

Notices

Regulatory Notices

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Election Notice

- 07/09/12** Notice of Annual Meeting of FINRA Firms and Proxy

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Membership Application Changes

FINRA Amends Electronic Form NMA and Adopts New Electronic Form CMA Filing Requirements

Implementation Date: July 23, 2012

Executive Summary

FINRA has amended Form NMA and adopted new Form CMA. Beginning July 23, 2012:

- ▶ all prospective applicants for FINRA membership (new member applicants or NMA applicants) pursuant to NASD Rules 1012 (General Provisions) and 1013 (New Member Application and Interview) must submit the revised Form NMA as part of their new member applications; and
- ▶ all prospective applicants for approval of a change in ownership, control or business operations (continuing membership applicants or CMA applicants) pursuant to NASD Rules 1012 and 1017 (Application for Approval of Change in Ownership, Control, or Business Operations) must submit the new electronic Form CMA as part of their continuing membership applications.

FINRA filed the rule change to amend online Form NMA for immediate effectiveness on March 5, 2012, with no changes made to existing rule text.¹ On May 31, 2012, the Securities and Exchange Commission approved the rule filing to amend NASD Rules 1012 and 1017 to adopt the new standardized electronic Form CMA.²

The text of NASD Rules 1012 and 1017 as amended is set forth in Attachment A.

Screenshots of revised Form NMA are set forth in Exhibit 3 to [SR-FINRA-2012-017](#), and screenshots of new Form CMA are set forth in Exhibit 3 to [SR-FINRA-2012-018](#).

Questions concerning this *Notice* should be directed to Joseph Sheirer, Director and Counsel II, Membership Application Program, at (212) 858-5132.

Questions concerning technical requirements and the Forms NMA and CMA should be directed to FINRA's Gateway Call Center at (301) 590-6500.

July 2012

Notice Type

- ▶ Rule Amendment

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Senior Management
- ▶ Systems

Key Topics

- ▶ Continuing Membership Application
- ▶ Form CMA
- ▶ Form NMA
- ▶ New Member Application

Referenced Rules & Notices

- ▶ NASD Rule 1012
- ▶ NASD Rule 1013
- ▶ NASD Rule 1014
- ▶ NASD Rule 1017
- ▶ SEA Rule 15c3-1

Background & Discussion

Revised Form NMA

Pursuant to NASD Rules 1012 and 1013, each applicant for FINRA membership must complete and electronically file the standardized online Form NMA as part of its new member application. The standardized online Form NMA was implemented in 2008 to streamline the new member application process and to assist applicants in compiling a complete application package by identifying and organizing the information and supporting documentation required by NASD Rule 1013 into eight major sections: (I) General Information; (II) Business Lines; (III) Personnel; (IV) Net Capital and Sources of Funding; (V) Contractual and Business Arrangements; (VI) Policies and Procedures; (VII) Facilities; and (VIII) Recordkeeping System.³

FINRA has now revised Form NMA to further streamline the new member application process and to organize Form NMA according to the 12 standards for membership enumerated in NASD Rule 1014 (Department Decision).⁴ The revisions also group information requests on specific topics that currently are located throughout existing Form NMA, as well as reduce current duplicative information requests in Form NMA.

New Form CMA

NASD Rule 1017 provides that certain changes in a member firm's ownership, control or business operations require a continuing membership application.⁵ Currently, NASD Rule 1017 does not require a continuing membership applicant to submit a standardized form as part of its continuing membership application and provides little detail regarding an application's required contents. Instead, each applicant is responsible for determining the contents of its continuing membership application. This often results in information deficiencies, which in turn, creates unnecessary delays in efficiently processing the applications. NASD Rule 1017 also generally requires a continuing membership application to be filed in the district office in which an applicant's principal place of business is located.

In addition, NASD Rule 1012 provides that, unless otherwise prescribed by FINRA, applicants may submit continuing membership applications via first-class mail, overnight courier or hand-delivery (or facsimile upon agreement by FINRA and the applicant). This manner of submitting a continuing membership application reduces the overall efficiency of the process and also creates unnecessary delays in properly forwarding information within FINRA, such as in conveying information to and from the centralized Membership Application Program Group formed in January 2011.

To streamline the continuing membership application process, FINRA has amended NASD Rules 1012 and 1017(b) to require continuing membership applicants to file an application in the manner prescribed by FINRA with the Department of Member Regulation and to include the completed Form CMA as part of the contents of a continuing membership application.

New Form CMA is structured, similarly to the revised Form NMA, according to the 12 standards for membership enumerated in NASD Rule 1014, with adjustments in the content of Form CMA based on the differing nature of the application types.⁶ The new form will provide continuing membership applicants with the benefits of a streamlined application process that new member applicants currently experience via the standardized online Form NMA and is intended to reduce administrative delays that exist in today's manual application processes.

New User Friendly Features of Forms NMA and CMA

The forms will provide new user-friendly features intended to reduce the administrative burden placed on NMA and CMA applicants.⁷ Specifically, those features include:

- ▶ pre-populating certain fields in both forms with information provided to FINRA in other submissions (*e.g.*, Central Registration Depository (CRD[®]) entitlement forms and Form BD) or otherwise available to FINRA from CRD records (*e.g.*, continuing education status), thereby minimizing the time necessary for applicants to complete the new forms;
- ▶ certain information fields in revised Form NMA requesting information that applicants are currently required to provide during FINRA's review of the new member application that were not included in current Form NMA but rather obtained during application review through requests from FINRA for additional information. These information fields, which FINRA added based on industry and staff feedback on existing Form NMA and the new member application process, should reduce the need for extensive follow-up during the review process which currently results in processing delays; and
- ▶ optional information request fields in both forms that can be used by applicants to provide additional information if and when it is applicable to an applicant's proposed business activities, structures or circumstances. The optional field approach is intended to provide flexibility for the significant level of variation seen in member firms' structures, business lines and proposed changes.

Information Requested by Forms NMA and CMA

Below is a synopsis of the information requests, by standard, of revised Form NMA (and the nexus to existing Form NMA information requests) and new Form CMA:

Standard 1 (Overview of the Applicant)

NASD Rule 1014(a)(1) requires Member Regulation to consider whether a new member or continuing membership application and all supporting documents are complete and accurate.

Form NMA: Information fields request certain new member applicant overview information currently contained primarily in Sections I (General Information), II (Business Lines) and VII (Facilities) of existing Form NMA (*e.g.*, formation information, identification of business activities, types of customers (and/or counterparties), owners, officers, directors and control persons, validation of clearing arrangements).

Form CMA: Information fields request certain continuing membership applicant overview information relevant to the proposed business change, such as details of the proposed change, verification of current business activities, new business lines added, supervisors for new business lines and identification of other persons associated with the proposed business change.

Standard 2 (Licenses and Registrations)

NASD Rule 1014(a)(2) requires Member Regulation to consider whether an NMA or CMA applicant and its associated persons have all licenses and registrations required by state and federal authorities and self-regulatory organizations (SROs).

Form NMA: Information fields request relevant information regarding a new member applicant's licenses and registrations (*e.g.*, required licenses and registrations, two-principal requirement waiver, other SRO registrations) that is currently contained primarily in Sections I (General Information) and III (Personnel) of existing Form NMA, as well as incorporating additional information requests (*e.g.*, intent to claim exemptions from registration or seek examination waivers for personnel) that are necessary for the applicant to demonstrate compliance with this standard.

Form CMA: Information fields request relevant information regarding a continuing membership applicant's licenses and registrations, such as changes to required licenses and registrations, new or continuing registration or examination waivers, new or continuing two-principal requirement waiver, other SRO registrations and/or withdrawals from other SRO registrations and new non-registered officers, directors or control persons that are necessary, in light of the proposed business change, for a continuing membership applicant to demonstrate compliance with the standard.

Standard 3 (Compliance with Securities Laws, Just and Equitable Principles of Trade)

NASD Rule 1014(a)(3) requires Member Regulation to consider whether an NMA or CMA applicant and its associated persons are capable of complying with the requirements of the federal securities laws, the rules and regulations thereunder, and FINRA rules, including observing high standards of commercial honor and just and equitable principles of trade.

Form NMA: Information fields consist of requests that are contained in Sections I (General Information) and III (Personnel) of existing Form NMA (*e.g.*, disciplinary history) and also incorporate additional information requests (*e.g.*, state or federal orders or decrees, statements of claims, settlement agreements) that are necessary for the new member applicant to demonstrate compliance with the standard.

