

posted on the Commission's Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at 202-789-6873 or via electronic mail at *prc-webWebmaster@prc.gov*.

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at 202-789-6846.

Filing of Documents

All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov*, unless a waiver is obtained. See 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site or

by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at 202-789-6846.

The Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention

Persons, other than Petitioner and respondent, wishing to be heard in this matter are directed to file a notice of intervention. See 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before November 8, 2011. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site unless a waiver is obtained for hardcopy filing. See 39 CFR 3001.9(a) and 3001.10(a).

Further Procedures

By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. See 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day

decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. See 39 CFR 3001.21.

It is ordered:

1. The Postal Service shall file the applicable administrative record regarding this appeal no later than October 27, 2011.
2. Any responsive pleading by the Postal Service to this notice is due no later than October 27, 2011.
3. The procedural schedule listed below is hereby adopted.
4. Pursuant to 39 U.S.C. 505, Pamela A. Thompson is designated officer of the Commission (Public Representative) to represent the interests of the general public.
5. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

By the Commission.
Shoshana M. Grove,
Secretary.

PROCEDURAL SCHEDULE

October 12, 2011	Filing of Appeal.
October 27, 2011	Deadline for the Postal Service to file the applicable administrative record in this appeal.
October 27, 2011	Deadline for the Postal Service to file any responsive pleading.
November 8, 2011	Deadline for notices to intervene (<i>see</i> 39 CFR 3001.111(b)).
November 16, 2011	Deadline for Petitioners' Form 61 or initial brief in support of petition (<i>see</i> 39 CFR 3001.115(a) and (b)).
December 6, 2011	Deadline for answering brief in support of the Postal Service (<i>see</i> 39 CFR 3001.115(c)).
December 21, 2011	Deadline for reply briefs in response to answering briefs (<i>see</i> 39 CFR 3001.115(d)).
December 28, 2011	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (<i>see</i> 39 CFR 3001.116).
February 9, 2012	Expiration of the Commission's 120-day decisional schedule (<i>see</i> 39 U.S.C. 404(d)(5)).

[FR Doc. 2011-27247 Filed 10-20-11; 8:45 am]
 BILLING CODE 7710-FW-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65580; File No. SR-FINRA-2011-060]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Amend the Implementation Provision in FINRA Rule 1230(b)(6) (Operations Professional)

October 17, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 14, 2011, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, and II, which Items have been substantially prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 1230(b)(6) (Operations Professional) to provide persons who are required to register as an Operations Professional from October 18, 2011 through December 16, 2011 and must pass a qualification examination to qualify as an Operations Professional until April 14, 2012 to pass the Operations Professional qualification examination (or an eligible qualification examination),³ during which time such

³ FINRA Rule 1230(b)(6)(D) sets forth an exception to the Operations Professional qualification examination requirement for persons who currently hold certain registrations (each an "eligible registration") or have held one during the two years immediately prior to registering as an Operations Professional. The exception also applies to persons who do not hold an eligible registration, but prefer an alternative to taking the Operations

¹ 15 U.S.C. 78s(b)(1).
² 17 CFR 240.19b-4.

persons may function as an Operations Professional.

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA, on the Commission's Web site at <http://www.sec.gov>, and at the Commission's Public Reference Room.

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

On June 16, 2011, the Commission approved FINRA Rule 1230(b)(6), which establishes a registration category and qualification examination requirement for certain operations personnel—Operations Professionals.⁴ FINRA is expanding its registration provisions to require registration of certain individuals (“covered persons”) who are engaged in, responsible for or supervising certain member operations functions (“covered functions”) to enhance the regulatory structure surrounding these areas.⁵

Professional examination. Such persons may register in an eligible registration category (subject to passing the corresponding “eligible qualification examination” or obtaining a waiver) and use such registration to qualify for Operations Professional registration.

