

July 23, 1998

Katherine A. England
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549
Mail Stop 10-1

Re: **File No. SR-NASD-98-52**
Review of Incoming, Non-electronic Correspondence with the Public

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed herewith is the above-numbered rule filing. Also enclosed is a 3-1/2" disk containing the rule filing in Microsoft Word 7.0 to facilitate production of the Federal Register release.

If you have any questions, please contact Mary Revell, Associate General Counsel, Office of General Counsel, NASD Regulation, Inc., at (202) 728-8203; e-mail revellm@nasd.com. The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,

Joan C. Conley
Secretary

Attachment

File No. SR-NASD-98-52
Consists of 20 Pages

SECURITIES AND EXCHANGE COMMISSION

Washington, D. C.

Form 19b-4

Proposed Rule Change

by

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Pursuant to Rule 19b-4 under the
Securities Exchange Act of 1934

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 ("Act"), NASD Regulation, Inc. ("NASD Regulation") is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to amend National Association of Securities Dealers, Inc. ("NASD" or "Association") Rule 3010 to state that firms should review incoming, non-electronic correspondence to identify customer complaints and funds. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

CONDUCT RULES

Rule 3010. Supervision

(a) through (c) No change

(d) Review of Transactions and Correspondence

(1) No change

(2) Review of correspondence. Each member shall develop written procedures that are appropriate to its business, size, structure, and customers for the review of incoming and outgoing written and electronic correspondence with the public relating to its investment banking or

securities business. *The procedures should include review of incoming, non-electronic correspondence directed to registered representatives for purposes of properly identifying and handling customer complaints and funds.* Where such procedures for the review of correspondence do not require [pre-use] review of all *correspondence prior to use or distribution*, they must include provision for the education and training of associated persons as to the firm's procedures governing correspondence; documentation of such education and training; and surveillance and follow-up to ensure that such procedures are implemented and adhered to.

(3) No change

(e) through (g) No change

NASD Regulation also is filing with the SEC a draft Notice to Members that will be issued once the proposed rule has been approved that will provide guidance on how to implement the Rule. The draft Notice to Members is attached as Exhibit 2.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

(a) The proposed rule change was approved by the Board of Directors of NASD Regulation at its meeting on June 25, 1998, which authorized the filing of the rule change with the SEC. The Nasdaq Stock Market has been provided an opportunity to consult with respect to the proposed rule change, pursuant to the Plan of Allocation and Delegation of Functions by the NASD to its Subsidiaries. The NASD Board of Governors had an opportunity to review the proposed rule

change at its meeting on June 25, 1998. No other action by the NASD is necessary for the filing of the proposed rule change. Section 1(a)(ii) of Article VII of the NASD By-Laws permits the NASD Board of Governors to adopt amendments to NASD Rules without recourse to the membership for approval.

The NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval.

(b) Questions regarding this rule filing may be directed to Mary Revell, Associate General Counsel, NASD Regulation, Office of General Counsel, at (202) 728-8203.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) **Purpose**

In December 1997, the Securities and Exchange Commission (SEC) approved rule amendments and a Notice to Members that were designed to allow firms to develop flexible supervisory procedures for the review of correspondence with the public.¹ The amendments were intended to recognize the growing use of electronic communications such as “e-mail” while still providing for effective supervision. Notice to Members 98-11, issued in January 1998, announced approval of the rule amendments, the effective date of the new rules, and provided guidance to firms on how to implement these rules. Subsequent to SEC approval of the amendments, but before the amended rules went into effect, the SEC received 14 comment letters objecting to certain provisions

¹ Securities Exchange Act Release No. 39510 (December 31, 1997), 63 FR 1131 (January 8, 1998).

in the new rules, primarily from members in the insurance industry. The commenters primarily objected to a provision in Notice to Members 98-11, which states that firms will be required to review all incoming correspondence received in non-electronic format directed to registered representatives and related to a member's investment banking or securities business. NASD Regulation added this provision to Notice to Members 98-11 to address two regulatory concerns raised by the SEC: (1) ensuring that firms capture all customer complaints; and (2) preventing registered representatives from taking cash or checks out of customer letters.