Form CMA: Information fields request relevant information (*e.g.*, disciplinary history) and documentation (*e.g.*, state or federal orders or decrees, statements of claims, cancelled checks for payment of arbitration awards, proofs of settlement, settlement agreements) that are necessary, in light of the proposed business change, for a continuing membership applicant to demonstrate compliance with the standard.

Standard 4 (Contractual and Business Relationships)

NASD Rule 1014(a)(4) requires Member Regulation to consider whether an NMA or CMA applicant has established all contractual or other arrangements and business relationships with banks, clearing corporations, service bureaus or others necessary to: (A) initiate the operations described in the applicant's business plan, considering the nature and scope of operations and the number of personnel; and (B) comply with the federal securities laws, the rules and regulations thereunder and FINRA rules.

Form NMA: Information fields include requests for information regarding an applicant's contractual and business relationships that are contained in Sections I (General Information), IV (Net Capital and Sources of Funding) and V (Contractual and Business Arrangements) of existing Form NMA (*e.g.*, description of contractual arrangements, expense sharing agreements, financing arrangements, fidelity bonds or fidelity bond applications, support and service agreements, auditor information).

Form CMA: Information fields consist of requests regarding a continuing membership applicant's contractual and business relationships that would be relevant to the proposed business change (*e.g.*, description of new or amended contractual arrangements, expense sharing agreements, financing arrangements, fidelity bonds or fidelity bond applications, support and service agreements).

Standard 5 (Facilities)

NASD Rule 1014(a)(5) requires Member Regulation to consider whether an NMA or CMA applicant has, or has adequate plans, to obtain facilities that are sufficient to: (A) initiate the operations described in the applicant's business plan, considering the nature and scope of operations and the number of personnel; and (B) comply with the federal securities laws, the rules and regulations thereunder and FINRA rules.

Form NMA: Information fields consist of requests regarding an applicant's facilities that are primarily contained in Section VII (Facilities) of existing Form NMA (*e.g.*, space sharing arrangements, leasing or sub-leasing arrangements) and also incorporate additional information requests that are necessary to determine whether the applicant complies with the standard (*e.g.*, authorizations to sublet, deeds of ownership).

Form CMA: Information fields request relevant information regarding a continuing membership applicant's facilities, such as material changes to facilities or locations, departmental information barriers, space sharing arrangements, lease and/or sub-lease agreements.

Standard 6 (Communications and Operational Systems)

NASD Rule 1014(a)(6) requires Member Regulation to consider whether the communications and operational systems an NMA or CMA applicant intends to employ for the purpose of conducting business with customers and other members are adequate and provide reasonably for business continuity.

Form NMA: Information fields include requests regarding an applicant's communications and operational systems that are contained in Sections VI (Policies and Procedures) and VII (Facilities) of existing Form NMA (*e.g.*, communications and operational systems descriptions, supervision arrangements of multiple locations, business continuity plan documents), as well as requests for additional information that are necessary for the applicant to demonstrate compliance with the standard (*e.g.*, information relating to the use of social media sites).

Form CMA: Information fields consist of requests regarding a continuing membership applicant's communications and operational systems, such as communications and operational systems changes, supervision arrangements of multiple locations, business continuity plan documents and information relating to the applicant's use of social media sites.

Standard 7 (Maintaining Adequate Net Capital)

NASD Rule 1014(a)(7) requires Member Regulation to consider whether an NMA or CMA applicant is capable of maintaining a level of net capital in excess of the minimum net capital requirements set forth in SEA Rule 15c3-1 adequate to support the applicant's intended business operations on a continuing basis.

Form NMA: Information fields consist of requests regarding an applicant's net capital requirements that are contained primarily in Section IV (Net Capital and Sources of Funding) of existing Form NMA (*e.g.*, information on the nature and source of capital, additional funding plans, minimum net capital requirements, future funding sources).

Form CMA: Information fields request relevant information regarding a continuing membership applicant's net capital requirements, such as information on the nature and source of capital, additional funding plans, minimum net capital requirements and future funding sources.

Standard 8 (Financial Controls)

NASD Rule 1014(a)(8) requires Member Regulation to consider whether an NMA or CMA applicant has financial controls to ensure compliance with the federal securities laws, the rules and regulations thereunder and FINRA rules.

Form NMA: Information fields include requests regarding an applicant's financial controls that are contained primarily in Sections I (General Information), III (Personnel) and VI (Policies and Procedures) of existing Form NMA (*e.g.*, information regarding the registered financial and operations principal's (FINOP's) experience, financial controls, FINOP outside business activity notification) and also incorporate requests for additional information that are necessary for the applicant to demonstrate compliance with the standard (*e.g.*, net capital deficiency plans).

Form CMA: Information fields request relevant information regarding a continuing membership applicant's financial controls, such as identification of any change to the applicant's FINOP and the impact of the proposed business change on the continuing membership applicant's financial controls.

Standard 9 (Written Procedures)

NASD Rule 1014(a)(9) requires Member Regulation to determine whether an NMA or CMA applicant has compliance, supervisory, operational and internal control practices and standards that are consistent with practices and standards regularly employed in the investment banking or securities business, taking into account the nature and scope of the applicant's proposed business.

Form NMA: Information fields consist of requests regarding an applicant's written procedures that are contained in Sections III (Personnel), VI (Policies and Procedures) and VIII (Recordkeeping System) of existing Form NMA (*e.g.*, written supervisory procedures (WSPs), WSP checklist, sample reports to support supervision and financial controls, heightened supervisory procedures attestation).

Form CMA: Information fields request relevant information regarding a continuing membership applicant's written procedures that are applicable to the proposed business change, such as the impact of proposed change on the applicant's WSPs and WSP checklist and sample reports to support supervision and financial controls.

Standard 10 (Supervisory Structure)

NASD Rule 1014(a)(10) requires Member Regulation to determine whether an NMA or CMA applicant has a supervisory system, including WSPs, internal operating procedures (including operational and internal controls) and compliance procedures designed to prevent and detect, to the extent practicable, violations of the federal securities laws, the rules and regulations thereunder and FINRA rules.

Form NMA: Information fields consist of requests regarding a new member applicant's supervisory structure that are contained in Sections I (General Information) and III (Personnel) of existing Form NMA (*e.g.*, information regarding supervisors' experience and duties, chief compliance officers' experience, non-FINOP outside business activities notifications).

Form CMA: Information fields contain requests regarding a continuing membership applicant's supervisory structure that are applicable to the proposed business change, such as changes to supervisory or management personnel, information regarding supervisors' experience and duties, chief compliance officers' experience and non-FINOP outside business activities notifications.

Standard 11 (Books and Records)

NASD Rule 1014(a)(11) requires Member Regulation to determine whether an NMA or CMA applicant has a recordkeeping system that enables the applicant to comply with federal, state and SRO recordkeeping requirements and a staff that is sufficient in qualifications and number to prepare and preserve required records.

Form NMA: Information fields consist of requests regarding an applicant's books and records that are contained primarily in Section VIII (Recordkeeping System) of existing Form NMA (*e.g.*, recordkeeping system, sample books and records, recordkeeping service providers).

Form CMA: Information fields consist of requests regarding a continuing membership applicant's books and records that are applicable to the proposed business change, such as the impact of the potential business change on an applicant's recordkeeping systems and recordkeeping service providers and sample books and records relating to any new business activities.

Standard 12 (Continuing Education)

NASD Rule 1014(a)(12) requires Member Regulation to determine whether an NMA or CMA applicant has completed a training needs assessment and has a written training plan that complies with the continuing education (CE) requirements imposed by the federal securities laws, the rules and regulations thereunder and FINRA rules.

Form NMA: Information fields consist of requests regarding an applicant's CE obligations that are contained in Section VI (Policies and Procedures) of existing Form NMA (*e.g.*, firm element owner identification, CE checklist, CE needs assessment) and also incorporate additional requests for information that are necessary for the applicant to demonstrate compliance with the standard (*e.g.*, information regarding the applicant's CE deficiency mitigation plan).

Form CMA: Information fields consist of requests regarding a continuing membership applicant's CE obligations that are applicable to the proposed business change, such as changes to the applicant's CE program and a revised CE training needs assessment and written training plan.

