June 2011

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Regulatory Notice 11-27

Trading Activity Fee (TAF)

SEC Approves Increase in the TAF Rate for Sales of Covered Equity Securities

Effective Date: July 1, 2011

Executive Summary

Effective July 1, 2011, the Trading Activity Fee (TAF) rate for sales of covered equity securities will increase from $0.000075 per share for each sale of a covered equity security to $0.000090 per share, with a corresponding increase to the per-transaction cap for covered equity securities from $3.75 to $4.50.[1] The new rate will apply to any sale of a covered equity security subject to the TAF occurring on or after July 1, 2011.

The text of the new rule is available in the online *FINRA Manual*.

Questions concerning this *Notice* should be directed to:

- FINRA Finance, at (240) 386-5397; or
- The Office of General Counsel, at (202) 728-8071

Background & Discussion

FINRA's primary member regulatory pricing structure consists of the following fees: the Personnel Assessment (PA), Gross Income Assessment (GIA) and Trading Activity Fee (TAF). These fees are used to fund FINRA's regulatory activities, including examinations; financial monitoring; and FINRA's policymaking, rulemaking and enforcement activities.[2]

Because the proceeds from these fees are used to fund FINRA's regulatory mandate, Section 1 of Schedule A to FINRA's By-Laws notes that "FINRA shall periodically review these revenues in conjunction with these costs to determine the applicable rate."[3] Although FINRA recently restructured both the GIA and the PA,[4] the current TAF rate for covered equity securities of $0.000075 per share has been in place for over six years.[5] As a result of the recent decrease in trading volumes in the equity markets, an increase in the TAF rate is now necessary to ensure that FINRA can continue to maintain a robust regulatory program and meet its regulatory obligations effectively, while attempting to remain revenue neutral.

June 2011

Notice Type
- Rule Amendment

Suggested Routing
- Compliance
- Finance
- Internal Audit
- Legal
- Operations
- Senior Management
- Systems
- Trading

Key Topics
- Trading Activity Fee

Referenced Rules & Notices
- FINRA By-Laws, Schedule A, § 1(a)
- Regulatory Notice 10-56
- Regulatory Notice 09-68
- NTM 04-84

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Accordingly, to stabilize revenue flows necessary to support FINRA's regulatory mission, the SEC approved an increase to the TAF rate for sales of covered equity securities. Effective July 1, 2011, the TAF rate for sales of covered equity securities will increase from $0.000075 per share to $0.000090 per share, with a corresponding increase to the per-transaction cap for covered equity securities from $3.75 to $4.50. The new rate will apply to any sale of a covered equity security subject to the TAF occurring on or after July 1, 2011. The TAF Self-Reporting Form available on FINRA's website[6] will reflect this new rate beginning with TAF Self-Reporting Forms due on August 12, 2011,[7] which reflect trades subject to the TAF occurring in July 2011.

Endnotes

1. *See* Securities Exchange Act Release No. 64590 (June 2, 2011).
2. *See* FINRA By-Laws, Schedule A, § 1(a).
3. *Id.*
4. *See* Securities Exchange Act Release No. 61042 (November 20, 2009), 74 FR 62616 (November 30, 2009); see also *Regulatory Notice 09-68* (November 2009).
5. *See* Securities Exchange Act Release No. 50485 (October 1, 2004), 69 FR 60445 (October 8, 2004); *NTM 04-84* (November 2004).
6. *See* *www.finra.org/taf*.This Web page provides firms with additional guidance on the TAF, including Frequently Asked Questions (FAQ) and applicable forms. *See* *Regulatory Notice 10-56* (October 2010).
7. The TAF is self-reported by firms on a monthly basis. *See* TAF FAQ 100.5. TAF Self-Reporting Forms should be submitted to FINRA by the tenth business day following the end of the month. See TAF FAQ 100.7.

Regulatory Notice 11-28

GASB Accounting Support Fee

June 2011

FINRA Requests Comment on Amendments to Schedule A of the FINRA By-Laws to Implement an Accounting Support Fee to Fund the Governmental Accounting Standards Board

Comment Period Expires: August 1, 2011

Executive Summary

The Securities and Exchange Commission (SEC) has issued an order requiring FINRA to establish a reasonable annual accounting support fee (GASB Accounting Support Fee) to adequately fund the annual budget of the Governmental Accounting Standards Board (GASB), pursuant to Section 19(g) of the Securities Act of 1933. FINRA requests comment on the proposed amendments to Schedule A of the FINRA By-Laws that would establish this fee, which would be allocated among FINRA member firms based on municipal securities transactions reported to the Municipal Securities Rulemaking Board.

The text of the proposed amendments is in Attachment A to this *Notice*.

Questions concerning this *Notice* should be directed to Brant K. Brown, Associate General Counsel, Office of General Counsel, at (202) 728-6927.

Action Requested

FINRA encourages all interested parties to comment on the proposal. Comments must be received by August 1, 2011.

Notice Type

- Request for Comment

Suggested Routing

- Compliance
- Government Securities
- Institutional
- Legal
- Municipal
- Operations
- Senior Management
- Systems
- Trading

Key Topics

- Financial Accounting Foundation
- GASB Accounting Support Fee
- Governmental Accounting Standards Board
- Municipal Securities Transactions

Referenced Rules & Notices

- FINRA By-Laws, Schedule A
- MSRB Rule G-14(b)
- Dodd-Frank Act Section 978
- Securities Act Section 19(g)

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Member firms and other interested parties can submit their comments using the following methods:

- Emailing comments to *pubcom@finra.org*; or
- Mailing comments in hard copy to:

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

To help FINRA process and review comments more efficiently, persons should use only one method to comment on the proposal.

