

Regulatory Notice

13-44

Interpretations of SEC Rules

FINRA Announces Updates of the Interpretations of Financial and Operational Rules

Executive Summary

FINRA is making available updates to the Interpretations of Financial and Operational Rules that the staff of the SEC's Division of Trading and Markets (SEC staff) have communicated to FINRA. The updated interpretations—consisting of specified additions, revisions and rescissions, as set forth in this *Notice*—relate to Securities Exchange Act (SEA) Rules 15c3-1, 15c3-1b, 15c3-1d, 15c3-3 and 17a-5.

Questions concerning this *Notice* should be directed to:

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Background & Discussion

SEC staff continues to communicate and issue written and oral interpretations of various SEC rules. FINRA previously published the Interpretations of Financial and Operational Rules on its website in [Regulatory Notice 08-56](#). As FINRA noted in the *Notice*, the interpretations, referred to as the Interpretations of Financial and Operational Rules, are imbedded in the text of relevant rules and immediately follow the section of the rule that they interpret. The interpretations also retain the original date of publication or issuance and, if applicable, any subsequent publication or issuance date(s).

The following sets forth the interpretation updates that are being made available. Page references refer to the hardcopy version. These interpretations are being updated with specified additions, revisions and rescissions and are available in portable digital format (pdf) FINRA's [Interpretations of Financial and Operational Rules](#) page.

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Notice Type

- ▶ Guidance

Suggested Routing

- ▶ Compliance
- ▶ Finance
- ▶ Legal
- ▶ Operations
- ▶ Regulatory Reporting
- ▶ Senior Management

Key Topics

- ▶ Books and Records
- ▶ Customer Protection
- ▶ Financial Reporting
- ▶ Net Capital

Referenced Rules & Notices

- ▶ Regulatory Notice 08-46
- ▶ Regulatory Notice 08-56
- ▶ SEA Rule 15c3-1
- ▶ SEA Rule 15c3-1b
- ▶ SEA Rule 15c3-1d
- ▶ SEA Rule 15c3-3
- ▶ SEA Rule 17a-5



Financial Industry Regulatory Authority

New interpretations that have been **added**:

- ▶ SEA Rule 15c3-1(c)(1)/26 (Fines and Other Monetary Penalties Assessed by a Governmental Agency or Self-Regulatory Organization) on page 158. This interpretation provides guidance as to the treatment of such items as either contingent or actual liabilities.
- ▶ SEA Rule 15c3-1(c)(2)(iv)(C)/075 (Treatment of an Unsecured Receivable Due From a Guaranteed Subsidiary) on page 294. This interpretation replaces an interpretation that has been rescinded (*see* SEA Rule 15c3-1(c)(2)(iv)(C)/07 (Intercompany Accounts with Guaranteed Subsidiaries) on page 292 and “Interpretations that have been rescinded” section of this *Notice*) and clarifies the net capital treatment of a receivable from a guaranteed subsidiary.
- ▶ SEA Rule 15c3-1(c)(2)(iv)(C)/17 (Investment Advisory Fees) on page 301. This interpretation provides conditions for allowable asset treatment of investment advisory fees in the computation of net capital.
- ▶ SEA Rule 15c3-1(c)(2)(iv)(E)/0211 (Monetary Penalty Resulting From the Voluntary Termination of a Clearing Agreement) on page 321. This interpretation clarifies the net capital implications to introducing broker-dealers when a voluntary termination of their clearing agreement results in a monetary penalty owed to their clearing broker-dealer. This guidance was previously published in [Regulatory Notice 08-46](#).
- ▶ SEA Rule 15c3-1(c)(2)(iv)(E)/0212 (Clearing Agreements Containing a Termination Penalty Clause) on page 322. This interpretation addresses the net capital treatment of introducing firms’ clearing deposits held by their clearing broker-dealers when their clearing agreement contains a termination penalty clause and discusses the conditions that must be satisfied in order for the clearing deposit to be treated as an allowable asset in the computation of the introducing firm’s net capital. This guidance was previously published in [Regulatory Notice 08-46](#).
- ▶ SEA Rule 15c3-1(c)(2)(vi)(D)/03 (Redeemable Securities of an Investment Company Registered Under the Investment Company Act of 1940) on page 452. This interpretation outlines the conditions under which redeemable securities of an investment company registered under the Investment Company Act of 1940 would be subject to a haircut deduction of 15 percent.
- ▶ SEA Rule 15c3-1(c)(2)(vii)/001 (FOCUS Reporting of Non-Marketable Inventory Positions) on page 550. This interpretation clarifies the proper net capital treatment and reporting of non-marketable inventory positions on the FOCUS Report.

