

Proposed Rule Change by Financial Industry Regulatory Authority  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/> Extension of Time Period for Commission Action <input type="checkbox"/> Date Expires <input type="text"/>			Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
Provide a brief description of the proposed rule change (limit 250 characters).

**Contact Information**  
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name  Last Name   
 Title   
 E-mail   
 Telephone  Fax

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date   
 By  Senior Vice President and Deputy General Counsel  
 (Name) (Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**1. Text of Proposed Rule Change**

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> Financial Industry Regulatory Authority (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend NASD Rules 1021 and 1031 to permit members to maintain the registrations of those persons whose association with such members is for bona fide business purposes, provided that such persons pass the appropriate, qualifying examination requirements, or are granted an exemption from such requirements. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

\* \* \* \* \*

**1021. Registration Requirements**

**(a) All Principals Must Be Registered**

All persons engaged or to be engaged in the investment banking or securities business of a member who are to function as principals shall be registered as such with NASD in the category of registration appropriate to the function to be performed as specified in Rule 1022. Before their registration can become effective, they shall pass a Qualification Examination for Principals appropriate to the category of registration as specified by the Board of Governors. [A member shall not maintain a principal registration with NASD for any person (1) who is no longer active in the member's

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

investment banking or securities business, (2) who is no longer functioning as a principal, or (3) where the sole purpose is to avoid the examination requirement prescribed in paragraph (c).] A member shall not make application for the registration of any person as principal where there is no intent to employ such person in the member's investment banking or securities business. A member may maintain or make application for the registration of any person whose association with a member is for a bona fide business purpose of the member, provided such person passes the appropriate, qualifying examination requirements of NASD or is granted an exemption from such requirements. A member also may[, however,] maintain or make application for the registration as a principal of [a person who performs legal, compliance, internal audit, back-office operations, or similar responsibilities for the member or] a person engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

(b) through (c) No Change.

\* \* \* \* \*

### **1031. Registration Requirements**

#### **(a) All Representatives Must Be Registered**

All persons engaged or to be engaged in the investment banking or securities business of a member who are to function as representatives shall be registered as such with NASD in the category of registration appropriate to the function to be performed as specified in Rule 1032. Before their registration can become effective, they shall pass a Qualification Examination for Representatives appropriate to the category of registration as specified by the Board of Governors. [A member shall not maintain a representative

registration with NASD for any person (1) who is no longer active in the member's investment banking or securities business, (2) who is no longer functioning as a representative, or (3) where the sole purpose is to avoid the examination requirement prescribed in paragraph (c).] A member shall not make application for the registration of any person as representative where there is no intent to employ such person in the member's investment banking or securities business. A member also may maintain or make application for the registration of any person whose association with a member is for a bona fide business purpose of the member, provided such person passes the appropriate, qualifying examination requirements of NASD or is granted an exemption from such requirements. A member also may[, however,] maintain or make application for the registration as a representative of [a person who performs legal, compliance, internal audit, back-office operations, or similar responsibilities for the member, or a person who performs administrative support functions for registered personnel, or] a person engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

(b) through (c) No Change.

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

## **2. Procedures of the Self-Regulatory Organization**

The proposed rule change has been approved by the General Counsel of FINRA (or his officer designee) pursuant to delegated authority. No other action by FINRA is necessary for the filing of this proposed rule change

FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 30 days following Commission approval. The effective date of the proposed rule change will be immediate upon publication of the Regulatory Notice announcing Commission approval.

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

(a) Purpose

NASD’s qualification and registration requirements, including the provisions prohibiting the “parking” of registrations and required retesting, are intended to afford reasonable assurance to the investing public that registered persons maintain and update their knowledge about products and services available to investors, as well as applicable rules, regulations, and policies governing the investment banking or securities business. Specifically, NASD Rule 1031 (Registration Requirements for Registered Representatives) requires that “[a]ll persons engaged or to be engaged in the investment banking or securities business<sup>2</sup> of a member who are to function as representatives shall be registered as such with NASD in the category of registration appropriate to the function performed . . . .” Similarly, NASD Rule 1021 (Registration Requirements for Principals) also requires that “[a]ll persons engaged or to be engaged in the investment banking or securities business of a member who are to function as principals shall be registered as such with NASD in the category of registration appropriate to the function performed . . . .”