Endnotes

1. See Securities Exchange Act Release No. 66555 (March 9, 2012), 77 FR 15445 (March 15, 2012) (SR-FINRA-2012-017) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Online Form NMA, the Standardized Membership Application Form Applicants Must File Pursuant to NASD Rule 1013 (New Member Application and Interview)).
2. See Securities Exchange Act Release No. 67082 (May 31, 2012), 77 FR 33539 (June 6, 2012) (SR-FINRA-2012-018) (Order Granting Approval of Proposed Rule Change as Modified by Amendment No. 1, to Amend NASD Rules 1012 (General Provisions) and 1017 (Application for Approval of Change in Ownership, Control, or Business Operations) to Adopt Form CMA).
3. See Securities Exchange Act Release No. 53564 (March 29, 2006), 71 FR 16847 (April 4, 2006) (SR-NASD-2006-038) (Order Approving File No. SR-NASD-2006-038); [Notice to Members 06-16](#) (April 2006) (NASD Amends Rule 1013 to Adopt a Standardized Application Form (Form NMA) to be Used by All New Member Applicants); see also Securities Exchange Act Release No. 55412 (March 7, 2007), 72 FR 11414 (March 13, 2007) (Order Approving File No. SR-NASD-2007-015); [Notice to Members 07-20](#) (May 2007) (NASD Amends Rules 1012 and 1013 to Require Applicants for Membership to Submit Applications Using Online Form NMA); Securities Exchange Act Release No. 57480 (March 12, 2008), 73 FR 14519 (March 18, 2008) (SR-FINRA-2008-008) (Notice of Filing and Immediate Effectiveness of Proposed Rule

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- Change To Amend Rule 1013 (New Member Application and Interview) and the Manner in Which Membership Applicants Submit Their Applications to FINRA); [Regulatory Notice 08-14](#) (March 2008) (FINRA Implements New Electronic Form NMA Requirement).
4. While NASD Rule 1014 sets forth 14 standards for membership, Form NMA does not elicit specific information from applicants regarding standards 13 (FINRA does not possess information indicating that the applicant may circumvent, evade, or otherwise avoid compliance with the federal securities laws, the rules or regulations thereunder or FINRA rules) or 14 (the application is consistent with the federal securities laws, the rules and regulations thereunder and FINRA rules). See NASD Rule 1014(a)(13) and (14).
 5. Among other things, changes that require an application include a merger of a member firm with another member firm, a direct or indirect acquisition by a member firm of another member firm, a change in equity ownership or partnership capital of the member firm that results in one person or entity directly or indirectly owning or controlling 25 percent or more of the equity or partnership capital or a “material change in business operations” as defined in NASD Rule 1011(k). NASD Rule 1011(k) defines a “material change in business operations” as including, but not limited to: (1) removing or modifying a membership agreement restriction; (2) market making, underwriting, or acting as a dealer for the first time; and (3) adding business activities that require a higher minimum net capital under SEA Rule 15c3-1.
 6. Consistent with revised Form NMA, new Form CMA does not elicit specific information from applicants regarding NASD Rule 1014’s standards 13 or 14. *See supra* note 4.
 7. FINRA worked closely with an industry task force, comprised of seven representatives from small and large firms, several of whom also are consultants, during the development of both forms. Among other things, the task force’s input assisted the staff to make these user-friendly changes.

ATTACHMENT A

Attachment A shows the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

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1000. MEMBERSHIP, REGISTRATION AND QUALIFICATION REQUIREMENTS

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1010. Membership Proceedings

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1012. General Provisions

(a) Filing by Applicant or Service by FINRA

(1) An Applicant for membership shall file an application in the manner prescribed in Rule 1013.

(2) An Applicant seeking approval of a change of ownership, control, or business operations shall file an application in the manner prescribed in Rule 1017.

(2) through (4) renumbered as (3) through (5).

(b) through (e) No Change.

* * * * *

1017. Application for Approval of Change in Ownership, Control, or Business Operations

(a) No Change.

(b) Filing and Content of Application

(1) The member shall file the application in the manner prescribed by FINRA with the Department of Member Regulation (“the Department”) [at the district office in the district in which the member’s principal place of business is located. If the application involves a merger between members with principal places of business in two or more districts, the application shall be filed and processed by the district office wherein the surviving firm’s principal place of business will be located].

(2) An applicant shall submit an application that includes a Form CMA including a detailed description of [The application shall describe in detail] the change in ownership, control, or business operations [and include a business plan, pro forma financials, an organizational chart, and written supervisory procedures reflecting the change].

(A) through (C) No Change.

(c) through (k) No Change.

* * * * *

Jumpstart Our Business Startups Act

FINRA Requests Comment on Proposed Regulation of Crowdfunding Activities

Comment Period Expires: August 31, 2012

Executive Summary

The Jumpstart Our Business Startups Act (JOBS Act)¹—a new law aimed at increasing American job creation and economic growth—contains key provisions relating to securities offered or sold through “crowdfunding.”² Under the new law, intermediaries performing crowdfunding on behalf of issuers must register with the Securities and Exchange Commission (SEC) as a “funding portal” or broker and must register with an applicable self-regulatory organization (SRO). FINRA is soliciting public comment on the appropriate scope of FINRA rules that should apply to member firms engaging in crowdfunding activities, either as funding portals or as brokers.

Questions regarding this *Notice* should be directed to:

- ▶ Gary L. Goldsholle, Vice President and Associate General Counsel, Office of General Counsel (OGC), at (202) 728-8104; or
- ▶ Adam H. Arkel, Associate General Counsel, OGC, at (202) 728-6961.

July 2012

Notice Type

- ▶ Request for Comment

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Senior Management

Key Topics

- ▶ Crowdfunding
- ▶ Funding Portals
- ▶ JOBS Act

Referenced Rules & Notices

- ▶ NTM 03-73

Action Requested

FINRA encourages all interested parties to comment on the proposal. Comments must be received by August 31, 2012.

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 as they are received.³

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).⁴

Background & Discussion

The crowdfunding provisions of the JOBS Act provide an exemption from registration under the Securities Act of 1933 (Securities Act) for securities offered by issuers in amounts of up to \$1 million over a 12-month period provided that the amount raised from any single investor adheres to strict limits (ranging from \$2,000 to \$100,000) based on the investor's annual income or net worth.⁵ The crowdfunding exemption establishes specific eligibility and sales practice standards for issuers and intermediaries that engage in crowdfunding.⁶ Intermediaries that seek to engage in crowdfunding must be registered as a broker or a funding portal, a newly created entity.

The regulatory scheme established by Congress expressly contemplates a role for an organization such as FINRA by mandating that each registered funding portal be a member of an applicable SRO.⁷ However, Congress limited a national securities association's examination and enforcement authority over such registered funding portals to its rules "written specifically for registered funding portals."⁸

Registered Funding Portal Rules

While the scope of any FINRA rules written specifically for registered funding portals will be influenced by, and should not be duplicative of, any crowdfunding rules adopted by the SEC, we have had conversations with SEC staff suggesting that FINRA should consider adopting its own crowdfunding rules. To assist in developing its crowdfunding rules, FINRA solicits comment on the specific rules that FINRA should adopt for registered funding portals that become FINRA members.

In writing rules specifically for registered funding portals, FINRA would seek to ensure that the capital-raising objectives of the JOBS Act are advanced in a manner consistent with investor protection. Commenters are encouraged to identify the types of requirements that should apply to registered funding portals, taking into account the relatively limited scope of activities by a registered funding portal permitted under the JOBS Act.⁹ Comments are particularly requested about possible rules concerning supervision, advertising, anti-money laundering, fraud and manipulation, and just and equitable principles of trade.

Application of FINRA Rules to Crowdfunding Activities by Broker-Dealers

FINRA also solicits comment on the application of existing FINRA rules to crowdfunding activities of *broker-dealers*. Unlike the rules applicable to *registered funding portals*, the JOBS Act does not limit the FINRA rules applicable to registered broker-dealers engaging in crowdfunding activities. Nevertheless, FINRA invites comments from broker-dealers regarding the application of existing FINRA rules to broker-dealers' crowdfunding activities and whether such rules should be relaxed to address a broker-dealer's crowdfunding activities, taking into account, among other things, the extent to which a broker-dealer may be able to isolate its crowdfunding business, or otherwise places limitations on its activities akin to those for registered funding portals. FINRA requests information from broker-dealers that may engage in crowdfunding concerning the organizational structure through which this activity would occur within the firm (*e.g.*, through the broker-dealer entity or a separately identified department). FINRA also requests comment on whether engaging in crowdfunding might present special conflicts or concerns for a broker-dealer, such as might arise if a registered representative were to recommend that a customer visit the firm's crowdfunding site.

