

October 6, 2015

FINRA's New Fixed-Income Research Rule and Modifications to Equity Research Rule

If you wish to receive more information on the topics covered in this publication, you may contact your regular Shearman & Sterling contact person or any of the following:

Contacts

Russell D. Sacks

New York
+1.212.848.7585
rsacks@shearman.com

Reena Agrawal Sahni

New York
+1.212.848.7324
reena.sahni@shearman.com

Barnabas W.B. Reynolds

London
+44.20.7655.5528
barney.reynolds@shearman.com

Thomas Donegan

London
+44.20.7655.5566
thomas.donegan@shearman.com

Charles S. Gittleman

New York
+1.212.848.7317
cgittleman@shearman.com

Jennifer D. Morton

New York
+1.212.848.5187
jennifer.morton@shearman.com

Oliver Linch

New York/London
+1.212.848.4701
+44.20.7655.5715
oliver.linch@shearman.com

The long-anticipated overhaul of FINRA's research rules has now been approved by the SEC. Most provisions of the new equity research rule will become effective on **December 24, 2015**, with limited provisions, including changes to equity research quiet periods, having already gone into effect on **September 25, 2015**.¹ The fixed-income research rule will become effective on **February 22, 2016**.² Firms will be reviewing and revising their policies and procedures in response to the new rules. The requirements of the fixed-income research rule will also require a cultural shift at some firms.

Key Aspects of the New Research Rules

FINRA Rule 2241 (the "New Equity Research Rule") and FINRA Rule 2242 (the "Fixed-Income Research Rule") are summarized here, with each of the rules discussed in greater depth in the pages that follow. Further detail is in Appendix A, which compares, section-by-section, the New Equity Research Rule and the Fixed-Income Research Rule with existing NASD Rule 2711; and Appendix B, analyzing which of the Fixed-Income Research Rule's policy and procedure requirements apply to firms qualifying for each of the rule's exemptions.

- ¹ The FINRA regulatory notice announcing the approved rule is available [here](#).
- ² For a description of FINRA's earlier proposals in respect of the proposed rule, you may refer to our client publications regarding [Regulatory Notice 11-11](#) (April 2011), [Regulatory Notice 12-09](#) (March 2012) and [Regulatory Notice 12-42](#) (March 2013). [FINRA's FAQs regarding FINRA's equity research rule is discussed in our client publication issued today, FINRA Publishes FAQs Regarding Research Conflicts of Interest in the Offering Process.](#)

Contacts (cont.)

Jenny Ding
New York
+1.212.848.5095
jenny.ding@shearman.com

Steven Blau
Toronto/New York
+1.416.360.2154
+1.212.848.8534
steven.blau@shearman.com

Fixed-Income Research Rule – Key Aspects

Firms that produce analysis falling within the rule’s definition of “debt research report” may face significant new regulatory obligations depending on applicable exemptions. Key aspects include:

- No specific exemption for trader commentary pieces from the definition of “debt research report,” although the general firm-level exemptions discussed below will provide relief from some of the rule’s requirements;
- Requirements for policies and procedures imposing information barrier/institutional safeguards between persons producing fixed-income research reports and personnel in investment banking, sales and trading and principal trading functions. These requirements are structured similarly to those of the New Equity Research Rule, although the Fixed-Income Research Rule provides additional exemptions for some firms; and
- Disclosure requirements for fixed-income research reports distributed to retail investors that are similar to those of the New Equity Research Rule. Institutional-only research, however, will only require a “health warning” rather than the panoply of specific disclosures applicable to retail fixed-income research.

New Equity Research Rule – Key Aspects

The New Equity Research Rule retains the core provisions of the existing NASD and NYSE equity research rules, with some important modifications, including:

- Addition of a “principles-based procedures” approach to potential conflicts of interest;
- Shortening or elimination of equity research quiet periods required by the rule;
- Imposition of some of the Global Settlement prohibitions on all firms;
- Others, including provisions regarding selective dissemination, modifications to required disclosures and changes regarding the distribution of third-party research.

The New Equity Research Rule

Quiet Periods

The New Equity Research Rule relaxes the research black-out periods imposed by the rule: 10 days following the date of an IPO in which the firm has participated as underwriter or dealer, and 3 days following the date of a secondary offering in which the firm has participated as manager or co-manager. The New Equity Research Rule eliminates the existing rule’s black-out period upon expiration, waiver, or termination of a lock-up agreement or any other agreement that the firm has entered into with a subject company or its shareholders. The elimination of the lock-up quiet period will provide parity between offerings of Emerging Growth Companies (currently exempted from the lock-up waiver blackout period) and offerings of other issuers. The quiet period provisions went into effect on September 25, 2015.

Addition of Principles-based Procedures

Rule 2241 retains the specific prohibitions of NASD Rule 2711 (with modification) and imposes an additional general obligation on firms to identify and mitigate conflicts of interest relating to:

- the preparation, content and distribution of equity research reports;
- public appearances by equity research analysts; and
- the interaction between equity research analysts and those outside of the equity research department, including investment banking and sales and trading personnel, subject companies and customers of the firm.

The New Equity Research Rule also adds an express requirement that firms' procedures must promote objective and reliable equity research that reflects the truly held opinions of equity research analysts and prevents the use of equity research reports or equity research analysts to manipulate or condition the market or favor the interests of the firm or its customers.

In addition, under the new rule firms must restrict or limit activities by research analysts that can reasonably be expected to compromise their objectivity, even beyond the specific prohibitions in the rule. Given the nature of the obligations, firms should consider documenting their analysis of whether procedures beyond the specific prohibitions of the rule are required. FINRA has noted that the provision is intended to, among other things, require firms to proactively identify and manage conflicts as new research products, affiliations and distribution methods emerge.³

Modification of Definitions

There will be modifications to certain definitions in FINRA's equity research regime:

- "Research Analyst": NASD Rule 1050 will be modified to add to the "primarily responsible" prong of the definition the condition that the person's "primary job function is to provide investment research." This change is intended to provide relief from FINRA's licensing requirements of those who produce research reports only on an occasional basis. This change went into effect on September 25, 2015. At this time, FINRA has not proposed requiring licensing for persons producing fixed-income research.
- "Research report": The definition will expressly exclude analysis of securities of an open-end registered investment company not listed or traded on an exchange.
- Other definitional changes are noted in Appendix A.

Relationship of Research to Other Parts of the Firm

- Separation from investment banking: Although the Global Settlement requires physical and firewall separation of equity research and investment banking, the existing NASD and NYSE equity research rules do not. Rule 2241(b)(2)(G) will require the establishment of information barriers or other institutional safeguards to ensure that research analysts are insulated from review, pressure or oversight by persons engaged in investment banking services activities or other

³ SR-FINRA-2014-047, Proposed Rule Change to Adopt FINRA Rule 2241, Nov. 14, 2014, at 13, *available at* <http://www.finra.org/sites/default/files/SR-FINRA-2014-047.pdf> (hereinafter, the "Equity Proposing Release").

persons, including sales and trading personnel, who might be biased in their judgment or supervision.⁴ While Rule 2241 does not mandate physical separation between the research and investment banking departments (or other persons who might seek to influence research analysts), FINRA has noted that it would expect such physical separation except in extraordinary circumstances where the costs are unreasonable due to a firm's size and resource limitations.⁵

- Pre-publication review: Pre-publication review by investment banking personnel will be prohibited, including for verification of factual accuracy, thus bringing into the New Equity Research Rule one of the provisions of the Global Settlement. Pre-publication review by non-research personnel for verification of factual accuracy is permitted, but a firm must specify in its policies and procedures the circumstances, if any, where pre-publication review by such non-research personnel would be permitted as necessary and appropriate; for example, where non-research personnel are best situated to verify select facts or where administrative personnel review a research report for formatting.
- Joint Due Diligence: Supplementary Material .02⁶ notes that FINRA prohibits the performance of joint due diligence prior to the selection of underwriters for the investment banking services transaction, except in the case of an EGC.
- Research budget: Rule 2241(b)(2)(D) brings into Rule 2241's text FINRA's interpretation that research budgets may only be determined by senior management, excluding senior management engaged in investment banking services.
- Research coverage plan: Rule 2241(b)(2)(B) brings into Rule 2241's text FINRA's interpretation that firms must restrict or limit input by the investment banking department into research coverage decisions to ensure that research management independently makes all final decisions regarding the research coverage plan. In response to comments that the word "independently" should be removed from the provision as redundant, FINRA noted that it views the provision as prohibiting a firm's use of a committee to make final coverage decisions in which there is a majority of research personnel, but also other individuals, and which committee makes a decision by voting.⁷
- Basis of analyst compensation: NASD Rule 2711(d)(1) prohibits firms from compensating research analysts on the basis of specific investment banking services transactions. Rule 2241 will expand the prohibition to extend to compensation based on investment banking services activities generally.
- Retaliation against research analysts: The New Equity Research Rule will expand the prohibition on retaliation against analysts to cover retaliation by any personnel (not just investment banking personnel).

