

(C) when it begins providing such services and annually thereafter, submits an Auditor's Report to the SEC staff which is not deemed unacceptable by the SEC staff;

(D) notifies the SEC staff immediately in writing of any changes to its confirmation/affirmation services that significantly affect or have the potential to significantly affect its electronic trade confirmation/affirmation systems, including without limitation, changes that: (i) affect or potentially affect the capacity or security of its electronic trade confirmation/affirmation system; (ii) rely on new or substantially different technology; or (iii) provide a new service to the Qualified Vendor's electronic trade confirmation/affirmation system;

(E) immediately notifies the SEC staff in writing if it intends to cease providing services, and supplies supplemental information regarding its electronic trade confirmation/affirmation services as requested by FINRA or SEC staff;

(F) provides FINRA with copies of any submissions to the SEC staff made pursuant to subparagraphs (C), (D) and (E) above within ten (10) business days of such submissions; and

(G) A vendor may cease to be qualified if the SEC staff: (i) deems the Auditor's report unacceptable either because it contains any findings of material weaknesses, or for other identified reasons; or (ii) notifies the vendor in writing that it is no longer qualified. If the vendor ceases to be qualified, the member using that vendor shall not be deemed in violation of this Rule if it ceases using such vendor promptly upon receiving notice that the vendor is no longer qualified.

(4) "Auditor's Report" shall mean a written report that is prepared by competent, independent, external audit personnel in accordance with the standards of the American Institute of Certified Public Accountants and the Information Systems Audit and Control Association and that (i) verifies the certifications contained in paragraph (b)(3)(B) above; (ii) contains a risk analysis of all aspects of the entity's information technology systems, including, without limitation, computer operations, telecommunications, data security, systems development, capacity planning and testing, and contingency planning and testing; and (iii) contains the written response of the entity's management to the information provided pursuant to (i) and (ii) of this paragraph (b)(4).

Amended by SR-FINRA-2016-047 eff. Sept. 5, 2017.  
Amended by SR-FINRA-2010-030 eff. Dec. 15, 2010.  
Amended by SR-NASD-98-20 eff. June 28, 1999.  
Amended by SR-NASD-94-56 eff. June 7, 1995.  
Amended eff. Feb. 11, 1988.  
Adopted eff. Nov. 19, 1982.

**Selected Notices:** 86-60, 88-3, 95-36, 10-49, 17-19.

## VERSIONS

Sep 05, 2017 onwards



## 11870. Customer Account Transfer Contracts

The Rule

Notices

### (a) Responsibility to Expedite Customer's Request

(1) When a customer whose securities account is carried by a member (the "carrying member") wishes to transfer securities account assets, in whole or in specifically designated part, to another member (the "receiving member") and gives authorized instructions to the receiving member, both members must expedite and coordinate activities with respect to the transfer.

(2) If a customer desires to transfer a portion of his or her account outside of the Automated Customer Account Transfer Service (ACATS), authorized alternate instructions should be transmitted to the carrying member indicating such intent and specifying the designated assets to be transferred. Although such transfers are not subject to the provisions of this Rule, members must expedite all authorized account asset transfers, whether through ACATS or via other means permissible under this Rule, and coordinate their activities with respect thereto. Unless otherwise indicated, the automated customer account transfer capabilities referred to in paragraph (m)(1) of this Rule shall be utilized for partial transfers.

(3) For purposes of this Rule, customer authorization pursuant to a transfer instruction could be the customer's actual signature, or an electronic signature in a format recognized as valid under federal law to conduct interstate commerce.

### (b) Transfer Procedures

(1) Upon receipt from the customer of an authorized broker-to-broker transfer instruction form ("TIF") to receive such customer's securities account assets in whole or in specifically designated part, from the carrying member, the receiving member must immediately submit such instruction to the carrying member by establishing such instruction in ACATS. The carrying member must, within one business day following the establishment of such account transfer instructions, or receipt of a TIF directly from the customer authorizing the transfer of assets in specifically designated part: (A) validate the transfer instruction to the receiving member (with an attachment reflecting all positions and money balances to be transferred as shown on its books); or (B) take exception to the transfer instruction for reasons other than securities positions or money balance discrepancies and advise the receiving member of the exception taken. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the National Securities Clearing Corporation (NSCC).

(2) The carrying member and the receiving member must promptly resolve any exceptions taken to the transfer instruction.

### (c) Transfer Instructions

(1) Securities account asset transfers accomplished pursuant to this Rule are subject to the following conditions, which the customer must be informed of, affirm, or authorize (as the case may be) through their inclusion in the transfer instruction the customer is required to authorize to initiate the account asset transfer:

(A) To the extent any account assets are not readily transferable, with or without penalties, such assets may not be transferred within the time frames required by this Rule.

(B) The customer will be contacted in writing by the carrying member, and/or by the receiving member, with respect to the disposition of nontransferable assets other than proprietary money market fund assets (if any), indicated in an instruction to transfer specifically designated account assets. (See paragraphs (c)(3) and (4) below for customer notification requirements pertaining to transfers of securities account assets in whole.)

(C) If securities accounts assets in whole, other than retirement plan account assets, are being transferred, the customer must affirm that he or she has destroyed or returned to the carrying member any credit/debit cards and/or unused checks issued in connection with the account.



(D) For purposes of this Rule, a "nontransferable asset" shall mean an asset that is incapable of being transferred from the carrying member to the receiving member because it is:

- (i) an asset that is a proprietary product of the carrying member;
- (ii) an asset that is a product of a third party (e.g., mutual fund/money market fund) with which the receiving member does not maintain the relationship or arrangement necessary to receive/carry the asset for the customer's account;
- (iii) an asset that may not be received due to regulatory limitations on the scope of the receiving member's business;
- (iv) an asset that is a bankrupt issue for which the carrying member does not possess (which shall be deemed to include possession at a securities depository for the carrying member's account) the proper denominations or quantity of shares necessary to effect delivery and no transfer agent is available to re-register the shares;
- (v) an asset that is an issue for which the proper denominations cannot be obtained pursuant to governmental regulation or the issuance terms of the product (e.g., foreign securities, baby bonds, etc.);
- (vi) limited partnership interests in retail accounts.

(E) The carrying member and the receiving member must promptly resolve and reverse any nontransferable assets that were not properly identified during validation. In all cases, each member shall promptly update its records and bookkeeping systems and notify the customer of the action taken.

(2) A proprietary product of the carrying member shall be deemed nontransferable unless the receiving member has agreed to accept transfer of the product. Upon receipt of the asset validation report, the receiving member shall designate any assets that are a product of a third party (e.g., mutual fund/money market fund) with which the receiving member does not maintain the relationship or arrangement necessary to receive/carry the asset for the customer's account. The carrying member, upon receipt of such designation, may treat such designated assets as nontransferable and refrain from transferring the designated assets.

(3) If securities account assets to be transferred in whole include any nontransferable assets that are proprietary products of the carrying member, the carrying member must provide the customer with a list of the specific assets and request, in writing and prior to or at the time of validation of the transfer instruction, further instructions from the customer with respect to the disposition of such assets. In particular, such request should provide, where applicable, the customer with the following alternative methods of disposition for nontransferable assets:

(A) Liquidation, with a specific indication of any redemption or other liquidation-related fees that may result from such liquidation and that those fees may be deducted from the money balance due the customer and that any remaining balance will be distributed to the customer, including the method by which it will be so distributed.

(B) Retention by the carrying member for the customer's benefit.

(C) Transfer, physically and directly, in the customer's name to the customer.

