

**INVESTIGATIONS AND SANCTIONS
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8000. INVESTIGATIONS AND SANCTIONS

8100. GENERAL PROVISIONS

8110. Availability of Manual to Customers

Members shall keep and maintain a current copy of the NASD Manual in a readily accessible place and shall make it available for examination by customers upon request.

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) Notice

A notice under this Rule shall be deemed received by the member or person to whom it is directed by mailing or otherwise transmitting the notice to the last known business address of the member or the last known residential address of the person as reflected in the Central Registration Depository. If the Adjudicator or Association staff responsible for mailing or otherwise transmitting the notice to the member or person has actual knowledge that the address in the Central Registration Depository is out of date or inaccurate, then a copy of the notice shall be mailed or otherwise transmitted to: (1) the last known business address of the member or the last known residential address of the person as reflected in the Central Registration Depository, and (2) any other more current address of the member or the person known to the Adjudicator or Association staff who is responsible for mailing or otherwise transmitting the notice.

(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.

8211. Automated Submission of Trading Data Requested by the Association

(a) A member shall submit the trade data specified below in automated format as may be prescribed by the Association from time to time. This information shall be supplied with respect to any transaction or transactions that are the subject of a request for information made by the Association.

(b) If the transaction was a proprietary transaction effected or caused to be effected by the member for any account in which such member, or person associated with a member, is directly or indirectly interested, such member shall submit or cause to be submitted the following information:

- (1) Clearing house number, or alpha symbol as used by the member submitting the data;
- (2) Clearing house number(s), or alpha symbol(s) as may be used from time to time, of the members(s) on the opposite side of the transaction;
- (3) Identifying symbol assigned to the security;
- (4) Date transaction was executed;

(5) Number of shares, or quantity of bonds or options contracts for each specific transaction and whether each transaction was a purchase, sale, short sale, or, if an options contract, whether open long or short or close long or short;

(6) Transaction price;

(7) Account number; and

(8) Market center where transaction was executed.

(c) If the transaction was effected or caused to be effected by the member for any customer account, such member shall submit or cause to be submitted the following information:

(1) The data described in subparagraphs (b)(1) through (8) above;

(2) The customer name, address(es), branch office number, registered representative number, whether order was solicited or unsolicited, date account opened, employer name, and the tax identification number(s); and

(3) If the transaction was effected for another member, whether the other member was acting as principal or agent.

(d) In addition to the above trade data, a member shall submit such other information in such automated format as may from time to time be required by the Association.

(e) Pursuant to the Rule 9600 Series, the Association may exempt a member from the requirement that the data prescribed in paragraphs (b) through (d) above be submitted to the Association in an automated format for good cause shown.

8212. Automated Submission of Trading Data for the Nasdaq International Service Requested by the Association

(a) Every Association member and approved affiliate that participates in the Nasdaq International Service as defined in the Rule 5100 Series (“Nasdaq International”) as a Service

market maker or an order-entry firm shall submit to the Association the trade data specified below in automated format as may be prescribed by the Association from time to time. This information shall be supplied with respect to any transaction or transactions that are the subject of a request for information made by the Association. In this rule the terms “participating firm” and “firm” include both Association members and approved affiliates that utilize the Service.

(b) If the transaction was a proprietary transaction effected or caused to be effected by the participating firm for any account in which such firm, or person associated with the firm, is directly or indirectly interested, the participating firm shall submit or cause to be submitted the following information:

- (1) Clearing house number, or alpha symbol as used by the participating firm submitting the data;
- (2) Clearing house number(s), or alpha symbol(s) as may be used from time to time, of the participating firm on the opposite side of the transaction;
- (3) Identifying symbol assigned to the security;
- (4) Date transaction was executed;
- (5) Number of shares, ADRs, units, warrants or rights for each specific transaction and whether each transaction was a purchase, sale or short sale;
- (6) Transaction price;
- (7) Account number; and
- (8) Market center where transaction was executed.

(c) If the transaction was effected or caused to be effected by the participating firm for any customer account, such firm shall submit or cause to be submitted the following information:

(1) The data described in subparagraphs (b)(1) through (8);

(2) Customer name, address(es), branch office number, registered representative number, whether order was solicited or unsolicited, date account opened and employer name, and the tax identification number(s); and

(3) If the transaction was effected for another Association member or participating firm, whether the other party was acting as principal or agent on the transaction or transactions that are the subject of the Association's request.

