

FINRA's Monthly Recap

November, 2016

KEP Hello and welcome to FINRA's monthly recap podcast. From Washington, D.C., I'm Kenneth Edward Piner.

MW And I'm Micah Waters. Today is December 1, 2016.

KEP First up, we have Notices.

MW FINRA announced that its 2017 Broker-Dealer Investment Advisor and Branch Renewal Program began November 14. That day, FINRA made preliminary statements available to all firms in E-Bill. As described in Regulatory Notice 1642, firms may now submit the necessary forms and filings using Web CRD/IARD, and payments are due by December 16, 2016. If full payment isn't made by the due date, firms will incur a late fee, and it could make them ineligible to do business in registered jurisdictions starting January 1, 2017.

KEP The SEC approved a rule amendment to create a new academic corporate bond trace data product. Starting February 27, 2017, FINRA will make available for a fee to higher-educational institutions the Academic Corporate Bond TRACE Data Product with enhanced historical trace data. As detailed in Regulatory Notice 16-43, this is a new product available just to educational institutions to support research on corporate bonds through access to enhanced historical, transaction-level TRACE data. The data will mask dealer identity and be delayed 36 months. The new product costs \$500 per year, with a one-time \$500 set-up fee.

MW Turning to Reminders for Firms, on Monday, December 5, 2016, the TRACE New Issue Form will be modified. It's available on the FINRA Firm Gateway and will now allow firms to upload a file containing multiple corporate bonds, notes or debentures. But please note, all forms in DRAFT status up until Friday, December 2, 2016 will be deleted prior to the new release.

KEP On November 8, 2016, the SEC's Division of Trading and Markets issued a No-Action Letter providing limited relief from the negative impact on net capital resulting from a recently adopted standard issued by the Financial Accounting Standards Board on Treatment of Assets and Liabilities Arising from an Operating Lease. You can read the full letter on the SEC's website.

MW FINRA made available a video recording of a session from its recent Small Firm Conference. The session is on the Labor Department's Fiduciary Rule, which is a top-of-mind issue for many firms. During the session, panelists, including two small-firm CEOs and a Labor Department representative, provided an overview of fiduciary requirements and discussed how firms can meet their fiduciary responsibilities. You can find the video on FINRA's website.

KEP FINRA introduced its new Tick Size Pilot Market-Maker Compliance Report Card within the Report Center. This daily report acts as a compliance tool for Tick Size market-making firms to review the required submissions under the Tick Size PILOT Program. It provides a view into data provided on any given trading day, and allows firms to monitor potential reporting issues on a monthly rolling basis. You will also find more details on market-maker reporting requirements in the Market-Maker Transaction Reporting

Specification Guide. You can learn more or subscribe to the report by visiting the Report Center on our website.

MW FINRA reminded firms it maintains a Cybersecurity Issues Center on its website that's been updated throughout the year with new resources, including a cybersecurity checklist for small firms and an investor alert offering tips on account security. In addition, the page includes several non-FINRA resources firms can use to manage their cybersecurity risk, like news and analysis, effective practices and guidance, low-cost and free diagnostic tools and training and threat simulation vendors.

KEP Wrapping up our reminders, FINRA extended the due dates for certain financial and operations reports filings to better align with the Federal calendar. You can find the new dates detailed in the Firm Gateway.

MW Next, we look at educational opportunities, starting with a new e-learning course about Annual Compliance Reminders for Institutional Registered Representatives. The course is the fourth volume in an annual series which uses scenarios adapted from actual FINRA disciplinary actions to remind institutional registered representatives of compliance obligations. This one covers private securities transactions, use of social media, conflicts of interest, ethical behavior and customer complaints.

KEP Registration is now open for the 2017 edition of the FINRA Institute at Wharton's Certified Regulatory and Compliance Professional Program. Often called CRCP for short, it provides an executive educational experience that covers the theory and practical application of securities laws and regulation through intensive instruction, discussion and case studies. It includes two week-long residential courses hosted at the Wharton School

at the University of Pennsylvania in Philadelphia. The first week covers the Foundation and runs July 16th through the 21st, then the second week is called the Capstone and runs November 12th through 17th.

MW FINRA also released the first three episodes of its four-part Fall 2016 Firm Element Advisory Podcast series. It covers things firms should consider when planning their Firm Element training, like transaction reporting, data dissemination and new communications rules. And as FINRA's Dana Motske explains, a new communication rule has new requirements for firms.

DM A new rule, which became effective November 11, requires a firm that hires or associates with a registered representative to provide certain former customers of the representative, individually, in paper or electronic form, an educational communication prepared by FINRA. It must be provided if the firm individually contacts a former customer of that representative to transfer assets, or if that representative's former customer, absent individual contact, transfers assets to an account assigned or to be assigned to the representative at the firm.

