

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

* * * * *

**Text of Proposed New FINRA Rules
(Marked to Show Changes from NASD Rule 1010 Series; NASD Rule 1010 Series to be Deleted in their Entirety from the Transitional Rulebook)ⁱ**

* * * * *

1000. MEMBERSHIP APPLICATION AND ASSOCIATED PERSON REGISTRATION

* * * * *

[1010. Membership Proceedings]

1011. Definitions

* * * * *

(g) “final criminal matter”

The term “final criminal matter” means a final criminal matter that resulted in a conviction of, or guilty plea or nolo contendere (“no contest”) by a person that is disclosed, or was required to be disclosed, on the applicable Uniform Registration Forms.

(g) through (m) renumbered to (h) through (n)

(o) “specified risk event”

The term “specified risk event” means any one of the following events that are disclosed, or are or were required to be disclosed, on an applicable Uniform Registration Form;

(1) a final investment-related, consumer-initiated customer arbitration award or civil judgment against the person for a dollar amount at or above \$15,000 in which the person was a named party;

(2) a final investment-related, consumer-initiated customer arbitration settlement or civil litigation settlement for a dollar amount at or above \$15,000 in which the person was a named party;

(3) a final investment-related civil action where the total monetary sanctions (including civil and administrative penalties or fines, disgorgement, monetary penalties other than fines, or restitution) were ordered for a dollar amount at or above \$15,000; and

(4) a final regulatory action where (A) the total monetary sanctions (including civil and administrative penalties or fines, disgorgement, monetary penalties other than fines, or restitution) were ordered for a dollar amount at or above \$15,000; or (B) the sanction against the person was a bar (permanently or temporarily), expulsion, rescission, revocation, or suspension from associating with a member.

([n]p) “Subcommittee”

The term "Subcommittee" means a subcommittee of the National Adjudicatory Council that is constituted pursuant to Rule 1015 to conduct a review of a Department decision issued under the Rule [1010]1000 Series.

(q) “Uniform Registration Forms”

The term “Uniform Registration Forms” means the Uniform Application for Broker-Dealer Registration (Form BD), the Uniform Application for Securities Industry Registration or Transfer (Form U4), the Uniform Termination Notice for Securities Industry Registration (Form U5) and the Uniform Disciplinary Action Reporting Form (Form U6), as such may be amended or any successor(s) thereto.

* * * * *

IM-1011-2. Business Expansions and Persons with Specified Risk Events

If a natural person who has, in the prior five years, one or more final criminal matters or two or more specified risk events seeks to become an owner, control person, principal, or registered person of a member, and the member is not otherwise required to file a Form CMA in accordance with Rule 1017, the member may not effect the contemplated activity until the member has first submitted a written letter to the Department, in a manner prescribed by

FINRA, seeking a materiality consultation for the contemplated activity. The letter must address the issues that are central to the materiality consultation. The Department will consider the letter and other information or documents and determine in the public interest and the protection of investors that either (1) the member is not required to file a CMA in accordance with Rule 1017 and may effect the contemplated activity; or (2) the member is required to file a CMA in accordance with Rule 1017 and the member may not effect the contemplated activity, unless the Department approves the CMA.

* * * * *

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

(a) Events Requiring Application

A member shall file an application for approval of any of the following changes to its ownership, control, or business operations:

(1) through (5) No Change.

(6) Notwithstanding subparagraphs (4) and (5) of Rule 1017(a), whenever the natural person seeking to become an owner, control person, principal or registered person of a member has, in the prior five years, one or more final criminal matters or two or more specified risk events, and the member is not otherwise required to file a Form CMA in accordance with Rule 1017, unless the member has submitted a written letter to the Department, in a manner prescribed by FINRA, seeking a materiality consultation for the contemplated activity. The letter must address the issues that are central to the materiality consultation. As part of the materiality consultation, the Department shall consider the letter and other information or documents provided by the member to determine in the public interest and the protection of investors that either (A) the member is not required to file a CMA in accordance with Rule 1017 and may effect the contemplated activity; or (B) the member is required to file a CMA in accordance with Rule 1017 and the member may not effect the contemplated activity, unless the

Department approves the CMA. The safe harbor for business expansions under IM-1011-1 shall not be available to the member in such circumstance.