⁴ One comment sought confirmation that Rule 2241(b)(2)(G) and the corresponding provision in the Fixed-Income Research Rule would continue to permit persons engaged in sales and trading activities to provide feedback on research analysts as part of the research evaluation process, but would prohibit an evaluation on the basis of inappropriate or improper reviews of such persons, such as a negative review due to an analyst being unwilling to give a sales person a "heads up" on a rating change. FINRA noted in general that it agreed with the comment. See https://www.finra.org/sites/default/files/rule_filing_file/FINRA-2014-047ResponsetoComments.pdf, at 4.

⁵ See the Equity Proposing Release at footnote 18.

⁶ The New Equity Research Rule and the Fixed-Income Research Rule contain a host of Supplementary Materials that also form part of the rule.

⁷ SR-FINRA-2014-047, Proposed Rule Change to Adopt FINRA Rule 2241, Feb. 19, 2015, at 30, available at https://www.finra.org/sites/default/files/rule_filing_file/SR-FINRA-2014-047%20-%20Amendment%20No.%201.pdf.

Personnel Account Trading

- The new “principles-based” approach described above also applies to personal account trading. Many of the specific restrictions and prohibitions regarding personal trading in NASD Rule 2711 have been removed and replaced with an obligation on firms more generally to ensure that research analysts, supervisors of research analysts and associated persons “with the ability to influence the content of a research report”⁸ do not benefit from the knowledge of the timing or content of a research report. Firms are afforded flexibility to define the financial hardship circumstances, if any, in which a research analyst would be permitted to trade against their most recent recommendation.⁹

Research Report Disclosures

- Expansion of “catch-all” conflict of interest disclosure requirement to other personnel: The current equity research rules require disclosure of any other material conflict of interest the research analyst knows or has reason to know about. That disclosure obligation is now extended to associated persons of the firm that have the ability to influence the content of a research report. FINRA’s stated intention is to capture material conflicts that may be known only to a supervisor or the head of research.
- Information barriers with respect to affiliate compensation disclosures: Firms may satisfy the disclosure requirement in Rule 2241(c)(4)(D) with respect to receipt of non-investment banking services compensation by an affiliate by implementing policies and procedures reasonably designed to prevent the research analyst and associated persons of the firm that have the ability to influence the content of research reports from directly or indirectly receiving information from the affiliate as to whether the affiliate received such compensation.
- Other changes: As described in Appendix A, there are also some changes to the required timing of the research report disclosures, as well as other changes.

Distribution of Third-Party Research

The New Equity Research Rule’s treatment of third-party research hews closely to that of NASD Rule 2711, which requires firms distributing research reports produced by other entities to establish certain procedures in respect of such distribution and to include certain disclosures. Among the required disclosures for distributed third-party research is added “any material conflict of interest that can reasonably be expected to have influenced the choice of a third-party research provider or the subject company of a third-party research report.” In addition, the new rule adds an express obligation that third-party research be clearly labeled as such.

Selective Dissemination

The New Equity Research Rule brings into the rule’s text the requirement that firms’ procedures must be reasonably designed to ensure that a research report is not distributed selectively to internal trading personnel or a particular customer or class of customers in advance of other customers that the firm has previously determined are entitled to receive the research report. In Supplementary Material .07, FINRA provides further guidance that a firm may offer

⁸ Supplementary Material .08 defines the term: “an associated person who is required to review the content of the research report or has exercised authority to review or change the research report prior to publication or distribution. This term does not include legal or compliance personnel who may review a research report for compliance purposes but are not authorized to dictate a particular recommendation, rating or price target.”

⁹ Rule 2241(b)(2)(J)(ii).

different research products to different classes of customers, for example by offering one research product to those with a long-term investment horizon (“investor research”) and a different research product to those customers with a short-term investment horizon (“trading research”), but firms may not differentiate a research product based on the timing of receipt of a recommendation, rating, or other potential market-moving information.

A firm providing different research products must disclose to customers that its alternative research products and services may reach different conclusions or recommendations that could impact the price of the equity security. Further detail is included in Supplementary Material .07.

The Fixed-Income Research Rule

The Fixed-Income Research Rule generally imposes requirements similar to those of the New Equity Research Rule, but with some modifications designed to tailor the rule to the fixed-income context (*e.g.*, no quiet periods, modified disclosures) and with significant exemptions for qualifying firms. The following pages seek to identify significant structural issues for firms’ consideration prior to the February 22, 2016 implementation date. For a complete, section-by-section analysis of the Fixed-Income Research Rule, please consult Appendix A and Appendix B.

Scope

The definition of “debt research report” tracks that of “equity research report” in Rule 2241. As noted above, FINRA declined to provide an exemption for trader commentary. The definition excludes from the definition analysis with respect to Treasuries, security-based swaps and municipal securities, but FINRA declined to exclude agency securities or sovereign fixed-income securities.¹⁰

Trader Commentary

As discussed above, FINRA declined to establish an exemption from the definition of debt research report for trader commentary similar to the exemption found in the Bond Market Association’s Guiding Principles for Fixed-Income Research. In its explanation, FINRA noted that it had reviewed examples of trader commentary and believes that many of those communications either do not provide information reasonably sufficient upon which to base an investment decision, or are subject to specific exceptions from the definition of debt research report set forth in FINRA Rule 2242(3)(A) or (B).¹¹

FINRA also noted that most trader commentary is distributed only to institutional investors, and that accordingly, many firms will be able to avail themselves of the exemption in the rule for firms that only distribute fixed-income research to institutional investors. However, even the limited provisions of the rule applicable to firms distributing only institutional fixed-income research may require significant structural changes.

¹⁰ In response to comments noting the difficulty of tracking myriad relationships firms may have with a foreign sovereign, Supplementary Material .04 permits firms to satisfy the disclosure requirement in paragraph (c)(4)(C) of the rule by implementing written policies and procedures reasonably designed to prevent the fixed-income research analyst and associated persons with the ability to influence the content of fixed-income research reports from directly or indirectly receiving information from a non-US affiliate as to whether such non-US affiliate received or expects to receive investment banking compensation from the foreign sovereign.

¹¹ Exchange Act Release No. 34-73263, Notice of Filing of a Proposed Rule Change to Adopt FINRA Rule 2242, Nov. 18, 2014, at p. 67, available at <http://www.sec.gov/rules/sro/finra/2014/34-73623.pdf> (hereinafter, the “Fixed-Income Proposing Release”).

Policies and Procedures Requirements Applicable to Firms Distributing Retail Fixed-Income Research and Not Qualifying for Limited Investment Banking or Principal Trading Exemptions

For firms distributing retail fixed-income research and not qualifying for either the limited investment banking operations or limited principal trading operations exemptions, all policy and procedures requirements set forth in the Fixed-Income Research Rule will apply. Those requirements generally track the New Equity Research Rule's policy and procedure requirements (except that the requirements also apply to principal trading personnel¹²); please consult Appendix A for a section-by-section analysis of those requirements.

Supplementary Material .03 of the Fixed-Income Research Rule is a significant departure from the New Equity Research Rule, however, and is analyzed in the following sub-section.

