

Prohibition on Borrowing From or Lending to Customers

FINRA Adopts Amendments to Rule 3240

Effective Date: April 28, 2025

Summary

FINRA has adopted amendments to Rule 3240 (Borrowing From or Lending to Customers) to strengthen the rule's general prohibition against borrowing and lending arrangements between registered persons and their customers, narrow some existing exceptions to the general prohibition, modernize the "immediate family" definition, and enhance the notice and approval requirements related to permissible arrangements. The amendments will become effective on April 28, 2025.

The text of the rule change is set forth in [Attachment A](#).

Questions concerning this *Notice* should be directed to:

- ▶ Ilana Herscovitz Reid, Associate General Counsel, Office of General Counsel, at (202) 728-8268 or by [email](#); or
- ▶ Carrie Jordan, Principal Counsel, Office of General Counsel, at (212) 858-4210 or by [email](#).

Background & Discussion

Rule 3240 generally prohibits registered persons from borrowing money from or lending money to their customers.¹ The rule has five tailored exceptions, available only when a member firm has written procedures allowing such exceptions and, when required, the registered person notifies the member firm and obtains the member firm's approval.²

FINRA previously launched a retrospective review of Rule 3240 to assess the rule's effectiveness, as part of a larger retrospective review of FINRA's rules and administrative processes that help protect senior investors from financial exploitation.³ FINRA published [Regulatory Notice 21-43](#), which summarized the predominant themes that emerged during the retrospective review of Rule 3240, issued guidance

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Notice Type

- ▶ Rule Amendment

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Registered Representatives
- ▶ Senior Management

Key Topic

- ▶ Prohibition on Borrowing From or Lending to Customers
- ▶ Senior Investors

Referenced Rules & Notices

- ▶ FINRA Rule 3240
- ▶ Regulatory Notice 19-27
- ▶ Regulatory Notice 21-43

concerning approvals of permissible borrowing or lending arrangements, and sought comment on proposed amendments to Rule 3240.⁴ FINRA later filed a proposed rule change with the SEC to amend Rule 3240, and the SEC recently approved those amendments.⁵

The amendments are discussed in more detail below.

General Prohibition on Borrowing From or Lending to Customers

As stated above, Rule 3240 generally prohibits registered persons from borrowing money from or lending money to their customers. FINRA has strengthened the general prohibition by:

- ▶ clarifying that the rule's general prohibition and requirements apply to borrowing or lending arrangements that pre-exist a new broker-customer relationship;⁶
- ▶ defining "customer" to include any customer that has, or in the previous six months had, a securities account assigned to the registered person at any member, which extends the rule's limitations to borrowing or lending arrangements entered into within six months after a broker-customer relationship terminates;⁷ and
- ▶ extending the rule's general prohibition and requirements to borrowing or lending arrangements that involve conflicts similar to the ones presented by arrangements directly between registered persons and their customers.⁸

FINRA has also codified an existing interpretation that, for purposes of Rule 3240, borrowing or lending arrangements include owner-financing arrangements.⁹

Further, to more accurately describe the proscriptive intent of the rule, FINRA has changed the title of Rule 3240 from "Borrowing From or Lending to Customers" to "Prohibition on Borrowing From or Lending to Customers," and changed the title of Rule 3240(a) from "Permissible Lending Arrangements; Conditions" to "General Prohibition; Permissible Borrowing or Lending Arrangements; Conditions."

"Immediate Family" Definition

One of the few exceptions to Rule 3240's general prohibition is for borrowing or lending arrangements with a customer who is a member of the registered person's immediate family. FINRA has amended the rule to modernize the definition of "immediate family" by:

- ▶ replacing "husband or wife" with "spouse or domestic partner;"
- ▶ including "step and adoptive relationships" in the definition; and
- ▶ changing the "any other person" clause to "any other person who resides in the same household as the registered person and the registered person financially supports, directly or indirectly, to a material extent."¹⁰

Close Personal Relationship and Business Relationship Exceptions

FINRA has amended Rule 3240 to narrow the personal relationship and business relationship exceptions as follows:

- ▶ the amended personal relationship exception applies to arrangements that are based on a “bona fide, close personal relationship between the registered person and the customer maintained outside of, and formed prior to, the broker-customer relationship;”¹¹ and
- ▶ the amended business relationship exception applies to arrangements that are based on a “bona fide business relationship outside of the broker-customer relationship.”¹²

The amendments also provide examples of such relationships and a non-exhaustive list of factors for evaluating whether a borrowing or lending arrangement is based on a close personal relationship or a business relationship.¹³

Notice and Approval Requirements

Rule 3240 includes notice and approval requirements for permissible borrowing or lending arrangements, which vary depending on which exception applies. The amendments modify the notice and approval requirements in several ways by:

- ▶ clarifying that, although registered persons are required to obtain member firms’ prior approval of borrowing or lending arrangements within the close personal relationship, business relationship and registered persons exceptions, member firms are not required to approve such arrangements;¹⁴
- ▶ requiring that all notices be in writing and retained by the member firm;¹⁵
- ▶ with respect to the registered persons, close personal relationship and business relationship exceptions, aligning the notification and approval requirements with the rule’s application to pre-existing arrangements—specifically, by requiring a registered person, prior to initiating a broker-customer relationship at the member firm with a person with whom the registered person has an existing borrowing or lending arrangement, to notify the member firm in writing of the existing arrangement and obtain the member firm’s approval in writing of the broker-customer relationship;¹⁶ and
- ▶ with respect to the immediate family and financial institution exceptions, aligning the provisions that address notice and approval with the rule’s application to pre-existing arrangements—specifically, by providing that a member firm’s procedures may indicate that registered persons are not required to notify the member firm or receive the member firm’s approval of such arrangements either before or after initiating a broker-customer relationship.¹⁷

The amendments also establish new obligations on member firms when receiving written notice under Rule 3240—specifically, by requiring member firms to (1) perform a “reasonable assessment” of the risks created by the borrowing or lending arrangement, including modifications to arrangements and arrangements that pre-exist the broker-customer relationship, and (2) make a “reasonable determination” of whether to approve such arrangement, modification or new broker-customer relationship.¹⁸ FINRA intends that a member firm’s “reasonable assessment” and “reasonable determination” for purposes of Rule 3240.06 would be informed by guidance that FINRA has previously provided to member firms in *Regulatory Notice 21-43*, which includes a non-exhaustive list of factors for member firms to consider.¹⁹

Finally, FINRA reminds member firms that they may choose to prohibit all borrowing and lending arrangements, allow only some of the exceptions or impose limitations on the exceptions.

Effective Date

As stated above, the amendments will become effective on April 28, 2025. The amendments will apply to (1) new borrowing or lending arrangements and new broker-customer relationships that are entered into on or after April 28, 2025, and (2) modifications made on or after April 28, 2025, to borrowing or lending arrangements that were entered into before that date. However, the amendments will not apply retroactively to borrowing or lending arrangements that were entered into prior to the effective date of the amendments.

Endnotes

- 1 Where appropriate in context, FINRA refers herein to borrowing “and” lending rather than borrowing “or” lending. No references to borrowing “and” lending, however, should be interpreted to mean that Rule 3240 only applies to arrangements that have both a borrowing component and a separate lending component. Rule 3240 generally prohibits registered persons from borrowing money from *or* lending money to a customer.
- 2 See Rule 3240(a)(2)(A) (the “immediate family exception”); Rule 3240(a)(2)(B) (the “financial institution exception”); Rule 3240(a)(2)(C) (the “registered persons exception”); Rule 3240(a)(2)(D) (the “personal relationship exception”); Rule 3240(a)(2)(E) (the “business relationship exception”). Rule 3240(b)(1) requires notice and approval of arrangements within the personal relationship, business relationship and registered persons exceptions. For the immediate family and financial institution exceptions, Rule 3240(b)(2) and (3) state that member firms’ written procedures may indicate that registered persons are not required to notify the member firm or receive member firm approval either before or after entering into such arrangements. Thus, member firms may choose to require notice and approval of such arrangements.
- 3 See [Regulatory Notice 19-27](#) (August 2019).
- 4 See [Regulatory Notice 21-43](#) (December 2021).
- 5 See Securities Exchange Act Release No. 101065 (September 17, 2024), 89 FR 77547 (September 23, 2024) (Order Approving File No. SR-FINRA-2024-001).
- 6 See Attachment A, Rule 3240(a).
- 7 See Attachment A, Rule 3240.02 (Customer).
- 8 See Attachment A, Rule 3240.05 (Arrangements with Persons Related to Either the Registered Person or the Customer).
- 9 See Attachment A, Rule 3240.03 (Owner-Financing Arrangements). See also James K. Breeze, Case No. 2008012846501 (June 30, 2009) (FINRA AWC); Vincenzo G. Covino, Case No. 2009020793901 (Feb. 9, 2012) (FINRA AWC).
- 10 See Attachment A, Rule 3240(c).
- 11 See Attachment A, Rule 3240(a)(2)(D). In this *Notice*, FINRA refers to the amended personal relationship exception as the “close personal relationship exception.”
- 12 See Attachment A, Rule 3240(a)(2)(E).
- 13 See Attachment A, Rule 3240.04 (Close Personal Relationships; Business Relationships).
- 14 See Attachment A, Rule 3240(b)(1).
- 15 See Attachment A, Rule 3240(b)(1)(A) and (b)(1)(B) and Rule 3240.01.
- 16 See Attachment A, Rule 3240(b)(1)(B).
- 17 See Attachment A, Rule 3240(b)(2) and (3).
- 18 See Attachment A, Rule 3240.06 (Obligations of Member Receiving Notice).
- 19 [Regulatory Notice 21-43](#), *supra* note 4.

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