
For Your Information

This article is intended to clarify a factual reference to SEC Rule 17a-4 (f)(2)(i) previously reported in the **Fall 2000, Volume 14.3, of the NASD Regulatory & Compliance Alert.**

SEC Rule 17a-4 (f)(2)(i)


Q: If a broker/dealer intends to store records using electronic storage media, can a third party vendor provide services to a broker/dealer if the third-party vendor is an affiliated company?

A: Pursuant to Rule 17a-4(f)(2)(i) the staff of the SEC Division of Market Regulation (DMR) has informed NASD that an affiliate or parent of the broker/dealer may provide representation that selected storage media meets the conditions set forth in paragraph (f)(2)(ii) of Rule 17a-4.

Paragraph (f)(2)(i) of Rule 17a-4 stipulates if a broker/dealer is employing any electronic storage media other than optical disk technology (including CD-ROM), the member, broker, or dealer must so notify its designated examining authority at least 90 days prior to employing such storage media. Additionally, the NASD member must provide its own representation or one from the storage medium vendor or other third party with appropriate expertise that the selected storage media meets the conditions set forth in paragraph (f)(2)(ii) of SEC Rule 17a-4.

Irrespective of the above, the staff of the DMR has informed NASD that a third-party vendor required under Rule 17a-4 (f)(3)(vii) must be a party independent of the broker/dealer. An affiliate or parent of the broker/dealer is not independent.

Paragraph (f)(3)(vii) of Rule 17a-4 requires every NASD member, broker, or dealer exclusively using electronic storage media for some or all of its record preservation to retain at least one third party who has access to and the ability to download information from the member's, broker's, or dealer's electronic storage media to



any acceptable medium under SEC Rule 17a-4. The third party is required to file notification with the designated examining authority for the member, broker, or dealer that it will provide access or furnish data promptly to the U.S. Securities and Exchange Commission, its designees or representatives as stipulated.

Questions regarding this article may be directed to Susan DeMando, NASD Member Regulation, at (202) 728-8411.