

# 529 Plan Share Class Initiative: FINRA Encouraging Firms to Self Report Violations

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On January 28, 2019, the Financial Industry Regulatory Authority (FINRA) launched a program to allow broker-dealers to self-report share class disclosure violations related to 529 plans. The 529 Plan Share Class Initiative, as set out in [Regulatory Notice 19-04](#), states that over the past several years, FINRA has found that some firms have failed to reasonably supervise brokers' recommendations of multi-share class products.

## 529 PLANS

529 plans are tax-advantaged municipal securities that are designed to encourage saving for the future educational expenses of a designated beneficiary. Because 529 plans are municipal securities, the sale of 529 plans are governed by the rules of the Municipal Securities Rulemaking Board (MSRB). See, [MSRB Rule G-19 \(Suitability of Recommendations and Transactions\)](#). FINRA is responsible for examining FINRA members that are municipal securities dealers or municipal advisors and for enforcing MSRB rules.

## 529 PLAN SHARE CLASS INITIATIVE ADDRESSES POTENTIAL AREAS OF CONCERN

The 529 Plan Share Class Initiative seeks to promote compliance with rules governing 529 plan recommendations and encourages firms to investigate and self-report potential violation.

The Notice has identified four areas of potential concern including:

- failure to provide training regarding different 529 plan share classes;
- failure to assess different costs for share class transactions;
- failure to review data regarding the 529 plan share classes sold; and
- failure to review potential discounts when conducting suitability analyses of 529 plan recommendations

## FILING DEADLINES

The deadline for firms to self-report to FINRA is 12:00 A.M Eastern Time, on April 1, 2019. *Firms that already have been contacted by FINRA as of the date of the Notice regarding potential violations related to 529 plan share class sales are not required to self-report under the 529 Initiative.*

Firms that are subject to pending examinations by FINRA are eligible to self-report. After timely self-reporting, a firm must submit all of the Initiative's required information for the disclosure period (January 2013 through June 2018) by May 3, 2019.

## FTI'S GUIDANCE FOR BROKER-DEALERS

FTI recommends that broker-dealers, that have not already been contacted by FINRA, immediately conduct an assessment of their 529 accounts for possible violations. Based on the results of this initial assessment, broker-dealers will need to do the following:

- Scoping of potentially impacted accounts and funds
- Collecting and preserving transactional and account data relevant to the time period
- Assessment of supervisory controls and procedures
- Calculation of remediation amounts and interest, validation, and testing
- Payment processing
- Reporting to regulators and stakeholders

## HOW WE CAN HELP

FTI's Broker Dealer Regulatory, Governance, and Disputes practice team has direct experience with 529 plan share class remediation and is able to assist clients with an initial assessment of their 529 accounts and provide remediation support in a timely and cost-efficient manner. FTI will work closely with internal and external legal counsel, compliance and key stakeholders across the organization to perform an assessment of the program, collect and analyze the relevant data, conduct an impact analysis and support remediation for impacted customers the current 529 Plan Share Class Initiative.

## CONTACTS

FTI Consulting's Broker-Dealer Regulatory, Governance and Disputes practice is led by [Christopher Chatfield](#) and [Anthony Italiano](#).



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Christopher Chatfield has advised broker-dealers on hundreds of investigations and regulatory inquiries, advised and defended financial institutions involved in both domestic and international complex regulatory investigations and litigation, represented senior management in governance and compliance matters, and conducted high-profile internal investigations. His specific areas of expertise include insider trading; equity, derivatives and fixed income sales and trading; electronic trading; alternative trading systems; non-financial regulatory reporting; retail sales practices; and remediation plans. Before joining FTI Consulting, Mr. Chatfield was associate general counsel in the Regulatory Inquiries group at Bank of America and Merrill Lynch.



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Anthony Italiano has more than 19 years of experience in the financial services industry. During that time, he has specialized in compliance, operations, and legal issues, covering regulatory investigations, cash equity, and portfolio trading desks, as well as institutional branch examinations and trading surveillance. His specific areas of expertise include insider trading; equity, derivatives and fixed income sales and trading; electronic trading; alternative trading systems; non-financial regulatory reporting; retail sales practices; and remediation plans; among others. Mr. Italiano joined FTI from EY, where he managed complex investigations involving the SEC, FINRA, the DOJ and others.



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The views expressed herein are those of the author and not necessarily the views of FTI Consulting, Inc.



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