Important Notes: The only comments that FINRA will consider are those submitted pursuant to the methods described above. All comments received in response to this *Notice* will be made available to the public on the FINRA website. Generally, FINRA will post comments on its site one week after the end of the comment period.[1]

Before becoming effective, a proposed rule change must be authorized for filing with the SEC by the FINRA Board of Governors, and then must be filed with the SEC pursuant to Section 19(b) of the Securities Exchange Act of 1934 (SEA).[2]

Background and Discussion

The GASB was established in 1984 by agreement of the Financial Accounting Foundation and ten national associations of state and local government officials as an independent organization that establishes and improves standards of accounting and financial reporting for U.S. state and local governments. The GASB is recognized by governments, the accounting industry and the capital markets as the source for the development and publication of the generally accepted accounting principles (GAAP) for state and local governments.[3]

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) became effective on July 21, 2010.[4] As added by Section 978 of the Dodd-Frank Act, Section 19(g) of the Securities Act of 1933 (Securities Act) gives the SEC the authority to require a national securities association to establish a reasonable annual accounting support fee to adequately fund the annual budget of the GASB and to draft the rules and procedures necessary to equitably assess the GASB Accounting Support Fee on the member firms.[5] On May 11, 2011, the SEC exercised this authority and issued an order requiring FINRA to establish such a fee to provide for an independent and more reliable funding mechanism for the GASB.[6]

FINRA is requesting comment on proposed new Section 14 (Accounting Support Fee for Governmental Accounting Standards Board) under Schedule A to the FINRA By-Laws to

implement the GASB Accounting Support Fee. FINRA believes that assessing the GASB Accounting Support Fee on a transaction-based basis would be the most equitable and efficient method to assess the fee. Consequently, under proposed Section 14, the GASB Accounting Support Fee would be allocated among FINRA member firms based on municipal securities transactions reported to the Municipal Securities Rulemaking Board (MSRB). Specifically, each calendar quarter, each member firm would be required to pay an assessment to FINRA of its portion of one quarter of the annual GASB Accounting Support Fee amount that reflects the firm's portion of the total par value of municipal securities sales reported by FINRA members to the MSRB under MSRB Rule G-14(b)[7] in the previous calendar quarter. Thus, for example, if GASB's recoverable annual budgeted expenses for a given year were $10 million, FINRA would collect $2.5 million from its member firms each quarter.[8] Each firm's fee would be based on the firm's portion of municipal securities transactions (based on the par value of reported transactions, not their price) reported by FINRA members to the MSRB in the previous calendar quarter.[9] Firms with a quarterly assessment of less than $25 would not be charged the fee for that quarter, and any amounts originally assessed to those firms would be reallocated among the firms with an assessment that quarter of $25 or more.

As required by Section 19(g) of the Securities Act, any GASB Accounting Support Fees collected by FINRA would be remitted to the Financial Accounting Foundation[10] and used to support the efforts of the GASB to establish standards of financial accounting and reporting applicable to state and local governments.[11] Collection of the GASB Accounting Support Fee would not allow the SEC or FINRA to have any direct or indirect oversight of the budget or technical agenda of the GASB or to affect the setting of GAAP by the GASB.[12]

Because some firms may seek to pass the GASB Accounting Support Fee on to customers engaged in municipal securities transactions, FINRA proposes to publish a *Regulatory Notice* each year disclosing the total annual GASB Accounting Support Fee FINRA will collect for that year. In this annual *Notice*, FINRA also anticipates setting out the estimated fee rate based on the GASB's recoverable annual budgeted expenses for that year and historical municipal security trade reporting volumes so that firms will have some basis on which to establish a fee, should they choose to do so. Any firms choosing to pass along the fee, however, would be reminded of the need for proper disclosure of the GASB Accounting Support Fee, including, if applicable, the fact that the fee is an estimate and that the firm ultimately may pay more or less than the fee charged to the customer. In addition, any disclosure used by the firm cannot be misleading and must comport with FINRA rules, including just and equitable principles of trade, as well as any applicable MSRB rules.

Request for Comment

FINRA is requesting comment on proposed new Section 14 (Accounting Support Fee for Governmental Accounting Standards Board) under Schedule A to the FINRA By-Laws. FINRA welcomes comments on its proposed methodology for assessing the GASB Accounting Supporting Fee as discussed in this *Notice*. The comment period expires on August 1, 2011.

Endnotes

1. FINRA will not edit personal identifying information, such as names or email addresses, from submissions. Persons should submit only information that they wish to make publicly available. *See NTM 03-73* (November 2003) (NASD Announces Online Availability of Comments) for more information.

2. *See* SEA Section 19 and rules thereunder. After a proposed rule change is filed with the SEC, the proposed rule change generally is published for public comment in the *Federal Register*. Certain limited types of proposed rule changes, however, take effect upon filing with the SEC. *See* SEA Section 19(b)(3) and SEA Rule 19b-4.

3. The GASB is not a government entity. It is an operating component of the Financial Accounting Foundation, which is a private-sector, not-for-profit entity. Funding for the GASB comes in part from sales of its own publications and in part from state and local governments and the municipal bond community. Its standards are not federal laws or regulations, and the GASB does not have enforcement authority. *See Facts About GASB*.