Endnotes

1. Pub. L. No. 112-106, 126 Stat. 306 (2012).
2. See Title III of the JOBS Act. Crowdfunding generally refers to the use of the Internet by small businesses to raise capital through limited investments from a large number of investors.
3. 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.
4. 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.
5. Specifically, an issuer relying on the crowdfunding exemption created by the JOBS Act may not raise from an investor an aggregate amount that exceeds: (i) the greater of \$2,000 or 5 percent of the investor's annual income or net worth (for investors whose annual income or net worth is less than \$100,000); or (ii) 10 percent of the investor's annual income or net worth, not to exceed \$100,000 (for investors whose annual income or net worth is \$100,000 or more). See Securities Act Section 4(6). These aggregate amounts limit an investor's total crowdfunding purchases from all issuers in a 12-month period.
6. See generally Securities Act Section 4A and SEA Section 3(a)(80).
7. See SEA Section 4A(a)(2). The term "self-regulatory organization" is defined under SEA Section 3(a)(26) to include a registered securities association (e.g., FINRA). SEA Section 3(h)(2) provides in part that for purposes of SEA Section 15(b)(8) the term "broker or dealer" includes a funding portal and the term "registered broker or dealer" includes a registered funding portal. SEA Section 15(b)(8) generally requires a broker or dealer to be a member of a registered securities association.
8. See SEA Section 3(h)(2).
9. For example, among other things, a funding portal may not: offer investment advice or recommendations; solicit purchases, sales, or offers to buy the securities offered or displayed on its website or portal; compensate employees, agents or other persons for such solicitation or sales; or hold, manage, possess or otherwise handle customer funds or securities. See SEA Section 3(a)(80).

Mediator Selection

Amendments to Mediation Code to Provide the Mediation Director With Discretion to Determine Whether Parties to a FINRA Mediation May Select a Mediator Who Is Not on FINRA's Mediator Roster

Effective Date: August 6, 2012

Executive Summary

Under FINRA Rule 14107 (Mediator Selection) of the Code of Mediation Procedure (Mediation Code), parties to a mediation may select a mediator from FINRA's roster or from a source of their own choosing, including a mediator who is not on FINRA's mediator roster. In limited instances, the director of Mediation (Mediation director) may assign a mediator. The SEC approved amendments to the Mediation Code granting the Mediation director discretion to determine whether parties may select a mediator who is not on FINRA's mediator roster.¹

The amendments are effective on August 6, 2012, for all mediation cases filed on or after the effective date.

The text of the amendments is set forth in Attachment A.

Questions concerning this *Notice* should be directed to:

- ▶ Kenneth L. Andrichik, Senior Vice President, Chief Counsel, Director of Mediation and Strategy, Dispute Resolution, at (212) 858-3915 or ken.andrichik@finra.org; or
- ▶ Julie Crotty, Deputy Director of Mediation and Business Strategies, Dispute Resolution, at (212) 858-4341 or julie.crotty@finra.org.

July 2012

Notice Type

- ▶ Rule Amendment

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Registered Representatives

Key Topics

- ▶ Code of Mediation Procedure
- ▶ Mediation
- ▶ Mediator Selection

Referenced Rules & Notices

- ▶ FINRA Rule 14107

Background & Discussion

The Mediation Code permits parties to a mediation to select a mediator either from a list of FINRA mediators supplied by the Mediation director, or from a list or other source of their own choosing. In limited instances, the Mediation director assigns the mediator. Although parties usually select a FINRA mediator, under the current provision, parties may select a mediator who is *not* on FINRA's roster.

In 1995, when FINRA implemented its mediation program, FINRA permitted parties to select non-FINRA mediators to ensure that parties had access to a sufficient number of mediators. After more than 15 years of administering the mediation program, FINRA's mediator roster includes many seasoned securities mediators. FINRA staff carefully screens every mediator applicant, and the National Arbitration and Mediation Committee² (through its Mediation Subcommittee) reviews and approves each application before FINRA places an applicant on the roster. FINRA staff conducts a background check of approved applicants before placing them on the mediator roster. Staff elicits evaluations of its mediators from parties and counsel and conducts periodic quality control reviews of FINRA mediators. Non-FINRA mediators are not subject to FINRA's screening process, background check or periodic evaluation. Accordingly, the selection of a non-FINRA mediator raises concerns for the forum.

In response to these concerns, FINRA amended FINRA Rule 14107(a) to provide the Mediation director with discretion to determine whether parties to a FINRA mediation may select a mediator who is not on FINRA's mediator roster. Under the amended rule, if the parties select a non-FINRA mediator who is willing to apply to be a FINRA mediator, and the staff believes that the mediation program would benefit by adding the mediator to the roster, then the Mediation director may permit the mediator to serve on the case.³ FINRA believes that the amendments protect the quality and integrity of the process for users of its mediation forum.

If the Mediation director rejects a non-FINRA mediator the parties selected, the parties still have options for mediation. The parties may:

- ▶ select a FINRA-approved mediator;
- ▶ select a different non-FINRA mediator subject to the same conditions as the rejected mediator; or
- ▶ mediate their dispute elsewhere.

FINRA Rule 14107(c) provides that a mediator selected or assigned to mediate a matter must comply with FINRA rules relating to disclosures required of arbitrators unless, with respect to a mediator selected from a source other than a list provided by FINRA, the parties elect to waive such disclosure. FINRA amended the provision to state that it applies to a non-FINRA mediator who is approved to serve on a FINRA mediation.

The amendments are effective for all mediation cases filed on or after August 6, 2012.

Endnotes

1. See Securities Exchange Act Rel. No. 67040 (May 22, 2012), 77 FR 31677 (May 29, 2012) (File No. SR-FINRA-2012-011).
2. The National Arbitration and Mediation Committee (NAMC) makes recommendations to FINRA staff regarding recruitment, qualification, training and evaluation of arbitrators and mediators. The NAMC also makes recommendations on rules, regulations and procedures that govern the conduct of arbitration, mediation and other dispute resolution matters before FINRA.

The NAMC members include investor representatives, securities industry professionals and FINRA arbitrators and mediators. A majority of the NAMC members and its chair are public (non-industry) representatives. This diverse composition ensures a neutral approach in the administration of Dispute Resolution's forum, promoting fairness to all parties.

3. FINRA mediators pay an annual \$200 fee to remain active on the roster and a \$150 fee per case. FINRA will require non-FINRA mediators who serve on a case to complete the application process for inclusion on the roster and to pay the applicable fees.

ATTACHMENT A

New language is underlined; deletions are in brackets

14107. Mediator Selection

(a) A mediator may be selected:

[•] (1) By the parties from a list supplied by the Director;

[•] (2) With the Director's approval upon receipt of the parties' joint request, [By the parties] from a list or other source the parties choose [of their own choosing]; or

[•] (3) By the Director if the parties do not select a mediator after submitting a matter to mediation.

(b) For any mediator assigned or selected from a list provided by FINRA, the parties will be provided with information relating to the mediator's employment, education, and professional background, as well as information on the mediator's experience, training, and credentials as a mediator.

(c) Any mediator selected or assigned to mediate a matter shall comply with the provisions of Customer Code Rule 1240[8]5 or Industry Code Rule 13408, unless, with respect to a non-FINRA mediator approved by the Director, [mediator selected from a source other than a list provided by FINRA,] the parties elect to waive such disclosure.

(d) No mediator may serve as an arbitrator of any matter pending in FINRA arbitration in which he served as a mediator; nor may the mediator represent any party or participant to the mediation in any subsequent FINRA arbitration relating to the subject matter of the mediation.

* * * * *

Electronic Blue Sheet (EBS) Submissions

FINRA and ISG Delay Effective Date for Enhanced Electronic Blue Sheet Submissions

Effective Dates: November 30, 2012, and May 1, 2013

Executive Summary

FINRA and the other interested members of the Intermarket Surveillance Group (ISG interested members)¹ have extended the effective dates for firms to submit new data elements for Electronic Blue Sheets (EBS) to correspond with the recent extension by the SEC of the implementation of SEC Large Trader Reporting Rule (SEA Rule 13h-1).²

Effective November 30, 2012, and May 1, 2013, as discussed in more detail below, firms must begin submitting the additional formats of Blue Sheet data specified in [Regulatory Notice 11-56](#) to FINRA and the other ISG interested members. This extension will allow broker-dealers additional time to develop, test and implement the enhancements.

Attachment A to this *Notice* sets forth additional modifications from [Regulatory Notice 11-56](#) regarding changes to the Blue Sheet record layout and Attachment B outlines the updated Transaction Type Identifiers.

Questions concerning the EBS enhancements should be directed to ebsfaq@finra.org.

