

## 4540. Reporting Requirements for Clearing Firms

(a) Each member that is a clearing firm or self-clearing firm shall be required to report to FINRA in such format as FINRA may require, prescribed data pertaining to the member and any member broker-dealer for which it clears. A clearing firm or self-clearing firm may enter into an agreement with a third party pursuant to which the third party agrees to fulfill the obligations of a clearing firm or self-clearing firm under this Rule. Notwithstanding the existence of such an agreement, each clearing firm or self-clearing firm remains responsible for complying with the requirements of this Rule.

(b) Each member that is a clearing firm is required to report prescribed data to FINRA under this Rule in such a manner as to enable FINRA to distinguish between data pertaining to all proprietary and customer accounts of an introducing member and data pertaining to all proprietary and customer accounts of any member for which the introducing member is acting as an intermediary in obtaining clearing services from a clearing firm. The reporting requirements of this paragraph (b) shall apply to the proprietary and customer accounts of members that have established an intermediary clearing arrangement with an introducing member on or after February 20, 2006.

(c) Pursuant to the Rule 9600 Series, FINRA may in exceptional and unusual circumstances, taking into consideration all relevant factors, exempt a member or class of members unconditionally or on specified terms from any or all of the provisions of this Rule that it deems appropriate.

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••• **Supplementary Material:** -----

(a) Upon written request for exemptive relief pursuant to the Rule 9600 Series, FINRA generally will grant an exemption from the reporting requirements of Rule 4540 to a self-clearing firm that:

(1) derives, on an annualized basis, at least 85 percent of its revenue from transactions in fixed income securities;

(2) conducts an institutional business that settles transactions on an RVP/DVP basis, provided that such exemption from reporting shall apply only with respect to such institutional business unless FINRA determines that any other remaining business otherwise qualifies for an exemption under this supplementary material or is *de minimis* in nature; or

(3) does not execute transactions for customers or otherwise hold customer accounts or act as an introducing broker with respect to customer accounts (e.g., that engages solely in proprietary trading, or that conducts business only with other broker-dealers or any other non-customer counter-parties).

(b) Upon written request for exemptive relief pursuant to the Rule 9600 Series, FINRA also generally will grant an exemption to a clearing firm with respect to one or more of the introducing firms for which it clears if the introducing firm meets one of the above-stated grounds for exemptive relief.

(c) Any self-clearing firm that, due to a change in the facts pertaining to the operation and nature of its business or the operation and nature of the business of a firm for which it clears, as applicable, no longer qualifies for an exemption previously granted by FINRA from the reporting requirements of Rule 4540 must promptly report such change in circumstances to FINRA, and commence compliance with the reporting requirements of Rule 4540.

Amended by SR-FINRA-2019-009 eff. May 8, 2019.  
Amended by SR-NASD-2005-058 eff. Feb. 20, 2006.  
Amended by SR-NASD-2004-014 eff. Feb. 20, 2004.  
Adopted by SR-NASD-2001-19 eff. Dec. 10, 2001.

**Selected Notice:** 01-84, 04-24, 05-72.

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# 4551. Requirements for Alternative Trading Systems to Record and Transmit Order and Execution Information for Security Futures

The Rule

Notices

## (a) Alternative Trading Systems' Recording Requirements

(1) Each alternative trading system that accepts orders for security futures (as defined in Section 3(a)(55) of the Exchange Act) shall record each item of information described in paragraph (b) of this Rule. For purposes of this Rule, the term "order" includes a broker-dealer's proprietary quotes that are transmitted to an alternative trading system.

(2) Alternative trading systems shall record each item of information required to be recorded under this Rule in such manner and form as is prescribed by FINRA from time to time.

### (3) Maintaining and Preserving Records

(A) Each alternative trading system shall maintain and preserve records of the information required to be recorded under this Rule for the period of time and accessibility specified in SEA Rule 17a-4(b).

(B) The records required to be maintained and preserved under this Rule may be immediately produced or reproduced on "micrographic media" as defined in SEA Rule 17a-4(f)(1)(i) or by means of "electronic storage media" as defined in SEA Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEA Rule 17a-4(f) and may be maintained and preserved for the required time in that form.

## (b) Information to be Recorded.

The records required pursuant to paragraph (a) of this Rule shall contain, at a minimum, the following information for every order:

- (1) Date and time (expressed in terms of hours, minutes and seconds) that the order was received;
- (2) Security future product name and symbol;
- (3) Number of contracts to which the order applies;
- (4) An identification of the order as related to a program trade or an index arbitrage trade as defined in New York Stock Exchange Rule 132B;
- (5) The designation of the order as a buy or sell order;
- (6) The designation of the order as a market order, limit order, stop order, stop limit order or other type of order;
- (7) Any limit or stop price prescribed by the order;
- (8) The date on which the order expires and, if the time in force is less than one day, the time when the order expires;
- (9) The time limit during which the order is in force;
- (10) Any instructions to modify or cancel the order;
- (11) Date and time (expressed in terms of hours, minutes and seconds) that the order was executed;
- (12) Unit price at which the order was executed; excluding commissions, mark-ups or mark-downs;
- (13) Size of the order executed;
- (14) Identity of the alternative trading system's subscribers that were intermediaries or parties in the transaction; and
- (15) An account identifier that relates the order back to the account owner(s).

