NASD Notice to Members 96-27

Significant Disciplinary Actions Prompt Reentry Into The Regulatory Element Of The Continuing Education Program

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Executive Summary

The purposes of this Notice are to remind members that significant disciplinary actions prompt reentry into the Regulatory Element of the Continuing Education Program; to advise members that, in late April 1996, the NASD® will initiate reentry into the Regulatory Element for those members who were the subject of significant disciplinary actions between July 1, 1985, and June 30, 1995; and to illustrate how reentry into the Regulatory Element works.

Questions about this Notice may be directed to John Linnehan, Director, Continuing Education, at (301)-208-2932 or to your CRD Quality and Service Team.

Background

Under NASD Continuing Education Rules¹, a registered person must reenter the Regulatory Element of the Securities Industry Continuing Education Program and satisfy all of its requirements if that person becomes the subject of a significant disciplinary action. A significant disciplinary action occurs when a registered person:

- becomes subject to a statutory disqualification pursuant to the Securities Exchange Act of 1934. Such disqualifications include bars, suspensions, and civil injunctions involving securities matters, any felony convictions, or a misdemeanor conviction that involves investments or an investment-related business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses; or
- becomes subject to suspension or to the imposition of a fine of \$5,000 or more for violating any provision of

any securities law or regulation, or any agreement with, or rule or standard of conduct of, any securities SRO, or as imposed by any such regulatory or SRO in connection with a disciplinary proceeding; *or*

• is ordered to reenter the Regulatory Element as a sanction in a disciplinary action by any securities governmental agency or securities SRO.

Reentry begins within 120 days of the registered person becoming subject to a statutory disqualification or a final disciplinary action, and at intervals of two, five, and 10 years after reentry. Reentry applies regardless of whether a registered person has fulfilled all or part of an existing Regulatory Element requirement.

A person satisfies a Regulatory Element requirement by completing a computer-based training session. Failure to complete the required Regulatory Element computer-based training session during the prescribed time period will result in a person's registration becoming inactive. A person with an inactive registration cannot conduct a securities business, perform any of the functions of a registered person, or receive compensation for activities that require registration until the requirements of the Regulatory Element are met.

The Continuing Education Program became effective July 1, 1995. Since then, the NASD has initiated reentry into the Regulatory Element for those individuals who have incurred significant disciplinary actions as the information about the actions has become available. The CRD Redesign Project has recently made available the details of the significant disciplinary actions incurred during the 10-year period before July 1, 1995. The

¹ Part XII to Schedule C of the NASD By-Laws.

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NASD will initiate reentry into the Regulatory Element for the subjects of these significant disciplinary actions in late April 1996.

Directed Sequences

A significant disciplinary action "resets the clock" for an individual who is already covered by, or who has previously met the requirements of, the Regulatory Element. The NASD initiates reentry into the Regulatory Element by posting certain information into the Continuing Education area of the CRD. Posting this information creates a Regulatory Element Directed Sequence. A Directed Sequence is a series of four Regulatory Element computer-based training sessions. The first session is required within 120 days beginning from the Directed Sequence Effective Date. The three subsequent sessions are required within 120 days beginning from the second, fifth and tenth anniversaries of the Directed Sequence Effective Date. The Directed Sequence Effective Date is the 45th day after the Date of Action specified in the official disciplinary decision document.

Because the NASD learns of the significant disciplinary action after the fact and because the Continuing Education rules require reentry into the Program within 120 days after the Directed Sequence Effective Date, it is not possible for the CRD to send a **Continuing Education Program** Advisory Message 30 days before an individual must satisfy his or her initial participation in a Directed Sequence. Directed Sequence requirements for the second, fifth, and tenth sessions will be tracked, and notifications sent, by CRD 30 days before the beginning of each requirement period.

Directed Sequence ExamplesThe following examples will illus-

trate how a significant disciplinary action affects a person's status in the Regulatory Element.

Example 1

Effect Of A Final Significant Disciplinary Action Occurring After July 1, 1995, On An Individual Grandfathered From The Regulatory Element

Michael S. has an initial securities registration approved on August 15, 1981. On July 1, 1995, when the Continuing Education Program became effective, he was grandfathered from the Regulatory Element because he had been continuously registered more than 10 years. Michael was fined \$5,000 by an SRO in a disciplinary proceeding dated March 1, 1996, which he does not appeal.

Michael S. receives a Regulatory Element Directed Sequence because of the fine. The effective date of his Directed Sequence is April 15, 1996 (45 days after the Date of Action of the disciplinary ruling). Michael's Directed Sequence requires him to take four sessions of the Regulatory Element computer-based training within 120 days beginning April 15, 1996; April 15, 1998; April 15, 2001; and April 15, 2006.

Example 2

Effect Of A Final Significant Disciplinary Action Occurring After July 1, 1995, On A Registered Person Already Subject To A Regulatory Element Requirement

Susan K. has an initial securities registration approved September 15, 1991. When the Continuing Education Program became effective on July 1, 1995, she was required to take two Regulatory Element computerbased training sessions, one within the 120 days beginning September

15, 1996, the fifth anniversary of her securities registration, and the second within 120 days beginning September 15, 2001, the tenth anniversary of her securities registration. She is ordered to reenter the Regulatory Element as a sanction in a disciplinary action initiated by a state securities regulator. The action is dated March 1, 1996. She does not appeal.