The commenters stated that it will be very difficult or impossible for a registered principal to conduct a pre-distribution review of all incoming, non-electronic correspondence, particularly correspondence received by registered representatives in small, one- or two-person offices. In response to these concerns, the effective date of the requirement to review all incoming, non-electronic correspondence was delayed to allow NASD Regulation and member firms time to develop and implement alternative, workable procedures for the review of incoming, non-electronic correspondence that addresses the regulatory concerns about preventing misappropriation of customer funds and diversion of customer complaints.² The rule amendments and all other provisions in the Notice became effective on April 7, 1998.³

Rule 3010(d)(2) currently requires each member to develop written policies and procedures for review of correspondence with the public relating to its investment banking or securities business tailored to its structure and the nature and size of its business and customers. NASD Regulation

² See Securities Exchange Act Releases No. 39665 (February 13, 1998), 63 FR 9032 (February 23, 1998); 39866 (April 14, 1998), 63 FR 19778 (April 21, 1998); and 40178 (July 7, 1998), 63 FR 37911 (July 14, 1998).

³ See Securities Exchange Act Release No. 39866 (April 14, 1998), 63 FR 19778 (April 21, 1998).

proposes to amend the rule to state that these procedures should include review of incoming, non-electronic correspondence directed to registered representatives for purposes of properly identifying and handling customer complaints and funds. This proposed amendment will clarify that firms should develop supervisory procedures that specifically address the regulatory concerns identified by the SEC.

The Notice to Members will provide guidance on how to implement the proposed rule change. In particular, the Notice states that, in conducting reviews of incoming non-electronic correspondence to identify customer complaints and funds, where the office structure permits review of all correspondence, members should designate a registered or associated person to open and review correspondence. The designated person must not be supervised or under the control of the registered person whose correspondence is opened and reviewed. Unregistered persons who have received sufficient training to enable them to identify complaints and checks would be permitted to review correspondence. These guidelines are designed to correspond to procedures currently followed by many large, multi-service firms.

Where the office structure does not permit this arrangement, the Notice states that the firm would have to employ alternative procedures reasonably designed to assure adequate handling of complaints and checks. Procedures that could be adopted include the following:

forwarding incoming correspondence related to the firm's investment banking or securities business to an Office of Supervisory Jurisdiction (OSJ) or a branch manager for review on a weekly basis;

maintenance of a separate log for all checks received and products sold, which is forwarded to the supervising branch on a weekly basis;

communication to clients that informs them that questions and complaints can be sent directly to the compliance department and provides them with the compliance department's address and phone number; and

branch examination verification that the procedures are being followed.

The Notice also states that, regardless of the method used for initial review of incoming, non-electronic correspondence, as with other types of correspondence, Rule 3010(d)(1) would still require review by a registered principal of some of each registered representative's correspondence with the public relating to the member's investment banking or securities business.

Notice to Members 98-11 stated that firms would be required to review all incoming correspondence received in non-electronic format directed to registered representatives and related to a member's investment banking or securities business. NASD Regulation proposes to replace this requirement with the rule amendment and guidance contained in this proposed rule change. The Notice that will be issued when this proposed rule is approved will state that the requirement set forth in Notice to Members 98-11 is no longer applicable and has been superseded by the amendment to Rule 3010(d)(2) and the guidance provided in the Notice.

The effective date of the provision in Notice to Members 98-11 stating that members must review "all incoming correspondence received in non-electronic format directed to registered representatives and related to a member's investment banking or securities business" has been

delayed to allow NASD Regulation and member firms time to develop and implement alternative, workable procedures for the review of such correspondence. The delay in the effective date of this provision expires on September 30, 1998.⁴ To ensure continuity of the regulatory requirements applicable to member firms, NASD Regulation proposes an extension of the effective date of this provision until this proposed rule change has been approved and has been made effective.

(b) Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that reviewing incoming, non-electronic correspondence to identify customer complaints and funds is consistent with this requirement.

4. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

⁴ See Exchange Act Release No. 41078 (July 7, 1998), 63 FR 37911 (July 14, 1998).

NASD Regulation does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

That portion of the proposed rule change that proposes to extend the effective date of the provision in Notice to Members 98-11 requiring the review of all incoming, non-electronic correspondence until this proposed rule change has been approved and has been made effective is effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act and Section (e) of Rule 19b-4 promulgated thereunder in that it constitutes a stated policy, practice, or interpretation with respect to the meaning of an existing rule. There is no basis for summary effectiveness pursuant to Section 19(b)(3) or for accelerated effectiveness pursuant to Section 19(b)(2) of the remaining portions of the proposed rule change.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.
2. Draft NASD Notice to Members.