4. *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

5. *See* 15 U.S.C. 77s. For purposes of the GASB Accounting Support Fee, the annual budget of the GASB is the annual budget reviewed and approved according to the internal procedures of the Financial Accounting Foundation. *See* 15 U.S.C. 77s(g)(2). FINRA anticipates that the GASB's annual budget will include an administrative fee to FINRA of $50,000. The administrative fee is intended to cover FINRA's costs associated with calculating, assessing, and collecting the GASB Accounting Support Fee and was negotiated with the Financial Accounting Foundation.

6. *See* Securities Exchange Act Release No. 64462 (May 11, 2011), 76 FR 28247 (May 16, 2011).

7. MSRB Rule G-14(b) sets out municipal securities transaction reporting requirements.

8. Section 19(g)(4) of the Securities Act, as added by the Dodd-Frank Act, prohibits FINRA from collecting GASB Accounting Support Fees for a fiscal year in excess of GASB's recoverable annual budgeted expenses. *See* 15 U.S.C. 77s(g)(4). Because a transaction-based fee is inherently unpredictable and variable, and because FINRA would be statutorily prohibited from collecting amounts in excess of GASB's recoverable annual budgeted expenses, FINRA is proposing a quarterly assessment based on GASB's budget.

9. Thus, if a member firm does not engage in reportable municipal securities transactions, it would not be subject to the GASB Accounting Support Fee.

10. *See* 15 U.S.C. 77s(g)(1).

11. *See* 15 U.S.C. 77s(g)(3).

12. *See* 15 U.S.C. 77s(g)(5).

ATTACHMENT A

The following is the text of the proposed amendments to Schedule A to the FINRA By-Laws. New text is underlined.

* * * * *

SCHEDULE A TO THE BY-LAWS OF THE CORPORATION

* * * * *

Section 14—Accounting Support Fee for Governmental Accounting Standards Board

(a) FINRA shall, in accordance with this Section, allocate, assess, and collect a GASB Accounting Support Fee to fund the annual budget of the Governmental Accounting Standards Board. The GASB Accounting Support Fee is based on the recoverable annual budgeted expenses provided to FINRA by the Governmental Accounting Standards Board, and amounts collected under this Section shall be remitted to the Financial Accounting Foundation.

(b) Except as provided in paragraph (c), each calendar quarter, each member shall pay an assessment to FINRA of its portion of one quarter of the annual GASB Accounting Support Fee amount that reflects the member's portion of the total par value of municipal securities sales reported by members to the Municipal Securities Rulemaking Board under MSRB Rule G-14(b) in the previous calendar quarter.

(c) If, in a given calendar quarter, a member's GASB Accounting Support Fee amount is less than $25, the member will not be assessed a GASB Accounting Support Fee for that quarter. The amount not assessed to the member will be reallocated among the other members assessed a GASB Accounting Support Fee for that quarter based on each member's portion of the total par value of municipal securities sales reported by members to the Municipal Securities Rulemaking Board under MSRB Rule G-14(b) in the previous calendar quarter.

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Regulatory Notice 11-29

New Issue Allocations and Distributions

Frequently Asked Questions on Market Orders and Delayed Implementation Date for FINRA Rule 5131(b) and (d)(4)

June 2011

Notice Type
- Guidance

Suggested Routing
- Compliance
- Legal
- Systems
- Trading and Market Making
- Training

Key Topics
- Allocations
- Initial Public Offerings
- Investment Banking
- Market Orders
- New Issues
- NMS Stocks
- OTC Equity Securities
- Spinning

Referenced Rules
- FINRA Rule 2010
- FINRA Rule 5130
- FINRA Rule 5131
- NASD Rule 2320
- Regulatory Notice 10-60

Executive Summary

FINRA Rule 5131 sets forth detailed regulatory requirements for the allocation of new issues.[1] This *Notice* announces a new implementation date of September 26, 2011, for the provisions under Rule 5131 that govern spinning and market orders[2] and provides interpretive guidance concerning the acceptance of market orders.

The text of the rule can be found in the online *FINRA Manual*.

Questions regarding this *Notice* should be directed to Racquel L. Russell, Assistant General Counsel, Office of General Counsel, at (202) 728-8363.

Background and Discussion

In *Regulatory Notice 10-60*, FINRA announced SEC approval of new FINRA Rule 5131 to address abuses in the allocation and distribution of new issues.

Paragraph (b) of the rule (Spinning) implements a recommendation from the IPO Advisory Committee Report to prohibit spinning—*i.e.*, an underwriter's allocation of IPO shares to directors or executives of investment banking clients in exchange for receipt of investment banking business. Paragraph (d)(4) of the rule (Market Orders) prohibits firms from accepting any market order for the purchase of shares of a new issue in the secondary market prior to the commencement of trading of such shares in the secondary market. The implementation date of both of these provisions has been extended to September 26, 2011. All other provisions of Rule 5131 became effective on May 27, 2011.

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As discussed in *Regulatory Notice 10-60*, the market orders provision addresses the inherent volatility of a new issue as it commences trading in the public markets, and the potential for a wide variance between the public offering price of the new issue and the price at which trading in the secondary market commences. As a result, investors who place market orders for a new issue may find their orders filled at prices beyond their reasonable expectations, and such transactions may further contribute to the unconstrained increase in the price of a new issue in the secondary market.

FINRA has received several interpretive questions concerning the market orders provision and, to facilitate member firm compliance, FINRA staff has set forth the following guidance. For more information on Rule 5131, see rule filing SR-NASD-2003-140.

Frequently Asked Questions

Q1: Does the market orders provision of Rule 5131 apply to both OTC Equity Securities and NMS Stocks?

