

CARES Act – FINRA Guidance Issued

April 6, 2020



FINRA has put forth very recent Guidance for member firm broker-dealers, providing temporary relief from certain member requirements in light of the novel coronavirus. This Guidance includes relief regarding Net Capital Treatment for firms that participate in the Coronavirus Aid, Relief and Economic Security Act (CARES Act) Paycheck Protection Program (PPP), as well as relief related to FINRA Annual Assessments.

CARES ACT 2020:

The Federal CARES Act authorizes billions of dollars in forgivable loans to small businesses under the PPP. The loans are to be used to pay employees, rent and utilities during the COVID-19 crisis. There are restrictions and caps to qualify for the loan, so each firm must determine if they are qualified to participate individually.

FINRA Net Capital Treatment Guidance, Paycheck Protection Program:

FINRA has released Guidance for member firms that qualify and participate in these forgivable loan programs relative to net capital treatment of recording the loans and associated expense transactions on their books. FINRA's guidance is brief and may not provide all the answers a firm may have relative to their situation. Firms are advised to discuss with their FINOPs and FINRA Coordinators how it may apply to their particular situation.

A summary of the guidance is as follows:

For the purposes of computing Regulatory Net Capital under Rule 15c3-1, firms that receive covered forgivable loans under the Act, upon recording the liability, will be allowed to add back to Regulatory Net Capital the amount of qualified expenses recorded on the books from proceeds of the loans. The firm cannot add back to the regulatory net capital an amount in excess of the full qualifying loan amount. In addition the full loan amount recorded on the balance sheet can be excluded from Aggregated Indebtedness (AI) for the purposes of calculating required net capital for the 8-week covered period, beginning on the loan origination date. After the 8-week period, the AI

exclusion is equal to the amount of qualified expenses that the firm is permitted to add back to capital.

Qualifying expenses for the add back to Regulatory Net Capital are listed below. Referenced Sections are in the CARES Act.

1. Payroll costs (as defined in Section 1106(a)(8));
2. Any payment of interest on any covered mortgage obligation (as defined in Section 1106(a)(2)), which shall not include any prepayment of or payment of principal on a covered mortgage obligation;
3. Any payment on any covered rent obligation (as defined in Section 1106(a)(4)); and
4. Any covered utility payment (as defined in Section 1106(a)(5)).

It should be noted that these are expenses that the firm reasonably expects will be forgiven. Also the firms must keep detailed records documenting the loan and a record of the type, amounts and payments made in support of the add backs to Regulatory Net Capital.

If you are considering applying for a qualifying loan, you should do so ASAP as banks offering these loans are expected to be very busy and time is of the essence.

FINRA Guidance, Annual Assessment:

In addition, FINRA is providing relief for annual assessment payments for small firms in the form of deferrals and its net capital treatment for such deferrals. Typically, Annual Assessment invoices are distributed by FINRA to firms and are due upon receipt in April. "Small Firms" (as defined by FINRA as no more than 150 registered reps), can now treat those bills as received August 1 instead of due upon receipt in April. Small firms can pay 50% of the bill by Sept 1 and 50% by December 1. Further, should small firms choose to defer payments to those time periods, they must accrue the liability upon receipt in April but can add back that liability to Net Capital and exclude that liability from Aggregate Indebtedness when calculating required capital for net capital purposes, until September 1 2020.

Please also refer to FINRA faq's below:

<https://www.finra.org/rules-guidance/key-topics/covid-19/faq#cares>

<https://www.finra.org/rules-guidance/key-topics/covid-19/faq#assessment>

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