(4) If securities account assets to be transferred in whole include any nontransferable assets that the receiving member has designated as assets that are a product of a third party (e.g., mutual fund/money market fund) with which the receiving member does not maintain the relationship or arrangement necessary to receive/carry the asset for the customer's account, the receiving member must provide the customer with a list of the specific assets and request, in writing and prior to the time it makes such designation, further instructions from the customer with respect to the disposition of such assets. In particular, such request should, where applicable, provide the customer with the following alternative methods of disposition for nontransferable assets:

(A) Liquidation, with a specific indication of any redemption or other liquidation-related fees that may result from such liquidation and that those fees may be deducted from the money balance due the customer. The indication must also refer the customer to the fund prospectus or to their registered representative at the carrying firm for specific details regarding any such fees.

(B) Retention by the carrying member for the customer's benefit.

(C) Shipment, physically and directly, in the customer's name to the customer.

(D) Transfer to the third party that is the original source of the product, for credit to an account opened by the customer with that third party.

(5) If the customer has authorized liquidation or transfer of assets deemed to be nontransferable, the carrying member must distribute the resulting money balance to the customer or initiate the transfer within five (5) business days following receipt of the customer's disposition instructions.

(6) With respect to transfers of retirement plan securities account assets, the customer authorizes the custodian/trustee for the account:

(A) to deduct any outstanding fees due the custodian/trustee from the credit balance in the account, or

(B) if the account does not contain a credit balance, or if the credit balance in the account is insufficient to satisfy any outstanding fees due the custodian/trustee, to liquidate assets in the account to the extent necessary to satisfy any outstanding fees due the custodian/trustee.

**(d) Validation of Transfer Instructions**

(1) Upon validation of an instruction to transfer securities account assets in whole, a carrying member must "freeze" the account to be transferred, i.e., all open orders, with the exception of option positions that expire within seven (7) business days, must be canceled and no new orders may be taken.

(2) A carrying member may not take exception to a transfer instruction, and therefore deny validation of the transfer instruction, because of a dispute over securities positions or the money balance in the account to be transferred. Such alleged discrepancies notwithstanding, the carrying member must transfer the securities positions and/or money balance reflected on its books for the account.

(3) A carrying member may take exception to a transfer instruction only if:

(A) Additional documentation is required (e.g., legal documents such as death or marriage certificate);

(B) the account is "flat" and reflects no transferable assets;

(C) the account number is invalid (i.e., the account number is not on the carrying member's books); however, if the carrying member has changed the account number for purposes of internally reassigning the account to another broker or account executive, it is the responsibility of the carrying firm to track the changed account number, and such reassigned account number shall not be considered invalid for purposes of fulfilling a transfer instruction.

(D) it is a duplicate request;

(E) it violates the member's credit policy;

(F) it contains unrecognized residual credit assets (receiving member cannot identify customer);

(G) the customer rescinds the instruction (e.g., the customer has submitted written request to cancel transfer);

(H) there is a mismatch of the Social Security number/Tax ID (e.g., the number on the transfer instruction does not correspond to that on the carrying member's records);

(I) the account title on the transfer instruction does not match that on the carrying member's records;

(J) the account type on the transfer instruction does not correspond to that on the carrying member's records;

(K) the transfer instruction is missing or contains an improper authorization (e.g., TIF requires an additional customer authorization or successor custodian's acceptance authorization or custodial approval); or

(L) the customer has taken possession of the assets in the account (e.g., the account assets in question have been transferred directly to the customer).

(4) If a carrying member takes exception to a transfer instruction because the account is "flat," as provided in subparagraph (3)(B) above, the receiving member may re-submit the transfer instruction only if the most recent customer statement is attached.

(5)(A) Upon validation of an instruction to transfer securities account assets in whole or in specifically designated part, the carrying member must return the transfer instruction to the receiving member with an attachment indicating all securities positions, safekeeping positions, and money balances to be transferred as shown on the books of the carrying member. Except as hereinafter provided, the attachment must include a then-current market value for all assets so indicated. If a then-current market value for an asset cannot be determined (e.g., a limited partnership interest), the asset must be valued at original cost. However, delayed delivery assets (as defined in paragraph (j)(2) of this Rule), nontransferable assets, and assets in transfer to the customer, i.e., in possession of the transfer agent at the time of receipt of the transfer instruction by the carrying member for shipment, physically and directly to the customer, need not be valued, although the "delayed delivery," "nontransferable," or "in-transfer" status, respectively, of such assets must be indicated on the attachment.

(B) For purposes of this Rule, a "safekeeping position" shall mean any security held by a carrying member in the name of the customer. Safekeeping positions shall also include securities that are unendorsed or have a stock/bond power attached thereto.



(6) Upon validation of an instruction to transfer securities account assets in whole or in specifically designated part, the carrying member must indicate on the instruction, or by attachment, any initial margin calls, as required by Regulation T, that are outstanding as of the date of validation with respect to the account assets to be transferred.

(7) A carrying member must provide the following description, at a minimum, as asset data with respect to any municipal securities positions to be transferred that have not been assigned a CUSIP number:

(A) name of the issuer;

(B) interest rate and dated date;

(C) maturity date and put date, if applicable, and if the securities are limited tax, subject to redemption prior to maturity (callable), or revenue bonds; an indication to such effect, including in the case of revenue bonds, the type of revenue, if necessary for a materially complete description of the securities; and

(D) if necessary for a materially complete description of the securities, the name of any company or other person in addition to the issuer obligated, directly or indirectly, with respect to debt service, or if there is more than one such obligor, the statement "multiple obligors" may be shown.

(8) After validation of the transfer instruction by the carrying member, a receiving member may reject a transfer of account assets in whole only if the account is not in compliance with the receiving member's credit policies or minimum asset requirements. (A receiving member may deem an account not in compliance with Regulation T requirements as not in compliance with its credit policies.) A receiving member, however, may only reject the entire account for such reasons; it may not reject only a portion of the account assets (e.g., the particular assets not in compliance with the member's credit policies or minimum asset requirement) while accepting the remainder.

#### **(e) Completion of the Transfer**

Within three business days following the validation of a transfer instruction, the carrying member must complete the transfer of the customer's security account assets to the receiving member. The receiving member and the carrying member must immediately establish fail-to-receive and fail-to-deliver contracts at then-current market values upon their respective books of account against the long/short positions, including options, that have not been delivered/received and the receiving/carrying member must debit/credit the related money amount. The customer's security account assets shall thereupon be deemed transferred. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the NSCC.

#### **(f) Fail Contracts Established**

(1) Any fail contracts resulting from this securities account asset transfer procedure shall be included in a member's fail file and, not later than 10 business days following the date delivery was due, the member shall take steps to obtain physical possession or control of securities so failed to receive by initiating a buy-in procedure or otherwise; provided, that with respect to the following types of securities or instruments, not later than 30 business days following the date delivery was due, the member shall take steps to obtain physical possession or control of securities so failed to receive by initiating a buy-in procedure or otherwise:

(A) banker's acceptances;

(B) bond anticipation notes;

(C) certificates of deposit;

(D) commercial paper;

(E) FMAC certificates;

(F) FNMA certificates;

(G) foreign securities;

(H) GNMA certificates;

(I) limited partnership interests;

(J) municipal bonds;

(K) mutual fund shares (transferable);

(L) revenue anticipation notes;

(M) SBA certificates; and

(N) tax anticipation notes.

(2) A carrying member may not reject ("DK") a fail contract, including a Receive/Deliver Instruction generated by an automated customer account transfer system, in connection with assets in an account that has been transferred but which assets have not been delivered to the receiving member.

(3) All fail contracts established pursuant to the requirements of this Rule shall be clearly marked or captioned as such. This paragraph will not apply if a fail contract participates in a repricing and reconfirmation service offered by a registered clearing agency.

