

Regulatory Notice

21-05

Annual Reports

SEC Grants FINRA Request for 30-Day Filing Extension for Smaller Broker-Dealers

Effective Date: Immediate

Summary

The SEC has issued an Order¹ that permits specified FINRA members an additional 30 calendar days for filing their annual reports as required pursuant to SEA Rule 17a-5(d), subject to certain conditions. The SEC's Order is in response to a request by FINRA that is designed to ease potential burdens that smaller members may face in obtaining audit services. Members that meet the conditions set forth in the SEC's Order and wish to avail themselves of the 30-day extension must provide notification to FINRA as described further in this *Notice*.

The SEC's Order is immediately effective, so members that meet the conditions set forth in the Order may avail themselves of the extension beginning with the current filing cycle for their December 31, 2020, and January 31, 2021, annual reports.

Questions regarding this *Notice* may be directed to your FINRA Risk Monitoring Analyst.

Background & Discussion

SEA Rule 17a-5(d)(1)(i) requires that, other than as provided pursuant to specified exceptions under the rule, every broker or dealer registered under SEA Section 15 must file annually reports (the "annual reports") as set forth under the rule. Paragraph (d)(5) of Rule 17a-5 requires that the annual reports must be filed not more than 60 calendar days after the end of the fiscal year of the broker or dealer.²

In its request to the SEC, FINRA noted that smaller broker-dealers may face potential burdens in obtaining audit services and that permitting an additional 30 days to file the annual reports may help to reduce these burdens. In response to FINRA's request, the SEC's Order grants an additional 30 calendar days for filing the annual reports to each FINRA member that meets the following conditions:

February 18, 2021

Notice Type

- Guidance

Suggested Routing

- Compliance
- Legal
- Operations
- Regulatory Reporting
- Risk Management
- Senior Management

Key Topics

- Annual Reports
- FOCUS Reports

Referenced Rules & Notices

- Information Notice 11/23/20
- SEA Rule 15c3-1
- SEA Rule 15c3-3
- SEA Rule 17a-5

1. As of its most recent fiscal year end, the member:
 - a. was in compliance with SEA Rule 15c3-1; and
 - b. had total capital and allowable subordinated liabilities of less than \$50 million, as reported in box 3530 of Part II or Part IIA of its FOCUS Report;
2. The member is permitted to file an exemption report as part of its most recent fiscal year end annual reports;³
3. The member submits written notification to FINRA of its intent to avail itself of the additional 30 calendar days for filing its annual reports on an ongoing basis for as long as it meets the conditions set forth in the SEC's Order; and
4. The member files the annual report electronically with the Commission using an appropriate process.⁴

Instructions for Notifying FINRA

As discussed above, members that meet the conditions set forth in the SEC's Order and wish to avail themselves of the additional 30 days for filing their annual reports must notify FINRA. Members may provide the required notification by sending an email to their Risk Monitoring Analyst stating the following:

"My firm wishes to have an additional 30 calendar days for filing its annual report on an ongoing basis for as long as my firm meets the conditions set forth in the SEC Order of February 12, 2021, regarding additional time for filing annual reports under SEA Rule 17a-5."

Endnotes

1. [Securities Exchange Act Release No. 91128](#) (February 12, 2021) (Order Extending the Annual Reports Filing Deadline for Certain Smaller Broker-Dealers).
2. For example, if the fiscal year end of a broker-dealer falls on the last day of the year on December 31, the broker-dealer's annual reports for that fiscal year would be due by March 1 of the following year (assuming the year is a non-leap year; otherwise, in a leap year, the annual reports would be due by February 29).
3. See 17 CFR 240.17a-5(d)(1)(i)(B) (prescribing whether a broker-dealer must file the compliance report or the exemption report). The rule provides that a broker-dealer must file an exemption report if the firm claimed it was exempt from SEA Rule 15c3-3 (17 CFR 240.15c3-3) throughout the most recent fiscal year and was not subject to paragraph (p) of Rule 15c3-3 (which addresses segregation requirements with respect to security-based swaps). Otherwise, the broker-dealer must file the compliance report. *See also* note 74 in Securities Exchange Act Release No. 70073 (July 30, 2013), 78 FR 51910 (August 21, 2013) (Final Rule: Broker-Dealer Reports) (amending certain broker-dealer annual reporting, audit and notification requirements) ("Broker-Dealer Reports Adopting Release"), 78 FR at 51915 (stating that a broker-dealer should file an exemption report if it has not held customer securities or funds during the fiscal year even if it does not fit into one of the exemption provisions of Rule 15c3-3 identified on the FOCUS Report). *See also* the SEC staff's [Frequently Asked Questions Concerning the July 30, 2013 Amendments to the Broker-Dealer Financial Reporting Rule](#) (Updated July 1, 2020) (describing the SEC Division of Trading and Markets staff's views regarding the eligibility of certain broker-dealers to file exemption reports in accordance with the circumstances described in note 74 of the 2013 Broker-Dealer Reports Adopting Release, among other things).
4. For information on electronic filing of annual reports, *see* FINRA [Information Notice 11/23/20](#) (2021 and First Quarter of 2022 Filing Due Dates). *See also* letter from Michael A. Macchiaroli, Associate Director, Division of Trading and Markets, Securities and Exchange Commission, to Kris Dailey, Vice President, Risk Oversight & Operational Regulation, FINRA (January 27, 2017).