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<sup>2</sup> Article I(u) of FINRA’s By-Laws defines “investment banking or securities business” as the business of “underwriting or distributing issues of securities, . . . or of purchasing and selling securities upon the order and for the account of others.”

The above requirements apply to anyone associated with a member who engages in the investment banking or securities business. If a registered person is no longer active in the member's investment banking or securities business, or is no longer functioning in a manner consistent with his or her registration, then the member firm must terminate such person's registration. Member firms are also prohibited from maintaining registrations for persons where the sole purpose is to avoid retaking the appropriate qualification examination that attaches two years after the end of association with a member firm.<sup>3</sup>

Rules 1021 and 1031 also permit, but do not require, member firms to maintain or make application for the registration of persons who: (i) perform legal responsibilities, (ii) perform compliance responsibilities, (iii) perform internal audit responsibilities, (iv) perform back-office operations, (v) perform similar responsibilities for the member, (vi) perform administrative support functions for registered personnel, or (vii) are engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member. If a permissively registered person no longer performs any of the foregoing functions, then the member firm must terminate such person's registration.

Recent enforcement actions have prompted concerns in the industry regarding the inability of member firms to hold registrations on behalf of employees or associated persons when such persons are not functioning in the capacities that qualify for such

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<sup>3</sup> In addition, a registered person's registration that has been terminated for a period of two or more years must re-qualify by passing the appropriate Qualification Examination. FINRA does not propose changing this provision, as it effectively provides flexibility to persons whose registrations would otherwise have lapsed due to a period of non-association with a member organization.

registrations under current NASD rules. In particular, since under the current rules a member may only allow the registration of a person who satisfies any of NASD's required or permissive registration categories, member firms must terminate, for example, a principal registration for an associated person whose job function no longer is within the scope of activities that qualify for principal registration, even though that firm may have a need to move that associated person back into such a role at a future date, perhaps after two years, resulting in an unnecessarily burdensome re-qualification process.

Even in the absence of such a foreseeable need to move associated persons back into positions requiring or allowing registration, the principles of allowing a firm to develop a depth of associated persons with registrations in the event of unanticipated personnel changes as well as encouraging greater regulatory literacy through registration argues strongly for allowing all associated persons to be sponsored for representative and principal registrations provided the association of such persons with the member is for bona fide business purposes beyond the maintenance of such registrations. Moreover, given the breadth of associated persons covered in the rules' permissive categories of registrations, FINRA does not believe that any necessary regulatory purpose can be discerned from carving out of those categories any of the remaining associated persons not currently within the permissive categories of those persons who may be registered. Consequently, FINRA believes that the business needs of members and their registered employees would be more efficiently addressed if a certain degree of flexibility is incorporated into the registration process.



Therefore, notwithstanding that certain registered persons may not be functioning in capacities that are related to their registrations, FINRA proposes that member firms be allowed to maintain such registrations for their associated persons, so long as the registered persons perform a bona fide function at the member firm. This relief does not extend to employees of affiliated organizations who seek to maintain their registrations with the member where such employees do not also serve in a capacity as an associated person by virtue of performing a bona fide business function of, and in respect of which function is controlled by, the member.