Information Barriers between Fixed-Income Research Analysts and Trading Desk Personnel: Express Prohibitions or Permissions for Certain Types of Communications

FINRA noted that its discussions with industry members indicated that there were certain necessary communications between fixed-income analysts and sales and trading and principal trading personnel. Supplementary Material .03 indicates that FINRA views Rule 2242(b)(1)(C) as requiring procedures expressly prohibiting the following communications:

- Sales and trading and principal trading personnel attempting to influence a fixed-income research analyst's opinion or views for the purpose of benefiting the trading position of the firm, a customer or a class of customers; and
- Fixed-income analysts identifying or recommending specific potential trading transactions to sales and trading or principal trading personnel that are inconsistent with such analyst's currently published fixed-income research reports, or disclosing the timing of, or material investment conclusions in, a pending fixed-income research report.

The Supplementary Material also specifically permits the following communications:

- Sales and trading and principal trading personnel may communicate customers' interests to a fixed-income research analyst, so long as the fixed-income research analyst does not respond by publishing fixed-income research for the purpose of benefiting the trading position of the firm, a customer or a class of customers;
- Fixed-income research analysts may provide customized analysis, recommendations or trade ideas to sales and trading and principal trading personnel and customers, subject to conditions;
- Sales and trading and principal trading personnel may seek the views of fixed-income research analysts regarding the creditworthiness of the issuer of a fixed-income security and other information regarding an issuer of a fixed-income security that is reasonably related to the price/performance of the fixed-income security, subject to conditions; and

¹² The Fixed-Income Research rule does not define "principal trading personnel." In response to comments, FINRA declined to provide a definition in the rule, but did note that it would consider issuing guidance in the future, and that it viewed sales and trading activities as excluding principal trading and proprietary trading activities. See FINRA's Amendment 1 to Rule 2242 at page 48, available at https://www.finra.org/sites/default/files/rule_filing_file/SR-FINRA-2014-048%20-%20Amendment%20No.%201.pdf (hereinafter "Rule 2242 Amendment 1").

- Fixed-income research analysts may seek information from sales and trading and principal trading personnel regarding a particular bond instrument, current prices, spreads, liquidity and similar market information relevant to the fixed-income research analyst's valuation of a particular fixed-income security, subject to conditions.

Institutional Fixed-Income Research

As discussed above, Rule 2242 contains important exceptions with respect to fixed-income research distributed only to institutional investors, including with respect to required firm policies and procedures and research report disclosures.

Who is an institutional investor for purposes of Rule 2242?

For purposes of the rule, either of the following is an institutional investor:

- Qualified Institutional Buyers ("QIBs") that affirmatively indicate that they are exercising independent judgment in evaluating the firm's recommendations. For QIBs for which the firm has already received a QIB certificate pursuant to Rule 2111 and such certificate covers fixed-income securities, no affirmative consent is required on the part of the investor; and
- Other "institutional accounts" (as defined in Rule 4512(c)) that also affirmatively indicate that they wish to receive institutional fixed-income research and forego treatment as a retail investor for purposes of Rule 2242.

Rule 2242 provides for a transition period: a firm may distribute institutional fixed-income research to any person that meets the definition of "institutional account" in Rule 4512(c), other than a natural person, for a period of up to one-year after July 16, 2015 even before having received such investor's affirmative consent.

Policies and procedures requirements for firms distributing fixed-income research only to institutional investors

Firms that distribute fixed-income research reports only to institutional investors are exempted from all policy and procedure requirements of the Fixed-Income Research Rule, except:

- Information barriers and safeguards with respect to pressure only: The requirement of Rule 2242(b)(2)(H) to establish information barriers or other institutional safeguards reasonably designed to protect fixed-income research analysts only applies to institutional-only firms with respect to "pressure" from investment banking services, principal trading or sales and trading – and not review or oversight.
- Investment banking marketing/communications: Firms must prohibit investment banking department personnel from directly or indirectly: (i) directing a fixed-income research analyst to engage in sales or marketing efforts related to an investment banking services transaction; and (ii) directing a fixed-income research analyst to engage in any communication with a current or prospective customer about an investment banking services transaction.
- Analyst objectivity; investment banking roadshows/pitches: Firms must limit or restrict fixed-income research analysts from engaging in any activity that can reasonably be expected to compromise their objectivity, including (i) participation in pitches and other solicitations of investment banking services transactions, and (ii) participation in road shows and other marketing on behalf of an issuer related to an investment banking services transaction.
- Retaliation: Prohibit direct or indirect retaliation or threat of retaliation against fixed-income research analysts by any employee.

- Promises of favorable research: Prohibit explicit or implicit promises of favorable fixed-income research, a particular fixed-income research rating or recommendation or specific fixed-income research content as inducement for the receipt of business or compensation.
- Pre-publication review by subject companies: Prohibit prepublication review of a fixed-income research report by a subject company for purposes other than verification of facts.
- Pre-publication review by investment banking personnel: Establish policies to prohibit prepublication review, clearance or approval of fixed-income research reports by investment banking personnel.

Physical Separation for Firms Distributing Only Institutional Fixed-Income Research

The Fixed-Income Research Rule does not by its text require physical separation of fixed-income research analysts and investment banking, principal trading or sales and trading personnel (even for firms distributing retail fixed-income research). However, FINRA has noted that it would expect physical separation except in extraordinary circumstances due to resource limitations, noting that FINRA believes that physical separation is an effective component to a reasonably designed compliance system that requires information barriers.¹³ We do not believe that FINRA specifically addressed physical separation in respect of firms distributing only institutional fixed-income research – in respect of such research, firms are exempted from many but not all of the rule’s information barrier requirements. We believe that the FINRA response to comments noted in the following paragraph can be instructive, however.

Commenters asserted that the Fixed-Income Research Rule could eliminate trader commentaries for the retail segment, and urged that trader commentaries be excluded from the definition of “debt research report.” FINRA declined to provide such an exclusion, and noted (1) that many trader commentaries FINRA reviewed did not come within the definition of debt research report, and (2) that to the extent trader commentary is provided to institutions, “then the institutional research exemption could exclude these communications from most of the provisions of the rule.¹⁴” FINRA added: “While FINRA understands that institutions may be more attuned to conflicts, FINRA believes it appropriate that even institutional debt research should retain certain minimum standards of independence and transparency, including restrictions on prepublication review by investment banking and the issuer, prohibitions on promises of favorable research as an inducement for receipt of business or compensation and general disclosure alerting recipients of the lesser standards and potential conflicts of interest attendant to the research report.”¹⁵

It would seem then that FINRA implied that desk commentaries captured by the definition of fixed-income research report may be permissible for firms distributing only institutional fixed-income research. However, firms distributing such commentaries will need to review closely the portions of the rule applicable to institutional research to ensure their policies and procedures fully comply with the requirements in the absence of physical separation.

¹³ See Fixed-Income Proposing Release at footnote 38.

¹⁴ See Fixed-Income Proposing Release at pp. 73-4.

¹⁵ See Fixed-Income Proposing Release at p. 74.

Only “Health Warning” disclosure required for institutional fixed-income research reports

Fixed-income research reports provided to institutional investors are not required to contain the disclosures generally required by the Fixed-Income Research Rule. In lieu of such disclosures, the research report need only contain the following disclosures, on the first page:

- “This document is intended for institutional investors and is not subject to all of the independence and disclosure standards applicable to debt research reports prepared for retail investors.”
- If applicable, “The views expressed in this report may differ from the views offered in [Firm’s] debt research reports prepared for retail investors.”
- If applicable, “This report may not be independent of [Firm’s] proprietary interests. [Firm] trades the securities covered in this report for its own account and on a discretionary basis on behalf of certain clients. Such trading interests may be contrary to the recommendation(s) offered in this report.”

Exemptions for Firms with Small Proprietary Fixed-Income Trading Operations

The Fixed-Income Research Rule provides policies and procedures exemptions for firms which conduct only limited amounts of principal fixed-income trading activity. Such firms are exempted from those provisions of the rule that restrict or prohibit interaction between fixed-income research analysts and sales and trading and principal trading personnel with respect to pre-publication review of fixed-income research, coverage decisions, supervision of fixed-income research analysts, compensation of fixed income research analysts and fixed-income research budget determination. The exemption is available if the firm has (1) gains or losses of less than \$15 million from principal fixed-income trading activity on average over the previous three years and (2) fewer than 10 fixed-income traders. Firms that qualify for this exemption must maintain records sufficient to establish eligibility for the exemption and also maintain for at least three years any communication that, but for the exemption, would be subject to the rule’s full policies and procedures requirements. The chart found below at Appendix B indicates which provisions are applicable to firms with small proprietary fixed-income trading operations.