⁴ See Securities Exchange Act Release No. 64687 (June 16, 2011), 76 FR 36586 (June 22, 2011) (Order Approving File No. SR-FINRA-2011-013). In addition to adopting FINRA Rule 1230(b)(6), the rule change adopted NASD Rule 1120 (Continuing Education Requirements) as new FINRA Rule 1250 (Continuing Education Requirements) with certain changes, including expanding the scope of “covered registered persons” subject to the Firm Element to include persons registered as Operations Professionals. See also Securities Exchange Act Release No. 65222 (August 30, 2011), 76 FR 55443 (September 7, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-FINRA-2011-041) and Securities Exchange Act Release No. 65221 (August 30, 2011), 76 FR 55441 (September 7, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-FINRA-2011-042).

⁵ See *Regulatory Notice* 11-33 (July 2011) and *Regulatory Notice* 11-42 (September 2011).

FINRA Rule 1230(b)(6)(E)(i) provides that any person who is required to register as an Operations Professional as of October 17, 2011 (a “Day-One Professional,” *i.e.*, a person who meets the depth of personnel criteria as a covered person and is engaged in one or more covered functions as of October 17, 2011) must request registration as an Operations Professional via Form U4 in the Central Registration Depository (“CRD®”) within 60 days after October 17, 2011 (*i.e.*, on or before December 16, 2011). Any Day-One Professional who must pass the Operations Professional qualification examination⁶ (or an eligible qualification examination) to qualify for Operations Professional registration is allowed a period of 12 months beginning on October 17, 2011 to pass such qualifying examination, during which time such person may function as an Operations Professional.

FINRA Rule 1230(b)(6)(E)(ii) provides that any person who is required to register as an Operations Professional after October 17, 2011 (a “non-Day-One Professional,” *i.e.*, a person who does not meet the depth of personnel criteria as a covered person and/or is not engaged in one or more covered functions as of October 17, 2011, or persons hired after October 17, 2011, who will be subject to the registration requirements) must register as an Operations Professional and, if applicable, pass the Operations Professional qualification examination (or an eligible qualification examination) prior to engaging in any activities that would require such registration. However, any non-Day-One Professional who must pass the Operations Professional qualification examination (or an eligible qualification examination) to qualify for Operations Professional registration is allowed a period of 120 days beginning on the date such person requests Operations Professional registration to pass such qualifying examination, during which

⁶ Candidates for the Series 99 examination will be able to schedule and take the examination starting on October 17, 2011. Because this is a new examination for a new registration category, FINRA will be assessing the effectiveness of the examination by, in part, evaluating the candidates' performance during the first 60 days of the administration of the examination. Therefore, candidates who take the examination within the first 60 days (between October 17, 2011 and December 16, 2011) will not receive their test results on the day that they take the examination. Instead, such candidates' firms will be notified of test results (*i.e.*, the candidate's score and whether the candidate has passed or failed the examination) on or shortly after December 16, 2011. The test results will be posted to the CRD system at that time. Candidates who fail the examination during the initial 60-day rollout will be provided an opportunity to retake the examination at no additional cost.

time such person may function as an Operations Professional.

The proposed rule change would amend FINRA Rule 1230(b)(6)(E) to afford non-Day-One Professionals who must register as an Operations Professional within the first 60 days of the effective date of FINRA Rule 1230(b)(6), and must pass a qualification examination to qualify, additional time to pass the Operations Professional qualification examination (or an eligible qualification examination). Under FINRA Rule 1230(b)(6)(E)(ii), as non-Day-One Professionals, such persons are required to pass a qualification examination within 120 days of requesting registration as an Operations Professional and do not get the benefit of the 12-month period to pass a qualification examination available only to Day-One Professionals.