July 2012

Notice Type

- ▶ Guidance

Suggested Routing

- ▶ Legal
- ▶ Compliance
- ▶ Operations
- ▶ Senior Management

Key Topics

- ▶ Blue Sheets

Referenced Rules & Notices

- ▶ FINRA Rule 8211
- ▶ FINRA Rule 8213
- ▶ Regulatory Notice 11-56
- ▶ Notice to Members 05-58
- ▶ SEA Rule 13h-1

Discussion

On December 13, 2011, FINRA issued *Regulatory Notice 11-56* to announce enhancements to EBS to improve the regulatory agencies' ability to analyze broker-dealers' trading activities. The new requirements specified in the *Notice* were a combined effort of FINRA and the ISG interested members.

FINRA and the other ISG interested members have extended the compliance dates for the Blue Sheet reporting requirements to **November 30, 2012**, and **May 1, 2013**, to allow broker-dealers additional time to develop, test and implement the enhancements.³ By November 30, 2012, broker-dealers must be in Blue Sheet reporting compliance for all seven of the required new fields described in *Regulatory Notice 11-56* and reiterated below as such fields may apply to all NMS securities and for all transactions effected directly or indirectly by or through:

- ▶ any proprietary account of a U.S. registered broker-dealer; or
- ▶ any account used by a customer that trades through a "sponsored access" arrangement.

By May 1, 2013, broker-dealers must be in Blue Sheet reporting compliance for the Order Execution Time, Entering Firm Identifier and Executing Firm Identifier fields described below in all securities (not just NMS securities) and all types of transactions effected directly or indirectly by or through all types of accounts that are Blue Sheet reportable for a traditional (or non-LTID) Blue Sheet request. Broker-dealers may submit values in these three new fields in all securities and all types of transactions for a traditional Blue Sheet request prior to May 1, 2013, and it will be accepted by FINRA and the other ISG interested members.

As previously announced in *Regulatory Notice 11-56*, broker-dealers must add the following fields to the Blue Sheet record layout. However, the Employer SIC Code field has been withdrawn as a Blue Sheet requirement. In addition, the Entering Firm and Executing Firm fields have been renamed and modified to accept either a Market Participant Identifier (MPID) or a Central Registration Depository (CRD®) number. Consistent with *Regulatory Notice 11-56*, FINRA reminds broker-dealers that firms may voluntarily submit the Large Trader Identification Number (LTID) and Large Traded Identification Qualifier fields to FINRA or the other ISG interested members. Please see Attachment A for details.

Order Execution Time, Record Sequence Number Five, Field Position 72 to 77

Firms should use this record to submit the order execution time in 24-hour format and in Eastern Time formatted as HHMMSS. This information is not limited to the blue sheet transactions relating to the SEC Large Trader Reporting Rule (SEA Rule 13h-1). Please note that all firms must synchronize their time clocks to the atomic clock to maintain an accurate audit trail in connection to the reported execution time.

Large Trader Identification Number 1, Record Sequence Number Seven, Field Position 2 to 14

Firms should use this record to submit the Large Trader Identification Number. This information is requested under the approved SEC Large Trader Reporting Rule (SEA Rule 13h-1) requirements.

Large Trader Identification Number 2, Record Sequence Number Seven, Field Position 15 to 27

Firms should use this record to submit the Large Trader Identification Number. This information is requested under the approved SEC Large Trader Reporting Rule (SEA Rule 13h-1) requirements.

Large Trader Identification Number 3, Record Sequence Number Seven, Field Position 28 to 40

Firms should use this record to submit the Large Trader Identification Number. This information is requested under the approved SEC Large Trader Reporting Rule (SEA Rule 13h-1) requirements.

Large Trader Identification Qualifier, Record Sequence Number Seven, Field Position 41

Firms should use this record to submit the Large Trader Identification Qualifier. If more than three LTIDs exist for a transaction, then firms should mark the field “Y” for Yes. Otherwise it should be marked “N” for No. This information is requested under the approved SEC Large Trader Reporting Rule (SEA Rule 13h-1) requirements.

Entering Firm Identifier, Record Sequence Number Seven, Field Positions 42 to 49

Firms should use this record to submit the entering firm’s Market Participant Identifier or Central Registration Depository number. Please note the new field positions for this data element.

Executing Firm Identifier, Record Sequence Number Seven, Field Positions 50 to 57

Firms should use this record to submit the executing firm’s Market Participant Identifier or Central Registration Depository number. Please note the new field positions for this data element.

The following modifications and/or corrections were also made to Attachment A of this *Notice*:

- ▶ The Employer SIC Code field has been withdrawn as a Blue Sheet requirement.
- ▶ The Entering Firm MPID field has been renamed as the Entering Firm Identifier field. This field has been modified to accept either the entering firm's MPID or CRD number. The field has been moved to Record Sequence Number Seven, Position 42 through 49.
- ▶ The Executing Firm CRD Number field has been renamed the Executing Firm Identifier field. This field has been modified to accept either the executing MPID or CRD number. The field has been moved to Record Sequence Number Seven, Position 50 through 57.
- ▶ For all required new fields cited in this *Notice*, an "R" was added to the Field Format column to indicate that validation is required for these new fields. Please refer to the prior ISG EBS Validation Requirements in [Notice to Members 05-58](#).
- ▶ An "R" was also added to the Field Format column for the Derivative Symbol, Expiration Date, Call/Put Indicator, Strike Dollar and Strike Decimal fields as an indication that validation is required for these fields. Please refer to the prior ISG EBS Validation Requirements in [Notice to Members 05-58](#).
- ▶ For the Requestor Code and Exchange Code fields, the value "U" was added to represent BOX Options Exchange, LLC.
- ▶ For the Exchange Code field, the value "L", which was inadvertently omitted from *Regulatory Notice 11-56*, has been reinstated to represent the London Stock Exchange.
- ▶ For the Requestor Code and Exchange Code fields, the names of the ISG members have been updated, if applicable.
- ▶ For the Large Trader Identification Number 1 through 3 and the Large Trader Identification Qualifier fields, the Justify column was modified from Right Justification of Data (RJ) to Left Justification of Data (LJ).

The following modifications and/or corrections were made to Attachment B of this *Notice* (Additional modifications to Attachment B may be forthcoming in the near future.):

- ▶ The value "W" was added to the Options column to represent Voluntary Professional. The value should be used to indicate clients who voluntarily declare themselves a "Voluntary Professional." It is the client's responsibility to identify the trade as such. In addition, an exchange may define what it considers to be a "Voluntary Professional." For example, CBOE Rule 1.1(fff) defines "Voluntary Professional."
- ▶ The values "M", "N" and "Y", which represent Market-Maker, Non-Member Market-Maker/Specialist Account and Stock Specialist-Assignment, respectively, were inadvertently mis-categorized under the Equity column in *Regulatory Notice 11-56* and have been correctly re-categorized under the Options column.

Broker-dealers are reminded that failure to properly fill out the Blue Sheet fields is a violation of FINRA [Rule 8211](#) and/or FINRA [Rule 8213](#).

Blue Sheet Submission Methodology

Currently, blue sheet requests are made under specific security symbols and option symbology. As noted in *Regulatory Notice 11-56* firms will be required to submit blue sheets, when requested, using three additional formats:

1. account number and date;
2. account number, symbol and date; or
3. date range and executing firm.

Compliance with this requirement is similarly extended to November 30, 2012. As outlined in *Regulatory Notice 11-56*, the request by account number would require firms to identify the account number of a specific account at a firm, *e.g.* John Doe at CC Clearing Co. The request would cover all transactions under the John Doe account number at CC Clearing Co. To reduce data submission size, a blue sheet request may also ask for a specific symbol and date in connection with the account number. Additionally, blue sheet requests may be made for a specific review period under an executing firm. This request would require a firm to identify a clearing firm client's blue sheets for a set number of days, weeks or months, *e.g.* Firm ABC for the month of January 2011.

In addition, in response to a request from the SEC for large trader transition records, broker-dealers must be prepared to submit blue sheet data, when requested, by large trader status, including LTID number(s).

Blue Sheet Testing

Starting on November 1, 2012, FINRA will open its customer test website to allow firms to test their enhanced blue sheets data file before submitting it to production. Firms that already have entitlement to FINRA's Regulation Filing Application can proceed with testing their Blue Sheet modifications by submitting their test data to <https://regfilingtest.finra.org>. To access the customer test website, firms should enter the same user ID and password they use to access the production website. Firms that do not have entitlement to FINRA's Regulation Filing Application should contact (800) 321-6273.