(4) All fail contracts required to be established on safekeeping positions must be so indicated.

(5) Open fail contracts established pursuant to the requirements of this Rule shall be marked-to-market regularly.

(6) Nontransferable assets and in the process of being transferred directly to the customer are exempt from the requirement in paragraph (e) of this Rule.

(7) Members may agree to close out fail contracts established pursuant to the requirements of this Rule through the delivery of securities that are substantially comparable to those owed with the prior consent of the customer.

(8) A receiving member shall reject a delivery of a security that cannot be deemed a safekeeping position against a fail contract as such.

(9) A receiving member must deem receipt of a duly executed limited partnership change of trustee form, with respect to limited partnership interests, or a mutual fund re-registration form, with respect to mutual fund shares, as adequate delivery for purposes of transferring such assets pursuant to this Rule. With respect to mutual fund shares, a receiving member must deem receipt of a mutual fund re-registration form evidencing book-entry shares in an account as adequate delivery for purposes of transferring such shares, provided the registration form contains the customer's new account number at the fund. The carrying member shall be responsible for obtaining this number and entering it on the form prior to submission to the receiving member. This provision is applicable to book-entry shares and is not intended to preclude the delivery of physical certificates.

#### **(g) Prompt Resolution of Discrepancies**

(1) Any discrepancies relating to positions or money balances that exist or occur after transfer of a customer's securities account assets must be resolved promptly.

(2) The carrying member must promptly distribute to the receiving member any transferrable assets that accrue to the account after the transfer of a customer's securities account has been effected.

(3) When a member receives a claim notice relating to a securities account asset transfer, the member must resolve the claim within five (5) business days from receipt of such claim or take exception to the claiming member by setting forth specific reasons for denying the claim.

#### **(h) Close-Out Procedures**

A valued fail contract in a security, for which there are no established close-out procedures, and which has not been completed by the carrying member, may be closed by the receiving member not sooner than the third business day following the date delivery was due, in accordance with the following procedure:

(1) Written notice shall be delivered to the carrying member at its office not later than 12:00 noon, Eastern Time (ET), two business days preceding the execution of the proposed "close-out."

(2)(A) Every notice of "close-out" shall state the settlement date, the quantity and contract price of the securities covered by said contract, and shall state further that unless delivery is effected at or before a certain specified time, which may not be prior to 3:00 p.m. ET, the security may be "closed-out" on the date specified for the account of the carrying member.

(B) Original notices may only be issued pursuant to fail contracts marked or captioned as fails established pursuant to paragraph (f)(3) of this Rule.

(C) Notice may be redelivered immediately to another member from whom the securities involved are due in the form of a re-transmitted notice. A re-transmitted notice must be delivered to subsequent members not later than 12:00 noon ET one business day preceding the original date of execution of the proposed close-out.

(D) Re-transmitted notices may be issued against a fail contract regardless of its origin.

(3)(A) On failure of the carrying member to effect delivery in accordance with the notice, or to obtain a stay as hereinafter provided, the receiving member may close the contract by purchasing the securities necessary to complete the contract. Such execution will also operate to close-out all contracts covered under re-transmitted notices.



(B) The party executing the "close-out" shall immediately upon execution, but not later than 6:00 p.m. ET on the date of the execution of such "close-out," notify the member for whose account the securities were bought as to the quantity purchased and the price paid. Such notification shall be in written or electronic form having immediate receipt capabilities. If a medium with immediate receipt capabilities is not available, the telephone shall be used for the purpose of same day notification, and written or similar electronic notification having next day receipt capabilities must be sent out simultaneously. In either case formal confirmation of purchase along with a billing or payment (depending upon which is applicable) shall be forwarded as promptly as possible after the execution of the "close-out." Notification of the execution of the "close-out" shall be given to succeeding members to whom a re-transmitted notice was issued using the same procedures stated herein.

(C) If prior to the closing of a contract on which a "close-out" notice has been given, the receiving member receives from the carrying member written notice stating that the securities, except for those securities due from a depository, are (i) in transfer; (ii) in transit; (iii) being shipped that day; (iv) due from a depository, and include the certificate numbers; then the receiving member must extend the execution date of the "close-out" for a period of seven (7) calendar days from the date delivery was due under the "close-out."

(4) In the event that a "close-out" is not completed on the day specified in the notice, said notice shall expire at the close of business on the day specified in the notice, or if extended, at the close of business on the last day of the extension.

#### **(i) Sell-Out Procedures**

(1) Upon failure of the receiving member to accept delivery in accordance with the terms of the contract, and lacking a (A) properly executed Uniform Reclamation Form; (B) depository generated rejection advice; or (C) valid Reversal Form; the carrying member may, without notice, "sell-out" in the best available market, for the liability of the party in default, all or any part of the securities due or deliverable under the contract.

(2) The party executing a "sell-out" as prescribed above shall notify, no later than 6:00 p.m. ET on the day of execution, the member, for whose account and liability such securities were sold, of the quantity sold and the price received. Such notification shall be in written or electronic form having immediate receipt capabilities. A formal confirmation of such sale shall be forwarded as promptly as possible after the execution of the "sell-out."

#### **(j) Exemptions**

(1) Pursuant to the Rule 9600 Series, FINRA may exempt from the provisions of this Rule, either unconditionally or on specified terms and conditions, (A) any member or (B) any type of account, security or financial instrument.

(2) The following assets are deemed subject to delayed delivery and are exempt from paragraph (e) of this Rule:

- (A) insurance policies (annuities);
- (B) stripped coupons;
- (C) when-issued or when-distributed securities.

(3) Zero value fail-to-receive and fail-to-deliver instructions shall be generated for the assets specified in paragraph (j)(2) of this Rule.

#### **(k) Retirement Plan Securities Accounts**

(1) It is the responsibility of the receiving member to obtain the approval of its custodian/trustee accepting a customer's retirement plan securities account before submitting a transfer instruction for such account assets to the carrying member or its custodian/trustee to facilitate transfer of the account assets.

(2) If, with respect to the transfer of a retirement plan securities account assets, outstanding fees are due the custodian/trustee for the account, such fees must be deducted from the credit balance in the account or, if the account does not contain a credit balance or if the credit balance is insufficient to satisfy such fees, assets in the account must be liquidated to the extent necessary to satisfy such fees. If liquidation of assets in the account is not practicable, such fees must then be transferred to and accepted by the receiving member as a debit item with the account.

#### **(l) Securities Account**

For the purposes of this Rule, the term "securities account" shall be deemed to include any and all of the account's money market fund positions or the redemption value thereof.

#### **(m) Participant in a Registered Clearing Agency**

(1) When both the carrying member and the receiving member are participants in a registered clearing agency having automated customer securities account asset transfer capabilities and are eligible to use such capabilities, the securities account asset transfer

procedure, including the establishing and closing out of fail contracts, must be accomplished in accordance with the provisions of this Rule and pursuant to the rules of and through such registered clearing agency with the exception of specifically designated assets transferred pursuant to the submittal of a customer's authorized alternate instructions to the carrying member.

(2) When such registered clearing agency has the capability to transfer mutual fund positions or to employ functionalities including Partial Transfer Receive (PTR), Partial Transfer Delivery (PTD), Fail Reversal, Mutual Fund Fail Cleanup, or Reclaim Processing, such capability must be utilized with the exception of specifically designated assets transferred pursuant to the submittal of a customer's authorized alternate instructions to the carrying member.

(3) When securities account assets are transferred in whole and such registered clearing agency has the capability to transfer residual credit positions (both cash and securities) that have accrued to an account after the account has been transferred (residual credit processing), such capability must be utilized for transferring residual credit positions from the carrying member to the receiving member.