KEP Last but not least, we have a reminder that the 2017 FINRA Annual Conference is coming up in Washington, D.C., May 16th through the 18th. It's a three-day event to discuss key issues affecting the securities industry with leaders from all firm sizes, securities attorneys, government officials and securities regulators. The first 500 people to register will receive a discounted rate for in-person attendance. You can visit the Education section of our website to register for any of the items highlighted or to listen to our recent podcasts.

MW Now let's look at Investor News. Using data from the FINRA Investor Education Foundation's 2016 National Financial Capabilities Study, a new study by the Global Financial Literacy Excellence Center found that many student borrowers struggle to make their loan payments. But more importantly, many now regret borrowing for their educations. The Center said most borrowers did not fully understand what they were taking on when they obtained student loans, and 54% did not try to figure out what their monthly payments would be before taking out their loans. Nearly half of all young Americans start their careers with student debt, and outstanding student debt has increased to \$1.3 trillion. This is more than five times what it was in 2003. The study found student loan debt levels could impede financial stability for both individuals and the broader economy.

KEP Following concerns raised by FINRA's Securities Helpline for Seniors, the Commodities Futures Trading Commission, the SEC and FINRA issued a warning to investors about the risk of so-called binary options. Unlike other types of options contracts, binary options are all-or-nothing propositions. They either make a pre-specified amount of money or nothing at all, so the full investment could be lost. FINRA warns that binary options are made even riskier by fraud, which often originates outside of the U.S. FINRA cautions those who are considering binary options to be particularly wary of non-U.S. companies. And investors should be alert to signs of fraud, like pressure to send additional funds and excuses why a firm cannot credit gains to a customer's account, close an account or send purported gains to the investor.

MW And in the latest installment of our Investor Education Podcast series, we look at the benefits of money-market accounts over traditional savings accounts. And as FINRA's

Pete Chandler explains, one of the primary advantages of these accounts is they are federally insured, just like a savings account.

PC That means your savings are guaranteed by the U.S. Government. With this protection, your deposits are secure up to the maximum coverage Congress has approved, even if your bank or credit union goes out of business.

KEP In FINRA News, FINRA named Stephen Cutler as a Large-Firm Governor on its Board of Governors. Cutler is currently Vice-Chairman of JPMorgan Chase and Co. and was appointed to complete the term of former Governor Gregory Fleming, who resigned his seat earlier this year.

MW FINRA fined eight firms a total of \$6.2 million for failing to supervise shares of L-share variable annuities. FINRA also ordered five of the firms to pay more than \$6 million to customers who purchased these variable annuities with potentially incompatible, complex and expensive long-term minimum-income and withdrawal riders. The L-share variable annuities in question combine insurance and security features designed for short-term investors who are willing to pay higher fees in exchange for shorter surrender periods. But they also potentially pay greater compensation to the firms than more traditional share classes. FINRA found the firms in this action lacked adequate supervisory systems and failed to provide its registered representatives and principals with reasonable suitability guidance. These failures were compounded by the fact that the shares in question were burdened with complex and expensive guaranteed-income and withdrawal riders.

KEP FINRA fined Oppenheimer and Co., Inc. \$1.575 million and ordered it to pay \$1.85 million to customers for failing to report required information to FINRA, failing to produce documents and discovery to customers who filed arbitrations, and for not applying applicable sales-charge waivers to customers. FINRA found that over several years, the firm failed to timely report to FINRA more than 350 required filings, including securities-related regulatory findings, disciplinary actions taken by Oppenheimer against its employees, and settlements of securities-related arbitration and litigation claims, among other findings.

MW FINRA also fined Houston-based VALIC Financial Advisors, Inc. a total of \$1.75 million for failing to identify and reasonably address certain conflicts of interest in the firm's compensation policy. This related to instances when customers elected to move assets out of their VALIC variable annuities, and to adequately supervise its variable-annuity business. FINRA found that from 2011 through 2014, the firm created a conflict of interest by providing financial incentive to reps for recommending that customers move funds from VALIC variable annuities to the firm's fee-based platform or into its fixed-index annuity. The firm further incentivized the conflict by prohibiting its registered reps from receiving compensation when moving customer funds from VALIC variable annuities to non- VALIC variable annuities, mutual funds or other products.

KEP The FINRA Investor Education Foundation announced a new prize will be named for Rick Ketchum, FINRA's recently retired Chairman and Chief Executive Officer and former FINRA Foundation Chairman. The prize acknowledges Ketchum's leadership in securities regulation over his three-decade-long career. It will honor people who show

outstanding service and provide research to advance investor protection and financial capability in the United States.

MW Well that's it for another FINRA Monthly Recap. We hope you found it helpful and will share it with your colleagues.

KEP Until next time, I'm Kenneth Edward Piner.

MW And I'm Micah Waters.

KEP Thanks for listening.