A1: Yes. The market orders provision of Rule 5131 applies to shares of a "new issue." Rule 5130(i)(9), which is referenced in the definitions of Rule 5131, defines "new issue" to mean "any initial public offering of an equity security as defined in Section 3(a)(11) of the Exchange Act, made pursuant to a registration statement or offering circular," with enumerated exceptions, and does not restrict its scope to either NMS Stocks or OTC Equity Securities.

Q2: Rule 5131(d)(4) prohibits the acceptance of market orders for the purchase of shares of a new issue in the secondary market prior to the commencement of trading of such shares in the secondary market. What constitutes *commencement of trading* for the purposes of this provision?

A2: For the purposes of the market orders provision, the *commencement of trading* in the secondary market of shares of a new issue that is an NMS Stock would be evidenced by the first trade on the national securities exchange listing the security, as indicated by the dissemination of an opening transaction in the security by that exchange. For OTC Equity Securities, *commencement of trading* in the secondary market would be evidenced by the first regular way, disseminated trade reported to the OTC Reporting Facility during normal market hours.

Q3: Does Rule 5131(d)(4) apply to "not held" orders?

A3: Generally, a "not held" order is an unpriced, discretionary order voluntarily categorized as such by the customer and with respect to which the customer has granted the firm price and time discretion. As such, "not held" orders are not considered "market orders" for the purposes of Rule 5131(d)(4).[3]

Q4: Does the prohibition on market orders apply only to inbound customer orders?

A4: Rule 5131(d)(4) applies to the acceptance of any market order, whether from a customer of the firm, a customer of another broker-dealer or another broker-dealer. However, priced orders, such as limit orders, are not subject to the prohibition.

Q5: Does the prohibition on market orders extend to proprietary trading?

A5: As noted above, the market order prohibition applies to the acceptance of any market order, including a proprietary market order from another broker-dealer. Therefore, if a member firm were to route its proprietary market order in a new issue to another member firm, that other firm would be prohibited from accepting the market order. To the extent a firm sends its market order *directly* to an exchange and such order is not otherwise "accepted" by a firm, it would not be prohibited by this rule.

Q6. Does a member firm need to reject a market order at the time it is first received, or can the firm reject an order previously accepted as long as it does so prior to executing the order or routing the order to another broker-dealer or an exchange?

A6. For purposes of compliance with Rule 5131(d)(4), a firm may reject a market order for a new issue at any point within its order management system prior to executing or routing the order. If a firm rejects a previously accepted customer order that is OATS reportable, it must indicate in its OATS report that the firm, not the customer, cancelled the order.

Endnotes

1. *See* Securities Exchange Act Release No. 63010 (September 29, 2010), 75 FR 61541 (October 5, 2010) (Order Approving File No. SR-NASD-2003-140).

2. *See* Securities Exchange Act Release No. 64512 (May 18, 2011), 76 FR 29808 (May 23, 2011) (Order Approving File No. SR-FINRA-2011-017).

3. This does not alter other firm obligations with respect to the handling of customer orders, including "not held" orders (*see e.g.,* FINRA Rule 2010 and NASD Rule 2320).

Regulatory Notice 11-30

June 2011

Margin Requirements

FINRA Revises the Treatment of Non-Margin Eligible Equity Securities and Delays the Effective Date

New Effective Date: October 3, 2011

Notice Type

- Guidance

Suggested Routing

- Compliance
- Legal
- Margin Department
- Operations
- Regulatory Reporting
- Risk Management
- Senior Management

Key Topics

- Day Trading
- Good Faith Accounts
- Maintenance Loan Value
- Margin Requirements
- Non-Margin Eligible Equity Securities
- Portfolio Margin Accounts
- Regulation T Margin Accounts

Referenced Rules & Notices

- FINRA Rule 4210
- Regulation T
- Regulatory Notice 11-16

Executive Summary

To accommodate systems-related concerns, FINRA is deferring the effective date announced in *Regulatory Notice 11-16* for the treatment of non-margin eligible equity securities to October 3, 2011.[1] In addition, FINRA is revising a provision regarding the day trading of non-margin eligible equity securities.

Questions concerning this *Notice* should be directed to:

- Rudolph R. Verra, Managing Director, Risk Oversight and Operational Regulation, at (646) 315-8811;
- Glen Garofalo, Director, Credit Regulation, at (646) 315-8464; or
- Steve Yannolo, Project Manager, Credit Regulation, at (646) 315-8621.

Background & Discussion

In April 2011, FINRA issued *Regulatory Notice 11-16*, which clarified margin requirements for both long and short non-margin eligible equity securities in Regulation T and portfolio margin accounts. The *Notice* also stated that FINRA would permit firms to extend maintenance loan value on non-margin eligible equity securities when used to collateralize non-purpose loans in good faith accounts.

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With respect to day trading non-margin eligible equity securities, the *Notice* also clarified that customers may day trade a non-margin eligible equity security, provided the special maintenance margin requirement of 100 percent did not exceed one times the regulatory maintenance excess (equity in the account after the maintenance margin requirement is met). The *Notice* further provided that a firm must issue a day-trade call if a customer day traded in excess of this limit; if the resulting day-trade call was not satisfied within five business days, a firm would be required to cancel any day-trade transactions of such securities.