The Securities Industry Automation Corporation (SIAC) will also be open to receiving blue sheet test files by November 1, 2012. Firms can obtain initial testing instructions from SIAC by contacting Michal Skibicki at (212) 383-9073 or mskibicki@nyx.com.

Frequently Asked Questions

FINRA provides answers to *frequently asked questions* (FAQ) on its website. The FAQs will be updated from time to time. Please see FINRA's website for the most recent version. Questions concerning the EBS enhancements should be directed to ebsfaq@finra.org.

Endnotes

1. The interested members include the following exchanges and self-regulatory organizations (SROs) as members of the ISG: BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Inc., C2 Options Exchange, Inc., CBOE Stock Exchange, LLC, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., International Securities Exchange, LLC, The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE MKT, LLC, NYSE Arca, Inc., and BOX Options Exchange, LLC.
2. The Securities and Exchange Commission extended the compliance date for the broker-dealer recordkeeping, reporting and monitoring requirements of Rule 13h-1 to November 30, 2012, and May 1, 2013. Please see Securities Exchange Release No. 34-66839 (April 20, 2012), 77 FR 25007 (April 26, 2012) for further details.
3. *Id.*

Attachment A

Record Layout for Submission of Trading Information

Field Position		Field Length	Field Name/Description/Remarks	Field Format	Justify	Picture Clause	Default Value
From	To						
			This record must be the first record of the file				
1	3	3	FILLER	A	LJ	X(3)	HDR
4	5	2	FILLER	A	LJ	X(2)	.S
6	10	5	DTRK-SYSID	N	LJ	9(5)	12343
11	12	2	FILLER	A	LJ	X(2)	.E
13	14	2	FILLER	N	LJ	9(2)	00
15	16	2	FILLER	A	LJ	X(2)	.C
17	20	4	DTRK-ORIGINATOR Please call SIAC for assignment (212) 383-2210	A	LJ	X(4)	--
21	22	2	FILLER	A	LJ	X(2)	.S
23	26	4	DTRK-SUB-ORIGINATOR Please call SIAC for assignment (212) 383-2210	A	LJ	X(4)	--
27	27	1	FILLER	A	LJ	X(1)	B
28	33	6	DTRK-DATE Contains submission date.	N	LJ	9(6)	MMDDYY
34	34	1	FILLER	A	LJ	X(1)	B
35	59	25	DTRK-DESCRIPTION Required to identify this file.	A	LJ	X(25)	FIRM TRADING INFORMATION
60	80	21	FILLER	A	LJ	X(21)	B
1	1	1	HEADER RECORD CODE Value: Low Values OR ZERO	A	--	X	--
2	5	4	SUBMITTING BROKER NUMBER If NSCC member use NSCC clearing number. If not a NSCC member, use clearing number assigned to you by your clearing agency.	A-R	LJ	X(4)	B

Field Position		Field Length	Field Name/Description/Remarks	Field Format	Justify	Picture Clause	Default Value
From	To						
6	40	35	FIRM'S REQUEST NUMBER Tracking number used by the firm to record requests from an organization.	A	--	X(35)	B
41	46	6	FILE CREATION DATE Format is YYMMDD	A	--	X(6)	--
47	54	8	FILE CREATION TIME Format is HH:MM:SS	A	--	X(8)	--
55	55	1	REQUESTOR CODE Requesting Organization Identification Values:	A	--	X	--
			A = New York Stock Exchange				
			B = NYSE MKT, LLC				
			C = Chicago Stock Exchange				
			D = NASDAQ OMX				
			E = NYSE Arca				
			F = NASDAQ OMX BX, Inc.				
			G = National Stock Exchange				
			H = BATS Exchange, Inc.				
			I = International Securities Exchange				
			J = Direct Edge (EDGA Exchange and EDGX Exchange)				
			K = Chicago Board Options Exchange, C2 Options Exchange and CBSX (CBOE Stock Exchange)				

Field Position		Field Length	Field Name/Description/Remarks	Field Format	Justify	Picture Clause	Default Value
From	To						
			R = FINRA				
			U = BOX Options Exchange, LLC				
			X = U.S. Securities and Exchange Commission				
			Y = BATS Y-Exchange, Inc.				
			Z = Other				
56	70	15	REQUESTING ORGANIZATION NUMBER Number assigned by requesting organization	A	LJ	X(15)	B
71	80	10	FILLER	A	--	X(10)	B
1	1	1	RECORD SEQUENCE NUMBER ONE The first record of the transaction. Value: 1	A	--	X	--
2	5	4	SUBMITTING BROKER NUMBER Identical to Submitting Broker Number in Header Record	A-R	LJ	X(4)	--
6	9	4	OPPOSING BROKER NUMBER The NSCC clearing house number of the broker on the other side of the trade.	A-R	LJ	X(4)	B
10	21	12	CUSIP NUMBER The cusip number assigned to the security. Left justified since the number is nine characters at present (8+ check digit) but will expand in the future.	A	LJ	X(12)	B

Field Position		Field Length	Field Name/Description/Remarks	Field Format	Justify	Picture Clause	Default Value
From	To						
22	29	8	<p>TICKER SYMBOL The symbol assigned to this security. For options (pre-OSI), the OPRA option symbol (<u>space</u>), OPRA expiration month symbol and OPRA strike price symbol should be used. (Ex. Maytag May 20 call option series would be reported as MYG ED. This example uses six spaces in the field with a space between the OPRA symbol and the OPRA expiration month.)</p> <p>Post OSI this field must contain OPTIONXX and a Record Sequence Number Six must be completed</p>	A-R	LJ	X(8)	B
30	35	6	<p>TRADE DATE The date this trade executed. Format is YYMMDD.</p>	A-R	--	X(6)	B
36	41	6	<p>SETTLEMENT DATE The date this trade will settle. Format is YYMMDD</p>	A	--	X(6)	B
42	53	12	<p>QUANTITY The number of shares or quantity of bonds or option contracts.</p>	N-R	RJ	9(12)	Z
54	67	14	<p>NET AMOUNT The proceeds of sales or cost of purchases after commissions and other charges.</p>	N	RJ	S9(12) V99	Z

Field Position		Field Length	Field Name/Description/Remarks	Field Format	Justify	Picture Clause	Default Value
From	To						
68	68	1	BUY/SELL CODE Values: 0 = Buy, 1 = Sale, 2 = Short Sale, 3 = Buy Open, 4 = Sell Open, 5 = Sell Close, 6 = Buy Close. A = Buy Cancel, B = Sell Cancel, C = Short Sale Cancel, D = Buy Open Cancel, E = Sell Open Cancel, F = Sell Close Cancel, G = Buy Close Cancel. Values 3 to 6 and D to G are for options only	A-R	--	X	B
69	78	10	PRICE The transaction price. Format: \$\$\$\$ CCCCCC.	N-R	RJ	9(4) V(6)	Z
79	79	1	EXCHANGE CODE Exchange where trade was executed. Values:	A-R	--	X	B
			A = New York Stock Exchange				
			B = NYSE MKT, LLC				
			C = Chicago Stock Exchange				
			D = NASDAQ OMX PHLX				
			E = NYSE Arca				
			F = NASDAQ OMX BX, Inc.				
			G = National Stock Exchange				
			H = BATS Exchange, Inc.				
			I = International Securities Exchange				
			J = C2 Options Exchange				
			K = Chicago Board Options Exchange				

Field Position		Field Length	Field Name/Description/Remarks	Field Format	Justify	Picture Clause	Default Value
From	To						
			L = London Stock Exchange				
			M =Toronto Stock Exchange				
			N = Montreal Stock Exchange				
			O =TSX Venture Exchange				
			P = Direct Edge (EDGA Exchange)				
			Q=FINRA ADF				
			R = NASDAQ OMX/NASDAQ OMX Options Market				
			S = Over-the-Counter				
			T = Tokyo Stock Exchange				
			U = BOX Options Exchange, LLC				
			V = Direct Edge (EDGX Exchange)				
			W = CBSX (CBOE Stock Exchange)				
			X = NASDAQ OMX PSX				
			Y = BATS Y-Exchange, Inc.				
			Z = Other				
80	80	1	BROKER/DEALER CODE Indicate if trade was done for another Broker/Dealer. Values: 0 = No; 1 = Yes	A-R	--	X	B
1	1	1	RECORD SEQUENCE NUMBER TWO Value: 2	A	--	X	--
2	2	1	SOLICITED CODE Values: 0 = No; 1 = Yes	A-R	--	X	B

