

Podcast: FINRA's Monthly Recap – November 2015

- KC: Hello and welcome to FINRA's monthly recap podcast from Washington, D.C. I'm Kristy Croushore.
- KP: And I'm Kenneth Edward Piner. Today is December 1, 2015.
- KC: We begin with Notices. FINRA now requires electronic submission of subordination approval requests. Regulatory Notice 15-42 details the submission process. The change became effective November 30 so now all new requests must be submitted electronically.
- KP: FINRA filed a rule with the Securities and Exchange Commission for authority to designate firms for mandatory participation and FINRA's business continuity and disaster recovery testing as required by Regulation SCI. As detailed in Regulatory Notice 1543, the rule also sets up standards for the annual testing.
- KC: FINRA and other US members of the Intermarket Surveillance Group extended the effective date for certain data elements for electronic blue sheets to November 1, 2017. The extension is consistent with exemptive relief the SEC granted. You can learn more about it in Regulatory Notice 1544.
- KP: The SEC approved of FINRA's proposal to establish a registration category and qualification examination requirement for securities traders and securities trader principals. You can check out Regulatory Notice 1545 for details on the Series 57 exam and the new registration category implementation. Candidates can start scheduling to take the exam January 4, 2016.
- KC: FINRA issued guidance on best execution in equity, options and fixed income markets. As detailed in Regulatory Notice 1546, the guidance reminds firms of their obligations to provide best execution, reiterate best execution practices and emphasize that firms must regularly and rigorously examine execution quality.
- KP: The SEC approved amendments to require firms to add a "no remuneration" indicator to trace trade reports. The changes require an indicator when those reports don't reflect a commission or markup/markdown. They go into effect May 23, 2016. You can check out Regulatory Notice 1547 to learn more about the changes.
- KC: The SEC also approved amendments to publish over-the-counter equity volume executed outside alternative trading systems. Beginning April 18, 2016, data as of April 4 will be available on FINRA's website. You can get a lot more detail behind the amendments in Regulatory Notice 1548.
- KP: The SEC also approved changes to reduce the waiting period for the release of details reported on Form U5 through broker check. As described in Regulatory Notice 1549, the amendments move the waiting period from 15 days to three business days for certain details. The changes go into effect December 12.

- KC: Starting January 4, the Regulatory Element Program will be available online for the S101, and FINRA's revising the program to include a self-selection module based on job function. You can find out more about the online program in a November 4 information notice.
- EP: FINRA reminded firms there was an earlier exercise cut-off time for weekly options that expired the Friday after Thanksgiving because the exchanges closed early. Even though it already happened, it's worth noting as an example of a FINRA rule that says if a national options exchange or the options clearing corporation announces a modified time for the close of trading in standardized equity options, then the deadline for an option holder to make a final decision to exercise an expiring option, will be 1-1/2 hours after the close of trading instead of the usual 5:30 timing. You can learn more about this in a November 24 information notice.
- KC: Next up, resources for firms. As a reminder, December 18 is the payment deadline for preliminary renewal statements. This annual program simplifies the registration renewal process with FINRA and other participating regulators by requiring a single payment to FINRA.
- EP: FINRA made available a new RSS feed for uniform practice code advisories. You can subscribe on our website to get alerts when FINRA posts those advisories.
- KP: FINRA's executive vice president of market regulation, Thomas Gira, spoke about the national market system at Baruch College's financial markets conference. You can read his remarks on our website.
- EP: Moving now to education, FINRA released the first podcast in a four-part series about new research-conflicts rules. It goes over the background leading to a consolidated-equity-research rule and a new debt-research rule and it covers some of the provisions of the equity one. As FINRA's Phil Shaken explains, one of those provisions aims to limit investment bankers from reviewing or approving research reports.
- The rule modifies the restrictions on research-report pre-publication review, clearance or other approval by investment bankers or anyone else not directly responsible for their preparation, content or distribution.
- KC: FINRA also released a new e-learning course about private-securities transactions. It guides supervisors through scenarios to help them learn to identify private-securities transactions. And it teaches about appropriate actions to take before engaging in them.
- EP: And FINRA released a one-hour free webinar about small firms' cybersecurity. In it panelists from FINRA and small firms talk about best practices and the popular national institute of standards and technology framework and they cover recognizing and responding to cyber attacks.
- KC: Sticking with cybersecurity, FINRA's 2016 cybersecurity conference will be held February 11 in New York City. Panels will cover topics like recognizing vulnerabilities

the range of potential threats and how to recover if attacked. The agenda and session descriptions are now available.

- EP: FINRA's 2016 annual conference is set for May 23 through 25 in Washington, D.C. At it, you can join leaders from firms of all sizes as well as securities attorneys, government officials and senior leaders from FINRA and other regulators to discuss the most important issues affecting the securities industry.
- KC: You can register for these events and find other resources on the education section of our website.
- PS: Next up, FINRA news. FINRA fines Scottrade for significant failures in required electronic records and email retention. The firm failed to retain a large number of securities-related electronic records in the required format, and it failed to retain certain categories of outgoing emails. Scottrade also lacked a reasonably designed supervisory system for books and records. For three years, the firm lacked centralized document-retention policies and procedures and no one was assigned responsibility for compliance with books-and-records rules. And the firm failed to save some documents and emails as required to prevent alteration in a non-rewritable non-erasable format. As a result of the violations, FINRA fined Scottrade more than two-and-a-half million dollars.
- KC: FINRA also fined Deutsch Bank Securities for violating regulation show and short-interest reporting rules. For over ten years, the firm had been improperly including securities positions of a non-U.S. broker dealer affiliate in numerous aggregation units when determining each unit's net position, and FINRA found for eight years Deutsch Bank reported the netted positions in its financial-aggregation account as the firm's short-interest positions for the day, when they should have reported gross. As a result, FINRA fined the firm nearly one-and-a-half million dollars.
- EP: FINRA filed a complaint charging Cantone Research's president with fraud in connection with sales and subsequent extensions of more than \$8 million of certificates of participation in five promissory notes. Four of those five have defaulted so far resulting in about \$6 million of investor losses. This while the president and the firm received fees, commissions, and other payments totaling over \$1 million. The complaint also alleges the firm's chief compliance officer failed to supervise the firm's president. And it claims he and the firm misrepresented or failed to disclose material facts to investors and prospective investors, including that the executor of the promissory notes had previously been indicted for racketeering, theft and Medicare fraud. Now that FINRA has filed a complaint, the firm, its president and the CCO can respond and request a disciplinary hearing.
- KC: And now for investor news. FINRA released a new investor podcast about redistributing your portfolio. It talks about redistribution strategies and their upsides and downsides. And as FINRA's Neal Alvarado explains, portfolios can drift out of balance over time. Over time, assets can grow at different rates. This can be true even for short periods, and this means your portfolio might end up out of line with your desired asset allocation.

This can happen if the market-performance of one type of asset is particularly strong or particularly weak.

EP: FINRA issued an investment alert about fake IRS scams. It emphasizes how scammers use emotional manipulation strategies to steal money or personal information over the phone and it lists things the IRS will not do, which can act as red flags that something is amiss.

KC: And that's it for the November recap. We hope you found this podcast helpful and that you'll share it with your colleagues.

EP: Until next time, for all of us at FINRA, I'm Kenneth Edward Piner.

KC: And I'm Kristy Croushore.

EP: Thanks for listening.