FINRA understands that the requirement to cancel the day-trade transactions may cause operational issues. Therefore, FINRA is revising the cancellation requirement to require that for customers who fail to meet a day-trade call that is issued as a result of the day trading of a non-margin eligible equity security, either as one day trade or as part of several day trades, firms will be required to restrict all day-trading activity for such customers to one times the regulatory maintenance excess for a period of 90 calendar days. Firms must have adequate procedures in place to ensure that customers do not continue to day trade without sufficient funds in their account in violation of such restriction. Firms should also be aware of customers who exhibit day-trading patterns that could potentially be viewed as circumventing the rules governing free riding in the cash account.[2]

To allow firms additional time to meet the requirements specified in *Regulatory Notice 11-16* and this *Notice*, FINRA is deferring the effective date to October 3, 2011.

Endnotes

1. *See Regulatory Notice 11-16* (Treatment of Non-Margin Eligible Equity Securities) (April 2011). *See also* Regulation T section 220.2 for the definitions of margin equity security and margin security.

2. *See* FINRA Rule 4210(f)(9).

Election Notice

Notice of Annual Meeting of FINRA Firms and Proxy

June 29, 2011

Suggested Routing

- Executive Representatives
- Senior Management

Executive Summary

The Financial Industry Regulatory Authority, Inc. (FINRA) will conduct its annual meeting of firms on Wednesday, August 3, 2011, at 10 a.m. Eastern Time in the FINRA Visitors Center, 1735 K Street, NW, in Washington, DC. The purpose of the meeting is to elect individuals to fill one Small Firm seat and one Large Firm seat on the FINRA Board of Governors (FINRA Board).

It is important that all eligible firms be represented by proxy or in person at the annual meeting. Firms are urged to vote using one of the methods described below. In order for a proxy to be considered valid, the executive representative of the firm eligible to vote in the election for that category of governorship must sign it.

Firms that are members of FINRA as of the close of business on Tuesday, June 28, 2011 (the annual meeting record date) will be eligible to vote.

Note: This *Notice* was mailed to the executive representative of small and large FINRA member firms, and sent electronically to the executive representative of every FINRA member firm. It is also posted on FINRA's website at *www.finra.org/notices/election/062911*.

Questions regarding this *Notice* may be directed to:

- Marcia E. Asquith, Senior Vice President and Corporate Secretary, at (202) 728-8949; or
- T. Grant Callery, Executive Vice President and General Counsel, at (202) 728-8285.

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Election of Governors

There are two seats on the FINRA Board to be filled at the upcoming annual meeting: one Small Firm Governor and one Large Firm Governor. To be eligible to serve, Large Firm Governors must be registered with large firms and Small Firm Governors must be registered with small firms. Pursuant to Article I of FINRA's By-Laws, firm sizes are defined as follows:

- a Small Firm employs at least one and no more than 150 registered persons;[1] and
- a Large Firm is defined as a firm that employs 500 or more registered persons.[2]

In order for the Board to maintain compliance with the compositional requirements of the FINRA By-Laws, the elected Board members have a continuing obligation to satisfy the firm-size classification throughout the entire term for which the governor is elected.

Term of Office

Governors are appointed or elected to three-year terms. Governors may not serve more than two consecutive terms.[3] If a governor is elected or appointed to fill a vacancy of such a governor position for a term of less than one year, the governor may serve up to two consecutive terms following the expiration of the governor's initial term.

The By-Laws expressly provide that the term of office of a governor shall terminate immediately upon a determination by the Board, by a majority vote of the remaining governors, that the governor no longer satisfies the classification for which the governor was elected and the governor's continued service would violate the compositional requirements of the Board set forth in the FINRA By-Laws.

Candidates

Below are the FINRA Nominating Committee nominee for the Large Firm Governor seat and those persons who, as stated in Article VII, Section 10 of the FINRA By-Laws, (i) presented the requisite number of petitions in support of their nomination and (ii) have been certified by the Corporate Secretary of FINRA as satisfying the criteria for the Small Firm Governor seat:

Small Firm Governor Candidates

Nominees by Petition[4]

- Alan Davidson, President, Zeus Securities, Inc.
- E. John Moloney, Chairman and CEO, Moloney Securities Co., Inc.
- Ken Norensberg, Chief Operating Officer, Tritaurian Capital Incorporated

Large Firm Governor Candidate

FINRA Nominating Committee Nominee

- Sallie L. Krawcheck, President of Global Wealth & Investment Management, Bank of America

Nominees by Petition

- No individual submitted petitions to be added as candidates for the Large Firm Governor seat.

Attachment A includes the profiles of the Small Firm candidates and the profile of the Large Firm candidate is in Attachment B.

Voting Eligibility

Firms registered with FINRA as of the close of business on Tuesday, June 28, 2011, are eligible to vote for the nominees running for seats that are in the same size category as their own firm and will receive proxy cards listing only the relevant candidates running for the seats reserved for their firm size.

A proxy was mailed to the executive representative of each eligible small and large firm containing the candidates for its voting class along with a copy of this *Notice*.

Voting Methods

Firms will be able to submit a proxy by any lawful means, including using any of the following methods:

- Telephone;
- U.S. mail; or
- Internet.

Alternatively, firms may attend the annual meeting and vote in person. The proxy mailed to each eligible firm contains detailed instructions on the proxy submission procedures.

As mentioned above, it is important that all eligible firms be represented at the annual meeting. Following receipt of this *Notice* and proxy, executive representatives of small and large firms may receive telephone reminders during the election period. This will ensure that FINRA receives sufficient proxies to satisfy the annual meeting quorum requirements, as well as to ensure broad participation in the election by all firms that are eligible to vote. For purposes of the election of each category of governors, a quorum must be met in each applicable firm-size category.

