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8000. INVESTIGATIONS AND SANCTIONS

8100. GENERAL PROVISIONS

8110. Availability of Manual to Customers

Every member of the Association shall keep in its main office and each of its branch offices a current copy of the Association's Manual and all amendments to it. Upon request, a member shall make the Manual and amendments available to any customer for examination.

8120. Definitions

(a) Unless otherwise provided, terms used in the Rule 8000 Series shall have the meaning as defined in Rule 0120.

(b) The term "Adjudicator" shall have the meaning as defined in Rule 9120.

8200. INVESTIGATIONS

8210. Provision of Information and Testimony and Inspection and Copying of Books

(a) Authority of Adjudicator and Association Staff

For the purpose of an investigation, complaint, examination, or proceeding authorized by the NASD By-Laws or the Rules of the Association, an Adjudicator or Association staff shall have the right to:

(1) require a member, person associated with a member, or person subject to the Association's jurisdiction to provide information orally, in writing, or electronically (if the requested information is, or is required to be, maintained in electronic form) and to testify, under oath or affirmation administered by a court reporter or a notary public if requested, with respect to any matter involved in the investigation, complaint, examination, or proceeding; and

(2) inspect and copy the books, records, and accounts of such member or person with respect to any matter involved in the investigation, complaint, examination, or proceeding.

(b) Other SRO's and Regulators

Association staff also may exercise the authority set forth in paragraph (a) for the purpose of an investigation, complaint, examination, or proceeding conducted by another domestic or foreign self-regulatory organization, association, securities or contract market, or regulator of such markets with which the Association has entered into an agreement providing for the exchange of information and other forms of material assistance solely for market surveillance, investigative, enforcement, or other regulatory purposes.

(c) Requirement to Comply

No member or person shall fail to provide information or testimony or to permit an inspection and copying of books, records, or accounts pursuant to this Rule.

(d) Receipt of Notice

A notice under this Rule shall be deemed to have been received by the member or person to whom it is directed by the mailing thereof to the business address of such member or person as reflected in the Central Registration Depository, unless the Adjudicator or Association staff responsible for serving the member or associated person has actual knowledge that the address is out of date. In such case, a copy of the notice shall be served on the member at its last known address, or in the case of an associated person, at the associated person's last known residential address and the business address in the Central Registration Depository of the member with which the person is employed or affiliated.

(e) Electronic Interface

In carrying out its responsibilities under this Rule, the Association may, as appropriate, establish programs for the submission of information to the Association on a regular basis through a direct or indirect electronic interface between the Association and members.

(f) Inspection and Copying

A witness, upon proper identification, may inspect the official transcript of the witness' own testimony. Upon written request, a person who has submitted documentary evidence or testimony in an Association investigation may procure a copy of the person's documentary evidence or the transcript of the person's testimony upon payment of the appropriate fees, except that prior to the issuance of a complaint arising from the investigation, the Association staff may for good cause deny such request.

8220. Suspension for Failure to Provide Requested Information

8221. Notice

(a) Notice to Member

If a member fails to provide any information, report, material, data, or testimony requested pursuant to the NASD By-Laws or the Rules of the Association, or fails to keep its membership application or supporting documents current, the National Business Conduct Committee may provide written notice to such member specifying the nature of the failure and stating that the failure to take such action within 20 days after service of the notice constitutes grounds for suspension from membership.

(b) Notice to Person Associated with Member

If a person associated with a member fails to provide any information, report, material, data, or testimony requested pursuant to the NASD By-Laws or the Rules of the Association, the National Business Conduct Committee may provide written notice to such person specifying the nature of the failure and stating that the failure to take such action within 20 days after service of the notice constitutes grounds for suspending the association of the person with the member.

(c) Service of Notice

The National Business Conduct Committee shall serve the member or associated person with such notice via personal service or commercial courier.

8222. Hearing

(a) Request for Hearing

Within five days after the date of service of a notice issued under Rule 8221, a member or associated person served with a notice under Rule 8221(c) may file with the National Business Conduct Committee a written request for an expedited hearing before a subcommittee of the National Business Conduct Committee. The request shall state with specificity why the member or associated person believes that there are insufficient grounds for suspension or any other reason for setting aside the notice issued by the National Business Conduct Committee.

(b) Hearing Procedures

(1) Appointment of Subcommittee

If a hearing is requested, the National Business Conduct Committee shall appoint a subcommittee to conduct the hearing and decide whether the member or associated person should be suspended. The subcommittee shall be composed of a member of the National Business Conduct Committee and one or more current or past members of the NASD Regulation Board.