The content outline for the Operations Professional examination was posted on FINRA's Web site on August 23, 2011. Given the short time period between August 23, 2011 and October 17, 2011, the effective date of FINRA Rule 1230(b)(6), test preparation and firm training materials may not be readily available for candidates who must register within the first 60 days of the effective date of the rule and do not have the benefit of the 12-month period to pass an examination for Day-One Professionals. Accordingly, non-Day-One Professionals who must register as an Operations Professional on or before December 16, 2011 may have difficulty preparing for and passing the Operations Professional examination within 120 days of requesting registration as an Operations Professional.⁷

The proposed rule change would provide that any person who is required to register as an Operations Professional from October 18, 2011 through December 16, 2011 must register as an Operations Professional and, if applicable, pass the Operations Professional qualification examination (or an eligible qualification examination) prior to engaging in any activities that would require such registration. However, any such person who must pass the Operations Professional qualification examination (or an eligible qualification examination) to qualify for Operations Professional registration would be allowed until April 14, 2012 to pass

⁷ See letter from John Polanin and Claire Santaniello, Co-Chairs, Compliance and Regulatory Policy Committee 2011, Securities Industry and Financial Markets Association, to Elizabeth M. Murphy, Secretary, SEC, dated September 30, 2011 (Re: Release No. 34-65222; File No. SR-FINRA-2011-041).

such qualifying examination, during which time such person may function as an Operations Professional.

Any person who is required to register as an Operations Professional on or after December 17, 2011 would be required to register as an Operations Professional and, if applicable, pass the Operations Professional qualification examination (or an eligible qualification examination) prior to engaging in any activities that would require such registration. However, any such person who must pass the Operations Professional qualification examination (or an eligible qualification examination) to qualify for Operations Professional registration would be allowed a period of 120 days beginning on the date such person requests Operations Professional registration to pass such qualifying examination, during which time such person may function as an Operations Professional.

FINRA notes that members are responsible for tracking and monitoring their associated persons to ensure that they are registered, and conducting their activities, in compliance with the time frames described in FINRA Rule 1230(b)(6)(E).

The effective date of the proposed rule change will be October 17, 2011, the effective date of FINRA Rule 1230(b)(6) (Operations Professional).

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁸ 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. Given the short time period between the posting of the content outline for the Operations Professional examination on FINRA's Web site on August 23, 2011 and October 17, 2011, the effective date of FINRA Rule 1230(b)(6), non-Day-One Professionals who must register as an Operations Professional within the first 60 days of the effective date of FINRA Rule 1230(b)(6), and pass the Operations Professional examination (or an eligible qualification examination) to qualify, may have difficulty preparing for and passing such examination within 120 days of requesting registration as an Operations Professional. FINRA believes it is appropriate to provide such persons until April 14, 2012 to pass the Operations Professional qualification

examination (or an eligible examination).

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

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to FINRA and, in particular, the requirements of Section 15A of the Act,⁹ and the rules and regulations thereunder. Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act which requires, among other things, that the rules of a registered national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest, because, by providing additional time for non-Day-One Professionals who must register as an Operations Professional within the first 60 days of the effective date of FINRA Rule 1230(b)(6) to pass the qualification examination, the proposed rule change will provide additional time for improvements in examination preparation resources for the new registrants, enhancing registrants' abilities in their roles, and will improve FINRA members' ability to comply with the rule.

The Commission also finds good cause, pursuant to Section 19(b)(2) of the Act,¹⁰ for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register**. The Commission finds good cause for approving the proposed rule on an accelerated basis because the proposed rule will assist member firms in transitioning to the new requirement for registration of Operations Professionals and provide needed

clarification in response to concerns regarding the ability of non-Day-One Professionals who must register as an Operations Professional within the first 60 days of the effective date of FINRA Rule 1230(b)(6), and pass a qualification examination to qualify, to prepare for and pass the Operations Professional qualification examination (or an eligible qualification examination) within 120 of requesting registration as an Operations Professional. Accelerating the approval of this proposed rule to coincide with the effective date of the registration requirements will permit these non-Day-One Professionals to take the extended examination window into account when they schedule their examinations.