Field Position		Field Length	Field Name/Description/Remarks	Field Format	Justify	Picture Clause	Default Value
From	To						
3	4	2	STATE CODE Standard Postal two character identification.	A-R	--	X(2)	B
5	14	10	ZIP CODE/COUNTRY CODE Zip Code—five or nine character (zip plus four) Country code—for future use.	A-R	LJ	X(10)	B
15	22	8	BRANCH OFFICE/REGISTERED REPRESENTATIVE NUMBER Each treated as a four-character field. Both are left justified.	A-R	LJ	X(8)	B
23	28	6	DATE ACCOUNT OPENED Format is YYMMDD	A-R	--	X(6)	B
29	48	20	SHORT NAME FIELD Contains last name followed by comma (or space) then as much of first name as will fit.	A	LJ	X(20)	B
49	78	30	EMPLOYER NAME	A	LJ	X(30)	B
79	79	1	TIN 1 INDICATOR Values: 1 = SS#; 2 = TIN	A-R	--	X	B
80	80	1	TIN 2 INDICATOR Values: 1 = SS#; 2 = TIN—for future use.	A	--	X	B
1	1	1	RECORD SEQUENCE NUMBER THREE Value: 3	A	--	X	--
2	10	9	TIN ONE Taxpayer Identification Number Social Security or Tax ID Number.	A-R	LJ	X(9)	B

Field Position		Field Length	Field Name/Description/Remarks	Field Format	Justify	Picture Clause	Default Value
From	To						
11	19	9	TIN TWO Taxpayer Identification Number #2 Reserved for future use.	A	LJ	X(9)	B
20	20	1	NUMBER OF N&A LINES	A	--	X	B
21	50	30	NAME AND ADDRESS LINE ONE	A-R	LJ	X(30)	B
51	80	30	NAME AND ADDRESS LINE TWO	A-R	LJ	X(30)	B
1	1	1	RECORD SEQUENCE NUMBER FOUR	A	--	X	--
			Value: 4				
2	31	30	NAME AND ADDRESS LINE THREE	A-R	LJ	X(30)	B
32	61	30	NAME AND ADDRESS LINE FOUR	A-R	LJ	X(30)	B
62	62	1	TRANSACTION TYPE IDENTIFIERS See Attachment B for current codes.	A-R	--	X	B
63	80	18	ACCOUNT NUMBER Account number	A-R	LJ	X(18)	B
1	1	1	RECORD SEQUENCE NUMBER FIVE Value: 5	A	--	X(1)	--
2	31	30	NAME AND ADDRESS LINE FIVE	A-R	LJ	X(30)	B
32	61	30	NAME AND ADDRESS LINE SIX	A-R	LJ	X(30)	B
62	65	4	PRIME BROKER Clearing number of the account's prime broker.	A-R	LJ	X(4)	B
66	66	1	AVERAGE PRICE ACCOUNT 1 = recipient of average price transaction. 2 = average price account itself.	N-R	--	9(1)	Z

Field Position		Field Length	Field Name/Description/Remarks	Field Format	Justify	Picture Clause	Default Value
From	To						
67	71	5	DEPOSITORY INSTITUTION IDENTIFIER Identifying number assigned to the account by the depository institution.	A-R	LJ	X(5)	B
72	77	6	Order Execution Time HHMMSS – Time format will be in Eastern Time and 24 hour format.	N-R	LJ	--	--
78	80	3	FILLER	A	--	X	B
1	1	1	RECORD SEQUENCE NUMBER SIX Value: 6	A	--	--	
2	9	8	DERIVATIVE SYMBOL The symbol assigned to the derivative	A-R	LJ	--	B
10	15	6	EXPIRATION DATE The date the option expires. Format is YYMMDD	A-R	--	--	B
16	16	1	CALL/PUT INDICATOR C = Call, P = Put	A-R	--	--	B
17	24	8	STRIKE DOLLAR The dollar amount of the strike price	N-R	RJ	--	Z
25	30	6	STRIKE DECIMAL The decimal amount of the strike price	N-R	RJ	--	Z
31	80	50	FILLER	A	LJ	--	B
1	1	1	RECORD SEQUENCE NUMBER SEVEN Value: 7	A	--	--	
2	14	13	Large Trader Identification 1	A-R	LJ	--	Z

Field Position		Field Length	Field Name/Description/Remarks	Field Format	Justify	Picture Clause	Default Value
From	To						
15	27	13	Large Trader Identification 2	A-R	LJ	--	Z
28	40	13	Large Trader Identification 3	A-R	LJ	--	Z
41	41	1	Large Trader Identification Qualifier	A-R	LJ	--	Z
42	49	8	Entering Firm Identifier	A-R	LJ	--	B
50	57	8	Executing Firm Identifier	A-R	LJ	--	B
58	80	23	FILLER	A	LJ	--	B
1	1	1	TRAILER RECORD DATE One record per submission. Must be the last record on the file. Value: High Values or "9"	A	--	X	--
2	17	16	TOTAL TRANSACTIONS The total number of transactions. This total excludes Header and Trailer Records.	N	RJ	9(16)	B
18	33	16	TOTAL RECORDS ON FILE The total number of 80 byte records. This total includes Header and Trailer Records, but not the Datatrak Header Record (i.e., it does not include the first record on the file).	N	RJ	9(16)	Z
34	80	47	FILLER	A	--	X(47)	B

Field Format A = Alphanumeric (all caps) N = Numeric P = Packed B = Binary R = Validation Required	Default Values B = Blanks Z = Zero	Justify RJ = Right Justification of Data LJ = Left Justification of Data
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Attachment B

Record Layout for Submission of Trading Information

Transaction Type	Security Type	
	Equity*	Options
Non-Program Trading, Agency	A	C
Non-Index Arbitrage, Program Trading, Proprietary	C	
Index Arbitrage, Program Trading, Proprietary	D	
Index Arbitrage, Program Trading, Individual Investor	J	
Non-Index Arbitrage, Program Trading, Individual Investor	K	
Non-Program Trading, Proprietary	P	F
Non-Program Trading, Individual Investor	I	
Non-Index Arbitrage, Program Trading, Agency	Y	
Index Arbitrage, Program Trading, Agency	U	
Index Arbitrage, Program Trading, as Agent for Other Member	M	
Non-Index Arbitrage, Program Trading, as Agent for Other Member	N	
Non-Program Trading, as Agent for Other Member	W	
Specialist	S	S
Market-Maker		M
Non-Member Market-Maker/Specialist Account		N
Stock Specialist — Assignment		Y
Short Exempt, Agency	B	
Customer Range Account of a Broker/Dealer		B
Registered Trader	G	
Error Trade	Q	
Competing Market Maker Proprietary Transaction: Affiliated w/ Clearing Member	O	
Competing Market Maker: Unaffiliated Member's Competing Market Maker	T	
Competing Market Maker: Non-Member	R	

Transaction Type	Security Type	
	Equity*	Options
Short Exempt Transaction: Proprietary Account of Clearing Member Organization or Affiliated Member/Member Organization	E	
Short Exempt Transaction: Proprietary Account of Unaffiliated Member/Member Organization	F	
Short Exempt Transaction: Individual Customer Account	H	
Short Exempt Transaction: Competing Market Maker this is a Member/Member Organization Trading for own account	L	
Short Exempt Transaction: One Member Acting as Agent for Another Member's Competing Market Maker Account	X	
Short Exempt Transaction: Account of Non Member Competing Market Maker	Z	
Amex Option Specialist/Market Maker Trading Paired Security	V	
Registered Trader Market Maker Transaction Regardless of the Clearing Number		P
Transactions cleared for a NASDAQ market maker that is affiliated w/ the clearing member that resulted from telephone access to the specialist. Amex Only.	3	
Transactions cleared for a member's NASDAQ market maker that is not affiliated with the clearing member that resulted from telephone access to the specialist. Amex Only.	4	
Transactions cleared for a non-member NASDAQ market maker that is not affiliated with the clearing member that resulted from telephone access to the specialist. Amex Only.	5	
Voluntary Professional		W

* Equity securities include those securities that trade like equities (e.g., ETFs and structured products). ©2012 FINRA. All rights reserved.

Election Notice

Notice of Annual Meeting of FINRA Firms and Proxy

Executive Summary

FINRA will conduct its annual meeting of firms on Monday, August 13, 2012, at 2 p.m. Eastern Time in the FINRA Visitors Center, 1735 K Street, NW, in Washington, D.C. The purpose of the meeting is to elect individuals to fill one small firm seat, one mid-size firm seat and one large firm seat on the FINRA Board of Governors (FINRA Board).

It is important that all 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 mailed 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 Friday, July 6, 2012 (the annual meeting record date) will be eligible to vote.