(d) In addition to the above trade data, a participating firm shall submit such other information in such automated format as may from time to time be required by the Association.

(e) Pursuant to the Rule 9600 Series, the Association may exempt a person from the requirement that the data prescribed in paragraphs (b) through (d) above be submitted to the Association in an automated format for good cause shown.

8213. Automated Submission of Trading Data for Non-Nasdaq Securities Requested by the Association

Each member shall submit trade data specified in Rule 8211 in automated format as may be prescribed by the Association from time to time with respect to any transaction or transactions involving non-Nasdaq securities as defined in the Rule 6700 Series that are the subject of a request for information made by the Association. Pursuant to the Rule 9600 Series, the Association may exempt a member from the requirement that the data prescribed in paragraphs (b) through (d) of Rule 8211 be submitted to the Association in an automated format for good cause shown.

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 Adjudicatory Council 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 Adjudicatory Council 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 Adjudicatory Council shall serve the member or person associated with a member 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 person associated with a member served with a notice under Rule 8221(c) may file with the

National Adjudicatory Council a written request for an expedited hearing before a subcommittee of the National Adjudicatory Council. 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 Adjudicatory Council.

(b) Hearing Procedures

(1) Appointment of Subcommittee

If a hearing is requested, the National Adjudicatory Council or the Review Subcommittee described in Rule 9120 shall appoint a subcommittee to conduct the hearing and decide whether the member or person associated with a member should be suspended. The subcommittee shall be composed of a member of the National Adjudicatory Council and one or more former members of the NASD Regulation Board and the NASD 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 person associated with a member 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 person associated with a member via commercial courier with all documents that were considered in connection with the National Adjudicatory Council's decision to issue a notice under Rule 8221.

(4) Counsel

The member or person associated with a member 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 person associated with a member 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 person associated with a member 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 person associated with a member 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 Adjudicatory Council'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 person associated with a member 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 Adjudicatory Council 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 person associated with a member 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 person associated with a member 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 person associated with a member 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 person associated with a member may file a written request for relief with the National Adjudicatory Council. The National Adjudicatory Council shall respond to the request in writing within ten days after receipt of the request. The National Adjudicatory Council's response shall be served on the member or person associated with a member 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 person associated with a member 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 person associated with a member 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 securities transaction, that the person associated with a member might have earned during the period of suspension.

IM-8310-2. Release of Disciplinary Information

(a) The Association shall, in response to a written inquiry or telephonic inquiry via a toll-free telephone listing, release certain information contained in its files regarding the employment and disciplinary history of members and their associated persons, including information regarding past and present employment history with Association members; all final disciplinary actions taken by federal, state, or foreign securities agencies or self-regulatory organizations that relate to securities or commodities transactions; all pending disciplinary actions that have been taken by federal or state securities agencies or self-regulatory organizations that relate to securities and commodities transactions and are required to be reported on Form BD or

U-4 and all foreign government or self-regulatory organization disciplinary actions that relate to securities or commodities transactions and are required to be reported on Form BD or U-4; and all criminal indictments, informations or convictions that are required to be reported on Form BD or Form U-4. The Association will also release information concerning civil judgments and arbitration decisions in securities and commodities disputes involving public customers.

(b) The Association shall, in response to a request, release to the requesting party a copy of any identified disciplinary complaint or disciplinary decision issued by the Association or any subsidiary or Committee thereof; provided, however, that each copy of:

(1) a disciplinary complaint shall be accompanied by the following statement:

"The issuance of a disciplinary complaint represents the initiation of a formal proceeding by the Association in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because this complaint is unadjudicated, you may wish to contact the respondent before drawing any conclusions regarding the allegations in the complaint."

(2) a disciplinary decision that is released prior to the expiration of the time period provided under the Rule 9000 Series for appeal or call for review within the Association or while such an appeal or call for review is pending, shall be accompanied by a statement that the findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the Association;

(3) a final decision of the Association that is released prior to the time period provided under the Act for appeal to the Commission or while such an appeal is pending,

shall be accompanied by a statement that the findings and sanctions of the Association are subject to review and modification by the Commission; and

(4) a final decision of the Association that is released after the decision is appealed to the Commission shall be accompanied by a statement as to whether the effectiveness of the sanctions has been stayed pending the outcome of proceedings before the Commission.