Pursuant to the requirements of the Securities Exchange Act of 1934, NASD Regulation has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

NASD REGULATION, INC.

BY: _____
Joan C. Conley, Secretary

Date: July 23, 1998

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASD-98-52)

Self-Regulatory Organizations; Notice of Filing [and Immediate Effectiveness] of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Review of Incoming, Non-electronic Correspondence with the Public

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on, NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated a portion of the proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning of an existing rule under Section 19(b)(3)(A)(i) of the Act, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SELF-REGULATORY ORGANIZATION'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

NASD Regulation is proposing to amend National Association of Securities Dealers, Inc. ("NASD") Rule 3010 to state that firms should review incoming, non-electronic correspondence to identify customer complaints and funds. Below is the text of the proposed rule change. Proposed new language is italicized, proposed deletions are in brackets.

CONDUCT RULES

Rule 3010. Supervision

(a) through (c) No change

(d) Review of Transactions and Correspondence

(1) No change

(2) Review of correspondence. Each member shall develop written procedures that are appropriate to its business, size, structure, and customers for the review of incoming and outgoing written and electronic correspondence with the public relating to its investment banking or securities business. *The procedures should include review of incoming, non-electronic correspondence directed to registered representatives for purposes of properly identifying and handling customer complaints and funds.* Where such procedures for the review of correspondence do not require [pre-use] review of all correspondence *prior to use or distribution*, they must include provision for the education and training of associated persons as to the firm's procedures governing correspondence; documentation of such education and training; and surveillance and follow-up to ensure that such procedures are implemented and adhered to.

(3) No change

(e) through (g) No change

A draft Notice to Members that will provide guidance on how to implement the Rule is attached as Exhibit 2.

II. SELF-REGULATORY ORGANIZATION'S STATEMENT OF THE PURPOSE OF, AND STATUTORY BASIS FOR, THE PROPOSED RULE CHANGE

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

In December 1997, the Securities and Exchange Commission (SEC) approved rule amendments and a Notice to Members that were designed to allow firms to develop flexible supervisory procedures for the review of correspondence with the public.¹ The amendments were intended to recognize the growing use of electronic communications such as “e-mail” while still providing for effective supervision. Notice to Members 98-11, issued in January 1998, announced approval of the rule amendments, the effective date of the new rules, and provided guidance to firms on how to implement these rules. Subsequent to SEC approval of the amendments, but before the amended rules went into effect, the SEC received 14 comment letters objecting to certain provisions in the new rules, primarily from members in the insurance industry. The commenters primarily objected to a provision in Notice to Members 98-11, which states that firms will be required to review all incoming correspondence received in non-electronic format directed to registered representatives and related to a member’s investment banking or securities business. NASD

¹ Securities Exchange Act Release No. 39510 (December 31, 1997), 63 FR 1131 (January 8, 1998).

Regulation added this provision to Notice to Members 98-11 to address two regulatory concerns raised by the SEC: (1) ensuring that firms capture all customer complaints; and (2) preventing registered representatives from taking cash or checks out of customer letters.

The commenters stated that it will be very difficult or impossible for a registered principal to conduct a pre-distribution review of all incoming, non-electronic correspondence, particularly correspondence received by registered representatives in small, one- or two-person offices. In response to these concerns, the effective date of the requirement to review all incoming, non-electronic correspondence was delayed to allow NASD Regulation and member firms time to develop and implement alternative, workable procedures for the review of incoming, non-electronic correspondence that addresses the regulatory concerns about preventing misappropriation of customer funds and diversion of customer complaints.² The rule amendments and all other provisions in the Notice became effective on April 7, 1998.³

Rule 3010(d)(2) currently requires each member to develop written policies and procedures for review of correspondence with the public relating to its investment banking or securities business tailored to its structure and the nature and size of its business and customers. NASD Regulation proposes to amend the rule to state that these procedures should include review of incoming, non-electronic correspondence directed to registered representatives for purposes of properly identifying and handling customer complaints and funds. This proposed amendment will clarify that firms should

² See Securities Exchange Act Releases No. 39665 (February 13, 1998), 63 FR 9032 (February 23, 1998); 39866 (April 14, 1998), 63 FR 19778 (April 21, 1998); and 40178 (July 7, 1998), 63 FR 37911 (July 14, 1998).