(4) When both the carrying member and the receiving member are participants in a registered clearing agency having automated customer securities account asset transfer capabilities with a facility permitting electronic transmittal of customer account asset transfer instructions, such facilities shall be used in accordance with the following:

(A) members using such facilities shall execute an agreement designated by the Committee specifying the rights, obligations and liabilities of all participants in or users of such facilities;

(B) customer account transfer instructions shall be transmitted in accordance with the procedures prescribed by the registered clearing agency;

(C) the transmittal of a transfer request through such electronic facilities shall constitute a representation by the receiving member that it has received a properly executed TIF or other actual authority to receive the customer's securities and funds;

(D) transfer instructions transmitted through such facilities shall contain the information necessary for the clearing agency and the carrying member to respond to the transfer instruction as may be specified by this Rule and the clearing agency; and

(E) non-standard ACAT processing, such as Partial Transfer Receives (PTR), Partial Transfer Deliver (PTD) Fail Reversal, and reclaim processing shall be transmitted through such facilities, if the facility permits.

(5) For purposes of this Rule, the term "registered clearing agency" shall be deemed to be a clearing agency as defined in the Exchange Act and registered in accordance with the Exchange Act. For purposes of this Rule, the term "participant in a registered clearing agency" shall mean a member of a registered clearing agency that is eligible to make use of the agency's automated customer securities account transfer capabilities.

#### **(n) Transfers Accomplished Ex-Clearing**

(1) If one or both of the members processing a customer account transfer pursuant to this Rule is not a member of a registered clearing agency, the fail-to-receive and fail-to-deliver contracts required to be established pursuant to paragraph (e) of this Rule must be established outside a clearing corporation on an "ex-clearing house" basis. Similarly, settlement of the fail contracts and any close-out executions must be made "ex-clearing house."

(2) Each member (including members that do not utilize automated customer securities account asset transfer facilities) is required, for a minimum period of six (6) months after the transfer of securities account assets in whole is completed, to transfer credit balances (both cash and securities) that occur in such transferred account assets within (10) ten business days after the credit balances accrue to the account.

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#### **••• Supplementary Material: —————**

**.01 Written Procedures.** Members must establish, maintain and enforce written procedures to affect and supervise the transfer of securities account assets pursuant to this Rule that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules.

**.02 Transfer of Retirement Plan Securities.** With respect to the transfer of retirement plan securities account assets, the carrying member is responsible for informing the customer that the choice of method of disposition of such assets may result in liability for the payment of taxes and penalties with respect to such assets.

#### **.03 Sample Transfer Instruction Forms.**

##### **(a) Customer Account Transfer**



<b>CUSTOMER SECURITIES ACCOUNT TRANSFER INSTRUCTION</b>	
	_____
	(Date)
RECEIVING FIRM _____	CARRYING FIRM _____
RECEIVING FIRM ACCOUNT NUMBER _____	CARRYING FIRM ACCOUNT NUMBER _____
ACCOUNT TITLE	_____ _____ _____
ACCOUNT TYPE _____ (C = CASH, M = MARGIN)	
TAX ID OR SS NUMBER _____	
TO _____	
(Receiving Firm Name and Address)	
Please receive my entire securities account from the below indicated carrying firm and remit to it the debit balance or accept from it the credit balance in my securities account.	
TO _____	
(Carrying Firm Name and Address)	

Please transfer my entire securities account to the above indicated receiving firm, which has been authorized by me to make payment to you of the debit balance or to receive payment of the credit balance in my securities account. I understand that to the extent any assets or instruments in my securities account are not readily transferable, with or without penalties, such assets or instruments may not be transferred within the time frames required by Rule 11870 of the FINRA Uniform Practice Code.

I understand that you will contact me with respect to the disposition of any assets in my securities account that are nontransferable. If certificates or other instruments in my securities account are in your physical possession, I instruct you to transfer them in good deliverable form, including affixing any necessary tax waivers, to enable such receiving firm to transfer them in its name for the purpose of sale, when and as directed by me. I further instruct you to cancel all open orders for my securities account on your books.

I affirm that I have destroyed or returned to you any credit/debit cards and/or unused checks issued to me in connection with my securities account.

_____	_____
(Customer's Signature)	(Date)

_____	_____
(Customer's Signature if Joint Account)	(Date)

[It is suggested that a copy of the customer's most recent account statement be attached.]

Receiving Firm Contact:

Name _____	Phone Number _____
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For Broker Use Only:

Mutual Fund Registration Instructions:

Registration Name \_\_\_\_\_

Address \_\_\_\_\_

Tax ID # \_\_\_\_\_

Dividend and Capital Gains Options:

Reinvest ( )	Dividend Cash/Capital Gains Reinvest ( )
All Cash ( )	Deposit to New Plan ( )
Issue Certificate ( )	Deposit to Existing Plan ..... ( )

Broker Instructions (if broker agreement exists):



Name _____
Address _____
RR Name/Number/Branch _____

**(b) Customer Retirement Account Transfer**

<b>CUSTOMER RETIREMENT PLAN SECURITIES ACCOUNT TRANSFER INSTRUCTION</b>	
RECEIVING FIRM _____	CARRYING FIRM _____
RECEIVING FIRM ACCOUNT NUMBER _____	CARRYING FIRM ACCOUNT NUMBER _____
ACCOUNT TITLE	_____ _____ _____
ACCOUNT TYPE _____ (I = IRA, Q = QUALIFIED)	
TAX ID OR SS NUMBER _____	
TO _____	
(Prior Custodian/Trustee Name, Address and Tax ID Number)	
You are the custodian/trustee for my retirement plan securities account with	
_____	
(Carrying Firm Name and Address)	
as my broker. Please be advised that I have amended my retirement plan and have adopted a new retirement plan with the below indicated as successor custodian/trustee and	

_____ as broker	
(Receiving Firm Name and Address)	
<p>Pursuant to said amendment, please transfer all assets in my securities account to such successor custodian/trustee. I understand that to the extent any assets in my account are not readily transferable, with or without penalties, such assets may not be transferred within the time frames required by Rule 11870 of the FINRA Uniform Practice Code.</p> <p>I understand that the above indicated carrying firm will contact me with respect to the disposition of any assets in my account that are nontransferable. I authorize you to deduct any outstanding fees due you from the credit balance in my account. If my account does not contain a credit balance, or if the credit balance in the account is insufficient to satisfy any outstanding fees due you, I authorize you to liquidate the assets in my account to the extent necessary to satisfy any outstanding fees due you. If certificates or other instruments in my account are in your physical possession, I instruct you to transfer them in good deliverable form, including affixing any necessary tax waivers, to enable the successor custodian/trustee to transfer them in its name for the purpose of sale, when and as directed by me. Upon receiving a copy of this transfer instruction, the carrying firm will cancel all open orders for my account on its books.</p>	
_____	_____
(Customer's Signature)	(Date)
Please be advised that _____	
(Successor Custodian/Trustee Name, Address and Tax ID Number)	
<p>will accept the above captioned account as successor custodian/trustee. Please send all checks to</p>	
_____ and non-DTC eligible items to	
_____	_____
(Successor Custodian/Trustee Authorized Signature)	(Date)
_____	_____
(Tax ID Number)	(Date of Trust)

[It is suggested that a copy of the customer's most recent account statement be attached.]	
<b>Receiving Firm Contact:</b>	
Name _____	Phone Number _____
<b>For Broker Use Only:</b>	
Mutual Fund Registration Instructions:	
Registration Name _____	
Address _____	
Tax ID # _____	
Dividend and Capital Gains Options:	
Reinvest ( )	Dividend Cash/Capital Gains Reinvest ( )
All Cash ( )	Deposit to New Plan ( )
Issue Certificate ( )	Deposit to Existing Plan ..... ( )
Broker Instructions (if broker agreement exists):	
Name _____	
Address _____	
RR Name/Number/Branch _____	

