

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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