This proposed amendment would effectively eliminate the need for the permissive categories of registrations set forth in Rules 1021 and 1031, as anyone who is employed or associated with a member firm may maintain a license, subject to the condition that the employment or association is for bona fide business purposes.<sup>4</sup> In expanding the categories of permissive registration through a 1989 rule amendment, NASD acknowledged that registration can serve as an important means of protecting the investing public, and enhancing the quality of member operations, by ensuring that firms maintain sufficient qualified, competent employees who know and maintain currency with the federal securities laws and NASD rules.<sup>5</sup> FINRA believes that expanding the rules to encompass all registered persons that perform a bona fide purpose for the

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<sup>4</sup> FINRA does not propose eliminating the permissive category of registration for persons engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

<sup>5</sup> See Securities Exchange Act Release No. 26907 (June 15, 1989), 54 FR 25516 (June 8, 1989) (SR-NASD-89-15).

member firm would further promote the above objective.<sup>6</sup> Also, the proposed rule would apply to all registration/licensing categories, so that member firms may maintain the registrations for all licensing categories set forth in NASD Rules 1022 and 1032.<sup>7</sup>

FINRA believes that the proposed rule change would promote, rather than hinder, financial education within the broker-dealer industry, providing greater incentives to study for qualifying examinations. As noted in Item 2 of this filing, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 30 days following Commission approval. The effective date will be immediate upon publication of the Regulatory Notice announcing Commission approval.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>8</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote

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<sup>6</sup> Please note that under the proposed rule change amending the By-Laws of NASD, as part of the NASD and NYSE Regulation consolidation efforts, voting under the new governance structure will be determined based on the size of the member firm, i.e., “Small,” “Medium,” or “Large,” which is denoted by the number of registered representatives. *See* Securities Exchange Act Release No. 55495 (March 20, 2007); 72 FR 14149 (March 26, 2007) (SR–NASD–2007–023).

<sup>7</sup> While the proposed rule amendment is intended to allow member firms to maintain the licenses of registered persons who may not be performing the functions required by their licenses, such registered persons may only function in the capacity consistent with their registration. For example, a person registered solely as a limited principal for financial and operations duties under NASD Rule 1022(b) is not qualified to serve as a general securities principal, unless otherwise registered as a general securities principal.

<sup>8</sup> 15 U.S.C. 78o–3(b)(6).

just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed amendments will support the business needs of members and their registered persons by incorporating a certain degree of flexibility in the registration process, while also promoting financial education within the broker-dealer industry.

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

FINRA 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.<sup>9</sup>

**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**

FINRA 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.<sup>10</sup>

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

Not applicable.

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

Not applicable.

**9. Exhibits**

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

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<sup>9</sup> 15 U.S.C. 78a.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

(Release No. 34- ; File No. SR-FINRA-2007-004)

Self-Regulatory Organizations: Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to NASD Rules 1021 and 1031 to permit members to maintain the registrations of those persons whose association with such members is for bona fide business purposes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on , the Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a the National Association of Securities Dealers, Inc. (“NASD”)) 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 FINRA. 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**

FINRA is proposing to amend NASD Rules 1021 and 1031 to permit members to maintain the registrations of those persons whose association with such members is for bona fide business purposes, provided that such persons pass the appropriate, qualifying examination requirements, or are granted an exemption from such requirements. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

## **1021. Registration Requirements**

### **(a) All Principals Must Be Registered**

All persons engaged or to be engaged in the investment banking or securities business of a member who are to function as principals shall be registered as such with NASD in the category of registration appropriate to the function to be performed as specified in Rule 1022. Before their registration can become effective, they shall pass a Qualification Examination for Principals appropriate to the category of registration as specified by the Board of Governors. [A member shall not maintain a principal registration with NASD for any person (1) who is no longer active in the member's investment banking or securities business, (2) who is no longer functioning as a principal, or (3) where the sole purpose is to avoid the examination requirement prescribed in paragraph (c).] A member shall not make application for the registration of any person as principal where there is no intent to employ such person in the member's investment banking or securities business. A member may maintain or make application for the registration of any person whose association with a member is for a bona fide business purpose of the member, provided such person passes the appropriate, qualifying examination requirements of NASD or is granted an exemption from such requirements. A member also may[, however,] maintain or make application for the registration as a principal of [a person who performs legal, compliance, internal audit, back-office operations, or similar responsibilities for the member or] a person engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

**(b) through (c) No Change.**

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### **1031. Registration Requirements**