**(c) Mutual Fund Re-Registration**

<b>MUTUAL FUND RE-REGISTRATION INSTRUCTIONS USED FOR BROKER-TO-BROKER TRANSFERS</b>		
(1)	TO: _____	Date: _____
	Transfer Agent: _____	
	Address: _____	



(2)	Present Account Information	Name of Fund: _____ Fund A/C #: _____ Certificate # (if in physical form) [Certificate attached must be in negotiable form.] Account Registration: _____
(3)(A)	Broker Identification	Old Firm Name and In-house A/C# _____
(3)(B)		New Firm Name and In-house A/C# _____
(4)	Registration Instructions	Please transfer _____ shares from the above-referenced account and register as follows:
	Name _____	
	Address _____	
	Tax ID # _____	
<u>Dividend and Capital Gains Option:</u>		
Reinvest ( )		Dividend Cash/Capital Gains Reinvest ( )
All Cash ( )		Deposit to New Plan ( )
Issue Certificate ( )		Deposit to Existing Plan ..... ( )
(5)	Broker-Dealer Instructions	If a Broker-Dealer Agreement exists: Name _____ Address _____ RR Name/Number/Branch _____

(6)	Release	<p>In consideration for your complying with the above request, we hereby agree to indemnify the:</p> <p>_____ (fund)</p> <p>and</p> <p>_____ (agent)</p> <p>against any and all losses incurred hereof.</p> <p>Thank you in advance for your cooperation in this matter.</p> <p>Sincerely,</p>
		_____ (Signature Guarantee Stamp)
		_____ (Authorized Signature)
If there are any questions call:		
_____ (Signature of Carrying Firm)	_____ (Phone Number)	
_____ (Signature of Receiving Firm)	_____ (Phone Number)	
Items 1, 2, 3a are completed by the carrying firm.		
Items 3b, 4 and 5 are completed by the receiving firm.		



Amended by SR-FINRA-2010-060 eff. Dec. 15, 2010.  
Amended by SR-FINRA-2010-030 eff. Dec. 15, 2010.  
Amended by SR-FINRA-2007-005 eff. Oct. 22, 2007.  
Amended by SR-NASD-2004-58 eff. Sept. 13, 2004.  
Amended by SR-NASD-2001-53 eff. Sept. 12, 2001.  
Amended by SR-NASD-2000-68 eff. Nov. 17, 2000.  
Amended by SR-NASD-97-28 eff. Aug. 7, 1997.  
Amended by SR-NASD-97-05 eff. May 8, 1997.  
Amended by SR-NASD-95-59 eff. July 1, 1996.  
Amended by SR-NASD-94-56 eff. Mar. 3, 1995.  
Amended by SR-NASD-94-56 eff. Dec. 2, 1994.  
Amended by SR-NASD-93-41 eff. Feb. 1, 1994.  
Amended by SR-NASD-91-61 eff. Mar. 1, 1993.  
Adopted by SR-NASD-85-29 eff. Feb. 24, 1986.

**Selected Notices:** 86-12, 93-17, 93-86, 01-53, 01-66, 04-58, 07-50, 10-49.



## 11880. Settlement of Syndicate Accounts

### (a) Definitions

(1) "Selling syndicate" means any syndicate formed in connection with a public offering to distribute all or part of an issue of corporate securities by sales made directly to the public by or through participants in such syndicate.

(2) "Syndicate account" means an account formed by members of the selling syndicate for the purpose of purchasing and distributing the corporate securities of a public offering.

(3) "Syndicate manager" means the member of the selling syndicate that is responsible for maintenance of syndicate account records.

(4) "Syndicate settlement date" means the date upon which corporate securities of a public offering are delivered by the issuer to or for the account of the syndicate members.

(b) Final settlement of syndicate accounts shall be effected by the syndicate manager within 90 days following the syndicate settlement date.

(c) No later than the date of final settlement of the syndicate account, the syndicate manager shall provide to each member of the selling syndicate an itemized statement of syndicate expenses that shall include, where applicable, the following categories of expenses: legal fees; advertising; travel and entertainment; closing expenses; loss on oversales; telephone; postage; communications; co-manager's expenses; computer, data processing charges; interest expense; and miscellaneous. The amount under "miscellaneous" should not be disproportionately large in relation to other items and should include only minor items that cannot be easily categorized elsewhere in the statement. Any other major items not included in the above categories shall be itemized separately.

### (d) Settlement of Underwritten Public Offerings

The syndicate manager of a public offering underwritten on a "firm-commitment" basis shall, immediately, but in no event later than the scheduled closing date, notify the FINRA's Operation Department of any anticipated delay in the closing of such offering beyond the closing date in the offering document or any subsequent delays in the closing date previously reported pursuant to this Rule.

Amended by SR-FINRA-2010-030 eff. Dec. 15, 2010.

Amended by SR-NASD-88-22 eff. Aug. 3, 1988.

Amended by SR-NASD-87-47 eff. June 12, 1988.

Amended by SR-NASD-87-7 eff. May 1, 1987.

Adopted by SR-NASD-85-14 eff. Oct. 1, 1985.

**Selected Notices:** [85-59](#), [87-23](#), [87-88](#), [88-34](#), [88-73](#), [10-49](#).



# 11891. General

- The Rule
- Notices

For purposes of the Rule 11890 Series, the terms of a transaction are “clearly erroneous” when there is an obvious error in any term, such as price, number of shares, or other unit of trading, or identification of the security.

• • • **Supplementary Material:** \_\_\_\_\_

**.01 Refusal to Abide by Rulings.** It shall be considered conduct inconsistent with just and equitable principles of trade for any member to refuse to take any action that is necessary to effectuate a final decision of a FINRA officer or the UPC Committee under this Rule 11890 Series.

**.02 Disruptions or Malfunctions Related to the Use of a FINRA System.** In making a determination regarding whether a transaction is clearly erroneous, FINRA takes into account the circumstances at the time of the transaction, the maintenance of a fair and orderly market, and the protection of investors and the public interest. Participants in FINRA systems are responsible for ensuring that the appropriate price and type of order are entered into FINRA's systems. Simple assertion by a member that it made a mistake in entering an order or a quote, or that it failed to pay attention or to update a quote, may not be sufficient to establish that a transaction was clearly erroneous.

**.03 Extraordinary Market Conditions.** The Rule 11890 Series is generally focused on systemic problems that involve large numbers of parties or trades, or market conditions where it would not be in the best interests of the market for one or more transactions to stand. Additionally, the Rule 11890 Series would include situations where an extraordinary event has occurred or is ongoing that has had a material effect on the market for a security traded over-the-counter or has caused major disruption to the marketplace.

**.04 Account Intrusion.** FINRA's clearly erroneous authority under the Rule 11890 Series does not extend to unauthorized trading activity or attempts to manipulate stock prices by illegally gaining access to legitimate accounts or opening new accounts using false information (often referred to as “account intrusion”). Such suspicious trading activities relate to allegations of fraud and therefore are not within the scope of the Rule 11890 Series. In this regard, members should routinely review the adequacy of their internal controls and ensure that appropriate system safeguards are in place to minimize or eliminate the potential for account intrusion.

Amended by SR-FINRA-2009-068 eff. Feb. 15, 2010.  
 Amended by SR-NASD-2006-104 eff. March 5, 2007.  
 Amended by SR-NASD-2005-089 eff Oct. 1, 2005.  
 Renumbered by SR-NASD-2003-80 eff. May 6, 2003.  
 Adopted by SR-NASD-2002-127 eff. Jan. 27, 2003.