Revocation of Proxies

If you have given a revocable proxy pursuant to a proxy card distributed by FINRA or otherwise in the manner described herein, you may nonetheless revoke your proxy by attending the annual meeting and voting in person. In addition, you may revoke any such proxy you give at any time before the annual meeting by delivering to FINRA's Corporate Secretary a written statement revoking it or by duly delivering another proxy at a later time. Your attendance at the annual meeting will not in and of itself constitute a revocation of your proxy.

Voting Instructions

The named proxies shall vote as instructed by the FINRA firm. In the absence of a direction with respect to the election, any duly delivered proxy will not be counted in determining the outcome of the election, but will be counted in determining the presence of a quorum at the annual meeting. In their discretion, the named proxies will be authorized to vote upon all such other matters as may properly come before the annual meeting or any adjournment or postponement thereof.

Endnotes

1. *See* Article I (ww) of the FINRA By-Laws.
2. *See* Article I (y) of the FINRA By-Laws.
3. Seats on the Board were staggered into three classes at the 2010 annual meeting.
4. With respect to the Small Firm Governor seat, the Nominating Committee did not nominate a candidate for election in 2011. Instead, all candidates qualified by obtaining the requisite number of petitions.

Attachment A: Profiles of Small Firm Candidates

Alan L. Davidson has 47 years of securities experience. He is President and founder, Zeus Securities, Inc., Hauppauge, NY, a small business FINRA broker-dealer for 25 years. He is also founder and President of the Independent Broker-Dealer Association, Inc. with 250 investment firm members across the United States. A former elected member of the NASD District 10 Business Conduct Committee, Alan originated the District 10 News, a publication informing and alerting NASD members to potential compliance problems. He further testified before the Securities and Exchange Commission and the then-NASD's Rudman Commission for constructive reforms. The Rudman Commission and NASD adopted his suggestion to create an NASD Ombudsman. Alan was elected to the NASD (FINRA) Board of Governors in December 1998. In January 2009, he was elected to a FINRA National Adjudicatory Council (NAC) small firm seat. The NAC hears matters of appeal on disciplinary matters. He is a graduate of C.W. Post College, where he served as President of the Alumni Association. He presently resides in New York and Florida.

E. John Moloney began his career as a registered rep in 1973 with Stifel, Nicolaus & Co., Inc. After joining R. Rowland & Company in 1982, he became an Allied Member of the New York Stock Exchange. While at Rowland, he served on their Board of Directors. As their Senior Vice President for Product Marketing, he oversaw all product departments at the brokerage firm. In 1995 he formed Moloney Securities Co., Inc. and an insurance general agency bearing the same name. In March of 1999, he formed Moloney Securities Asset management, which is a Registered Investment Adviser. He serves on SIFMA's Small Firms Committee and was its past chairman. In addition, he served as past chairman on the District 4 District Committee for NASD/FINRA, and past chairman of the NASD's Advisory Council, and served two terms on the Small Firm Advisory Board. He also served on the Securities Industry/Regulatory Council of Continuing Education. Currently he serves on FINRA's Membership Committee. Mr. Moloney holds a BSBA from Regis University in Denver, Colorado and attended the Graduate School of Business at Washington University in St. Louis, Missouri.

Ken Norensberg is the Chief Operating Officer of Tritaurian Capital, Incorporated, an independent broker-dealer in New York City specializing in Private Placements. He has worked for the past 15 years with independent broker-dealers. Mr. Norensberg started his career as a Registered Representative and quickly rose through the ranks to become the Northeast Regional Manager. Subsequently, he was a Manager on Wall Street as well as VP of Business Development, specializing in the independent broker-dealer arena. Additionally, Mr. Norensberg is the Managing Director of Luxor Financial Group, Inc. (LFG), a New York-based Compliance and Business Development Firm specializing in regulatory filings with the various states and districts as well as Business Development platforms. Mr. Norensberg's unparalleled experience in virtually all aspects of owning and operating independent broker-dealers as well as his expertise in the regulatory environment makes him uniquely qualified for the Board of Governors. Mr. Norensberg graduated from the City University of New York, Brooklyn College with a Bachelor of Science degree in Management and Finance, and maintains the following FINRA and state licenses: Series 4, 7, 24, 63 and 79.

Attachment B: Profile of Large Firm Candidate

Sallie L. Krawcheck is president of Global Wealth & Investment Management for Bank of America. Global Wealth & Investment Management provides comprehensive wealth management to high net worth clients around the world. It also provides retirement and benefit plan services, philanthropic management and asset management to individuals and institutions. Prior to joining Bank of America, Ms. Krawcheck was chief executive officer and chairman for Citi Global Wealth Management, responsible for the Citi Private Bank, Citi Smith Barney and Citi Investment Research. During her time at Citi, she was also a member of the senior leadership committee and executive committee. Ms. Krawcheck joined Citi in October 2002 as chairman and chief executive officer of Smith Barney, where she oversaw the global management of the Smith Barney and Citi Investment Research businesses. In 2004, she was appointed chief financial officer and head of strategy for Citigroup Inc. Prior to joining Citi, Ms. Krawcheck was chairman and chief executive officer of Sanford C. Bernstein & Company. Among other honors, Ms. Krawcheck has been listed eight times as one of *Fortune's* "Most Powerful Women" in business, and *U.S. Banker* ranked her first on its list of "25 Women to Watch" in 2009 and fourth on its "25 Most Powerful Women in Banking" list in 2010. And she has been recognized as one of *TIME* magazine's "Global Business Influentials." Ms. Krawcheck attended the University of North Carolina at Chapel Hill on the Morehead Scholarship and graduated in 1987 with academic honors and a Bachelor of Arts. In 1992, she received an MBA from Columbia University. She is a member of the Bretton Woods Committee and on the board of directors at The University of North Carolina at Chapel Hill Foundations, Inc. and Carnegie Hall. She also is on the board of overseers of Columbia University Business School and the board of trustees for The Economic Club of New York.

