

Notice to Members

JANUARY 2004

SUGGESTED ROUTING

Legal & Compliance
Operations
Senior Management

KEY TOPICS

Fees
NASD By-Laws
Simultaneous Filing Group (SFG)

ACTION REQUIRED

Amendments to Section 5 of Schedule A to the NASD By-Laws

SEC Announces Immediate Effectiveness of Amendments to Section 5 of Schedule A to the NASD By-Laws

Executive Summary

The Securities and Exchange Commission (SEC) has announced the immediate effectiveness of amendments to Section 5 of Schedule A to the NASD By-Laws (Section 5) to (1) clarify that two or more members that are under substantially the same ownership or control, commonly referred to as a “simultaneous filing group” or “SFG,” may eliminate certain duplicate fees and assessments; and (2) remind members that they must provide NASD with information as requested by NASD and in the format specified by NASD to become eligible for such reduced fees.¹

The text of Section 5, as amended, is set forth in Attachment A.

Questions/Further Information

Questions concerning this *Notice* may be directed to Stefanie M. Watkins, Staff Attorney, Registration and Disclosure, NASD, at (240) 386-4824.

Background And Discussion

Section 5 addresses the elimination of certain duplicate assessments and fees applicable to persons registered with two or more members under substantially the same ownership or control (commonly referred to as a “simultaneous filing group” or “SFG”). The amendments to Section 5 codify NASD’s stated policies and practices with respect to the availability of these reduced fees to simultaneous filing groups.

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The amendments to Section 5 clarify that, in addition to paying only one system processing fee,² a simultaneous filing group, as described in Section 5, may pay only one fingerprint processing fee and one termination fee. The amendments also add language reminding members that, as a procedural matter, they must provide NASD with certain information as requested by NASD and in the format specified by NASD to receive the reduced fees.

The amendments codify existing long-standing practice, which requires members to follow certain procedures to obtain the benefits of NASD's simultaneous filing group program and the reduced registration fees associated therewith, including establishing a simultaneous filing group, notifying NASD staff of the affiliated firms included in the simultaneous filing group, and requesting and completing an SFG Participation Agreement.³

Endnotes

- 1 See Release No. 34-49030 (File No. SR-NASD-2003-194 (Jan. 6, 2004), 69 *Federal Register* 2032 (Jan. 13, 2004).
- 2 The previous reference to a "registration renewal fee" also has been changed to "system processing fee" to conform the terminology to an amendment to Section 5 made in 1999. See Exchange Act Release No. 41937 (Sept. 28, 1999).
- 3 NASD is in the process of posting a description of the Simultaneous Filing Group Program, including the SFG Agreement, on its Web Site. In the interim, and thereafter, members may call the Gateway Call Center (301-590-6500) for information about the Program.

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ATTACHMENT A

New text is underlined; deletions are in brackets.

* * * * *

Schedule A to NASD By-Laws

Assessments and fees pursuant to the provisions of Article VI of the By-Laws of NASD shall be determined on the following basis.

Sections 1 through 4. No change.

Section 5 - Elimination of Duplicate Assessments and Fees

Two or more members under substantially the same ownership or control shall be required to pay (1) only one personnel assessment and one [registration renewal] system processing fee annually for those individuals employed by more than one of the members; [and] (2) only one fee annually for each branch office registered at the same location by more than one of the members[.]; and (3) [There shall be] only one registration fee, one fingerprint processing fee, and one termination fee applicable to each applicant registered or terminated simultaneously with two or more members under substantially the same ownership or control. To establish their eligibility to receive the reduction in fees described herein, members must provide NASD with information as requested by NASD and in the format specified by NASD prior to NASD's assessment of such fees.