Exemptions for Firms with Small Investment Banking Operations

Rule 2242 also provides policies and procedures exemptions for firms which conduct only limited amounts of investment banking activity. Such firms are exempted from the provisions of the rule that restrict or prohibit interaction between fixed-income research analysts and investment banking personnel with respect to pre-publication review of fixed-income research, supervision and compensation of fixed-income research analysts and fixed-income research budget determination. This exemption applies if, during the previous three years, a firm has, on average, participated in 10 or fewer investment banking services transactions per year as manager or co-manager, and generated \$5 million or less in gross investment banking revenues from those transactions. Firms that qualify for this exemption must maintain records sufficient to establish eligibility for the exemption and also maintain for at least three years any communication that, but for the exemption, would be subject to the rule’s full policies and procedures requirements. The chart found below at Appendix B indicates which provisions are applicable to firms with small investment banking operations.

Next Steps

Rule 2242 will become effective on February 22, 2016. Rule 2241 will be implemented in two stages. On September 25, 2015, the quiet period amendments went into effect. All other provisions of Rule 2241 will become effective on December 24, 2015.

Appendix A
Comparison of the Current Equity Research Rules, the New Equity Research Rule and the Fixed-Income Research Rule

PROVISION	Current Equity Research Rules	New Equity Research Rule (FINRA Rule 2241)	Fixed-Income Research Rule (FINRA Rule 2242)
<u>SCOPE</u>			
Definition of Research Report	Any written (including electronic) communication that includes an analysis of equity securities of individual companies or industries, and that provides information reasonably sufficient upon which to base an investment decision. Exclusions for communications limited to six types of information listed in 2711(a)(9)(A), and communications limited to distribution to fewer than 15 persons, internal communications not given to prospective customers, periodic reports or other communications prepared for investment company shareholders or discretionary investment account clients that discuss individual securities in the context of a fund's or account's past performance or the basis for previously made discretionary investment decisions	Same as 2711, except expressly excludes analysis of securities of an open-end registered investment company not listed or traded on an exchange, as well as communications that constitute private placement memoranda and comparable offering-related documents prepared in connection with investment banking services transactions, other than those that purport to be research. (2241(a)(11)).	Similar to 2711, except it excludes, naturally, equity securities, as well as Treasuries, municipal securities and security-based swaps, and adds an exception from the definition of research report for commentaries on or analyses of particular types of fixed-income securities or characteristics of fixed-income securities. (2242(a)(3)).
Definition of research analyst for purposes of analyst registration	In NASD Rule 1050: "an associated person who is primarily responsible for the preparation of the substance of a research report or whose name appears on a research report."	Adds to the "primarily responsible" prong of 1050 the condition that the "primary job function is to provide investment research." This is intended to provide relief to those who produce research reports only on an occasional basis.	FINRA has not yet proposed licensing for fixed-income analysts.
Definition of research analyst account	Any "account in which a research analyst or member of the research analyst's household has a financial interest, or over which such analyst has discretion or control, other than an investment company registered under the Investment Company Act of 1940."	Same as 2711, except that adds additional condition for the registered investment company exemption carve-out: that the analyst or their household does not have a financial interest other than a performance or management fee. (2241(a)(9)).	Same as 2241 (2242(a)(2)).
<u>QUIET PERIODS</u>			
IPO as manager or co-manager	40 days following the date of the offering. Subject to exclusions discussed below. (2711(f)(1)(A)).	Removed – reference is made only to participation as underwriter or dealer.	None.
IPO as underwriter or dealer	25 days following the issuer's IPO. (2711(f)(2)). Exemption for EGC IPOs.	10 days. (2241(b)(2)(I)). Exemption for EGC IPOs.	None.
Secondary as manager or co-manager	10 days following the date of the offering. (2711(f)(1)(B)). Exemption for EGC secondary offering.	3 days. (2241(b)(2)(I)). Exemption for EGC secondary offerings.	None.

PROVISION	Current Equity Research Rules	New Equity Research Rule (FINRA Rule 2241)	Fixed-Income Research Rule (FINRA Rule 2242)
Lock-up ending	15 days prior to and after the expiration, waiver or termination of a lock-up agreement. (2711(f)(4)).	Removed.	None.
Exclusions from restrictions from IPO and secondary quiet periods	Exclusions for reports and public appearances (a) concerning the effects of significant news or a significant event on the subject company, and (b) reports issued pursuant to SEC Rule 139 regarding a subject company with actively-traded securities as defined in Regulation M, or public appearances about such a company. (2711(f)(1)(B)).	Same as 2711.	N/A
Exclusions for EGCs	EGCs excluded from IPO and secondary offering quiet periods. (2711(f)(5)).	Same as 2711.	N/A
TERMINATION			
Termination procedures	Notice of termination of research coverage must be made with a report comparable in scope and means of dissemination with a final recommendation or rating, subject to exemption. (2711(f)(6)).	No significant change (2241(f)).	None.
POLICIES AND PROCEDURES			
<i>General procedures</i>			
Principles-based procedures	No.	Yes. Policies and procedures must reasonably identify and effectively manage conflicts of interest related to: (A) the preparation, content and distribution of research reports; (B) public appearances by research analysts; and (C) the interaction between research analysts and those outside of the research department, including investment banking and sales and trading personnel, subject companies and customers. (2241(b)(1)). Must promote objective and reliable research that reflects the truly held opinions of research analysts and to prevent the use of research reports or research analysts to manipulate or condition the market or favor the interests of the firm or a current or prospective customer or class of	Same as 2241, except that policies and procedures must also identify and effectively manage conflicts of interest related to interaction between fixed-income analysts and principal trading personnel. (2242(b)(1)). Exemptions may apply for qualifying firms. Please consult Appendix B.

PROVISION	Current Equity Research Rules	New Equity Research Rule (FINRA Rule 2241)	Fixed-Income Research Rule (FINRA Rule 2242)
		customers (2241(b)(2)).	
<i>Supervision and Compensation of Research Analysts</i>			
Supervision by non-research personnel	No research analyst may be subject to the supervision or control of any employee of the firm's investment banking department (2711(b)(1)).	Same as 2711. (2241(b)(2)(C)).	Policies and procedures must limit supervision to persons not engaged in investment banking services transactions, principal trading activities, or sales and trading. (2242(b)(2)(D)). Exemptions may apply for qualifying firms. Please consult Appendix B.
Safeguards/barriers ensuring research analysts insulated from review, pressure or oversight of certain non-research personnel.	None.	Firms must establish information barriers or other institutional safeguards reasonably designed to ensure that research analysts are insulated from review, pressure or oversight by persons engaged in investment banking services activities or other persons, including sales and trading personnel, who might be biased in their judgment or supervision. (2241(b)(2)(G)). FINRA has noted this will, absent extraordinary circumstances, require physical separation of banking and research.	Same as 2241, except that information barriers and institutional safeguards also must be designed to ensure that research analysts are insulated from review, pressure or oversight by persons engaged in principal trading activities and sales and trading activities. (2242(b)(2)(H)) Supplementary Material .03 also treats information barriers. Exemptions may apply for qualifying firms. See Appendix B.
Prohibition on specific types of communications between trading desk personnel and fixed-income research analysts	No.	No.	Yes. Supplementary Material .03. Exemptions may apply for qualifying firms. See Appendix B.
Prohibition on basing analyst compensation upon certain factors	No firm may pay any bonus, salary or other form of compensation to a research analyst that is based upon a specific investment banking services transaction. (2711(d)(1)).	Same as 2711, except that conforming prohibition expanded to also prohibit compensation based on investment banking services activities generally. (2241(b)(2)(E)).	Same as 2241, except that prohibition expanded to include compensation on the basis of specific trading transactions or contributions to trading activities. (2242(b)(2)(F)). Exemptions may apply for qualifying firms. See Appendix B.
Prohibition on influence over/input into analyst compensation by	No personnel engaged in investment banking activities may have any influence or control over the compensatory evaluation of a research	Same as 2711. (2241(b)(2)(C)).	Similar to 2241, but instead of referencing influence or control, precludes "input into the

