Regulatory Notice 23-14

Amendments to Covered Agency Transaction Requirements under FINRA Rule 4210; Announcement of Effective Date

Effective Date: May 22, 2024

Summary

FINRA has amended the requirements relating to Covered Agency Transactions that FINRA originally adopted in 2016. Covered Agency Transactions include (1) To Be Announced transactions, inclusive of adjustable rate mortgage transactions, (2) Specified Pool Transactions and (3) transactions in Collateralized Mortgage Obligations, issued in conformity with a program of an agency or Government-Sponsored Enterprise, with forward settlement dates, as recapped more fully in this *Notice*.

This *Notice* provides an overview of the amendments. The SEC approved the amendments on July 27, 2023. FINRA stated in its rule filing, and the SEC noted in approving the rule change, that the amendments would become effective between nine and ten months following the SEC's approval. Consistent with this timeframe, the amendments become effective on May 22, 2024. FINRA will monitor the implementation of the amendments and their impact. Prior to the May 22, 2024, effective date, FINRA will engage with market participants to make available updated guidance as appropriate.

The text of the amendments to the Covered Agency Transaction requirements is included as Attachment A. In this *Notice*, all references to provisions of the amended requirements are to the rule text as shown in Attachment A.

Questions regarding this *Notice* may be directed to:

- James Barry, Director, Credit Regulation, Office of Financial and Operational Risk Policy (OFORP), at James.Barry@finra.org or (646) 315-8347;

FINRA®

August 18, 2023

Notice Type
- Rule Amendment

Suggested Routing
- Compliance
- Legal
- Margin Department
- Operations
- Regulatory Reporting
- Risk Management
- Senior Management

Key Topics
- Covered Agency Transactions
- Margin
- Net Capital

Referenced Rules & Notices
- FINRA Rule 4210
- FINRA Rule 6710
- SEA Rule 15c3-1
- Regulatory Notice 16-31

- David Aman, Senior Advisor, OFORP, at David.Aman@finra.org or (212) 858-5183;
- Kris Dailey, Vice President, OFORP, at Kris.Dailey@finra.org or (646) 315-8434; or
- Adam Arkel, Associate General Counsel, Office of General Counsel, at (202) 728-6961 or Adam.Arkel@finra.org.

Questions may also be directed to covered.agency.margin@finra.org.

Background & Discussion

Overview

In 2016, the SEC approved[1] FINRA's rulemaking that established requirements for Covered Agency Transactions under FINRA Rule 4210 (for convenience, throughout this *Notice*, the original requirements, as approved in 2016, are referred to as the "original requirements" or the "original rulemaking" adopted pursuant to SR-FINRA-2015-036, and the newly approved revisions as the "amendments" adopted pursuant to SR-FINRA-2021-010).[2] "Covered Agency Transaction"[3] is defined to mean:

- To Be Announced ("TBA") transactions, as defined in FINRA Rule 6710(u),[4] inclusive of adjustable rate mortgage ("ARM") transactions, for which the difference between the trade date and contractual settlement date is greater than one business day;
- Specified Pool Transactions, as defined in FINRA Rule 6710(x),[5] for which the difference between the trade date and contractual settlement date is greater than one business day; and
- Transactions in Collateralized Mortgage Obligations ("CMOs"), as defined in FINRA Rule 6710(dd),[6] issued in conformity with a program of an Agency, as defined in FINRA Rule 6710(k),[7] or a Government-Sponsored Enterprise ("GSE"), as defined in FINRA Rule 6710(n),[8] for which the difference between the trade date and contractual settlement date is greater than three business days.

FINRA extended the implementation date of the original requirements, other than the risk limit determination requirements, several times[9] while FINRA, in response to concerns about potential impacts of the rulemaking, considered amendments to the rulemaking. Informed by extensive dialogue, both with industry participants and other regulators, FINRA proposed,[10] and, on July 27, 2023, the SEC approved,[11] amendments to the originally adopted requirements. FINRA stated, and the SEC in approving the amendments noted, that the amendments would become effective between nine and ten months following the SEC's approval.[12]

Broadly, the amendments include three main changes. The amendments:

- eliminate the two percent maintenance margin requirement that the original rulemaking applies to Covered Agency Transactions by non-exempt[13] accounts. This eliminates the need for members to distinguish exempt account customers from other customers ("non-exempt accounts") for purposes of Covered Agency Transaction margin. As such, without regard to a counterparty's exempt or non-exempt account status, under the amendments members will collect margin for each counterparty's excess mark to market loss, as discussed in further detail below, unless otherwise provided by the rule;
- permit members, subject to specified conditions and limitations, to take a capital charge in lieu of collecting margin for excess net mark to market losses on Covered Agency Transactions. These conditions and limitations are designed to help protect the financial stability of members that opt to take capital charges while restricting the ability of the larger members to use their capital in lieu of collecting margin to compete unfairly with smaller members; and
- make revisions designed to streamline, consolidate and clarify the Covered Agency Transaction rule language. These revisions preserve and clarify key exceptions to the requirements, including for example the $250,000 de minimis transfer exception[14] and the $10 million gross open position exception[15] established by the original rulemaking.

The amendments are discussed in further detail below.

Detailed Discussion

1. Elimination of Maintenance Margin Requirement; Application of Mark to Market Loss to Both Exempt and Non-Exempt Accounts

Under the original rulemaking, maintenance margin, referring to margin equal to two percent of the contract value of the net long or net short position, by CUSIP, with the counterparty, plus any net mark to market loss on such transactions, broadly would be required for Covered Agency Transactions with counterparties that are non-exempt accounts. By contrast, for transactions with counterparties that are exempt accounts, the original rulemaking provides that no maintenance margin would be required. Such transactions would need to be marked to the market daily and the member would need to collect any net mark to market loss, subject to specified exceptions under the rule. The amendments eliminate this two-track treatment of non-exempt versus exempt accounts and establish in lieu new paragraph (e)(2)(H)(ii)c. under Rule 4210. The new paragraph provides that members shall collect margin for each counterparty's[16] excess net mark to market loss,[17] unless otherwise provided under new paragraph (e)(2)(H)(ii)d. of the rule, as discussed further in the next section below. As such, under the amendments, both exempt and non-exempt accounts receive the same margin treatment for purposes of Covered Agency Transactions under paragraph (e)(2)(H).[18]

2. Option for Capital Charge in Lieu of Mark to Market Margin

Amended paragraph (e)(2)(H)(ii)d. of the rule is designed, subject to specified conditions and limitations, to permit members the option to take a capital charge in lieu of collecting margin for a counterparty's excess net mark to market loss (that is, as discussed in note 17, the net mark to market loss to the extent it exceeds $250,000). Specifically, the new paragraph provides that a member need not collect margin for a counterparty's excess net mark to market loss under amended paragraph (e)(2)(H)(ii)c. of the rule, provided that:

- the member must deduct the amount of the counterparty's unmargined excess net mark to market loss from the member's net capital computed as provided in SEA Rule 15c3-1, if the counterparty is a non-margin counterparty[19] or if the excess net mark to market loss has not been margined or eliminated by the close of business on the next business day after the business day on which such excess net mark to market loss arises;[20]
- if the member has any non-margin counterparties, the member must establish and enforce risk management procedures reasonably designed to ensure that the member would not exceed either of the limits specified in paragraph (e)(2)(I)(i) of the rule, as amended by the rule change,[21] and that the member's net capital deductions under amended paragraph (e)(2)(H)(ii)d.1. of the rule for all accounts combined will not exceed $25 million;[22]
- if the member's specified net capital deductions[23] under amended paragraph (e)(2)(H)(ii)d.1. of the rule for all accounts combined exceed $25 million for five consecutive business days, the member must give prompt written notice to FINRA. If the member's specified net capital deductions under paragraph (e)(2)(H)(ii)d.1. of the rule for all accounts combined exceed the lesser of $30 million or 25% of the member's tentative net capital, as such term is defined in SEA Rule 15c3-1, for five consecutive business days, the member may not enter into any new Covered Agency Transactions with any non-margin counterparty other than risk-reducing transactions, and must also, to the extent of its rights, promptly collect margin for each counterparty's excess net mark to market loss and promptly liquidate the Covered Agency transactions of any counterparty whose excess net mark to market loss is not margined or eliminated within five business days from the date it arises, unless FINRA has specifically granted the member additional time;[24] and

- the member must submit to FINRA such information regarding its unmargined net mark to market losses, non-margin counterparties and related capital charges, in such form and manner, as FINRA shall prescribe by *Regulatory Notice* or similar communication.[25]

3. Streamlining and Consolidation of the Requirements

The amendments include several revisions to the original rulemaking designed to streamline and consolidate the rule language or otherwise make conforming changes in alignment with the rule change:

- **$250,000 de minimis transfer and $10 million gross open position exceptions:** The rule change consolidates the provisions relating to the $250,000 de minimis transfer exception and the $10 million gross open position exception while, as discussed above, preserving these exceptions in substance. As discussed in note 17, the $250,000 de minimis transfer exception is preserved in revised paragraph (e)(2)(H)(ii)c. With respect to the $10 million gross open position exception, the amendments revise paragraph (e)(2)(H)(ii)a. of the rule. Under the amended paragraph, counterparties excepted from the rule's margin requirements include a "small cash counterparty." Under revised paragraph (e)(2)(H)(i)h., a counterparty is a "small cash counterparty" if:
  - the absolute dollar value of all of such counterparty's open Covered Agency Transactions with, or guaranteed by, the member is $10 million or less in the aggregate, when computed net of any settled position of the counterparty held at the member that is deliverable under such open Covered Agency Transactions and which the counterparty intends to deliver;[26]
  - the original contractual settlement date for all such open Covered Agency Transactions is in the month of the trade date for such transactions or in the month succeeding the trade date for such transactions;[27]
  - the counterparty regularly settles its Covered Agency Transactions on a DVP basis or for cash;[28] and
  - the counterparty does not, in connection with its Covered Agency Transactions with, or guaranteed by, the member, engage in dollar rolls, as defined in Rule 6710(z), or round robin trades,[29] or use other financing techniques.[30]

The provisions in the original rulemaking relating to the gross open position exception under paragraph (e)(2)(H)(ii)c.2. and paragraph (e)(2)(H)(i)e. are deleted as obsolete. FINRA notes that the revised language reflects that the scope of transactions addressed under the rule change includes Covered Agency Transactions with a counterparty that are guaranteed by the member.

- **Deletion of "bilateral transaction":** The amendments delete the definition of "bilateral transaction" in paragraph (e)(2)(H)(i)a. under the original rulemaking because it is rendered obsolete by the new definition of "counterparty."

- **Deletion of "deficiency":** The amendments delete the definition of "deficiency" in paragraph (e)(2)(H)(i)d. under the original rulemaking because it is rendered obsolete by the elimination of the maintenance margin requirement.

- **Types of counterparties and transactions excepted from the rule:** Paragraph (e)(2)(H)(ii)a. under the original rulemaking addresses the scope of paragraph (e)(2)(H) and certain types of counterparties and transactions that are excepted from the rule (provided the member makes and enforces written risk limits pursuant to paragraph (e)(2)(H)(ii)b.). These exceptions are preserved in the amendments; in particular:

  - **Excepted types of entities:** Revised paragraph (e)(2)(H)(ii)a.1. adds small cash counterparties, as that new term is discussed above, and is amended to reflect the establishment of the option to take a net capital charge in lieu of collecting margin. Further, for clarity, the revised paragraph adds registered clearing agencies. This preserves the treatment of registered clearing agencies under the rule in light of the deletion of paragraph (e)(2)(H)(ii)c. under the original rulemaking. In this regard, also in the interest of clarity, the amendments add new paragraph (e)(2)(H)(i)f. to define the term "registered clearing agency."
  - **Multifamily housing securities and project loan program securities:** Revised paragraph (e)(2)(H)(ii)a.2. preserves the exception under the original rulemaking for multifamily housing securities and project loan program securities, as further specified under the rule, with minor revisions to conform with the amendments. The rule change does not change the treatment of multifamily housing securities or project loan program securities under the original rulemaking other than to clarify, in express terms, that a member is not required to include a counterparty's Covered Agency Transactions in multifamily housing securities or project loan program securities in the computation of such counterparty's net mark to market loss.

- **Risk Limits:** The amendments consolidate the language under the original rulemaking relating to risk limit determinations within revised paragraph (e)(2)(H)(ii)b. The amendments preserve the substance of the risk limit determination requirements under the original rulemaking, with revisions designed to conform with the amendments.