#### **(a) All Representatives Must Be Registered**

All persons engaged or to be engaged in the investment banking or securities business of a member who are to function as representatives shall be registered as such with NASD in the category of registration appropriate to the function to be performed as specified in Rule 1032. Before their registration can become effective, they shall pass a Qualification Examination for Representatives appropriate to the category of registration as specified by the Board of Governors. [A member shall not maintain a representative registration with NASD for any person (1) who is no longer active in the member's investment banking or securities business, (2) who is no longer functioning as a representative, or (3) where the sole purpose is to avoid the examination requirement prescribed in paragraph (c).] A member shall not make application for the registration of any person as representative where there is no intent to employ such person in the member's investment banking or securities business. A member also may maintain or make application for the registration of any person whose association with a member is for a bona fide business purpose of the member, provided such person passes the appropriate, qualifying examination requirements of NASD or is granted an exemption from such requirements. A member also may[, however,] maintain or make application for the registration as a representative of [a person who performs legal, compliance, internal audit, back-office operations, or similar responsibilities for the member, or a person who performs administrative support functions for registered personnel, or] a

person engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

(b) through (c) No Change.

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**II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, FINRA 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. FINRA 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**

1. Purpose

NASD’s qualification and registration requirements, including the provisions prohibiting the “parking” of registrations and required retesting, are intended to afford reasonable assurance to the investing public that registered persons maintain and update their knowledge about products and services available to investors, as well as applicable rules, regulations, and policies governing the investment banking or securities business. Specifically, NASD Rule 1031 (Registration Requirements for Registered Representatives) requires that “[a]ll persons engaged or to be engaged in the investment banking or securities business<sup>3</sup> of a member who are to function as representatives shall

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<sup>3</sup> Article I(u) of FINRA’s By-Laws defines “investment banking or securities business” as the business of “underwriting or distributing issues of securities, . . . or of purchasing and selling securities upon the order and for the account of others.”

be registered as such with NASD in the category of registration appropriate to the function performed . . . .” Similarly, NASD Rule 1021 (Registration Requirements for Principals) also requires that “[a]ll persons engaged or to be engaged in the investment banking or securities business of a member who are to function as principals shall be registered as such with NASD in the category of registration appropriate to the function performed . . . .”

The above requirements apply to anyone associated with a member who engages in the investment banking or securities business. If a registered person is no longer active in the member’s investment banking or securities business, or is no longer functioning in a manner consistent with his or her registration, then the member firm must terminate such person’s registration. Member firms are also prohibited from maintaining registrations for persons where the sole purpose is to avoid retaking the appropriate qualification examination that attaches two years after the end of association with a member firm.<sup>4</sup>

Rules 1021 and 1031 also permit, but do not require, member firms to maintain or make application for the registration of persons who: (i) perform legal responsibilities, (ii) perform compliance responsibilities, (iii) perform internal audit responsibilities, (iv) perform back-office operations, (v) perform similar responsibilities for the member, (vi) perform administrative support functions for registered personnel, or (vii) are engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary

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<sup>4</sup> In addition, a registered person’s registration that has been terminated for a period of two or more years must re-qualify by passing the appropriate Qualification Examination. FINRA does not propose changing this provision, as it effectively provides flexibility to persons whose registrations would otherwise have lapsed due to a period of non-association with a member organization.



of the member. If a permissively registered person no longer performs any of the foregoing functions, then the member firm must terminate such person's registration.

Recent enforcement actions have prompted concerns in the industry regarding the inability of member firms to hold registrations on behalf of employees or associated persons when such persons are not functioning in the capacities that qualify for such registrations under current NASD rules. In particular, since under the current rules a member may only allow the registration of a person who satisfies any of NASD's required or permissive registration categories, member firms must terminate, for example, a principal registration for an associated person whose job function no longer is within the scope of activities that qualify for principal registration, even though that firm may have a need to move that associated person back into such a role at a future date, perhaps after two years, resulting in an unnecessarily burdensome re-qualification process.