(c) (1) The Association shall release to the public information with respect to any disciplinary complaint initiated by the Department of Enforcement of NASD Regulation, Inc., the NASD Regulation, Inc. Board of Directors, or the NASD Board of Governors containing an allegation of a violation of a designated statute, rule or regulation of the Commission, NASD, or Municipal Securities Rulemaking Board, as determined by the NASD Regulation, Inc. Board of Directors (a "Designated Rule"); and may also release such information with respect to any disciplinary complaint or group of disciplinary complaints that involve a significant policy or enforcement determination where the release of information is deemed by the President of NASD Regulation, Inc. to be in the public interest.

(2) Information released to the public pursuant to subparagraph (c)(1) shall be accompanied by the statement required under subparagraph (b)(1).

(d) (1) The Association shall release to the public information with respect to any disciplinary decision issued pursuant to the Rule 9000 Series imposing a suspension, cancellation or expulsion of a member; or suspension or revocation of the registration of a person associated with a member; or suspension or barring of a member or person associated with a member from association with all members; or imposition of monetary sanctions of \$10,000 or more upon a member or person associated with a member; or containing an allegation of a violation of a

Designated Rule; and may also release such information with respect to any disciplinary decision or group of decisions that involve a significant policy or enforcement determination where the release of information is deemed by the President of NASD Regulation, Inc. to be in the public interest. The National Adjudicatory Council may, in its discretion, determine to waive the requirement to release information with respect to a disciplinary decision under those extraordinary circumstances where the release of such information would violate fundamental notions of fairness or work an injustice.

(2) Information released to the public pursuant to subparagraph (d)(1) shall be accompanied by a statement to the extent required for that type of information under subparagraphs (b)(2)-(4).

(e) If a decision issued pursuant to the Rule 9000 Series other than by the National Adjudicatory Council is not appealed to or called for review by the National Adjudicatory Council, the decision shall become effective on a date set by the Association but not before the expiration of 45 days after the date of decision.

(f) Notwithstanding paragraph (e), expulsions and bars imposed pursuant to the provisions of Rules 9216 and 9270 shall become effective upon approval or acceptance by the National Adjudicatory Council, and information regarding any sanctions imposed pursuant to those Rules may be released to the public pursuant to paragraph (d) immediately upon such approval or acceptance.

(g) If a decision issued pursuant to the Rule 9000 Series is called for review by the NASD Board of Governors, the decision shall be stayed pending a final determination and decision by the Board.

(h) If a final decision of the Association is not appealed to the Commission, the sanctions specified in the decision (other than bars and expulsions) shall become effective on a date established by the Association but not before the expiration of 30 days after the date of the decision. Bars and expulsions, however, shall become effective upon issuance of the decision, unless the decision specifies otherwise.

(i) If a decision of the Association imposing monetary sanctions of \$10,000 or more or a penalty of expulsion, revocation, suspension and/or barring of a member from being associated with all members is appealed to the Commission, notice thereof shall be given to the membership and to the press as soon as possible after receipt by the Association of notice from the Commission of such appeal and the Association's notice shall state whether the effectiveness of the Board's decision has been stayed pending the outcome of proceedings before the Commission.

(j) In the event an appeal to the courts is filed from a decision by the Commission in a case previously appealed to it from a decision of the Association, involving the imposition of monetary sanctions of \$10,000 or more or a penalty of expulsion, revocation, suspension and/or barring of a member from being associated with all members, notice thereof shall be given to the membership as soon as possible after receipt by the Association of a formal notice of appeal. Such notice shall include a statement whether the order of the Commission has been stayed.

(k) Any order issued by the Commission of revocation or suspension of a member's broker/dealer registration with the Commission; or the suspension or expulsion of a member from the Association; or the suspension or barring of a member or person associated with a member from association with all broker/dealers or membership; or the imposition of monetary sanctions

of \$10,000 or more shall be released to the public through a notice containing the effective date thereof sent as soon as possible after receipt by the Association of the order of the Commission.

(l) Cancellations of membership or registration pursuant to the Association's By-Laws, Rules and Interpretative Material shall be released to the public as soon after the effective date of the cancellation as possible.

(m) Releases to the public referred to in paragraphs (c) and (d) above shall identify the Rules and By-Laws of the Association or the SEC Rules violated, and shall describe the conduct constituting such violation. Releases may also identify the member with which an individual was associated at the time the violations occurred if such identification is determined by the Association to be in the public interest.

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.