

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-83825; File No. SR-FINRA-2018-028)

August 10, 2018

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Security Futures Risk Disclosure Statement

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 9, 2018, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend Section 6.1 (Protections for Securities Accounts) of the 2002 security futures risk disclosure statement (“2002 Statement” or “Statement”)⁴ to reflect that the Securities Investor Protection Corporation’s (“SIPC”) cash limit protection for customers is

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ See Securities Exchange Act Release No. 46862 (November 20, 2002), 67 FR 70993 (November 27, 2002) (Order Approving File No. SR-NASD-2002-129). See also Securities Exchange Act Release No. 46613 (October 7, 2002), 67 FR 64176 (October 17, 2002) (Notice of Filing and Effectiveness of File No. SR-NFA-2002-05).

\$250,000, and make one technical change. The proposed rule change is related to File No. SR-FINRA-2018-024, which sets forth additional updates to the 2002 Statement.

The proposed updated Statement is attached as Exhibit 3a. The proposed supplement pertaining to changes to the specified paragraph under Section 6.1, the proposed technical change to Section 5.2, as well as changes to the paragraphs specified in File No. SR-FINRA-2018-024, is attached as Exhibit 3b.⁵

The text of the proposed rule change is available on FINRA's website at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 7, 2018, FINRA filed with the SEC File No. SR-FINRA-2018-024 to update the 2002 Statement to: (1) incorporate prior supplements pertaining to Sections 5.2 (Settlement by Physical Delivery) and 8.1 (Corporate Events); (2) make a technical change to Section 5.2 to reflect that the normal clearance and settlement cycle for securities transaction is now two

⁵ The Commission notes that these exhibits are attached as exhibits to the filing.

business days; (3) amend Section 6.1 (Protections for Securities Accounts) to reflect the current address for SIPC; and (4) make other non-substantive and technical changes.⁶ In addition to that recent set of updates to the 2002 Statement, FINRA is proposing to amend Section 6.1 to reflect the correct amount of SIPC coverage. The third paragraph under Section 6.1 currently reads:

SIPC coverage is limited to \$500,000 per customer, including up to \$100,000 for cash. For example, if a customer has 1,000 shares of XYZ stock valued at \$200,000 and \$10,000 cash in the account, both the security and the cash balance would be protected. However, if the customer has shares of stock valued at \$500,000 and \$100,000 in cash, only a total of \$500,000 of those assets will be protected.

The Dodd-Frank Wall Street Reform and Consumer Protection Act⁷ amended the Securities Investor Protection Act of 1970 (“SIPA”) to raise the “standard maximum cash advance amount” available to satisfy customer cash claims in a SIPA liquidation proceeding from \$100,000 to \$250,000 per customer.⁸ To reflect the current limit of protection for cash claims under SIPA, FINRA is proposing to amend the third paragraph of Section 6.1 to read:

⁶ See Securities Exchange Act Release No. 83407 (June 11, 2018), 83 FR 28045 (June 15, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2018-024).

⁷ Pub. L. No. 111-203, 124 Stat. 1376 (2010).

⁸ 15 U.S.C. 78fff-3. Effective January 1, 2017, and for the five years immediately thereafter, the Board of Directors of SIPC has determined that the maximum amount of the advance to satisfy a claim for cash will remain at the current level of \$250,000 per customer. See Securities Exchange Commission, Release No. SIPA-174 (February 22, 2016), 81 FR 9561 (February 25, 2016).

SIPC coverage is limited to \$500,000 per customer, including up to \$250,000 for cash. For example, if a customer has 1,000 shares of XYZ stock valued at \$200,000 and \$10,000 cash in the account, both the security and the cash balance would be protected. However, if the customer has shares of stock valued at \$500,000 and \$250,000 in cash, only a total of \$500,000 of those assets will be protected.

In addition, FINRA is proposing to incorporate one technical change into the proposed updated Statement.⁹

Currently, the 2002 Statement, to which 2010 and 2014 supplements are appended, is posted on FINRA's website¹⁰ and the 2010 and 2014 supplements are also posted on the website¹¹ as separate documents to facilitate a member's compliance with Rule 2370(b)(11)(A).¹² FINRA intends to replace the 2002 Statement currently posted on FINRA's website with an updated Statement that incorporates into the main body of the document the

⁹ Specifically, the proposed rule change would remove the quotes around the acronym that defines the National Securities Clearing Corporation in Section 5.2.

¹⁰ See Security Futures Risk Disclosure Statement brochure, http://www.finra.org/sites/default/files/Security_Futures_Risk_Disclosure_Statement.pdf, posted in its current design in 2016.