Even in the absence of such a foreseeable need to move associated persons back into positions requiring or allowing registration, the principles of allowing a firm to develop a depth of associated persons with registrations in the event of unanticipated personnel changes as well as encouraging greater regulatory literacy through registration argues strongly for allowing all associated persons to be sponsored for representative and principal registrations provided the association of such persons with the member is for bona fide business purposes beyond the maintenance of such registrations. Moreover, given the breadth of associated persons covered in the rules' permissive categories of registrations, FINRA does not believe that any necessary regulatory purpose can be discerned from carving out of those categories any of the remaining associated persons

not currently within the permissive categories of those persons who may be registered. Consequently, FINRA believes that the business needs of members and their registered employees would be more efficiently addressed if a certain degree of flexibility is incorporated into the registration process.

Therefore, notwithstanding that certain registered persons may not be functioning in capacities that are related to their registrations, FINRA proposes that member firms be allowed to maintain such registrations for their associated persons, so long as the registered persons perform a bona fide function at the member firm. This relief does not extend to employees of affiliated organizations who seek to maintain their registrations with the member where such employees do not also serve in a capacity as an associated person by virtue of performing a bona fide business function of, and in respect of which function is controlled by, the member.

This proposed amendment would effectively eliminate the need for the permissive categories of registrations set forth in Rules 1021 and 1031, as anyone who is employed or associated with a member firm may maintain a license, subject to the condition that the employment or association is for bona fide business purposes.<sup>5</sup> In expanding the categories of permissive registration through a 1989 rule amendment, NASD acknowledged that registration can serve as an important means of protecting the investing public, and enhancing the quality of member operations, by ensuring that firms maintain sufficient qualified, competent employees who know and maintain currency

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<sup>5</sup> FINRA does not propose eliminating the permissive category of registration for persons engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

with the federal securities laws and NASD rules.<sup>6</sup> FINRA believes that expanding the rules to encompass all registered persons that perform a bona fide purpose for the member firm would further promote the above objective.<sup>7</sup> Also, the proposed rule would apply to all registration/licensing categories, so that member firms may maintain the registrations for all licensing categories set forth in NASD Rules 1022 and 1032.<sup>8</sup>

FINRA believes that the proposed rule change would promote, rather than hinder, financial education within the broker-dealer industry, providing greater incentives to study for qualifying examinations. As noted in Item 2 of this filing, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 30 days following Commission approval. The effective date will be immediate upon publication of the Regulatory Notice announcing Commission approval.

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<sup>6</sup> See Securities Exchange Act Release No. 26907 (June 15, 1989), 54 FR 25516 (June 8, 1989)(SR-NASD-89-15).

<sup>7</sup> Please note that under the proposed rule change amending the By-Laws of NASD, as part of the NASD and NYSE Regulation consolidation efforts, voting under the new governance structure will be determined based on the size of the member firm, i.e., “Small,” “Medium,” or “Large,” which is denoted by the number of registered representatives. See Securities Exchange Act Release No. 55495 (March 20, 2007); 72 FR 14149 (March 26, 2007) (SR–NASD–2007–023).

<sup>8</sup> While the proposed rule amendment is intended to allow member firms to maintain the licenses of registered persons who may not be performing the functions required by their licenses, such registered persons may only function in the capacity consistent with their registration. For example, a person registered solely as a limited principal for financial and operations duties under NASD Rule 1022(b) is not qualified to serve as a general securities principal, unless otherwise registered as a general securities principal.

(2) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>9</sup> which requires, among other things, that FINRA 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. FINRA believes that the proposed amendments will support the business needs of members and their registered persons by incorporating a certain degree of flexibility in the registration process, while also promoting financial education within the broker-dealer industry.

**B. Self-Regulatory Organization's Statement on Burden on Competition**

FINRA 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.

**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**

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

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<sup>9</sup> 15 U.S.C. 78o-3(b)(6).

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2007-004 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2007-004. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 also will be available for inspection and copying at the principal office of FINRA.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2007-004 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Nancy M. Morris

Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).