## (c) Reporting Requirements

- (1) General Requirement

Alternative trading systems shall report information required to be recorded under this Rule to FINRA on the next business day following the date the alternative trading system accepted the order or executed the trade, or at such other time period as FINRA shall specify.

(2) Method of Transmitting Data

Alternative trading systems shall transmit this information in such manner and form as prescribed by FINRA.

Amended by SR-FINRA-2009-016 eff. Aug. 17, 2009.  
Adopted by SR-NASD-2001-47 eff. March 31, 2003.

**Selected Notice:** 09-33.



## 4560. Short-Interest Reporting

The Rule

Notices

(a) Each member shall maintain a record of total "short" positions in all customer and proprietary firm accounts in all equity securities (other than Restricted Equity Securities as defined in Rule 6420) and shall regularly report such information to FINRA in such a manner as may be prescribed by FINRA. Reports shall be received by FINRA no later than the second business day after the reporting settlement date designated by FINRA.

(b) Members shall record and report all gross short positions existing in each individual firm or customer account, including the account of a broker-dealer, that resulted from (1) a "short sale," as that term is defined in Rule 200(a) of SEC Regulation SHO, or (2) where the transaction(s) that caused the short position was marked "long," consistent with SEC Regulation SHO, due to the firm's or the customer's net long position at the time of the transaction. Members shall report only those short positions resulting from short sales that have settled or reached settlement date by the close of the reporting settlement date designated by FINRA.

(c) The recording and reporting requirements of this Rule shall not apply to:

(1) any sale by any person, for an account in which he has an interest, if such person owns the security sold and intends to deliver such security as soon as is possible without undue inconvenience or expense; and

(2) any sale by an underwriter, or any member of a syndicate or group participating in the distribution of a security, in connection with an over-allotment of securities, or any lay-off sale by such a person in connection with a distribution of securities through rights or a standby underwriting commitment.

Amended by SR-FINRA-2012-001 eff. Nov. 30, 2012.  
Amended by SR-FINRA-2010-003 eff. June 28, 2010.  
Amended by SR-FINRA-2008-057 eff. Dec. 15, 2008.  
Amended by SR-FINRA-2008-033 eff. Dec. 15, 2008.  
Amended by SR-NASD-2006-131 eff. Sept. 6, 2007.  
Amended by SR-NASD-2007-047 eff. July 6, 2007.  
Amended by SR-NASD-2005-087 eff. Aug. 1, 2006.  
Amended by SR-NASD-2005-112 eff. July 3, 2006.  
Amended by SR-NASD-2005-001 eff. Jan. 7, 2005.  
Amended by SR-NASD-2002-178 eff. Dec. 16, 2002.  
Amended by SR-NASD-94-67 eff. May 1, 1995.  
Amended by SR-NASD-87-23 eff. Aug. 31, 1987.  
Adopted by SR-NASD-85-34 eff. Jan. 20, 1986.

**Selected Notices:** 85-77, 85-87, 86-4, 86-15, 86-61, 87-15, 95-8, 03-08, 07-24, 07-31, 08-57, 10-26, 12-38.

### VERSIONS

Nov 30, 2012 onwards

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## 4570. Custodian of Books and Records

The Rule

Notices

### (a) Designation of Custodian

A member that files a Form BDW shall designate on the Form BDW, as the custodian of the member's books and records: (i) a person associated with the member at the time that the Form BDW is filed; or (ii) another FINRA member.

### (b) Obligations of Custodians

The custodian designated on the Form BDW shall preserve the books and records of the member that filed the Form BDW for the remainder of the applicable retention periods under FINRA and Exchange Act rules and make such records available for inspection by FINRA upon request. Further, the custodian shall preserve and produce such books and records in the same manner in which they were received from the member that filed the Form BDW.

Where a member has agreed to act as custodian of the books and records of another member that has filed a Form BDW, the member that has agreed to act as custodian shall: (i) treat such books and records as if they were its own books and records; and (ii) arrange upon its dissolution for such books and records to continue to be retained for the remainder of the applicable retention periods under FINRA and Exchange Act rules in the same manner as its own books and records consistent with this Rule.

### (c) Consent Requirement

A member that is filing a Form BDW shall, before the submission of the form, obtain from the person designated on the form as custodian of the member's books and records the person's affirmative consent to act in such a capacity. Prior to obtaining a custodian's consent, such member shall inform the custodian of its obligations under the Exchange Act and FINRA Rules, including this Rule.

A person designated on a Form BDW as custodian of a member's books and records shall, at the time that the Form BDW is filed, represent to FINRA, in a method prescribed by FINRA, that the person: (i) consented to act as a custodian; (ii) understands the responsibilities of a custodian; and (iii) shall provide to FINRA upon request during the course of the required retention periods the books and records of the member for which the person is acting as a custodian.