Susan K. receives a Regulatory Element Directed Sequence because of the disciplinary action. The Directed Sequence replaces her former Regulatory Element requirements. The effective date of her Directed Sequence is April 15, 1996 (45 days after the Date of Action of the disciplinary ruling). Susan's Directed Sequence requires her to take four sessions of the Regulatory Element computer-based training within 120 days beginning April 15, 1996; April 15, 1998; April 15, 2001; and April 15, 2006.

Example 3

Effect Of An Appealed Significant Disciplinary Action Occurring After July 1, 1995, On A Registered Person Subject To An Existing Regulatory Element Requirement

Susan K. has an initial securities registration approved September 15, 1991. When the Continuing Education Program became effective on July 1, 1995, she was required to take two Regulatory Element computerbased training sessions, one within the 120 days beginning September 15, 1996, the fifth anniversary of her securities registration, and the second within 120 days beginning September 15, 2001, the tenth anniversary of her securities registration. She is ordered to reenter the Regulatory Element as a sanction in a disciplinary action initiated by an SRO. The action is dated March 1, 1996. Susan files an appeal March 15,

1996. The appeal is denied and the action is sustained and final on June 30, 1996.

If an appeal is filed, the Regulatory Element Directed Session associated with that disciplinary action will be "suspended," and Susan will retain the Regulatory Element status she had before the appeal. When Susan's disciplinary action is sustained on appeal, the effective date becomes August 14, 1996 (45 days after the appeal decision that is final). Susan's Directed Sequence will require her to take four sessions of the Regulatory Element computer-based training within 120 days beginning August 14, 1996; August 14, 1998; August 14, 2001; and August 14, 2006.

Example 4

Effect Of A Final Significant Disciplinary Action Occurring Prior To July 1, 1995, On A Registered Person Subject To An Existing Regulatory Element Requirement

Roger D. has an initial securities registration approved October 15, 1987. When the Continuing Education Program became effective on July 1, 1995, he was required to take one Regulatory Element computer-based training session within 120 days beginning October 15, 1997, the tenth anniversary of his securities registration. Roger was suspended by an SRO in 1991. The final Date of Action is November 21, 1991. The NASD posts this information in the Continuing Education area of CRD in late April 1996.

After the action is posted to CRD, Roger D. receives a Regulatory Element Directed Sequence because of the suspension. The Directed Sequence replaces his former Regulatory Element requirements. The effective date of his Directed Sequence is January 5, 1992 (45 days after the Date of Action of the disciplinary ruling). Roger's Directed Sequence requires him to take two sessions of the Regulatory Element computer-based training within 120 days beginning January 5, 1997, the fifth anniversary of the significant disciplinary event, and January 5, 2002, the tenth anniversary of the significant disciplinary event.

Special Situation

Final Significant Disciplinary Actions That Occurred Between July 1, 1985, And June 30, 1996, Where The Window For A Required Session Has Closed Prior To The Date It Is Posted To CRD

The NASD posts Directed Sequences to the Continuing Education area of CRD in late April 1996 for significant disciplinary actions incurred between July 1, 1985, and June 30, 1995. Individuals who have a window for a required Directed Sequence that closes before the date it is posted to CRD will receive special handling. The NASD will assure that these individuals will not be considered inactive and that they have 120 days to satisfy their requirement by arranging for the window of their expired session to open May 30, 1996, and close 120 days later on September 27. CRD will send firms by May 1, 1996, a list of their employees who are in this group, so that firms can review it and notify the individuals. The list will contain the person's name, CRD number, a brief description of the action, and the date of the action. The following example illustrates.

Example 5

Roger D. has an initial securities registration approved December 15, 1987. When the Continuing Education Program became effective on July 1, 1995, he was required to take one Regulatory Element computer-based training session within 120

days beginning December 15, 1997, the tenth anniversary of his securities registration. Roger was suspended by an SRO in 1990. The final Date of Action is August 21, 1990.

The NASD will post this information in the Continuing Education area of CRD in late April. Roger D. receives a Regulatory Element Directed Sequence because of the suspension, and the Directed Sequence replaces his former Regulatory Element requirement. The effective date of his Directed Sequence is October 5, 1990 (45 days after the Date of Action of the disciplinary ruling). Roger's Directed Sequence requires him to take two sessions of the Regulatory Element computer-based training within 120 days beginning October 5, 1995, the fifth anniversary of the significant disciplinary action and October 5, 2000, the tenth anniversary of the significant disciplinary action. In late April, when Roger's Directed Sequence is posted to CRD, the date on which his fifth anniversary window closes (February 1, 1996) is passed. Rather than let Roger be considered inactive, CRD will close his fifth anniversary window on September 27, 1996, 120 days from May 30, 1996. When viewed in CRD, Roger's window will read:

Directed Sequence Fifth Anniversary Requirement Completion Window:

Begin: 10/5/95[*] End: 9/27/96.[**]

*(the Directed Sequence Effective Date, 45 days after the Date of Action)

**(120 days from May 30, 1996)

Note that Roger's Directed Sequence tenth anniversary requirement will not require special handling.

For More Information

Questions about this Notice may be directed to John Linnehan, Director, Continuing Education, at (301) 208-2932 or to your Quality and Service Team.

Firms should direct their questions for clarification about a Directed Sequence to their Quality and Service Team.

Quality and Service Team 1 (301) 921-9499

Quality and Service Team 2 (301) 921-9444

Quality and Service Team 3 (301) 921-9445

Quality and Service Team 4 (301) 921-6664

Quality and Service Team 5 (301) 921-6665.

If you are uncertain as to your Quality and Service Team, please phone the Gateway at (301) 590-6500.