PROVISION	Current Equity Research Rules	New Equity Research Rule (FINRA Rule 2241)	Fixed-Income Research Rule (FINRA Rule 2242)
non-research personnel	analyst. (2711(b)(1)).		compensation of debt research analysts.” That prohibition is expanded to include persons engaged in principal trading activities. (2242(b)(2)(D)). Exemptions may apply for qualifying firms. See Appendix B.
Analyst compensation	<p>Compensation of a research analyst must be reviewed and approved at least annually by a committee that reports to the firm’s board of directors. This committee may not have representation from the firm’s investment banking department. The committee must consider the following factors:</p> <p>(A) individual performance, including the analyst’s productivity and the quality of the analyst’s research;</p> <p>(B) the correlation between the research analyst’s recommendations and the stock price performance; and</p> <p>(C) the overall ratings received from clients, sales force, peers independent of the firm’s investment banking department and other independent ratings services.</p> <p>The committee may not consider as a factor in reviewing and approving such a research analyst’s compensation his or her contributions to the firm’s investment banking business. (2711(d)(2)).</p>	Same as 2711. (2241(b)(2)(F)).	Same as 2241, except participation of principal trading personnel is also prohibited, the committee does not need to consider correlation between the analyst’s recommendations and the performance of the recommended securities, and no requirement to consider ratings from sales force. Sales and trading personnel expressly permitted to provide input to fixed-income research management in order to convey customer feedback. (2242(b)(2)(G)). Exemptions may apply for qualifying firms. Please consult Appendix B.
Research department budget determined by senior management	Not in text of rule, but FINRA notes that the text in 2241 and 2242 codifies a FINRA interpretation.	Express requirement that firms limit determination of the research department budget to senior management, excluding senior management engaged in investment banking services activities (2241(b)(2)(D)).	Same as 2241, except that also excludes senior management engaged in principal trading activities. Expressly permits revenues and results of the firm as a whole to be considered, and expressly permits input from any personnel to senior management regarding demand for fixed-income research including product trends and customer research interests. (2242(b)(2)(E)). Exemptions may apply for qualifying firms. Please consult Appendix B.
Input by non-research personnel into coverage decisions	Not in text of rule, but FINRA notes that the text in 2241 and 2242 codifies a FINRA interpretation.	Firms must restrict or limit input by the investment banking department into research coverage decisions to ensure that research management independently makes all final decisions regarding the research	Same as 2241, except that input of sales and trading and principal trading personnel also must be limited. (2242(b)(2)(C)). Exemptions may apply for qualifying firms. Please consult Appendix B.

PROVISION	Current Equity Research Rules	New Equity Research Rule (FINRA Rule 2241)	Fixed-Income Research Rule (FINRA Rule 2242)
		coverage plan. (2241(b)(2)(B)).	
Prohibition on retaliation against analysts	No firm and no firm personnel involved with the firm's investment banking business may retaliate against or threaten to retaliate against any research analyst employed by the firm or its affiliates as a result of an adverse, negative, or otherwise unfavorable research report or public appearance. (2711(j)).	Same as 2711, except that protection extended to cover retaliation from any personnel (not just investment banking). (2241(b)(2)(H)).	Same as 2241. (2242(b)(2)(I)). Exemptions may apply for qualifying firms. Please consult Appendix B.
<i>Review of research reports</i>			
Prepublication review by non-research personnel	Except as permitted for verification of research report factual accuracy, non-research personnel are prohibited from reviewing or approving a research report before publication. (2711(b)(2))	Same as 2711, except that prohibition on review even for factual accuracy does not apply to investment banking personnel, and establishes certain required policies and procedures with respect to internal review for factual accuracy. (2241(b)(1)(A), SM .05). Policies and procedure must be established for situations in which review by non-research personnel is permitted: as FINRA notes, "for example, where non-research personnel are best situated to verify select facts or where administrative personnel review a research report for formatting."	Same as 2241, except that prohibition on review even for factual accuracy extends to principal trading and sales and trading personnel. (2242(b)(2)(A), SM .05). Exemptions may apply for qualifying firms. Please consult Appendix B.
Prepublication review by subject company	Except as permitted for review for factual accuracy (subject to the conditions), prohibition on submission of a research report to a subject company prior to publication. (2711(c)(1),(2))	Same as 2711 (2241(b)(2)(N)).	Same as 2711. (2242(b)(2)(N)).
<i>Notifications of subject company</i>			
Notification of subject company rating change	Any notification of a subject company that the firm intends to change its rating is permissible, provided that notification on the business day prior to the intended date of rating change and after the close of trading in the principal market. (2711(c)(3)).	Eliminated.	None.
<i>Solicitation of investment banking business</i>			
Promise of favorable Research	No firm may directly or indirectly offer favorable research, a specific rating or a specific price target, or threaten to change research, a rating or a price target, to a company as consideration or inducement for the receipt of business or compensation. (2711(e)).	New language is: "prohibit explicit or implicit promises of favorable research, a particular research rating or recommendation or specific research content as inducement for the receipt of	Same as 2241. (2242(b)(2)(K)).

PROVISION	Current Equity Research Rules	New Equity Research Rule (FINRA Rule 2241)	Fixed-Income Research Rule (FINRA Rule 2242)
		business or compensation” (2241(b)(2)(K)).	
“Catch-all” requirement to restrict activities that can be expected to compromise objectivity	No.	Yes. Firms must restrict or limit activities by research analysts that can reasonably be expected to compromise their objectivity, even outside of the specific prohibitions noted by 2241(b)(L).	Same as 2241. (2242(b)(L)).
Participation in soliciting investment banking business	No research analyst may participate in efforts to solicit investment banking business, including participation in pitches. No prohibition on attending pitch meetings for EGCs. (2711(c)(4))	Same as 2711. (2241(b)(L)(i)).	Same as 2711. (2242(b)(L)(i)).
Participating in road show related to investment banking services	Prohibited. (2711(c)(5)(A)).	Same as 2711. (2241(b)(L)(ii)).	Same as 2711. (2242(b)(L)(ii)).
Communication with customer in presence of investment banking personnel	Prohibited. (2711(c)(5)(B)).	Same as 2711 (SM .03).	Same as 2711. (SM .02). Exemptions may apply for qualifying firms. Please consult Appendix B.
Investment banking personnel directions regarding marketing	Investment banking personnel may not direct analyst to engage in sales or marketing efforts relating to investment banking services transactions or to communicate with current or prospective customer regarding investment banking services transaction (2711(c)(6)).	Same as 2711. (2241(b)(2)(M)).	Same as 2711. (2242(b)(2)(M)).
Analyst info. in pitch materials	No treatment in rule text.	Prohibition on including any information about a firm’s research capacity in a manner that suggests the firm might provide favorable research coverage. Industry ranking info is prohibited. On the other hand, firms permitted to include in the pitch materials the fact of coverage and the name of the research analyst. (SM .01)	Same as 2241. (SM .01). Exemptions may apply for qualifying firms. Please consult Appendix B.
Joint Due Diligence	No treatment in rule text.	Prohibition on joint due diligence prior to awarding of mandate, except for EGCs if such prohibition conflicts with the JOBS Act. (SM .02)	Same as 2241 (SM .09). Exemptions may apply for qualifying firms. Please consult Appendix B.
<i>Research content</i>			
Procedures to ensure reliable information	No express requirement.	Firms must have policies and procedures to ensure that purported facts in its research reports are based	Same as 2241. (2242(c)(1)). Exemptions may apply for qualifying firms. Please consult Appendix B.