- **Concentration thresholds:** Paragraph (e)(2)(I) under Rule 4210 addresses concentration thresholds. The amendments make conforming revisions to the paragraph to align it with the new language in revised paragraph (e)(2)(H), in particular to reflect the elimination of the maintenance margin requirement and the introduction of the new term "small cash counterparty."
- **Time within which margin or mark to market must be obtained:** Paragraph (f)(6) under Rule 4210 addresses the time within which margin or "mark to market" must be obtained. The amendments revise the rule to provide that the amount of margin or "mark to market" required by any provision of the rule shall be obtained as promptly as possible and in any event within 15 business days from the date such deficiency occurred, unless FINRA has specifically granted the member additional time. This reflects the elimination of provisions under the original rulemaking, in paragraph (e)(2)(H)(ii)d. and paragraph (e)(2)(H)(ii)e., upon which language in paragraph (f)(6) under the original rulemaking had been premised.
- **Eliminated or redesignated Supplementary Material:** Supplementary Material .02 under the original rulemaking addresses the requirement for monitoring procedures with respect to mortgage bankers, for purposes of treating them as exempt accounts pursuant to paragraph (e)(2)(H)(ii)d. Supplementary Material .03 under the original rulemaking addresses how the cure of mark to market loss or deficiency, as defined under the original rulemaking, may cure the need to liquidate positions. Supplementary Material .04 under the original rulemaking addresses determining whether an account qualifies as an exempt account. The amendments render each of these provisions unnecessary, given that the rule change eliminates the need to distinguish exempt versus non-exempt accounts, including, as discussed above, the language targeted toward mortgage bankers, and eliminates the liquidation provisions under paragraph (e)(2)(H)(ii)d. and paragraph (e)(2)(H)(ii)e. of the original rulemaking. The revisions redesignate Supplementary Material .05 as Supplementary Material .03.

Endnotes

1 *See* Securities Exchange Act Release No. 78081 (June 15, 2016), 81 FR 40364 (June 21, 2016) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval to a Proposed Rule Change to Amend FINRA Rule 4210 (Margin Requirements) to Establish Margin Requirements for the TBA Market, as Modified by Amendment Nos. 1, 2, and 3; File No. SR-FINRA-2015-036). *See also Regulatory Notice* 16-31 (August 2016) (Covered Agency Transactions).

2 *See* Securities Exchange Act Release No. 98003 (July 27, 2023), 88 FR 50205 (August 1, 2023) (Order Setting Aside Action by Delegated Authority and Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend the Requirements for Covered Agency Transactions under FINRA Rule 4210 (Margin Requirements) as Approved Pursuant to SR-FINRA-2015-036; File No. SR-FINRA-2021-010) ("SEC Approval Order"); *see also* Securities Exchange Act Release No. 94013 (January 20, 2022), 87 FR 4076 (January 26, 2022) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Amend the Requirements for Covered Agency Transactions under FINRA Rule 4210 (Margin Requirements) as Approved Pursuant to SR-FINRA-2016-036; File No. SR-FINRA-2021-010).

3 The definition of "Covered Agency Transactions" is redesignated under the amendments, without change, as paragraph (e)(2)(H)(i)b. of Rule 4210.

4 FINRA Rule 6710(u) defines "TBA" to mean a transaction in an Agency Pass-Through Mortgage-Backed Security ("MBS") or a Small Business Administration ("SBA")-Backed Asset-Backed Security ("ABS") where the parties agree that the seller will deliver to the buyer a pool or pools of a specified face amount and meeting certain other criteria but the specific pool or pools to be delivered at settlement is not specified at the Time of Execution, and includes TBA transactions for good delivery and TBA transactions not for good delivery. Agency Pass-Through MBS and SBA-Backed ABS are defined under FINRA Rule 6710(v) and FINRA Rule 6710(bb), respectively. The term "Time of Execution" is defined under FINRA Rule 6710(d).

5 FINRA Rule 6710(x) defines "Specified Pool Transaction" to mean a transaction in an Agency Pass-Through MBS or an SBA-Backed ABS requiring the delivery at settlement of a pool or pools that is identified by a unique pool identification number at the Time of Execution.

6 FINRA Rule 6710(dd) defines "CMO" to mean a type of Securitized Product backed by Agency Pass-Through MBS, mortgage loans, certificates backed by project loans or construction loans, other types of MBS or assets derivative of MBS, structured in multiple classes or tranches with each class or tranche entitled to receive distributions of principal or interest according to the requirements adopted for the specific class or tranche, and includes a real estate mortgage investment conduit ("REMIC").

7 FINRA Rule 6710(k) defines "Agency" to mean a United States executive agency as defined in 5 U.S.C. 105 that is authorized to issue debt directly or through a related entity, such as a government corporation, or to guarantee the repayment of principal or interest of a debt security issued by another entity. The term excludes the U.S. Department of the Treasury in the exercise of its authority to issue U.S. Treasury Securities as defined under FINRA Rule 6710(p). Under 5 U.S.C. 105, the term "executive agency" is defined to mean an "Executive department, a Government corporation, and an independent establishment."