³ See Securities Exchange Act Release No. 39866 (April 14, 1998), 63 FR 19778 (April 21, 1998).

develop supervisory procedures that specifically address the regulatory concerns identified by the SEC.

The Notice to Members will provide guidance on how to implement the proposed rule change. In particular, the Notice states that, in conducting reviews of incoming non-electronic correspondence to identify customer complaints and funds, where the office structure permits review of all correspondence, members should designate a registered or associated person to open and review correspondence. The designated person must not be supervised or under the control of the registered person whose correspondence is opened and reviewed. Unregistered persons who have received sufficient training to enable them to identify complaints and checks would be permitted to review correspondence. These guidelines are designed to correspond to procedures currently followed by many large, multi-service firms.

Where the office structure does not permit this arrangement, the Notice states that the firm would have to employ alternative procedures reasonably designed to assure adequate handling of complaints and checks. Procedures that could be adopted include the following:

- forwarding incoming correspondence related to the firm's investment banking or securities business to an Office of Supervisory Jurisdiction (OSJ) or a branch manager for review on a weekly basis;
- maintenance of a separate log for all checks received and products sold, which is forwarded to the supervising branch on a weekly basis;

communication to clients that informs them that questions and complaints can be sent directly to the compliance department and provides them with the compliance department's address and phone number; and

branch examination verification that the procedures are being followed.

The Notice also states that, regardless of the method used for initial review of incoming, non-electronic correspondence, as with other types of correspondence, Rule 3010(d)(1) would still require review by a registered principal of some of each registered representative's correspondence with the public relating to the member's investment banking or securities business.

Notice to Members 98-11 stated that firms would be required to review all incoming correspondence received in non-electronic format directed to registered representatives and related to a member's investment banking or securities business. NASD Regulation proposes to replace this requirement with the rule amendment and guidance contained in this proposed rule change. The Notice that will be issued when this proposed rule is approved will state that the requirement set forth in Notice to Members 98-11 is no longer applicable and has been superseded by the amendment to Rule 3010(d)(2) and the guidance provided in the Notice.

The effective date of the provision in Notice to Members 98-11 stating that members must review "all incoming correspondence received in non-electronic format directed to registered representatives and related to a member's investment banking or securities business" has been delayed to allow NASD Regulation and member firms time to develop and implement alternative, workable procedures for the review of such correspondence. The delay in the effective date of this

provision expires on September 30, 1998.⁴ To ensure continuity of the regulatory requirements applicable to member firms, NASD Regulation proposes an extension of the effective date of this provision until this proposed rule change has been approved and has been made effective.

(b) Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that reviewing incoming, non-electronic correspondence to identify customer complaints and funds is consistent with this requirement.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. DATE OF EFFECTIVENESS OF THE PROPOSED RULE CHANGE AND TIMING FOR COMMISSION ACTION

With respect to the proposal to extend the effective date of the provision in Notice to Members 98-11 regarding the review of incoming, non-electronic correspondence: The foregoing

⁴ See Exchange Act Release No. 41078 (July 7, 1998), 63 FR 37911 (July 14, 1998).

rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Rule 19b-4 thereunder in that it constitutes a stated policy, practice, or interpretation with respect to the meaning of an existing rule.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

With respect to the remainder of the proposed rule change: Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be is approved.

IV. SOLICITATION OF COMMENTS

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be

withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days from the date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority,
17 CFR 200.30-3(a)(12).

Jonathan G. Katz
Secretary

DRAFT: July 23, 1998

Notice to Members 98-__
Review of Incoming, Non-electronic Correspondence with the Public

Executive Summary

On _____, the Securities and Exchange Commission (SEC) approved amendments to NASD Rule 3010, which states that firms should review incoming, non-electronic correspondence to identify customer complaints and funds. The rule amendments will be effective on _____. This amendment revises rule changes that became effective on April 7, 1998. The text of the amended Rule and the *Federal Register* version of the SEC Release are attached. This Notice to Members is being issued to provide guidance on how to implement this rule.

Questions concerning this Notice should be directed to Joseph Price, Counsel, Office of Disclosure and Investor Protection, NASD Regulation, Inc., at (202) 728-8877 or Mary N. Revell, Associate General Counsel, Office of General Counsel, NASD Regulation, Inc., at (202) 728-8203.