¹¹ See FINRA's Security Futures Topic Page, <http://www.finra.org/industry/security-futures> (last visited August 9, 2018).

¹² See Information Notice, September 7, 2010 (August 2010 Supplement to the Security Futures Risk Disclosure Statement); see also Regulatory Notice 14-24 (May 2014) (stating, a member may separately distribute new supplements to a customer that enters into a securities futures transaction and that a member is not required to redistribute the entire Statement or the earlier supplement).

cumulative changes made to date, as well as the proposed amendment to the third paragraph of Section 6.1 and the one technical change described herein.¹³

FINRA is also in the process of creating a single, integrated supplement that aggregates the changes from File No. SR-FINRA-2018-024 and the updates described in this proposed rule change (“2018 supplement”). The 2018 supplement would appear on FINRA’s website as a separate document to continue to afford members with the flexibility to comply with the requirements of Rule 2370(b)(11)(A) by separately distributing the new supplement to customers who have already received the 2002 Statement.¹⁴

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so that FINRA can implement the proposed rule change on September 5, 2018.¹⁵

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁶ which requires, among other things, that FINRA rules must be designed

¹³ The Statement, in its original language approved by the SEC in 2002, would remain accessible on FINRA’s website for those members whose customers may still refer to the original version of the Statement. The Statement, however, would bear a notation that an updated version of the Statement, which incorporates the paragraphs specified in the proposed integrated supplement, is available.

¹⁴ The 2010 and 2014 supplements would remain accessible on FINRA’s website with a notation that these paragraphs, as updated, appear in the 2018 supplement.

¹⁵ FINRA intends to announce the September 5, 2018 implementation date in an upcoming Regulatory Notice that will also establish September 5, 2018 as the implementation date for other changes to the Statement. See Securities Exchange Act Release No. 83407 (June 11, 2018), 83 FR 28045 (June 15, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2018-024).

¹⁶ 15 U.S.C. 78o-3(b)(6).

to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that updating the Statement to incorporate all supplements into the main body will help to accurately inform customers of the characteristics and risks of security futures. The proposed updated Statement would also reflect that SIPC's current cash limit protection for customers is \$250,000, increased from \$100,000 in 2010.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. While FINRA recognizes that there may be a burden associated with the distribution of the proposed updated Statement or 2018 supplement, FINRA believes that any such burden would be outweighed by the benefit to customers of accurately disclosing the characteristics and risks of security futures. FINRA also believes that any burden will be minimal because firms currently have an existing obligation to deliver each new (*i.e.*, updated) Statement or supplement to customers, and may electronically transmit documents that they are required to furnish to customers under FINRA rules, including the proposed updated Statement or 2018 supplement, provided firms adhere to the standards contained in the Commission's May 1996 and October 1995 releases on electronic delivery,¹⁷ and as discussed in Notice to Members 98-3.¹⁸ Firms also

¹⁷ See Securities Act Release No. 7288 (May 9, 1996), 61 FR 24644 (May 15, 1996) and Securities Act Release No. 7233 (October 6, 1995), 60 FR 53458 (October 13, 1995). See also Securities Act Release No. 7856 (April 28, 2000), 65 FR 25843 (May 4, 2000) (affirming that the framework for electronic delivery established in the 1995 and 1996 releases continues to work well in today's technological environment).

¹⁸ See Notice to Members 98-3 (January 1998).

may transmit the proposed updated Statement or 2018 supplement to customers through the use of a hyperlink, provided that customers have consented to electronic delivery.¹⁹

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act²⁰ and Rule 19b-4(f)(6) thereunder.²¹

A proposed rule change filed under Rule 19b-4(f)(6)²² normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),²³ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay so that the proposed changes can be implemented on September 5, 2018. The Commission believes that waiving the 30-day operative delay is consistent with the protection of

¹⁹ See Information Notice, September 7, 2010 (August 2010 Supplement to the Security Futures Risk Disclosure Statement).

²⁰ 15 U.S.C. 78s(b)(3)(A).

²¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires FINRA to give the Commission written notice of FINRA's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

²² 17 CFR 240.19b-4(f)(6).

²³ 17 CFR 240.19b-4(f)(6)(iii).

investors and the public interest because it will allow the implementation date of the proposed changes to coincide with the implementation date of other changes that will be made to the Statement. Accordingly, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.²⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2018-028 on the subject line.

²⁴ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2018-028. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make

available publicly. All submissions should refer to File Number SR-FINRA-2018-028, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Robert W. Errett
Deputy Secretary

²⁵ 17 CFR 200.30-3(a)(12).