PROVISION	Current Equity Research Rules	New Equity Research Rule (FINRA Rule 2241)	Fixed-Income Research Rule (FINRA Rule 2242)
		on reliable information. (2241(c)(1)).	
<u>RESEARCH REPORT DISCLOSURES</u>			
Analyst	The research analyst or a member of the research analyst's household has a financial interest in the securities of the subject company, and the nature of the financial interest. (2711(h)(1)(A)).	Same as 2711. (2241(c)(4)(A)).	Same as 2711. (2242(c)(4)(A)). Exemptions for firms distributing only institutional fixed-income research.
Ownership of subject company securities	Firm or affiliate ownership of 1% or more of any class of equity securities, as of the end of the month preceding the report or public appearance or the second most recent month if the publication date is less than 10 calendar days after end of most recent month. (2711(h)(1)(B)).	Same as 2711, except that relevant moment in time for the analyst is the publication of the research report. (2241(c)(4)(F)).	Eliminated, but there is obligation to disclose material conflicts of interest per 2242(c)(4)(H), and to disclose if the firm trades as principal in the fixed-income securities that are the subject of the report or related derivatives. (2242(c)(4)(F)). Exemptions for firms distributing only institutional fixed-income research.
Any other actual material conflict of interest	Any other actual material conflict of interest of the research analyst or firm knows or has reason to know at the time of publication. (2711(h)(1)(C)).	Same as 2711, but expanded to cover not only analysts but also associated persons with the ability to influence the content of a research report. (2241(c)(4)(I)).	Same as 2241 (2242(c)(4)(H)). Exemptions for firms distributing only institutional fixed-income research.
Research analyst compensation based on firm's investment banking revenues or from the subject company in the past 12 months	Research analyst received compensation based on firm's investment banking revenues or from the subject company in the past 12 months (2711(h)(2)(A)(i)).	Same as 2711, except removes reference to compensation from the subject company. (2241(c)(4)(B)).	Same as 2241, except that also requires disclosure of analyst comp. based on principal trading or sales and trading (2242(c)(4)(B)). Exemptions for firms distributing only institutional fixed-income research.
Investment banking compensation	Firm or affiliate: a. managed or co-managed a public offering of securities for the subject company in the past 12 months; b. received compensation for investment banking services from the subject company in the past 12 months; or c. expects to receive or intends to seek compensation for investment banking services from the subject company in the next three months. (2711(h)(2)(ii))	Same as 2711 (2241(c)(4)(C)).	Same as 2241 (2242(c)(4)(C)). Exemptions for firms distributing only institutional fixed-income research.
Exemptions for certain disclosures that would disclose MNPI	Yes. (2711(h)(2)(C)).	Same as 2711 (2241(c)(5)).	Same as 2711 (2242(c)(5)).

PROVISION	Current Equity Research Rules	New Equity Research Rule (FINRA Rule 2241)	Fixed-Income Research Rule (FINRA Rule 2242)
Non-investment banking compensation of firm, client of firm, affiliate	<p>As of the end of the month preceding the publication of the report or of the second most recent month if publication date is less than 30 calendar days after the most recent month, or to the extent the analyst or personnel with the ability to influence the substance of the research knows:</p> <p>a. the firm received any compensation for products or services other than investment banking services from the subject company in the past 12 months; or</p> <p>b. the subject company currently is, or during the 12-month period preceding the date of distribution of the research report was, a client of the firm. (2711(h)(2)(iii))</p> <p>If, to the extent the analyst or personnel of the firm with the ability to influence a research report knows, an affiliate received any compensation for products or services other than investment banking services from the subject company in the past 12 months. (2711(h)(2)(A)(iv))</p>	<p>Same as 2711, except that the disclosure regarding non-investment banking compensation is also with respect to the firm's affiliates, and the firm must disclose the nature of the client relationship as "as either investment banking services, non-investment banking securities-related services or non-securities services." With respect to affiliate non-investment banking compensation, firms may use information barriers to satisfy this obligation, by preventing analysts and associated persons with ability to influence research reports from having knowledge of such compensation. See Supplementary Material .04. (2241(c)(4)(D),(E))</p>	<p>Same as 2241 (2242(c)(4)(D),(E))</p> <p>Exemptions for firms distributing only institutional fixed-income research.</p>
Trading as principal in the fixed-income securities (or related derivatives) that are the subject of the research report.	No	No.	<p>Yes. (2242(c)(4)(F)).</p> <p>Exemptions for firms distributing only institutional fixed-income research.</p>
Position of officer or director	<p>If the research analyst or a member of the research analyst's household serves as an officer, director or advisory board member of the subject company. (2711(h)(3)).</p>	<p>No express requirement in rule, but likely would be required to be disclosed as a material conflict of interest.</p>	<p>No express requirement in rule, but likely would be required to be disclosed as a material conflict of interest.</p> <p>Exemptions for firms distributing only institutional fixed-income research.</p>
Meaning of ratings	<p>If a research report contains a rating, the firm must define in the research report the meaning of each rating used by the firm in its rating system. (2711(h)(4)).</p>	<p>Same as 2711, except that there is an express requirement to include the time horizon and benchmarks upon which the rating is based. (2241(c)(2)).</p>	<p>Same as 2241 (2242(c)(2)).</p> <p>Exemptions for firms distributing only institutional fixed-income research.</p>
Distribution of ratings	<p>A firm must disclose in each research report the percentage of all securities rated by the firm to which the firm would assign a "buy," "hold/neutral," or "sell" rating.</p> <p>In each research report, the firm must disclose the percentage of subject companies within each of these three categories for whom the firm has provided investment banking services within the previous 12 months. (2711(h)(5)).</p>	<p>Same as 2711. (2241(c)(2)(A)).</p>	<p>Same as 2241, except that the disclosure requires the percentage of all <u>subject companies</u> (rather than securities) to which the firm has assigned the particular rating. (2242(c)(2)(A)).</p> <p>Exemptions for firms distributing only institutional fixed-income research.</p>
Price Chart	<p>If a research report contains either a rating or a</p>	<p>Same as 2711. (2241(c)(3)).</p>	<p>Same as 2241, except that there is</p>

PROVISION	Current Equity Research Rules	New Equity Research Rule (FINRA Rule 2241)	Fixed-Income Research Rule (FINRA Rule 2242)
	price target, and the firm has assigned a rating or price target to the subject company's securities rating for at least one year, the research report must include a line graph of the security's daily closing prices for the period that the firm has assigned any rating or price target or for a three-year period, whichever is shorter. (2711(h)(6)).		no reference to a price target and, accordingly, no requirement to have a line graph of the security's daily closing prices. Instead, there must be disclosure of each date on which the firm assigned the rating and the rating assigned. (2242(c)(3)). Exemptions for firms distributing only institutional fixed-income research.
Price targets and ratings	If a research report contains a price target, firm must disclose valuation methods used. (2711(h)(7)).	Same as 2711, except that requirement to explain any valuation method extends not only to price targets, but also to any recommendation or rating. Any recommendation, rating or price target must also have a reasonable basis and provide a fair presentation of the risks that may impede achievement of the target, recommendation or rating. (2241(c)(1)(B)).	Same as 2241, except that reference to price targets is eliminated. (2242(c)(1)(B)). Exemptions for firms distributing only institutional fixed-income research.
Market making	If firm was making a market in the subject company's securities at the time that the research report was published. (2711(h)(8)).	Same as 2711. (2241(c)(4)(G)).	Eliminated.
<u>SELECTIVE DISSEMINATION</u>			
Policies regarding selective dissemination	Not in text of rule, but FINRA notes that the text in 2241 and 2242 codifies a FINRA interpretation.	Firms must establish, maintain and enforce written policies and procedures reasonably designed to ensure that a research report is not distributed selectively to internal trading personnel or a particular customer or class of customers in advance of other customers that the firm has previously determined are entitled to receive the research report. (2241(g)). SM .07 also provides guidance regarding providing different content to different recipients.	Same as 2241 (2242(g)). Exemptions for firms distributing only institutional fixed-income research from this provision of the rule.
<u>THIRD-PARTY RESEARCH</u>			
Disclosures for non-independent third-party research	1% ownership of subject company securities, any other actual material conflict of interest, investment banking compensation, market-making. (2711(h)(13)(A)).	In addition to those required by 2711, must also disclose any material conflict of interest that can reasonably be expected to have	Same as 2241, except with respect to market-maker disclosures which are not required in 2242 (2242(g)(3)). Exemptions for firms distributing