**Selected Notices:** 03-11, 10-04.



## 11892. Clearly Erroneous Transactions in Exchange-Listed Securities

The Rule

Notices

### (a) Procedures for Reviewing Transactions

(1) An Executive Vice President of FINRA's Market Regulation Department or Transparency Services Department, or any officer designated by such Executive Vice President (FINRA officer), may, on his or her own motion, review any over-the-counter transaction involving an exchange-listed security arising out of or reported through a trade reporting system owned or operated by FINRA or FINRA Regulation and authorized by the Commission, provided that the transaction meets the thresholds set forth in paragraph (b), except as provided for in paragraphs (c) and (d) below. A FINRA officer acting pursuant to this subparagraph may declare any such transaction null and void if the officer determines that (A) the transaction is clearly erroneous, or (B) such actions are necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest, consistent with the thresholds set forth in paragraph (b), except as provided for in paragraphs (c) and (d) below. Absent extraordinary circumstances, the officer shall take action pursuant to this paragraph generally within 30 minutes after becoming aware of the transaction. When extraordinary circumstances exist, any such action of the officer must be taken no later than the start of trading on the day following the date of execution(s) under review.

(2) If a FINRA officer acting pursuant to this Rule declares any transaction null and void, each party involved in the transaction shall be notified as soon as practicable by FINRA, and the party aggrieved by the action may appeal such action in accordance with [Rule 11894](#), unless the officer making the determination also determines that the number of the affected transactions is such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest, and further provided that rulings made by FINRA in conjunction with one or more other self-regulatory organizations are not appealable.

### (b) Thresholds

Determinations of a clearly erroneous execution pursuant to paragraph (a)(1) will be made as follows:

#### (1) Numerical Guidelines

Subject to the provisions of paragraph (b)(3) below, a transaction shall be found to be clearly erroneous if the price of the transaction is away from the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth below. The Reference Price will be equal to the consolidated last sale immediately prior to the execution(s) under review except for: (A) Multi-Stock Events involving twenty or more securities, as described in paragraph (b)(2) below and (B) in other circumstances, such as, for example, relevant news impacting a security or securities, periods of extreme market volatility, sustained illiquidity, or widespread system issues, where use of a different Reference Price is necessary for the maintenance of a fair and orderly market and the protection of investors and the public interest.



<b>Reference Price: Circumstance or Product</b>	<b>Normal Market Hours (9:30 a.m. Eastern Time to 4:00 p.m. Eastern Time) Numerical Guidelines (Subject transaction's % difference from the Reference Price):</b>	<b>Outside Normal Market Hours Numerical Guidelines (Subject transaction's % difference from the Reference Price):</b>
Greater than \$0.00 up to and including \$25.00	10%	20%
Greater than \$25.00 up to and including \$50.00	5%	10%
Greater than \$50.00	3%	6%
Multi-Stock Event — Events involving five or more, but less than twenty, securities whose executions occurred within a period of five minutes or less	10%	10%
Multi-Stock Event — Events involving twenty or more securities whose executions occurred within a period of five minutes or less	30%, subject to the terms of paragraph (b)(2) below	30%, subject to the terms of paragraph (b)(2) below
Leveraged ETF/ETN securities	Normal Market Hours Numerical Guidelines multiplied by the leverage multiplier (i.e. 2x)	Normal Market Hours Numerical Guidelines multiplied by the leverage multiplier (i.e. 2x)

### **(2) Multi-Stock Events Involving Twenty or More Securities**

During Multi-Stock Events involving twenty or more securities, the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. In such circumstances, FINRA may use a Reference Price other than the consolidated last sale. To ensure consistent application across the markets when this paragraph is invoked, FINRA will promptly coordinate with other self-regulatory organizations to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of this paragraph, as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. FINRA will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by FINRA and the other self-regulatory organizations consistent with this paragraph.

### **(3) Additional Factors**

Except in the context of a Multi-Stock Event involving five or more securities, a FINRA officer may also consider additional factors to determine whether a transaction is clearly erroneous, including but not limited to, system malfunctions or disruptions; volume and volatility for the security; derivative securities products that correspond to greater than 100% in the direction of a tracking index; news released for the security; whether trading in the security was recently halted/resumed; whether the security is an IPO; whether the security was subject to a stock-split, reorganization, or other corporate action; overall market conditions; Opening and Late Session executions; validity of the consolidated tapes' trades and quotes; consideration of primary market indications; and executions inconsistent with the trading pattern in the stock. Each additional factor shall be considered with a view toward maintaining a fair and orderly market and the protection of investors and the public interest.

### **(c) Multi-day Events**

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A series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions (the "Event"). A FINRA officer, acting on his or her own motion, shall take action to declare all transactions that occurred during the Event null and void not later than the start of trading on the day following the last transaction in the Event. If trading in the security is halted before the valuation error is corrected, a FINRA officer shall take action to declare all transactions that occurred during the Event null and void prior to the resumption of trading. Notwithstanding the foregoing, no action can be taken pursuant to this paragraph with respect to any transactions that have reached settlement date or that result from an initial public offering of a security. To the extent transactions related to an Event occur on one or more other self-regulatory organization, FINRA will promptly coordinate with such other self-regulatory organization(s) to ensure consistent treatment of the transactions related to the Event, if practicable. Any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. FINRA will notify each member involved in a transaction subject to this paragraph as soon as practicable of a determination to declare such transaction null and void, and the party aggrieved by the action may appeal such action in accordance with [Rule 11894](#).

#### **(d) Transactions Occurring During Trading Halts**

In the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of a self-regulatory organization or responsible single plan processor in connection with the transmittal or receipt of a regulatory trading halt, suspension or pause, a FINRA officer, acting on his or her own motion, shall declare as null and void any transaction in a security that occurs after the primary listing market for such security declares a regulatory trading halt, suspension or pause with respect to such security and before such regulatory trading halt, suspension or pause with respect to such security has officially ended according to the primary listing market. In addition, in the event a regulatory trading halt, suspension or pause is declared, then prematurely lifted in error and is then re-instituted, a FINRA officer also shall declare as null and void transactions that occur before the official, final end of the regulatory halt, suspension or pause according to the primary listing market. Any action taken in connection with this paragraph shall be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction and in no circumstances later than the start of normal market hours on the trading day following the date of the execution(s) under review. Any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. FINRA will notify each member involved in a transaction subject to this paragraph as soon as practicable of a determination to declare such transaction(s) null and void, and the party aggrieved by the action may appeal such action in accordance with [Rule 11894](#).

#### **••• Supplementary Material: —————**

##### **.01 Determinations by a National Securities Exchange to Nullify and Void the Terms of One or More Transactions in an Exchange-Listed Security When There Are Corresponding or Related Transactions Reported Through a FINRA System.**

FINRA believes that coordinating with other self-regulatory organizations with the goal of having consistency and transparency regarding the clearly erroneous process is important to the marketplace and to investors. Consequently, for OTC transactions in exchange-listed securities that are reported to a FINRA system, such as a FINRA Trade Reporting Facility ("TRF") or Alternative Display Facility ("ADF"), FINRA will generally follow the determination of a national securities exchange to break a trade(s) when that national securities exchange has broken a trade(s) at or near the price range in question at or near the time in question (in FINRA staff's sole discretion) such that FINRA breaking such trade(s) would be consistent with market integrity and investor protection. In such a case where multiple national securities exchanges have related trades, FINRA will leave a trade(s) unbroken when any of those national securities exchanges has left a trade(s) unbroken at or near the price range in question at or near the time in question (in FINRA staff's sole discretion) such that FINRA breaking such trade(s) would be inconsistent with market integrity and investor protection.

