

Corporate & Financial Weekly Digest

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SEC Approves FINRA's Consolidated Financial Responsibility and Related Operational Rules

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The Securities and Exchange Commission approved the Financial Industry Regulatory Authority's proposed consolidated rules regarding financial responsibility and related operational rules. FINRA Rules 4150, 4311, 4522 and 4523 (Consolidated Rules) are partially derived from and replace certain provisions in the New York Stock Exchange and National Association of Securities Dealers Rules. The Consolidated Rules, together with those consolidated financial responsibility rules that the SEC approved in late 2009, were adopted to permit FINRA to better effectuate "its financial and operational surveillance and examination programs." The Consolidated Rules are effective as of August 1.

A summary of each of the Consolidated Rules follows:

FINRA Rule 4150 (Guarantees by, or Flow Through Benefits for, Members)—Requires members to provide FINRA prior written notice before a member guarantees, endorses or assumes, directly or indirectly, a third party's obligations or liabilities. The rule also requires members to obtain FINRA's prior written approval before a member receives flow through capital benefits under SEC Rule 15c3-1.

FINRA Rule 4311 (Carrying Agreements)—Sets forth the requirements for members entering into agreements for the carrying of any customer accounts in which a securities transaction can be effected (each, a Carrying Agreement). Generally, the rule prohibits a member from entering into a Carrying Agreement, on an omnibus or fully disclosed basis, unless the Carrying Agreement meets certain financial responsibility and other requirements (such as allocation of a variety of obligations between the parties) and is with a carrying firm that is a FINRA member.

FINRA Rule 4522 (Periodic Security Counts, Verifications and Comparisons)—Requires members subject to SEC Rule 17a-13 to make the counts, examinations, verifications, comparisons and entries set forth therein. Carrying or clearing members subject to the SEC rule are required to make such counts, examinations, verifications, comparisons and entries more frequently where prudent business practice so requires.

FINRA Rule 4523 (Assignment of Responsibility for General Ledger Accounts and Identification of Suspense Accounts)—Intended to ensure the accuracy of members' books and records and includes supervisory measures for their implementation. The new rule mandates that members designate an associated person (1) to be responsible for each general ledger bookkeeping account, (2) control and supervise entries into each such account, and (3) ensure that the account is current and accurate. A supervisor must review each account for accuracy at least once per month. The rule also requires that carrying or clearing members maintain records of the names of each individual assigned primary or supervisory responsibility for each account. Lastly, the rule requires members to maintain a suspense account in which money charges or credits and receipts or deliveries of securities whose disposition is pending determination are recorded.

Click [here](#) to read FINRA Regulatory Notice 11-26.

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