Trade Reporting Notice

FINRA Reminds Firms of Their Trade Reporting Obligations and Announces New Submission Process for Form T

Effective Date: July 5, 2011

Executive Summary

FINRA reminds firms of their obligation to submit to FINRA on the Form T Equity Trade Reporting Form, as soon as practicable, last sale reports of over-the-counter (OTC) transactions in equity securities[1] for which electronic submission is not possible. In addition, FINRA is announcing a new process for the electronic submission of the Form T. Firms are required to submit the Form T in accordance with this new process no later than July 5, 2011.

Questions regarding this *Notice* may be directed to:

- Dave Chapman, Director, Market Regulation, at (240) 386-4995; or
- Office of General Counsel, at (202) 728-8071.

Background & Discussion

Firms are reminded that under FINRA trade reporting rules, they must report, as soon as practicable, to FINRA's Market Regulation Department on Form T[2] last sale reports of OTC transactions for which electronic submission to a FINRA Facility is not possible.[3] For example, such submission may not be possible if the ticker symbol for the security is no longer available, the transaction occurred on a holiday or weekend, or the transaction was executed more than 365 days prior to the submission date. Transactions that can be reported to a FINRA Facility, whether on trade date or a subsequent date on an "as/of" basis (T+N), must not be reported on Form T.

June 3, 2011

Notice Type

- Guidance

Suggested Routing

- Legal & Compliance
- Operations
- Systems
- Trading

Key Topics

- Alternative Display Facility
- Form T
- NMS Stocks
- OTC Equity Securities
- OTC Reporting Facility
- Paper Form T
- Restricted Equity Securities
- Trade Reporting Facilities
- Trade Reporting

Referenced Rules & Notices

- FINRA Rule 6282
- FINRA Rule 6380A
- FINRA Rule 6380B
- FINRA Rule 6420
- FINRA Rule 6622
- Securities Act Rule 144A

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FINRA is establishing a new process for the electronic submission of the Form T to FINRA's Market Regulation Department. Effective Tuesday, July 5, 2011, firms are required to submit the Form T electronically through FINRA's Firm Gateway—firms no longer will be able to submit the Form T via email. Through the Firm Gateway, in addition to creating and submitting Form T filings electronically, firms will be able to view, edit and delete draft filings, as well as view previously submitted filings. Firms will be required to continue providing trade details on an Excel spreadsheet as part of the Form T submission. Firms will be able to begin submitting Form T data via the new process on June 6, 2011, though they are not required to until the July 5, 2011, effective date.

With this new process, users must have a FINRA User ID and password administered under the FINRA Entitlement Program to access Form T. The Super Account Administrator (SAA) at each firm has the ability to assign user access rights to Form T for themselves and employees at their respective firms. A firm's SAA will be able to assist with establishing a new FINRA user ID and password, or using an existing user ID and password, to access the form. Users should contact their firm's SAA for access requests. SAAs may contact the FINRA Help Desk at (800) 321-6273 with questions.

Endnotes

1 Specifically, these are (1) transactions in NMS stocks effected otherwise than on an exchange, which are reported through the Alternative Display Facility (ADF) or a Trade Reporting Facility (TRF); and (2) transactions in OTC equity securities, as defined in Rule 6420, and transactions in restricted equity securities, as defined in Rule 6420, effected under Securities Act Rule 144A, which are reported through the OTC Reporting Facility (ORF).

2 The Form T was originally submitted to FINRA on paper. Thus, although today the Form T is submitted electronically to FINRA via email, it often still is referred to as "Paper Form T."

3 *See* Rules 6282(a)(5), 6380A(a)(8), 6380B(a)(8) and 6622(a)(8).

Information Notice

Political Contributions by Investment Advisers

FINRA Encourages Firms to Make Reasonable Efforts to Assist Investment Advisers Seeking Information Pursuant to Rule 206(4)-5 Under the Investment Advisers Act of 1940

June 6, 2011

Suggested Routing

- Senior Management
- Legal
- Operations

Key Topics

- Pay-to-Play
- Political Contributions

Referenced Rules & Notices

- Rule 206(4)-5 Under the Investment Advisers Act of 1940

Executive Summary

Rule 206(4)-5 under the Investment Advisers Act of 1940 (Advisers Act)[1] curbs "pay-to-play" practices by prohibiting an investment adviser from providing advisory services for compensation to a government client for a period of time after the adviser makes a contribution to certain elected officials or candidates.

In some cases, it may be difficult for an investment adviser to identify government investors when shares in a covered investment company managed by the investment adviser are held through an intermediary. In these situations, FINRA encourages firms to make reasonable efforts to assist investment advisers seeking to comply with Rule 206(4)-5.

Questions regarding this *Notice* may be directed to Angela C. Goelzer, Vice President, Office of Investment Companies Regulation, at (202) 728-8120.