PROVISION	Current Equity Research Rules	New Equity Research Rule (FINRA Rule 2241)	Fixed-Income Research Rule (FINRA Rule 2242)
		influenced the choice of a third-party research provider or the subject company of a third-party research report (2241(h)).	only institutional fixed-income research.
Principal review	For all <u>non</u> -independent third party research, principal must approve by signature or initial all third-party research distributed by firm, with respect to any untrue statement of material fact or any false or misleading information that should be known from reading the report or known based on information otherwise possessed by the firm. (2711(h)(13)(C)).	Same as 2711. (2241(h)).	Not required. However, 2242(g)(2) requires the establishment of policies and procedures designed to ensure that any third-party fixed-income research report contains no untrue statement of material fact and is otherwise not false or misleading.
Independent third party research definition	Definition: Producer of the report has no affiliation or business or contractual relationship with the distributing firm that is reasonably likely to inform the content of the research report and makes content determinations without input from distributing firm or affiliates. (2711(h)(13)(E))	Same as 2711. (2241(a)).	Same as 2711 (2242(a)).
Disclosures for independent third-party research	None, if research made available to customers upon request, through a firm-maintained website or in connection with a solicited order in which the registered rep. has informed the customer that independent third party research is available and the customer requests such research. (2711(h)(13)(B))	Same as 2711. (2241(h)).	Same as 2711. (2242(g)). Exemptions for firms distributing only institutional fixed-income research.
Labelling as third-party research	No express requirement in rule.	Third-party research must be clearly labeled as such. (2241(h)(7)).	Same as 2241 (2242(g)(7)). Exemptions for firms distributing only institutional fixed-income research.
PERSONAL TRADING BY ANALYSTS			
Pre-IPO securities	Prohibition on purchase or receipt of pre-IPO securities of issuers that are principally engaged in the same types of business as companies that the research analyst follows. (2711(g)(1)).	Same as 2711 (2241(b)(2)(J)(iii)).	No prohibition.
Prohibition on transactions close in time to report, or rating or price target change	Prohibition on transactions in any security (or related option or derivative) issued by a company that the research analyst follows, or any option on or derivative of such security, for a period beginning 30 calendar days before and ending 5 calendar days after the publication of a research report about the company or a change in rating or price target of the company's securities. Subject to exemptions. (2711(g)(2))	Not expressly. Instead 2241 takes a "principles-based" approach, requiring firms to ensure that "research analyst accounts, supervisors of research analysts and associated persons with the ability to influence the content of research reports do not benefit in their trading from knowledge of the content or timing of a research report before the	Same as 2241 (2242(b)(2)(J)(ii)). Exemptions for firms distributing only institutional fixed-income research.

PROVISION	Current Equity Research Rules	New Equity Research Rule (FINRA Rule 2241)	Fixed-Income Research Rule (FINRA Rule 2242)
		intended recipients of such research have had a reasonable opportunity to act on the information in the research report.” (2241(b)(2)(J)(ii)).	
Trading inconsistent with published research	Prohibition on transactions in securities (or related options or derivatives) inconsistent with the analyst’s recommendation in the most recent published report.	Same as 2711 (2241(b)(2)(J)(ii)). FINRA notes in Supplementary Material .10 that it will not consider a research analyst to have traded in a manner inconsistent with recommendation in connection with policies that require divesting of holdings, subject to conditions.	Same as 2241 (2242(b)(2)(J)(ii)) Exemptions for firms distributing only institutional fixed-income research.
Hardship exemptions	Legal or compliance personnel may authorize a transaction prohibited due to being close in time to a research report or ratings or price change or being inconsistent with published research due to unanticipated significant change in the personal financial situation of the beneficial owner, provided the conditions of 2711(g)(4) are complied with.	Firms to define: “defining financial hardship circumstances, if any (e.g., unanticipated significant change in the personal financial circumstances of the beneficial owner of the research analyst account), in which the firm will permit a research analyst account to trade in a manner inconsistent with such research analyst’s most recently published recommendation.” The specific conditions of 2711(g)(4) are removed, but the hardship exemptions only applies to transactions in securities, by the research analyst which are inconsistent with a published research report. (2241(b)(2)(J)(ii)).	Same as 2241 (2242(b)(2)(J)(ii)). Exemptions for firms distributing only institutional fixed-income research.
Fund exemptions	The personal trading prohibitions do not apply to (a) any registered diversified investment company, or (b) any other fund over which neither the analyst nor a member of the analyst’s household has any investment discretion or control, subject to conditions. (2711(g)(5)).	Exemption is for “funds whose performance is materially dependent upon the performance of securities covered by the research analyst” (2241(b)(2)(J)).	Same as 2241 (2242(b)(2)(J)). Exemptions for firms distributing only institutional fixed-income research.
EXCEPTIONS			
Description	Exception from 2711(b) (prohibition on investment banking control of compensation influence over research analysts, prohibition on review of prepublication research report by investment banking or any other non-research	Same qualification standard as 2711, but exemption from a broader portion of 2241 for such firms. (2241(i)).	Similar exemption as 2241 for firms limited investment banking operations, but also adds exemptions for firms with limited principal trading and for firms

PROVISION	Current Equity Research Rules	New Equity Research Rule (FINRA Rule 2241)	Fixed-Income Research Rule (FINRA Rule 2242)
	<p>personnel, with exceptions for checking of factual accuracy), if the firm, over the previous three years, has participated in 10 or fewer investment banking transactions as manager or c-manager and generated \$5 million or less in gross investment banking services revenues from those transactions. (2711(k)).</p>		<p>distributing only institutional research.</p>
<u>ANNUAL ATTESTATION</u>			
Annual attestation	Yes, specific 2711 attestation (2711(i)).	No specific attestation; will be part of Rule 3130 attestation.	No specific attestation; will be part of Rule 3130 attestation.

Appendix B
Differential Applicability of Fixed-Income Research Rule Policy and Procedures Provisions

DESCRIPTION OF PROVISION	APPLICABLE TO FIRMS DISTRIBUTING RETAIL RESEARCH?	APPLICABLE TO FIRMS DISTRIBUTING ONLY INSTITUTIONAL RESEARCH?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED PRINCIPAL FIXED-INCOME TRADING OPERATIONS?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED INVESTMENT BANKING OPERATIONS?
<u>General procedures to manage conflicts:</u> Establish, maintain and enforce policies and procedures reasonably designed to identify and effectively manage conflicts of interest related to fixed-income research. (b)(1)	Yes	No	Yes	Yes
<u>Review of reports by investment banking personnel:</u> Prohibit prepublication review, clearance or approval of fixed-income research reports by investment banking personnel. (b)(2)(A)(i)	Yes	Yes	Yes	No
<u>Review of reports by princ. trading/sales & trading personnel:</u> Prohibit prepublication review, clearance or approval of fixed-income research reports by principal trading personnel and sales and trading personnel. (b)(2)(A)(ii),(iii)	Yes	No	No	Yes
<u>Review of reports by those not directly responsible:</u> Restrict or prohibit prepublication review, clearance or approval of fixed-income research reports by persons not directly responsible for the content of such reports, other than legal and compliance personnel. Subject to exceptions for factual review noted in SM .05. (b)(2)(B)	Yes	No	No	No