Background

In December 1997, the Securities and Exchange Commission (SEC) approved rule amendments and a Notice to Members that were designed to allow firms to develop flexible supervisory procedures for the review of correspondence with the public. The amendments were intended to recognize the growing use of electronic communications such as "e-mail" while still providing for effective supervision. Notice to Members 98-11, issued in January 1998, provided guidance to firms on how to implement these rules. Subsequent to SEC approval of the amendments, but before the amended rules went into effect, the SEC received 14 comment letters objecting to certain provisions in the new rules, primarily from members in the insurance industry. The commenters primarily objected to a provision in Notice to Members 98-11, which states that firms will be required to review all incoming correspondence received in non-electronic format directed to registered representatives and related to a member's investment banking or securities business. NASD Regulation, Inc. (NASDR) added this provision to Notice to Members 98-11 to address two regulatory concerns raised by the SEC: (1) ensuring that firms capture all customer complaints; and (2) preventing registered representatives from taking cash or checks out of customer letters.

The commenters stated that it will be very difficult or impossible for a registered principal to conduct a pre-distribution review of all incoming, non-electronic correspondence, particularly correspondence received by registered representatives in small, one- or two-person offices. In

response to these concerns, the effective date of the requirement to review all incoming, non-electronic correspondence was delayed to allow NASD Regulation time to develop an alternative, workable procedure for the review of incoming, non-electronic correspondence that addresses the regulatory concerns about preventing misappropriation of customer funds and diversion of customer complaints. The rule amendments and all other provisions in the Notice became effective on April 7, 1998.

Amended Rule

NASD Regulation has received SEC approval of amendments to Rule 3010 (“Supervision”). *See* Securities Exchange Act Release No. _____, ___ FR ___ (), attached. Rule 3010(d)(2) requires each member to develop written policies and procedures for review of correspondence with the public relating to its investment banking or securities business tailored to its structure and the nature and size of its business and customers. The rule has been amended to state that these procedures should also include review of incoming, non-electronic correspondence directed to registered representatives for purposes of properly identifying and handling customer complaints and funds.

In conducting reviews of incoming non-electronic correspondence to identify customer complaints and funds, where the office structure permits review of all correspondence, members should designate a registered or associated person to open and review correspondence. The designated person must not be supervised or under the control of the registered person whose correspondence is opened and reviewed. Unregistered persons who have received sufficient training to enable them to identify complaints and checks would be permitted to review correspondence. Where the office structure does not permit this arrangement, the firm would have to employ alternative procedures reasonably designed to assure adequate handling of complaints and checks. Procedures that could be adopted include the following:

forwarding incoming correspondence related to the firm’s investment banking or securities business to an Office of Supervisory Jurisdiction (OSJ) or a branch manager for review on a weekly basis;

maintainance of a separate log for all checks received and products sold, which is forwarded to the supervising branch on a weekly basis;

communication to clients that informs them that questions and complaints can be sent directly to the compliance department and provides them with the compliance department’s address and phone number; and

branch examination verification that the procedures are being followed.

Regardless of the method used for initial review of incoming, non-electronic correspondence, as with other types of correspondence, Rule 3010(d)(1) would still require review by a registered principal of some of each registered representative's correspondence with the public relating to the member's investment banking or securities business.

Notice to Members 98-11

As stated above, Notice to Members 98-11 stated that firms would be required to review all incoming correspondence received in non-electronic format directed to registered representatives and related to a member's investment banking or securities business. That requirement is no longer applicable and has been superseded by the amendment to Rule 3010(d)(2) and the guidance provided in this Notice.

Text of Rule Amendments

(Note: New text is underlined; deletions are bracketed.)

Rule 3010. Supervision

(a) through (c) No change

(d) Review of Transactions and Correspondence

(1) No change

(2) Review of correspondence. Each member shall develop written procedures that are appropriate to its business, size, structure, and customers for the review of incoming and outgoing written and electronic correspondence with the public relating to its investment banking or securities business. The procedures should include review of incoming, non-electronic correspondence directed to registered representatives for purposes of properly identifying and handling customer complaints and funds. Where such procedures for the review of correspondence do not require [pre-use] review of all correspondence prior to use or distribution, they must include provision for the education and training of associated persons as to the firm's procedures governing correspondence; documentation of such education and training; and surveillance and follow-up to ensure that such procedures are implemented and adhered to.

(3) No change

(e) through (g) No change