of such persons; or who by virtue of his or her position in the firm, is authorized to, and regularly does, obtain information on the proprietary account(s) of the member in which the underlying security is traded. This subparagraph shall apply to all security futures transactions including those executed on an exchange to which the member may belong.

(25) Trading Ahead of Customer Orders

Every member shall exercise due care to avoid trading ahead of a customer's security futures order. A member must exercise the due care required by this subparagraph when the member has gained knowledge of or reasonably should have gained knowledge of the customer's order prior to the transmission to a securities exchange of the member's order for a proprietary account, or for any account in which it or any person associated with it is directly or indirectly interested.

Amended by SR-FINRA-2019-009 eff. May 8, 2019.
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‹ 2360. OPTIONS UP 3000. SUPERVISION AND RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS ›

VERSIONS

May 08, 2019 onwards