**.02** The amendments set forth in File Nos. SR-FINRA-2010-032 and SR-FINRA-2014-021, and the provisions of Supplementary Material .03 of this Rule shall be in effect during a pilot period that expires at the close of business on July 20, 2022. If the pilot period is not extended or approved as permanent, the version of this Rule prior to SR-FINRA-2010-032 shall be in effect, and the amendments set forth in File No. SR-FINRA-2014-021 and the provisions of Supplementary Material .03 of this Rule shall be null and void.

**.03** Securities Subject to Limit Up-Limit Down Plan. For purposes of this Supplementary Material .03, the phrase "Limit Up-Limit Down Plan" or "Plan" shall mean the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of SEC Regulation NMS.

(a) The provisions of Rule 11892 paragraphs (a) through (d) and Supplementary Material .01 above shall govern all over-the-counter transactions in exchange-listed securities reported to a FINRA system, such as a FINRA TRF or ADF, including transactions in securities subject to the Plan, other than as set forth below.

(b) If as a result of a member's technology or systems issue any transaction reported to a FINRA system, such as a FINRA TRF or ADF, occurs outside of the applicable price bands disseminated pursuant to the Plan, a FINRA officer, acting on his or her own motion or at the request of a member, shall review and deem such transaction clearly erroneous, subject to the certification requirement of paragraph (c) below. Absent extraordinary circumstances, any such action of the FINRA officer shall be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction. When extraordinary circumstances exist, any such action of the FINRA officer must be taken by no later than the start of normal market hours on the trading day following the date on which the execution(s) under review occurred. Each member involved in the transaction shall be notified as soon as practicable by FINRA, and a member aggrieved by the action may appeal such action in



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(c) A member requesting review of a transaction pursuant to the above paragraph must certify, in the manner and form prescribed by FINRA, that the subject transaction(s) occurring outside of the applicable price bands disseminated pursuant to the Plan is the result of the member's bona fide technological or systems issue.

Amended by SR-FINRA-2022-008 eff. April 6, 2022.  
Amended by SR-FINRA-2021-026 eff. Oct. 5, 2021.  
Amended by SR-FINRA-2021-004 eff. April 14, 2021.  
Amended by SR-FINRA-2020-036 eff. Oct. 16, 2020.  
Amended by SR-FINRA-2020-008 eff. April 17, 2020.  
Amended by SR-FINRA-2019-025 eff. Oct. 10, 2019.  
Amended by SR-FINRA-2019-011 eff. April 9, 2019.  
Amended by SR-FINRA-2015-034 eff. Dec. 20, 2015.  
Amended by SR-FINRA-2014-021 eff. June 19, 2014.  
Amended by SR-FINRA-2014-013 eff. Mar. 19, 2014.  
Amended by SR-FINRA-2013-041 eff. Sept. 24, 2013.  
Amended by SR-FINRA-2013-012 eff. Jan. 30, 2013.  
Amended by SR-FINRA-2012-038 eff. July 23, 2012.  
Amended by SR-FINRA-2012-005 eff. Jan. 24, 2012.  
Amended by SR-FINRA-2011-039 eff. Aug. 10, 2011.  
Amended by SR-FINRA-2011-037 eff. Aug. 5, 2011.  
Amended by SR-FINRA-2011-014 eff. Mar. 30, 2011.  
Amended by SR-FINRA-2010-065 eff. Dec. 8, 2010.  
Amended by SR-FINRA-2010-032 eff. Sept. 10, 2010.  
Amended by SR-FINRA-2009-068 eff. Feb. 15, 2010.  
Amended by SR-FINRA-2008-037 eff. July 8, 2008.  
Amended by SR-NASD-2006-104 eff. March 5, 2007.  
Amended by SR-NASD-2006-121 eff. Oct. 30, 2006.  
Amended by SR-NASD-2005-087 eff. Aug. 1, 2006.  
Amended by SR-NASD-2006-033 eff. Mar. 1, 2006.  
Amended by SR-NASD-2005-089 eff. Oct. 1, 2005.  
Amended by SR-NASD-2005-115 eff. Sep. 22, 2005.  
Amended by SR-NASD-2004-009 eff. July 27, 2005.  
Amended by SR-NASD-2003-125 eff. Aug. 8, 2003.  
Amended by SR-NASD-2002-127 eff. Jan. 22, 2003.  
Amended by SR-NASD-98-85 eff. Oct. 11, 1999.  
Amended by SR-NASD-98-94 eff. April 26, 1999.  
Amended by SR-NASD-96-51 eff. Feb. 23, 1998.  
Amended June 21, 1991; May 21, 1993.  
Adopted eff. Apr. 2, 1990.

**Selected Notices:** [98-21](#), [99-29](#), [00-10](#), [03-11](#), [10-04](#), [10-43](#), [16-04](#).

## VERSIONS

Apr 06, 2022 onwards



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# 11893. Clearly Erroneous Transactions in OTC Equity Securities

[The Rule](#)
[Notices](#)

## (a) Procedures for Reviewing Transactions

An Executive Vice President of FINRA's Market Regulation Department or Transparency Services Department, or any officer designated by such Executive Vice President, may, on his or her own motion, review any transaction involving an OTC Equity Security arising out of or reported through a trade reporting system owned or operated by FINRA or FINRA Regulation and authorized by the Commission. A FINRA officer acting pursuant to this paragraph may declare any such transaction null and void if the officer determines that (A) the transaction is clearly erroneous, or (B) such actions are necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest; provided, however, that the officer shall take action pursuant to this paragraph as soon as possible after becoming aware of the transaction, but in all cases by 3:00 p.m., Eastern Time, on the next trading day following the date of the transaction(s) at issue. If a FINRA officer acting pursuant to this paragraph declares any transaction null and void, each party involved in the transaction shall be notified as soon as practicable by FINRA, and the party aggrieved by the action may appeal such action in accordance with Rule 11894, unless the officer making the determination also determines that the number of the affected transactions is such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest.

## (b) Clearly Erroneous Factors

### (1) Numerical Guidelines

A transaction in an OTC Equity Security may be found to be clearly erroneous under this Rule only if the execution price of the transaction is away from the Reference Price by an amount that equals or exceeds the Numerical Guidelines set forth below. In some instances, the Numerical Guidelines set forth below are based on a range where the maximum percentage difference applies to the lower execution price in the range and the minimum percentage difference applies to the higher execution price in the range. The range is intended to smooth the percentage changes from tier to tier and allow for more gradual deviations. The Reference Price will generally be the prevailing market price just prior to the time of the trade.

Reference Price	Numerical Guidelines (Subject Transaction's % Difference from the Reference Price)
\$0.9999 and under	20%
\$1.0000 and up to and including \$4.9999	Low end of range minimum 20% – High end of range minimum 10%
\$5.0000 and up to and including \$74.9999	10%
\$75.0000 and up to and including \$199.9999	Low end of range minimum 10% – High end of range minimum 5%
\$200.0000 and up to and including \$499.9999	5%
\$500.0000 and up to and including \$999.9999	Low end of range minimum 5% – High end of range minimum 3%
\$1,000.0000 and over	3%

### (2) Alternative Reference Prices

In unusual circumstances, which may include periods of extreme market volatility, sustained illiquidity, or widespread system issues, FINRA may, in its discretion and with a view toward maintaining a fair and orderly market and the protection of investors and the public interest, use a Reference Price other than the prevailing market price just prior to the time of the trade. Other Reference Prices may include the consolidated inside price, the consolidated opening price, the consolidated prior close, or the consolidated last sale prior to a series of executions.

