

Chapter 13

SROs, Marketplaces and Clearing Agencies

13.1 SROs

13.1.1 MFDA Rule 2.2 (Client Accounts)

MFDA Rule 2.2 (Client Accounts)

2.2 Client Accounts

2.2 CLIENT ACCOUNTS

2.2.1 "Know-Your-Client". Each Member and Approved Person shall use due diligence:

- (a) to learn the essential facts relative to each client and to each order or account accepted;
- (b) to ensure that the acceptance of any order for any account is within the bounds of good business practice; and
- (c) to ensure that each order accepted or recommendation made for any account of a client is suitable for the client ~~and in keeping with~~based on the essential facts relative to the client's investment objectives; and ~~and~~ any investments within the account;
- (d) to ensure that, notwithstanding the provisions of paragraph (c), where a transaction proposed by a client is not suitable for the client ~~and in keeping with the client's investment objectives~~based on the essential facts relative to the client and the investments in the account, the Member ~~or Approved Person~~ has so advised the client before execution thereof; and the Member or Approved Person has maintained evidence of such advice;
- (e) to ensure that the suitability of the investments within each client's account is assessed:
 - (i) whenever the client transfers assets into an account at the Member;
 - (ii) whenever the Member or Approved Person becomes aware of a material change in client information, as defined in Rule 2.2.4; or
 - (iii) by the Approved Person where there has been a change in the Approved Person responsible for the client's account at the Member; and
- (f) to ensure that, where investments in a client's account are determined to be unsuitable, the Member or Approved Person so advises the client and makes recommendations to address any inconsistencies between investments in the account and the essential facts relative to the client and the Member or Approved Person maintains evidence of such advice and recommendations.

2.2.2 New Accounts.

- (a) Each new account for a client must be opened by the Member within a reasonable time of the client's instruction to do so. Account numbers must not be assigned unless they are accompanied by the proper name and address for the client.
- (b) ~~2.2.2 New Account Application Form.~~ A New Account Application Form must be completed for each new account of a client. If the New Account Application Form does not include know-your-client information, this must be documented on a separate Know-Your-Client form. Such form or forms shall be duly completed to conform with the requirements of Rule 2.2.1 and shall be signed by the client and dated. ~~Account numbers must not be assigned unless they are accompanied by the proper name and address for the client and such name and address must be supported by the New Account Application Form.~~

2.2.3 **New Account Approval.** Each Member shall designate a trading partner, director or officer or, in the case of a branch office, a branch manager reporting directly to the designated partner, director or officer, who shall be responsible for approval of the opening of new accounts and the supervision of account activity. The designated person shall ~~prior to~~

or promptly, no later than one business day after the completion of any initial transaction specifically date, approve the opening of such account in writing and a record of such approval shall be maintained in accordance with Rule 5.

2.2.4 **Updating Know-Your-Client Information**

- (a) Definition. In this Rule, "material change in client information" means any information that results in changes to the stated risk tolerance, time horizon or investment objectives of the client or would have a significant impact on the net worth or income of the client.
- (b) ~~(a)~~ The Form ~~form~~ documenting know-your-client information must be updated to include any material change in client information whenever a Member or Approved Person or other employee or agent becomes aware of such change including pursuant to Rule 2.2.4(b).
- (c) Subject to paragraph (d), the Member must maintain evidence of client instructions regarding any material changes in client information and all such changes must be approved by the individual designated in accordance with Rule 2.2.3 as responsible for the approval of the opening of new accounts.
- (d) A client signature or other internal controls sufficient to authenticate the client's identity and verify the client's authorization must be used to evidence any change in client name, client address or client banking information.
- (e) ~~(b)~~ Without reducing the responsibility of Members in Rule 2.2.1, all Members must at least annually, in writing, request each client to notify the Member if ~~the know-your-~~there has been any material change in client information previously provided to the Member or the client's circumstances have materially changed. The date of such request and the date upon which any such client information is received and recorded or amended must be retained.

2.2.5 **Relationship Disclosure.** For each new account opened, the Member shall provide written disclosure to the client:

- (a) describing the nature of the advisory relationship;
- (b) describing the products and services offered by the Member;
- (c) Written authorization must be obtained from the client for any change in a client name describing the Member's procedures regarding the receipt and handling of client cash and cheques. In the case of a Level 2 dealer, the disclosure must include an explanation that all client cheques shall be payable to the issuer or carrying dealer, as applicable;
- (d) describing the Member's obligation to ensure that each order accepted or recommendation made for any account of a client is suitable for the client in accordance with Rule 2.2.1 and advising when the Member will assess the suitability of the investments in the client's account;
- (e) defining the various terms with respect to the know-your-client information collected by the Member and describing how this information will be used in assessing investments in the account;
- (f) describing the content and frequency of reporting for the account; and
- (g) describing the nature of the compensation that may be paid to the Member and referring the client to other sources for more specific information.

MFDA Rule 2.8.3 (Rates of Return)

2.8.3 2.8.3—**Rates of Return**

- (a) In addition to complying with the requirements in Rule 2.8.2, any client communication containing or referring to a rate of return regarding a specific account or group of accounts ~~must be based on an annualized rate of return and explain the methodology used to calculate such rate of return in sufficient detail and clarity to reasonably permit the client to understand the basis for the rate of return.:~~
- (i) disclose an annualized rate of return calculated in accordance with standard industry practices; and
 - (ii) explain the methodology used to calculate such rate of return in sufficient detail and clarity to reasonably permit the client to understand the basis for the rate of return.
- (b) In addition to complying with the requirements in Rule 2.8.2 and Rule 2.8.3(a), any client communication containing or referring to a rate of return regarding a specific account or group of accounts that is provided by an Approved Person must be approved and supervised by the Member.
- (c) ~~(b)~~ Notwithstanding the provisions of paragraph(s) (a) and (b), where an account has been open for less than 12 months, the rate of return shown must be the total rate of return since account opening.