Note: This *Notice* was mailed and sent electronically to the executive representative of each FINRA member firm. It is also posted on FINRA's website at www.finra.org/notices/election/070912.

Questions regarding this *Notice* may be directed to:

- ▶ Marcia E. Asquith, Senior Vice President and Corporate Secretary, at (202) 728-8949; or
- ▶ Jennifer Piorko Mitchell, Assistant Corporate Secretary, at (202) 728-8949.

July 9, 2012

Suggested Routing

- ▶ Executive Representatives
- ▶ Senior Management

Election of Governors

There are three seats on the FINRA Board to be filled at the upcoming annual meeting: one Small Firm Governor, one Mid-Size Firm Governor and one Large Firm Governor. To be eligible to serve, Large Firm Governors must be registered with large firms, Mid-Size Firm Governors must be registered with mid-size 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
- ▶ a Mid-Size Firm employs at least 151 and no more than 499 registered persons;² and
- ▶ a Large Firm employs 500 or more registered persons.³

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. If a governor is elected or appointed to fill a vacancy 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 is the list of the FINRA Nominating Committee nominees for the Large Firm Governor and Mid-Size Governor seats and those persons who, as provided 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 classification of the governorship to be filled:

Large Firm Governor Candidates

FINRA Nominating Committee Nominee

- ▶ Seth H. Waugh, Chief Executive Officer, Deutsche Bank Americas

Nominees by Petition

- ▶ None

Mid-Size Firm Governor Candidates

FINRA Nominating Committee Nominee

- ▶ W. Dennis Ferguson, Executive Vice President and Director of Clearing, Sterne, Agee & Leach, Inc.

Nominees by Petition

- ▶ None

Small Firm Governor Candidates

Nominees by Petition⁴

- ▶ Kevin Carreno, General Counsel, International Assets Advisory, LLC
- ▶ Stephen A. Kohn, President and CEO, Stephen A. Kohn & Associates, Ltd.
- ▶ Dock David Treece, Vice President and Chief Compliance Officer, Treece Financial Services Corp.

Attachment A includes the profiles of the Small Firm candidates; Attachment B, the Mid-Size Firm candidate; and Attachment C, the Large Firm candidate.

Voting Eligibility

Firms registered with FINRA as of the close of business on Friday, July 6, 2012, are eligible to vote for the nominees running for seats that are in the same size category as their own firm and will receive a proxy card 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, mid-size 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 firms be represented at the annual meeting. Following receipt of this *Notice* and proxy, executive representatives of 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 (cc) of the FINRA By-Laws.
3. See Article I (y) of the FINRA By-Laws.
4. With respect to the Small Firm Governor seat, the Nominating Committee did not nominate a candidate for election in 2012. Instead, all candidates qualified by obtaining the requisite number of petitions.

ATTACHMENT A: Profiles of Small Firm Candidates

Kevin Carreno is currently part owner and a principal of International Assets Advisory, LLC (IAA) based in Orlando, FL. IAA is a small FINRA member firm involved in investment banking, institutional and retail business. Mr. Carreno has over 25 years as a lawyer in private practice, in-house counsel and in a variety of senior management positions including chief compliance officer, chief operating officer and chief executive officer with several brokerage firms. He has represented individuals and small firms in FINRA enforcement proceedings, new and continuing membership applications, examinations and investigations. Mr. Carreno has been appointed as an independent consultant in SEC, FINRA and various state enforcement matters. Mr. Carreno has served on the board of the Florida Securities Dealers Association and as a member of the State Legislation and Regulation Committee of the Securities Industry Association (n/k/a SIFMA). Mr. Carreno is a graduate of the United States Air Force Academy in Colorado Springs with an Engineering degree. He is also a graduate of the University of Denver College of Law with a Juris Doctor. He currently holds the Series 4, 7, 24 and 53 licenses and is a member of the Colorado and Florida Bars. Mr. Carreno was commissioned as a Second Lieutenant in the U.S. Air Force after graduation from the Academy. He served for five years on active duty and 18 years in the AF Reserve before retiring as a Lieutenant Colonel.

Stephen A. Kohn is the president and CEO of Stephen A. Kohn & Associates, Ltd., a Colorado-based, full service, independent FINRA member firm, founded in 1996. Stephen came into the financial services industry in 1984 as a municipal bond salesman and rose through the ranks to become a branch manager of the then largest OTC brokerage in the country. Stephen has been employed by a number of large and small firms, two of whom have survived the stringent regulatory climate that exists in the securities industry today.

He is president of the Independent Broker Dealer Association, www.ib-da.org, representing the interests of the small independent broker/dealer. Stephen is also one of two elected small firm members of the FINRA National Adjudicatory Council (NAC), which, among other responsibilities, hears matters of member appeals. He also serves as a FINRA industry arbitrator.

Stephen graduated from C.W. Post College in 1964 with a Bachelor of Arts degree. He has served in the U.S. Coast Guard Reserve.

Dock David Treece is a partner at Treece Financial Services Corp., where he serves as vice president and chief compliance officer. In addition, Treece also serves as a partner at Treece Investment Advisory Corp., a state-registered investment advisory firm. Prior to his current roles in both family-owned firms, Treece worked at a multinational mutual fund family and a separate retail firm. He has appeared on several television and radio programs and been published in numerous industry publications. Mr. Treece holds Series 7, 24, 27, 66 and 99 registrations. He graduated from the University of Miami in Coral Gables, Florida, with a B.A. in Finance.

ATTACHMENT B: Profile of Mid-Size Firm Governor Nominee

W. Dennis Ferguson is executive vice president, director of Clearing for Sterne, Agee & Leach, Inc. He is also registered with Sterne Agee Financial Services, Inc. located in Boca Raton, Florida. Starting in the securities industry in 1970, he has worked in the clearing services arena since 1982. He has served the financial industry as a member of the Securities and Financial Markets Association's (SIFMA) Clearing Firms Committee and the Membership Committee, both of which he has previously chaired. From 1995 to 1996, he was president of the Florida Securities Dealers Association. Mr. Ferguson has previously served FINRA, then NASD, as chairman of the District 7 Committee and as a member of the Membership, Financial Responsibility and Uniform Practice Code Committees. In 2008, he completed a four-year term on the FINRA National Adjudicatory Council, serving in the last two years of his tenure as its chairman. Mr. Ferguson graduated from Florida Southern College and did graduate work at Florida Atlantic University.

ATTACHMENT C: Profile of Large Firm Governor Nominee

Seth Waugh joined Deutsche Bank in April 2000 as regional head of Global Markets and Equities and vice chairman of the Americas Executive Committee. Seth was appointed CEO of Corporate and Investment Banking in the Americas in 2001 and the following year was named CEO of Deutsche Bank Americas and chairman of the Americas Executive Committee, a position he has held since May 2002. He was appointed member of the Group Executive Committee effective April 1, 2009. Seth is chairman of the Deutsche Bank Securities Inc. (DBSI) board of directors and serves as chairman of the board, CEO and president of several Deutsche Bank companies including Deutsche Bank Trust Company and Deutsche Bank Trust Corporation Americas. He has recently announced that he will be stepping down as CEO once the ideal replacement is identified and in place. He will remain at the bank in a senior advisory capacity going forward. Before joining Deutsche Bank, Seth was CEO of Quantitative Financial Strategies (QFS) in Greenwich, CT. Prior to his role at QFS, Seth spent 11 years at Merrill Lynch in a variety of capacities in the Fixed Income Division, most recently as senior vice president and co-head of Global Debt Markets. Earlier in his career, Seth managed the Corporate Bond and International Trading desks at Salomon Brothers. Seth's industry positions have included board seats with the Securities Industry and Financial Markets Association and The Clearing House. In addition, he is the Deutsche Bank Americas representative to the Financial Services Forum, an organization composed of 20 CEOs from the largest U.S. financial institutions. He is also a member of the Executive Committee of the Partnership for New York City. Seth is the chairman of the board of directors for Deutsche Bank Americas Foundation which administers the philanthropic activities of Deutsche Bank within the United States, Canada and Latin America. Seth's philanthropic endeavors also include positions on the boards of the YMCA of Greater New York, the Multiple Sclerosis Society of Greater New York, the Partnership for New York City, St. Vincent's Services of Brooklyn, the Local Initiatives Support Corporation, the Lawrenceville School in Lawrenceville, New Jersey, and he is a member of the Winthrop University Hospital Board of Regents in Syosset, New York. A graduate of Amherst College, Seth earned dual Bachelor of Arts degrees in Economics and English.