### (3) Additional Factors

A FINRA officer may also consider additional factors to determine whether a transaction is clearly erroneous, including but not limited to, system malfunctions or disruptions; volume and volatility for the security; derivative securities products that correspond to greater than 100% in the direction of a tracking index; news released for the security; whether trading in the security was recently halted/resumed; whether the security is an IPO; whether the security was subject to a stock-split, reorganization, or other corporate action; overall market conditions; Opening and Late Session executions; validity of the consolidated tapes, trades and quotes; consideration of primary market indications; and executions inconsistent with the trading pattern in the stock. Each additional factor shall be considered with a view toward maintaining a fair and orderly market and the protection of investors and the public interest.

(c) For purposes of this Rule, the term "OTC Equity Security" has the same meaning as defined in Rule 6420, except that the term shall not include any equity security that is traded on any national securities exchange.

### ••• Supplementary Material: \_\_\_\_\_

**.01 Limited Application of Clearly Erroneous Authority to Transactions in OTC Equity Securities.** With respect to OTC Equity Securities in particular, FINRA historically has applied its clearly erroneous authority in only very limited circumstances, for example, where there is an extraordinary event that has had a material effect on the market for the OTC Equity Security and the canceling of trades is necessary to protect investors and ensure a fair and orderly marketplace. This more narrow approach is due to differences in the OTC equity and exchange-listed markets, including the lack of compulsory information flows in the OTC equity market that come as a result of the listing process and the fact that aberrant trading in the OTC equity market is often due to issues other than systems problems or extraordinary events. As a result, in the vast majority of situations relating to OTC Equity Securities, FINRA does not expect to use its clearly erroneous authority; rather, FINRA expects the parties to settle any dispute privately.

Amended by SR-FINRA-2015-034 eff. Dec. 20, 2015.

Amended by SR-FINRA-2010-002 eff. Feb. 15, 2010.

Adopted by SR-FINRA-2009-068 eff. Feb. 15, 2010.

**Selected Notices:** 10-04, 16-04.

### VERSIONS

Dec 20, 2015 onwards





## 11894. Review by the Uniform Practice Code ("UPC") Committee

The Rule

Notices

(a) A member or person associated with a member may appeal a determination to declare a transaction null and void made by a FINRA officer under Rule 11892 or 11893 to the UPC Committee, unless the officer making the determination also determines that the number of the affected transactions is such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest. An appeal must be made in writing, and must be received by FINRA within thirty (30) minutes after the person making the appeal is given the notification of the determination being appealed. Once a written appeal has been received, the counterparty to the trade that is the subject of the appeal will be notified of the appeal and both parties shall be able to submit any additional supporting written information up until the time the appeal is considered by the UPC Committee. Either party to a disputed trade may request the written information provided by the other party during the appeal process. An appeal shall not operate as a stay of the determination being appealed, and the scope of the appeal shall be limited to trades which the person making the appeal is a party. Once a party has appealed a determination to the UPC Committee, the determination shall be reviewed and a decision rendered, unless (1) both parties to the transaction agree to withdraw the appeal prior to the time a decision is rendered, or (2) the party filing the appeal withdraws its appeal prior to the notification of counterparties under this paragraph. Upon consideration of the record, and after such hearings as it may in its discretion order, the UPC Committee, pursuant to the standards set forth in this Rule, shall affirm, modify, reverse, or remand the determination.

(b)(1) With respect to appeals regarding exchange-listed securities, determinations by the UPC Committee pursuant to this Rule will be rendered as soon as practicable, but generally, on the same trading day as the execution(s) under review. On requests for appeal received after 3:00 p.m., Eastern Time, a determination will be rendered as soon as practicable, but in no case later than the trading day following the date of the execution(s) under review.

(2) With respect to appeals regarding OTC Equity Securities, determinations by the UPC Committee pursuant to this Rule will be rendered as soon as practicable, but in no case later than two trading days following the date of the execution(s) under review.

(c) The decision of the UPC Committee pursuant to an appeal, or a determination by a FINRA officer that is not appealed, shall be final and binding upon all parties and shall constitute final action on the matter in issue. Any determination by a FINRA officer pursuant to Rule 11892 or 11893 or any decision by the UPC Committee pursuant to this Rule shall be rendered without prejudice as to the rights of the parties to the transaction to submit their dispute to arbitration.

### **(d) Communications**

(1) All materials submitted pursuant to this Rule shall be submitted in writing within the time parameters specified herein via such telecommunications procedures as FINRA may announce from time to time. Materials shall be deemed received at the time indicated by the equipment (i.e., facsimile or computer) receiving the materials. FINRA, in its sole and absolute discretion, reserves the right to reject or accept any material that is not received within the time parameters specified herein.

(2) FINRA shall provide affected parties with prompt notice of determinations under this Rule via facsimile, electronic mail, or telephone (including voicemail); provided, however, that if an officer nullifies or modifies a large number of transactions pursuant to Rule 11892 or 11893, FINRA may instead provide notice to parties via a press release or any other method reasonably expected to provide rapid notice to many market participants.

(e) For purposes of this Rule and other FINRA rules that permit review of FINRA decisions by the UPC Committee, a decision of the UPC Committee may be rendered by a panel of that Committee. The panel shall consist of three or more members of the UPC Committee, provided that no more than 50 percent of the members of any panel are directly engaged in market making activity or employed by a member with revenues from market making activity that exceed ten percent of its total revenues.

Amended by SR-FINRA-2009-068 eff. Feb. 15, 2010.  
Amended by SR-FINRA-2008-037 eff. July 8, 2008.  
Amended by SR-NASD-2006-104 eff. March 5, 2007.  
Amended by SR-NASD-2006-121 eff. Oct. 30, 2006.  
Amended by SR-NASD-2005-087 eff. Aug. 1, 2006.  
Amended by SR-NASD-2006-033 eff. Mar. 1, 2006.  
Amended by SR-NASD-2005-089 eff. Oct. 1, 2005.  
Amended by SR-NASD-2005-115 eff. Sep. 22, 2005.  
Amended by SR-NASD-2004-009 eff. July 27, 2005.  
Amended by SR-NASD-2003-125 eff. Aug. 8, 2003.  
Amended by SR-NASD-2003-080 eff. May 6, 2003.  
Amended by SR-NASD-2002-127 eff. Jan. 22, 2003.  
Amended by SR-NASD-98-85 eff. October 11, 1999.  
Amended by SR-NASD-98-94 eff. April 26, 1999.  
Amended by SR-NASD-96-51 eff. Feb. 23, 1998.  
Amended June 21, 1991; May 21, 1993.  
Adopted eff. Apr. 2, 1990.

**Selected Notices:** 98-21, 99-29, 00-10, 03-11, 10-04.

## 11900. Clearance of Corporate Debt Securities

(a) Each member or its agent that is a participant in a registered clearing agency, for purposes of clearing over-the-counter securities transactions, shall use the facilities of a registered clearing agency for the clearance of eligible transactions between members in corporate debt securities.

(b) Paragraph (a) of this Rule does not apply to a transaction between members (the "parties") whose accounts are carried by a member (the "carrying member") that clears and settles the transaction through book-keeping transfers between the parties' accounts at the carrying member.

(c) Pursuant to the Rule 9600 Series, FINRA may exempt any transaction or class of transactions in corporate debt securities from the provision of this Rule as may be necessary to accommodate special circumstances related to the clearance of such transactions or class of transactions.

Amended by SR-FINRA-2020-002 eff Feb. 16, 2020.  
Amended by SR-FINRA-2010-030 eff. Dec. 15, 2010.  
Amended by SR-NASD-97-28 eff. Aug. 7, 1997.  
Adopted by SR-NASD-95-11 eff. June 30, 1995.

**Selected Notices:** 95-46, 10-49.

### VERSIONS

Feb 16, 2020 onwards