- ▶ SEA Rule 15c3-1d(a)(2)(iii)/031 (Haircut Deduction on Foreign Currency Contributed as Collateral to a Secured Demand Note) on page 1305. This interpretation replaces a rescinded interpretation (*see* SEA Rule 15c3-1d(a)(2)(iii)/03 (Foreign Currency) on page 1305 and “Interpretations that have been rescinded” section of this *Notice*) and provides clarification of the haircuts applicable to foreign currency collateralizing a secured demand note.
- ▶ SEA Rule 17a-5(a)(2)(i)/03 (Retroactive Application of Changes in Accounting Principles) on page 3202. This interpretation provides guidance about FOCUS report, net capital and other calculations filing requirements when a broker-dealer adopts a new accounting principle on a retroactive basis, as well as the proper FOCUS reporting of adjustments resulting from such changes.

Interpretations that have been **revised**:

- ▶ SEA Rule 15c3-1(c)(2)(iv)(E)/021 (Clearing Deposits of Introducing Brokers) on pages 320-321. This interpretation outlines updated requirements applicable to clearing deposits maintained at a clearing broker-dealer. This guidance was previously published in [Regulatory Notice 08-46](#).
- ▶ The following four interpretations have been revised to reflect updated titles, revisions to the list of major foreign currencies and other minor clarifications:
 - ▶ SEA Rule 15c3-1(c)(2)(vi)/08 (Haircut Deduction on a Foreign Currency Balance) on page 406.
 - ▶ SEA Rule 15c3-1(c)(2)(vi)/09 (Haircut Deductions on Inventory Positions Denominated in a Foreign Currency) on page 407.
 - ▶ SEA Rule 15c3-1b(a)(3)(ix)(C)/01 (Haircut Deduction on a Foreign Currency Balance) on page 1121.
 - ▶ SEA Rule 15c3-1b(a)(3)(ix)(E)/01 (Forward Contracts in Foreign Currency) on page 1122.
- ▶ SEA Rule 15c3-3(Exhibit A - Item 4)/04 (Continuous Net Settlement Balances (CNS) - Fails to Receive) on page 2692. This interpretation clarifies the proper reporting of CNS fails to receive balances in the reserve formula computations.
- ▶ SEA Rule 15c3-3(Exhibit A - Item 12)/03 (Continuous Net Settlement Balances (CNS) - Fails to Deliver) on page 2751. This interpretation clarifies the proper reporting of CNS fails to deliver balances in the reserve formula computations.

Interpretations that have been **rescinded**:

- ▶ SEA Rule 15c3-1(c)(2)(iv)(C)/07 (Intercompany Accounts with Guaranteed Subsidiaries) on page 292. This interpretation relating to the treatment of unsubordinated, unsecured amounts receivable from a guaranteed subsidiary has been replaced by a new interpretation (see SEA Rule 15c3-1(c)(2)(iv)(C)/075 (Treatment of an Unsecured Receivable Due From a Guaranteed Subsidiary) on page 294) (see “New interpretations that have been added” section of this *Notice*).
- ▶ SEA Rule 15c3-1(c)(2)(iv)(F)(3)(ii)/04 (Repurchase Transactions to Maturity) on page 355. This interpretation relating to haircuts on securities collateralizing repurchase transactions to maturity has been rescinded.
- ▶ SEA Rule 15c3-1d(a)(2)(iii)/03 (Foreign Currency) on page 1305. This interpretation relating to haircuts on a foreign currency collateralizing a secured demand note has been replaced with a new interpretation, SEA Rule 15c3-1d(a)(2)(iii)/031 (Haircut Deduction on Foreign Currency Contributed as Collateral to a Secured Demand Note) also on page 1305 (see “New interpretations that have been added” section of this *Notice*).

For FINRA member firms and others that maintain the hardcopy version of the Interpretations of Financial and Operational Rules, the accompanying [updated pages](#), containing the aforementioned interpretations, are being distributed as replacements for existing pages with the following filing instructions:

SEA Rule	Remove Old Pages	Add New Pages
15c3-1	158	158
15c3-1	292	292
15c3-1	294	294
15c3-1	300-323	300-323
15c3-1	355	355
15c3-1	406-408	406-408
15c3-1	452	452
15c3-1	532-551	532-551
15c3-1b	1121-1122	1121-1122
15c3-1d	1304	1304-1305
15c3-3	2692-2694	2692-2695
15c3-3	2744-2752	2744-2752
17a-5	3202-3206	3202-3206