8 FINRA Rule 6710(n) defines GSE to have the meaning set forth in 2 U.S.C. 622(8). Under 2 U.S.C. 622(8), a GSE is defined, in part, to mean a corporate entity created by a law of the United States that has a Federal charter authorized by law, is privately owned, is under the direction of a board of directors, a majority of which is elected by private owners, and, among other things, is a financial institution with power to make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector and raise funds by borrowing (which does not carry the full faith and credit of the Federal Government) or to guarantee the debt of others in unlimited amounts.

9 FINRA most recently extended the implementation date of the original rulemaking (other than the risk limit determination requirements) to October 25, 2023. *See* Securities Exchange Act Release No. 97062 (March 7, 2023), 88 FR 15473 (March 13, 2023) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Extend the Implementation Date of Certain Amendments to FINRA Rule 4210 Approved Pursuant to SR–FINRA–2015–036; File No. SR-FINRA-2023-002). FINRA plans to file a rule change to adjust this October 25, 2023, implementation date to align with the May 22, 2024, date announced in this *Notice*.

Members are reminded that, as announced in *Regulatory Notice* 16-31, the risk limit determination requirements became effective on December 15, 2016. The amendments include conforming revisions to the risk limit determination requirements; these become effective on May 22, 2024, as with all other amendments pursuant to the rule change.

10 *See* Securities Exchange Act Release No. 91937 (May 19, 2021), 86 FR 28161 (May 25, 2021) (Notice of Filing of a Proposed Rule Change to Amend the Requirements for Covered Agency Transactions under FINRA Rule 4210 (Margin Requirements) as Approved Pursuant to SR-FINRA-2015-036; File No. SR-FINRA-2021-010); *see also* Partial Amendment No. 1 to SR-FINRA-2021-010.

11 *See* note 2.

12 *See* Partial Amendment No. 1; *see also* SEC Approval Order, 88 FR 50205, at 50229.

13 The term "exempt account" is defined under FINRA Rule 4210(a)(13) (as amended by the original rulemaking). Broadly, an exempt account means a FINRA member, non-FINRA member registered broker-dealer, account that is a "designated account" under FINRA Rule 4210(a)(4) (specifically, a bank as defined under Exchange Act Section 3(a)(6), a savings association as defined under Section 3(b) of the Federal Deposit Insurance Act, the deposits of which are insured by the Federal Deposit Insurance Corporation, an insurance company as defined under Section 2(a)(17) of the Investment Company Act, an investment company registered with the Commission under the Investment Company Act, a state or political subdivision thereof, or a pension plan or profit sharing plan subject to the Employee Retirement Income Security Act or of an agency of the United States or of a state or political subdivision thereof), and any person that has a net worth of at least $45 million and financial assets of at least $40 million for purposes of paragraphs (e)(2)(F), (e)(2)(G) and (e)(2)(H) of the rule, as set forth under paragraph (a)(13)(B)(i), and meets specified conditions as set forth under paragraph (a)(13)(B)(ii).

14 Subject to specified conditions, the original rulemaking establishes an aggregate $250,000 de minimis transfer amount with a single counterparty, so that if the aggregate required but uncollected maintenance margin or mark to market loss does not exceed that amount, the margin need not be collected or charged to net capital.

15 The original rulemaking provides that the margin requirements for Covered Agency Transactions do not apply to a counterparty that has gross open positions in Covered Agency Transactions with the member amounting to $10 million or less if the counterparty regularly settles its Covered Agency Transactions on a Delivery Versus Payment ("DVP") basis or for cash and meets other specified conditions.

16 The amendments redesignate the definition of counterparty as paragraph (e)(2)(H)(i)a. under Rule 4210 and revise the definition to provide that the term "counterparty" means any person, including any "customer" as defined in paragraph (a)(3) of the rule, that is a party to a Covered Agency Transaction with, or guaranteed by, a member. Related to this change, the amendments add new Supplementary Material .02, which provides that, for purposes of paragraph (e)(2)(H), a member is deemed to have "guaranteed" a transaction if the member has become liable for the performance of either party's obligations under the transaction. This clarifying change helps to ensure that, if a clearing broker were to guarantee to an introduced customer an introducing broker's obligations under a Covered Agency Transaction between that introducing firm and customer, the introducing broker would be considered a "counterparty" of the clearing broker for purposes of paragraph (e)(2)(H).