(2) Time of Hearing

The hearing shall be held within 20 days after the date of service of the notice issued under Rule 8221. Not later than seven days before the hearing, the subcommittee shall serve the member or associated person with written notice of the date and time of the hearing via commercial courier or facsimile and notify the appropriate department or office of NASD Regulation of the date and time of the hearing. The appropriate department or office of NASD Regulation (hereinafter "appropriate department or office" in the Rule 8220 Series) shall be the department or office that issued the request for the information, report, material, data, or testimony that the member or associated person failed to provide, or in the case of a member that failed to keep its membership application or supporting documents current, the Department of Member Regulation.

(3) Transmission of Documents

Not later than seven days before the hearing, the subcommittee shall serve the member or associated person via commercial courier with all documents that were considered in connection with the National Business Conduct Committee's decision to issue a notice under Rule 8221.

(4) Counsel

The member or associated person and the appropriate department or office may be represented by counsel at a hearing conducted under this Rule.

(5) Evidence

Formal rules of evidence shall not apply to a hearing under this Rule. Not later than four days before the hearing, the member or associated person and the appropriate department or office shall exchange copies of proposed hearing exhibits and witness lists and provide copies of the same to the subcommittee.

(6) Witnesses

A person who is subject to the jurisdiction of the Association shall testify under oath or affirmation. The oath or affirmation shall be administered by a court reporter or a notary public.

(7) Additional Information

At any time during its consideration, the subcommittee may direct the member or associated person or the appropriate department or office to submit additional information. Any additional information submitted shall be provided to all parties before the subcommittee renders its decision.

(8) Transcript

The hearing shall be recorded and a transcript prepared by a court reporter. The member or associated person may purchase a copy of the transcript from the court reporter at prescribed rates. A witness may purchase a copy of the transcript of his or her own testimony from the court reporter at prescribed rates. Proposed corrections to the transcript may be submitted by affidavit to the subcommittee within a reasonable time determined by the subcommittee. Upon notice to the participants in the hearing, the subcommittee may order corrections to the transcript as requested or sua sponte.

(9) Record

The record shall consist of all documents that were considered in connection with the National Business Conduct Committee's decision to issue a notice under Rule 8221, the notice issued under Rule 8221, the request for hearing filed under Rule 8222, the transcript of the hearing, and each document or other item of evidence presented to or considered by the Subcommittee. The Office of the General Counsel of NASD Regulation shall be the custodian of the record.

(10) Failure to Appear at Hearing

If a member or associated person fails to appear at a hearing for which it has notice, the subcommittee may dismiss the request for a hearing as abandoned, and the notice of the National Business Conduct Committee issued under Rule 8221 shall become the final action of the Association. Upon a showing of good cause, the subcommittee may withdraw a dismissal entered pursuant to this subparagraph.

8223. Decision

(a) Subcommittee

(1) Proposed Written Decision

The subcommittee may suspend the membership of a member or suspend the association of a person with a member for failure to take the action required by the notice issued under Rule 8221. The subcommittee shall prepare a proposed written decision, and if the subcommittee determines that a suspension should be imposed, the proposed written decision shall state the grounds for the suspension and the conditions for terminating the suspension. The subcommittee shall provide its proposed written decision to the NASD Board of Governors.

(2) Issuance of Decision After Expiration of Call for Review Period

If no Governor calls the suspension proceeding for review within the time prescribed in paragraph (b)(1), the subcommittee's proposed written decision shall become final, and the subcommittee shall serve the final written decision on the member or associated person via commercial courier or facsimile.

(b) NASD Board of Governors

(1) Call For Review by Governor

A Governor may call the suspension proceeding for review if the call for review is made not later than ten days after the Governor receives the subcommittee's proposed written decision. By a unanimous vote of the NASD Board of Governors, the NASD Board of Governors may shorten the call for review period to less than ten days. By an affirmative vote of the majority of the NASD Board of Governors then in office, the NASD Board of Governors may, during the ten day period, vote to extend the period to more than ten days.

(2) Review and Decision

If a Governor calls the suspension proceeding for review within the time prescribed in subparagraph (1), the NASD Board of Governors shall conduct a review not later than its next meeting. The NASD Board of Governors may affirm, modify, or reverse the decision of the subcommittee. Not later than seven days after the NASD Board of Governors meeting, the NASD Board of Governors shall serve a final written decision on the member or associated person via commercial courier or facsimile. The decision shall state the disposition of the suspension proceeding, and if a suspension is imposed, state the grounds for the suspension and the conditions for terminating the suspension.