DESCRIPTION OF PROVISION	APPLICABLE TO FIRMS DISTRIBUTING RETAIL RESEARCH?	APPLICABLE TO FIRMS DISTRIBUTING ONLY INSTITUTIONAL RESEARCH?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED PRINCIPAL FIXED-INCOME TRADING OPERATIONS?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED INVESTMENT BANKING OPERATIONS?
<p><u>Restrict input into coverage decisions:</u> Restrict or limit input by investment banking department, sales and trading and principal trading personnel into fixed-income research coverage decisions to ensure that research management independently makes all final decisions regarding the research coverage plan. (b)(2)(C)</p>	Yes	No	Does not apply with respect to sales and trading personnel input; applies to investment banking input	Does not apply with respect to investment banking personnel input; applies to sales and trading input
<p><u>Supervision/comp. evaluation of analysts:</u> Limit supervision and compensatory evaluation of fixed-income research analyst to persons not engaged in (a) investment banking services transactions and (b) principal or sales and trading activities. (b)(2)(D)</p>	Yes	No	Does not apply with respect to sales and trading personnel; applies to investment banking personnel	Does not apply with respect to investment banking personnel; applies to sales and trading personnel
<p><u>FI budget determinations:</u> Limit determination of fixed-income research dept. budget to senior management, excluding senior management engaged in investment banking or principal trading activities, and without regard to specific revenues or results derived from investment banking. (b)(2)(E)</p>	Yes	No	Does not apply with respect to sales and trading personnel and revenues; applies to investment banking personnel and revenue	Does not apply with respect to investment banking personnel and revenues; applies to sales and trading personnel and revenue
<p><u>Basis of analyst compensation:</u> Prohibit compensation of fixed-income research analysts based on specific investment banking services or specific trading transactions or contribution to a firm's investment banking services or principal trading activities. (b)(2)(F)</p>	Yes	No	Yes	Yes

DESCRIPTION OF PROVISION	APPLICABLE TO FIRMS DISTRIBUTING RETAIL RESEARCH?	APPLICABLE TO FIRMS DISTRIBUTING ONLY INSTITUTIONAL RESEARCH?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED PRINCIPAL FIXED-INCOME TRADING OPERATIONS?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED INVESTMENT BANKING OPERATIONS?
<p><u>Committee review of analyst compensation</u>: Require that the compensation of a fixed income research analyst primarily responsible for the substance of a research report be reviewed by a committee reporting to the board of directors, without any representation from investment banking personnel or persons engaged in principal trading activities. Additional affirmative obligations apply as cited in this section.(b)(2)(G)</p>	Yes	No	No	No
<p><u>Policies to insulate analysts from pressure, review, oversight of certain personnel</u>: Establish information barriers or other institutional safeguards to ensure that fixed income research analysts are insulated from review, pressure or oversight from persons involved in investment banking, principal trading, sales and trading, and others who might be biased in their judgment and supervision. (b)(2)(H)</p>	Yes	Yes, with respect to insulation from pressure	Does not apply with respect to review, pressure and oversight from sales and trading personnel	Does not apply with respect to review, pressure and oversight from investment banking personnel
<p><u>Prohibit retaliation</u>: Prohibit retaliation against fixed income analysts by any employee as the result of an unfavorable research. (b)(2)(I)</p>	Yes	Yes	Yes	Yes

DESCRIPTION OF PROVISION	APPLICABLE TO FIRMS DISTRIBUTING RETAIL RESEARCH?	APPLICABLE TO FIRMS DISTRIBUTING ONLY INSTITUTIONAL RESEARCH?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED PRINCIPAL FIXED-INCOME TRADING OPERATIONS?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED INVESTMENT BANKING OPERATIONS?
<p><u>Analyst trading</u>: Restrict or limit fixed-income research analyst account trading in securities, any derivatives of such securities and any fund whose performance is materially dependent upon the performance of securities covered by the fixed-income research analyst. (b)(2)(J)</p>	Yes	No	Yes	Yes
<p><u>Promises of favorable research</u>: Prohibit explicit or implicit promises of favorable fixed-income research, a particular fixed-income research rating or recommendation or specific fixed-income research content as inducement for the receipt of business or compensation. (b)(2)(K)</p>	Yes	Yes	Yes	Yes
<p><u>Objectivity of analysts, including prohibition on participating in investment banking pitches and solicitations</u>: Restrict or limit activities by fixed-income research analysts that can reasonably be expected to compromise their objectivity, including prohibiting:</p> <ul style="list-style-type: none"> (i) participation in pitches and other solicitations of investment banking services transactions; and (ii) participation in road shows and other marketing on behalf of an issuer related to an investment banking services transaction. (b)(2)(L) 	Yes	Yes	Yes	Yes

DESCRIPTION OF PROVISION	APPLICABLE TO FIRMS DISTRIBUTING RETAIL RESEARCH?	APPLICABLE TO FIRMS DISTRIBUTING ONLY INSTITUTIONAL RESEARCH?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED PRINCIPAL FIXED-INCOME TRADING OPERATIONS?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED INVESTMENT BANKING OPERATIONS?
<p><u>Prohibit investment banking direction re marketing and communications</u>: Prohibit investment banking department personnel from directly or indirectly:</p> <p>(i) directing a fixed-income research analyst to engage in sales or marketing efforts related to an investment banking services transaction; and</p> <p>(ii) directing a fixed-income research analyst to engage in any communication with a current or prospective customer about an investment banking services transaction. (b)(2)(M)</p>	Yes	Yes	Yes	Yes
<p><u>Review by subject company</u>: Prohibit prepublication review of fixed-income research reports by a subject company (except for fact checking). (b)(2)(N)</p>	Yes	Yes	Yes	Yes
<p><u>Pitch materials</u>: Prohibition on including in pitch materials any information about fixed-income research capacity that suggest that the firm might provide favorable fixed-income research coverage. This prohibits including analyst ranking. (SM .01)</p>	Yes	No	Yes	Yes
<p><u>Restrictions on analyst communications with customers</u>: Prohibition on analyst communication with current or prospective customer in the presence of investment banking personnel or company management. (SM .02(a))</p>	Yes	Yes	Yes	Yes

DESCRIPTION OF PROVISION	APPLICABLE TO FIRMS DISTRIBUTING RETAIL RESEARCH?	APPLICABLE TO FIRMS DISTRIBUTING ONLY INSTITUTIONAL RESEARCH?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED PRINCIPAL FIXED-INCOME TRADING OPERATIONS?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED INVESTMENT BANKING OPERATIONS?
<p><u>Information Barriers between analysts and trading desk personnel:</u> Requirement for procedures to prohibit (a)(1) principal trading or sales & trading personnel from influencing analysts view to benefit trading position of firm or customers, and (a)(2) analysts identifying or recommending specific transactions to desk personnel inconsistent with published report, or disclosing timing of, or material conclusions in, a pending report. The provision also permits enumerated types of communications. (SM .03)</p>	Yes	No.	Yes	Yes
<p><u>Selective Dissemination.</u> Prohibition on differentiating a fixed-income research product based on the timing of receipt; nor may a firm label a fixed-income research product with substantially the same content as a different fixed-income research product as a means to allow certain customers to trade in advance of other customers. In addition, a firm that provides different fixed-income research products and services for different customers must provide disclosure. (SM .06)</p>	Yes	No	Yes	Yes

DESCRIPTION OF PROVISION	APPLICABLE TO FIRMS DISTRIBUTING RETAIL RESEARCH?	APPLICABLE TO FIRMS DISTRIBUTING ONLY INSTITUTIONAL RESEARCH?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED PRINCIPAL FIXED-INCOME TRADING OPERATIONS?	APPLICABLE TO FIRMS CLASSIFIED AS LIMITED INVESTMENT BANKING OPERATIONS?
<p><u>Joint Due Diligence:</u> Prohibited in the presence of investment banking personnel prior to the awarding of a mandate. (SM .09).</p>	Yes	No	Yes	Yes

ABU DHABI | BEIJING | BRUSSELS | DUBAI | FRANKFURT | HONG KONG | LONDON | MENLO PARK | MILAN | NEW YORK | PARIS
ROME | SAN FRANCISCO | SÃO PAULO | SAUDI ARABIA* | SHANGHAI | SINGAPORE | TOKYO | TORONTO | WASHINGTON, DC

This memorandum is intended only as a general discussion of these issues. It should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired.

599 LEXINGTON AVENUE | NEW YORK | NY | 10022-6069

Copyright © 2015 Shearman & Sterling LLP. Shearman & Sterling LLP is a limited liability partnership organized under the laws of the State of Delaware, with an affiliated limited liability partnership organized for the practice of law in the United Kingdom and Italy and an affiliated partnership organized for the practice of law in Hong Kong.

*Abdulaziz Alassaf & Partners in association with Shearman & Sterling LLP