17 The amendments delete the definition of "mark to market loss" in paragraph (e)(2)(H)(i)g. of the original rulemaking and replace it with a definition of "net mark to market loss" under new paragraph (e)(2)(H)(i)d. Under the new definition, a counterparty's "net mark to market loss" means (1) the sum of such counterparty's losses, if any, resulting from marking to market the counterparty's Covered Agency Transactions with the member, or guaranteed to a third party by the member, reduced to the extent of the member's legally enforceable right of offset or security by (2) the sum of such counterparty's gains, if any, resulting from: (a) marking to market the counterparty's Covered Agency Transactions with the member, guaranteed to the counterparty by the member, cleared by the member through a registered clearing agency, or in which the member has a first-priority perfected security interest; and (b) any "in the money," as defined in paragraph (f)(2)(E)(iii) of Rule 4210, amounts of the counterparty's long standby transactions written by the member, guaranteed to the counterparty by the member, cleared by the member through a registered clearing agency, or in which the member has a first-priority perfected security interest. Under new paragraph (e)(2)(H)(i)c., a counterparty's "excess" net mark to market loss is defined to mean such counterparty's net mark to market loss to the extent it exceeds $250,000. For example, if a counterparty has a net mark to market loss of $300,000, it would have an excess net mark to market loss of $50,000. By specifying "excess net mark to market loss" in revised paragraph (e)(2)(H)(ii)c., the amendments preserve the $250,000 de minimis transfer exception as set forth under paragraph (e)(2)(H)(ii)f. of the original rulemaking (under the amendments, this paragraph is obsolete and deleted as no longer

necessary). Further, FINRA notes that, in the interest of clarity, new paragraph (e)(2)(H)(ii)c. expressly provides that members would not be required to collect margin, or take capital charges, for counterparties' mark to market losses on Covered Agency Transactions other than excess net mark to market losses.

18 Under paragraph (e)(2)(H)(ii)d. in the original rulemaking, provisions are included that permit members to treat mortgage bankers, as defined pursuant to paragraph (e)(2)(H)(i)h. of the original rulemaking, as exempt accounts under specified conditions. Because the amendments eliminate the distinction between exempt and non-exempt accounts for purposes of Covered Agency Transactions, this language is no longer needed and is deleted under the amendments.

19 Amended paragraph (e)(2)(H)(i)e. defines a counterparty as a "non-margin counterparty" if: (1) the counterparty is not a small cash counterparty (as discussed further in this *Notice*), registered clearing agency, Federal banking agency, as defined in 12 U.S.C. 1813(z), central bank, multinational central bank, foreign sovereign, multilateral development bank, or the Bank for International Settlements; and (2) the member: (a) does not have a right under a written agreement or otherwise to collect margin for such counterparty's excess net mark to market loss and to liquidate such counterparty's Covered Agency Transactions if any such excess net mark to market loss is not margined or eliminated within five business days from the date it arises; or (b) does not regularly collect margin for such counterparty's excess net mark to market loss.

20 *See* amended paragraph (e)(2)(H)(ii)d.1.

21 Paragraph (e)(2)(I) under Rule 4210 sets forth specified concentration thresholds. As discussed further below, the amendments include conforming revisions for purposes of the rule change.

22 *See* amended paragraph (e)(2)(H)(ii)d.2.

23 Amended paragraph (e)(2)(H)(i)i. defines a member's "specified net capital deductions" as the net capital deductions required by amended paragraph (e)(2)(H)(ii)d.1. of the rule with respect to all unmargined excess net mark to market losses of its counterparties, except to the extent that the member, in good faith, expects such excess net mark to market losses to be margined by the close of business on the fifth business day after they arose.

24 *See* amended paragraph (e)(2)(H)(ii)d.3.

25 *See* amended paragraph (e)(2)(H)(ii)d.4. FINRA will issue a *Regulatory Notice* with further guidance and instructions for purposes of this provision.

26 *See* amended paragraph (e)(2)(H)(i)h.1.

27 *See* amended paragraph (e)(2)(H)(i)h.2.

28 *See* amended paragraph (e)(2)(H)(i)h.3.

29 The term "round robin" is defined under paragraph (e)(2)(H)(i)i. of the original rulemaking and, pursuant to the rule change, is redesignated as paragraph (e)(2)(H)(i)g., without any change.

30 *See* amended paragraph (e)(2)(H)(i)h.4.