(c) Effective Date.

A final written decision served under this Rule shall become effective upon service and shall constitute final action of the Association.

8224. Notice to Membership

The Association shall provide notice of a suspension under the Rule 8220 Series and the grounds therefor in the next membership supplement.

8225. Termination of Suspension

A suspended member or associated person may file a written request for termination of the suspension on the ground of full compliance with the notice issued under Rule 8221 or, if applicable, the conditions of a decision under Rule 8223, with the head of the appropriate department or office. The head of the appropriate department or office shall respond to the

request in writing within five days after receipt of the request. If the head of the appropriate department or office grants the request, he or she shall serve the member or associated person with written notice of the termination of the suspension via commercial courier or facsimile. If the head of the department or office denies the request, the suspended member or associated person may file a written request for relief with the National Business Conduct Committee. The National Business Conduct Committee shall respond to the request in writing within ten days after receipt of the request. The National Business Conduct Committee's response shall be served on the member or associated person via commercial courier or facsimile.

8226. Copies of Notices and Decisions to Member

A copy of a notice or decision under the Rule 8220 Series that is served on a person associated with a member shall be served on such member.

8227. Other Action Not Foreclosed

Action by the Association under the Rule 8220 Series shall not foreclose action by the Association under any other Rule.

8300. SANCTIONS

8310. Sanctions for Violation of the Rules

(a) Imposition of Sanction

After compliance with the Rule 9000 Series, the Association may impose one or more of the following sanctions on a member or associated person for each violation of the federal securities laws, rules or regulations thereunder, the rules of the Municipal Securities Rulemaking Board, or Rules of the Association, or may impose one or more of the following sanctions on a member or associated person for any neglect or refusal to comply with an order, direction, or decision issued under the Rules of the Association:

- (1) censure member or person associated with a member;
- (2) impose a fine upon a member or person associated with a member;
- (3) suspend the membership of a member or suspend the registration of a person associated with a member for a definite period or a period contingent on the performance of a particular act;
- (4) expel a member, cancel the membership of a member, or revoke or cancel the registration of a person associated with a member;
- (5) suspend or bar a member or person associated with a member from association with all members; or

(6) impose any other fitting sanction.

(b) Assent to Sanction

Each party to a proceeding resulting in a sanction shall be deemed to have assented to the imposition of the sanction unless such party files a written application for appeal, review, or relief pursuant to the Rule 9000 Series.

IM-8310-1. Effect of a Suspension, Revocation, Cancellation, or Bar

If the Association or the Commission issues an order that imposes a suspension, revocation, or cancellation of the registration of a person associated with a member or bars a person from further association with any member, a member shall not allow such person to remain associated with it in any capacity, including a clerical or ministerial capacity. If the Association or the Commission suspends a person associated with a member, the member also shall not pay or credit any salary, or any commission, profit, or other remuneration that results directly or indirectly from any security transaction, that the associated person might have earned during the period of suspension.

IM-8310-2. Release of Disciplinary Information

No change.

8320. Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay

(a) Payment to Treasurer

All fines and other monetary sanctions shall be paid to the Treasurer of the Association and shall be used for the general corporate purposes.

(b) Summary Suspension or Expulsion

After seven days notice in writing, the Association may summarily suspend or expel from membership a member that fails to:

(1) pay promptly a fine or other monetary sanction imposed pursuant to Rule 8310 or cost imposed pursuant to Rule 8330 when such fine, monetary sanction, or cost becomes finally due and payable; or

(2) terminate immediately the association of a person who fails to pay promptly a fine or other monetary sanction imposed pursuant to Rule 8310 or a cost imposed pursuant to Rule 8330 when such fine, monetary sanction, or cost becomes finally due and payable.

(c) Summary Revocation of Registration

After seven days notice in writing, the Association may summarily revoke the registration of a person associated with a member if such person fails to pay promptly a fine or other monetary sanction imposed pursuant to Rule 8310 or a cost imposed pursuant to Rule 8330 when such fine, monetary sanction, or cost becomes finally due and payable.

8330. Costs of Proceedings

A member or person associated with a member disciplined pursuant to Rule 8310 shall bear such costs of the proceeding as the Adjudicator deems fair and appropriate under the circumstances.