

## **FINRA Issues Notice Regarding Business Continuity Planning During COVID-19 Outbreak**

On March 9, 2020, FINRA released [Regulatory Notice 20-08](#) (the "Regulatory Notice") providing guidance and limited relief to its member broker-dealers during the COVID-19 pandemic. In particular, the Regulatory Notice requests that broker-dealers evaluate their compliance with [FINRA Rule 4370](#), which requires broker-dealers to create, maintain, and update upon any material change, BCPs (Business Continuity Plans) identifying procedures relating to emergency or significant business disruption.

### **Business Continuity Plans**

- FINRA is encouraging broker-dealers to review their BCPs for pandemic preparedness, including whether the BCPs are sufficiently flexible to address a wide range of possible effects of a pandemic.
- Broker-dealers are encouraged to contact their assigned FINRA Risk Monitoring Analyst to discuss the activation and implementation of their BCPs.
- Broker-dealers must ensure that they designate two emergency contact persons, both of whom must be associated persons, and at least one contact must be a member of senior management and a registered principal.

### **Remote Offices and Telework Arrangements**

- Broker-dealers may utilize remote offices and telework arrangements. If utilized, the broker-dealer must establish and maintain a system to supervise the activities of each associated person.
- On-site inspections of branch offices may need to be temporarily postponed during the pandemic.

### **Cybersecurity**

Broker-dealers should take additional steps to guard against cyber events during the pandemic disruption, including:

- Ensuring that virtual private networks and other remote access systems are properly patched with available security updates;
- Checking that system entitlements are current;
- Employing the use of multi-factor authentication for associated persons who access systems remotely; and
- Reminding associated persons of cyber risks through education, training, and other exercises that promote heightened vigilance.

### **Form U4/Form BR**

- FINRA is temporarily suspending the requirement to maintain updated Form U4 information regarding any temporary office because of COVID-19.

- Broker-dealers will not be required to submit branch office applications on Form BR for any new temporary offices.

## **Emergency Office Relocations**

- If a broker-dealer relocates personnel to a temporary location that is not currently registered as a branch office or identified as a regular non-branch location, the broker-dealer should notify its FINRA Risk Monitoring Analyst in writing as soon as possible. The notice should include relevant information such as:
  - The office address and telephone number;
  - The names of the FINRA members and registered representatives involved; and
  - The expected duration and whether the broker-dealer is sharing the space with another enterprise.
- If a broker-dealer is utilizing a non-branch location, it should still ensure that it is validating the identity of customers and supervising customer accounts.

## **Communicating with Customers**

- Broker-dealers should review their BCPs to ensure that customers can access funds and securities during a significant business disruption.
- If registered representatives cannot service their customers, broker-dealers should consider notifying customers through their websites.

## **Regulatory Filings and Responses to FINRA Inquiries, Matters, and Investigations**

- FINRA is encouraging a broker-dealer to contact their Risk Monitoring Analysts or the relevant FINRA department if the broker-dealer requires an extension to respond to open inquiries, investigations, or upcoming filings.
- If any data communications are disrupted, member firms should retain the relevant data until it can be submitted to FINRA.

## **Qualification Examinations and Regulatory Element Continuing Education**

FINRA is encouraging those who have a qualifications examination or continuing education window that is due to expire soon to contact FINRA and seek an extension.

## **Conclusion**

Throughout the disruptions caused by the COVID-19 pandemic, broker-dealers must ensure lines of communication with their clients, FINRA, and other applicable regulators. The Regulatory Notice provides guidance on how broker-dealers can this and other aspects of BCPs can be implemented in a time of expanded teleworking. FINRA stated that it will publish another regulatory notice terminating the specific guidance provided in the Regulatory Notice when appropriate.

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