Discussion

On July 1, 2010, the Securities and Exchange Commission (SEC) adopted Rule 206(4)-5.[2] The rule prohibits an investment adviser from providing advisory services for compensation to a government client for two years after the investment adviser or specified executives or employees make a contribution to certain elected officials or candidates. The rule also prohibits an investment adviser from providing or agreeing to provide, directly or indirectly, payment to any third party for solicitation of advisory business from any government entity on behalf of the investment adviser, unless the third party meets certain criteria, including being subject to similar pay-to-play restrictions. Additionally, the rule prevents an investment adviser from soliciting from others, or coordinating, contributions to certain elected officials or candidates, or payments to political parties when the adviser is providing or seeking government business.

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Among other situations, the rule's prohibitions apply when an adviser manages assets of a government entity though a "covered investment pool," which includes a registered investment company that is an investment option in a participant-directed government plan or program.[3] The Adopting Release notes that when an investment company is an investment option in a participant-directed government plan or program, it is reasonable to expect that the fund's investment adviser will know, or reasonably can be expected to acquire information about, the identity of the government plan.[4] In some cases, a fund adviser may request information from intermediaries about fund holdings though omnibus accounts, in order to determine whether the omnibus account includes holdings by a participant-directed government plan or program.[5] For example, the SEC states that it is not uncommon for participant contributions to Sections 403(b) and 457 plans to be commingled into an omnibus position that is forwarded to the fund, making it more challenging for an adviser to distinguish government entity investors from others.[6]

The compliance date for investment advisers to registered investment companies that are covered pools under Rule 206(4)-5 is September 13, 2011.[7] This compliance date is intended "to provide advisers to registered investment companies sufficient time to put into place those system enhancements or business arrangements, such as those with intermediaries, that may be necessary to identify those government plans or programs in which the funds serve as investment options."[8] To the extent that the information requested is readily available, FINRA encourages firms to make reasonable efforts to cooperate with investment advisers seeking information to comply with the requirements of Rule 206(4)-5.

Endnotes

1. 17 CFR 275.206(4)-5.
2. *See* *SEC Investment Advisers Act Release No. 3043* (July 1, 2010) (the Adopting Release).
3. Rule 206(4)-5(f)(3) defines "covered investment pool" for purposes of the rule's prohibitions.
4. Adopting Release at 107.
5. *Id.*
6. *Id.* at n. 375.
7. A September 13, 2011, compliance date also applies to the rule's prohibition on the use of third parties to solicit U.S. government business. For all other purposes, investment advisers are required to be in compliance with the rule as of March 14, 2011.
8. *Id.* at 126.

Information Notice

FINRA Surveys to Update the Series 6, 16, 24 and 26 Exams

June 28, 2011

Suggested Routing

- Compliance
- Registered Representatives
- Registration
- Senior Management

Key Topics

- Series 6, 16, 24 and 26 Examinations

Executive Summary

Starting on June 30, 2011, FINRA will conduct surveys to seek input from the industry to help inform updates to the Series 6, 16, 24 and 26 qualification examinations. Through these surveys, the first of which is for the Series 16 qualification examination, FINRA intends to gather information from currently registered individuals regarding their roles, responsibilities and job functions, and use the information to update the related qualification exams. FINRA encourages survey recipients to participate to help ensure that examination content accurately reflects the jobs they perform.

Questions about this *Notice* should be directed to Tina Freilicher, Director of Psychometrics and Qualifications, Testing and Continuing Education, at (646) 315-8752.

Background

Section 15A(g)(3) of the Securities Exchange Act of 1934 requires FINRA to prescribe standards of training, experience and competence for persons associated with FINRA member firms. In accordance with that provision, FINRA has developed examinations that are designed to establish that persons associated with FINRA member firms have attained specified levels of competence and knowledge. Given this purpose, FINRA's qualification examinations seek to measure accurately and reliably the degree to which each candidate possesses the knowledge, skills and abilities needed to perform the critical functions related to a particular registration.

Each series examination is developed from a content outline that describes the critical functions qualified individuals perform, a list of the topics on the examination and the relative emphasis of the topic areas. Among other things, FINRA periodically reviews and, if necessary, updates the content outlines for examinations to ensure they accurately reflect qualified individuals' roles, responsibilities and job functions. A job analysis study is part of this process.

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Starting on June 30, 2011, FINRA plans to conduct a job analysis for each of the following qualification examinations:

Series 16

The Series 16, the Supervisory Analyst examination, qualifies an individual to approve the content of research reports.

Series 24

The Series 24, the General Securities Principal examination, qualifies a principal to manage and supervise a member firm's investment banking and securities business, subject to certain limitations set forth in FINRA's rules. For instance, an associated person registered solely as a General Securities Principal is not qualified to function as a Registered Options Principal.

Series 26

The Series 26, the Investment Company and Variable Contracts Products Principal examination, qualifies a principal to manage and supervise activities limited solely to redeemable securities of companies registered under the Investment Company Act of 1940 (Investment Company Act), securities of closed-end companies registered under the Investment Company Act during the period of original distribution and certain insurance contracts, such as variable contracts.

Series 6

The Series 6, the Investment Company and Variable Contracts Products Representative examination, qualifies a representative to engage in activities limited solely to redeemable securities of companies registered under the Investment Company Act, securities of closed-end companies registered under the Investment Company Act during the period of original distribution and certain insurance contracts, such as variable contracts.

FINRA is sending the surveys to individuals who maintain these registrations. Therefore, if you maintain any of these registrations, you may receive a request to participate in a job analysis survey related to your registration. FINRA encourages survey recipients to participate to help ensure that examination content accurately reflects the jobs they perform.