### ••• Supplementary Material: -----

**.01 Converting Records to Other Acceptable Formats.** Nothing in paragraph (b) of this Rule shall preclude the custodian from converting a record from a format acceptable under FINRA and Exchange Act rules to another format acceptable under such rules (e.g., converting from paper to electronic storage media), provided that such records are not altered or deleted during the conversion process.

**.02 Members Acting as Custodians.** Nothing in paragraph (b) of this Rule shall require a member that is acting as custodian to verify the completeness or accuracy of the books and records that it is receiving from the member that filed the Form BDW.

Amended by SR-FINRA-2018-039 eff. Aug. 19, 2019.  
Amended by SR-FINRA-2009-080 eff. April 19, 2010.  
Adopted by SR-NASD-99-76 eff. Sept. 11, 2000.

**Selected Notices:** 00-56, 10-10, 19-16.

### VERSIONS

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## 4580. Books and Records Requirements for Government Distribution and Solicitation Activities

(a) A covered member that engages in distribution or solicitation activities with a government entity on behalf of any investment adviser that provides or is seeking to provide investment advisory services to such government entity shall maintain books and records that pertain to Rule 2030, including a list or other record of:

(1) The names, titles and business and residence addresses of all covered associates of the covered member;

(2) The name and business address of each investment adviser on behalf of which the covered member has engaged in distribution or solicitation activities with a government entity within the past five years, but not prior to August 20, 2017;

(3) The name and business address of all government entities with which the covered member has engaged in distribution or solicitation activities for compensation on behalf of an investment adviser, or which are or were investors in any covered investment pool on behalf of which the covered member has engaged in distribution or solicitation activities with the government entity on behalf of the investment adviser to the covered investment pool, within the past five years, but not prior to August 20, 2017; and

(4) All direct or indirect contributions made by the covered member or any of its covered associates to an official of a government entity, or direct or indirect payments to a political party of a state or political subdivision thereof, or to a political action committee.

(b) Records relating to the contributions and payments referred to in paragraph (a)(4) must be listed in chronological order and indicate:

(1) The name and title of each contributor;

(2) The name and title (including any city/county/state or other political subdivision) of each recipient of a contribution or payment;

(3) The amount and date of each contribution or payment; and

(4) Whether any such contribution was the subject of the exception for certain returned contributions pursuant to Rule 2030.

(c) The terms used in this Rule 4580 shall have the same meaning as defined in Rule 2030.

(d) Any book or other record made, kept, maintained and preserved in compliance with SEA Rules 17a-3 and 17a-4, or with rules adopted by the Municipal Securities Rulemaking Board, which are substantially the same as the book or other record required to be made, kept, maintained and preserved under this Rule, shall be deemed to be made, kept, maintained and preserved in compliance with this Rule.

Adopted by SR-FINRA-2015-056 eff. Aug. 20, 2017.

**Selected Notice:** 16-40



## 4590. Synchronization of Member Business Clocks

(a) Each member shall synchronize its business clocks, including computer system clocks and mechanical time stamping devices, that are used for purposes of recording the date and time of any event that must be recorded pursuant to the FINRA By-Laws or other FINRA rules, with reference to a time source as designated by FINRA, and shall maintain the synchronization of such business clocks in conformity with such procedures as are prescribed by FINRA.

(b) Business clocks, including computer system clocks and manual time stamp machines, must record time in hours, minutes and seconds and must be synchronized to a source that is synchronized to within a one second tolerance of the National Institute of Standards' (NIST) atomic clock, except that computer system clocks that are used to record events in NMS securities, including standardized options, and OTC Equity Securities as that term is defined in FINRA Rule 6420, must be synchronized within a 50-millisecond tolerance of the NIST clock. This tolerance includes all of the following:

- (1) The difference between the NIST standard and a time provider's clock;
- (2) Transmission delay from the source; and
- (3) The amount of drift of the member's clock.

(c) Computer system and mechanical clocks must be synchronized every business day before market open to ensure that recorded event timestamps are accurate. To maintain clock synchronization, clocks must be checked against the standard clock and re-synchronized, as necessary, throughout the day.

### ••• Supplementary Material: -----

**.01** Members must document and maintain their clock synchronization procedures. Among other requirements, members must keep a log of the times when they synchronize their clocks and the results of the synchronization process. This log should include notice of any time the clock drifts more than the tolerance specified in paragraph (b) of this Rule. This log should be maintained for the period of time and accessibility specified in SEC Rule 17a-4(b), and it should be maintained and preserved for the required time period in paper format or in a format permitted under SEC Rule 17a-4(f).

Amended by SR-FINRA-2016-005 eff. Aug. 15, 2016.  
Amended by SR-FINRA-2008-021 eff. Dec. 15, 2008.  
Adopted by SR-NASD-97-56 eff. according to schedule in Rule 6957.

**Selected Notices:** 98-33, 08-57, 16-23.

### VERSIONS

Aug 15, 2016 onwards