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. Please include File Number SR-FINRA-2011-060 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-FINRA-2011-060. 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10

⁸ 15 U.S.C. 78o-3(b)(6).

⁹ 15 U.S.C. 78o-3. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78s(b)(2).

a.m. and 3 p.m. 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-2011-060 and should be submitted on or before November 14, 2011.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-FINRA-2011-060) be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011-27262 Filed 10-20-11; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65579; File No. SR-FINRA-2011-052]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Adopt NASD Rule 2320 (Best Execution and Interpositioning) and Interpretive Material (“IM”) 2320 as FINRA Rule 5310 in the Consolidated Rulebook

October 17, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 4, 2011, Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a 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 adopt NASD Rule 2320 (Best Execution and Interpositioning) and Interpretive Material (“IM”) 2320 (Interpretive Guidance with Respect to Best Execution Requirements) as a FINRA rule in the consolidated FINRA rulebook with four notable changes. The proposed rule change would combine and renumber NASD Rule 2320 and IM-2320 as FINRA Rule 5310 in the consolidated FINRA rulebook.

The text of the proposed rule change is available on FINRA’s Web site at <http://www.finra.org>, at the principal office of FINRA, at the Commission’s Public Reference Room, and at the Commission’s Web site at <http://www.sec.gov>.

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

As part of the process of developing a new consolidated rulebook (“Consolidated FINRA Rulebook”),³ FINRA is proposing to adopt NASD Rule 2320 (Best Execution and Interpositioning) and IM-2320 (Interpretive Guidance with Respect to Best Execution Requirements) as a FINRA rule in the Consolidated FINRA

³ The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (“Incorporated NYSE Rules”) (together, the NASD Rules and Incorporated NYSE Rules are referred to as the “Transitional Rulebook”). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (“Dual Members”). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see *Information Notice*, March 12, 2008 (Rulebook Consolidation Process).

Rulebook with several changes, which are described below.

NASD Rule 2320 requires a member, in any transaction for or with a customer or a customer of another broker-dealer, to use “reasonable diligence” to ascertain the best market for a security and to buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions. The rule identifies five factors that are among those to be considered in determining whether the member has used reasonable diligence: (1) The character of the market for the security; (2) the size and type of transaction; (3) the number of markets checked; (4) the accessibility of the quotation; and (5) the terms and conditions of the order as communicated to the member. The rule also includes provisions related to interpositioning (*i.e.*, interjecting a third party between the member and the best available market), the use of a broker’s broker,⁴ the staffing of order rooms, and the application of the best execution requirements to other parties.

In addition to these provisions, NASD Rule 2320(f) (commonly referred to as the “Three Quote Rule”) generally requires members that execute transactions in non-exchange-listed securities on behalf of customers to contact a minimum of three dealers (or all dealers if three or fewer) and obtain quotations from those dealers if there are fewer than two quotations displayed on an inter-dealer quotation system that permits quotation updates on a real-time basis. The Three Quote Rule was adopted in 1988 to further define a firm’s best execution obligation to customers by setting forth additional requirements for transactions in non-exchange-listed securities, particularly transactions involving securities with non-transparent prices.⁵ Since that time, the Three Quote Rule has been amended on multiple occasions to exclude certain securities and transactions.⁶ The Three Quote Rule establishes a minimum standard, and compliance with the Three Quote Rule, in and of itself, does not mean that a member has met its best

⁴ The proposed rule change moves part of the provision concerning the use of a broker’s broker from paragraph (b) of the rule to Supplementary Material .05.

⁵ See Securities Exchange Act Release No. 25637 (May 2, 1988), 53 FR 16488 (May 9, 1988).

⁶ See NASD Rule 2320(f)(3)(B), (C). See also Securities Exchange Act Release No. 56004 (July 2, 2007), 72 FR 37285 (July 9, 2007); Securities Exchange Act Release No. 43319 (September 21, 2000), 65 FR 58589 (September 29, 2000).

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.