* * * * *

8310. Sanctions for Violation of the Rules

* * * * *

8312. FINRA BrokerCheck Disclosure

(a) No Change.

(b)(1) No Change.

(2) The following information shall be released pursuant to this paragraph

(b):

(A) any information reported on the most recently filed Form U4, Form U5, Form U6, Form BD, and Form BDW (collectively "Registration Forms");

(B) currently approved registrations;

(C) summary information about certain arbitration awards against a BrokerCheck Firm involving a securities or commodities dispute with a public customer;

(D) the most recently submitted comment, if any, provided to FINRA by the person who is covered by BrokerCheck, in the form and in accordance with the procedures established by FINRA, for inclusion with the information provided through BrokerCheck. Only comments that relate to the information provided through BrokerCheck will be included;

(E) information as to qualifications examinations passed by the person and date passed. FINRA will not release information regarding examination scores or failed examinations;

(F) [in response to telephonic inquiries via the BrokerCheck toll-free telephone listing,]information as to whether a particular member is subject to the provisions of Rule 3170 ("Taping Rule");

(G) Historic Complaints (i.e., the information last reported on Registration Forms relating to customer complaints that are more than two (2) years old and that have not been settled or adjudicated, and customer complaints, arbitrations or litigations that have been settled for an amount less than \$10,000 prior to May 18, 2009 or an amount less than \$15,000 on or after May 18, 2009 and are no longer reported on a Registration Form), provided that any such matter became a Historic Complaint on or after August 16, 1999; and

(H) the name and succession history for current or former BrokerCheck Firms.

(c) through (f) No Change.

••• **Supplementary Material:** -----

.01 through .03 No Change.

* * * * *

9000. CODE OF PROCEDURE

* * * * *

9200. DISCIPLINARY PROCEEDINGS

* * * * *

9285. Interim Orders While on Appeal

(a) Conditions and Restrictions

The Hearing Panel or, if applicable, the Extended Hearing Panel ("Hearing Panel"), or Hearing Officer may impose such conditions or restrictions on the activities of a Respondent as the Hearing Panel or Hearing Officer considers reasonably necessary for the purpose of preventing customer harm.

(b) Expedited Review

(1) Availability

A Respondent that has conditions or restrictions imposed by a Hearing Panel or Hearing Officer may file a motion with the Review Subcommittee of the National Adjudicatory Council to modify or remove any or all of the conditions or restrictions.

(2) Requirements for the Motion

The Respondent has the burden to show that the Hearing Panel or Hearing Officer committed an error by ordering the conditions or restrictions imposed. The Respondent must show that the conditions or restrictions are not reasonably necessary for the purpose of preventing customer harm. The Respondent's motion to modify or remove conditions or restrictions shall be filed with FINRA's Office of General Counsel and shall be served simultaneously on the Office of Hearing Officers and all other parties to the disciplinary proceeding. Respondent's motion and the opposition to the motion shall comply with Rules 9133, 9134, 9135, 9136 and 9137.

(3) Opposition to the Motion

The Department of Enforcement shall have five days from service of Respondent's motion to file an opposition to the motion. The Respondent may not file a reply to the opposition. Unless ordered otherwise by the Review Subcommittee, the motion to modify or remove conditions or restrictions shall be decided based on the moving and opposition papers and without oral argument. The Review Subcommittee shall issue a written order ruling upon a motion to modify or remove conditions or restrictions in an expeditious manner and no later than 30 days after any opposition filed pursuant to this paragraph (b)(3), and serve the order on all parties.

(4) Effectiveness

The filing of a motion to modify or remove a condition or restriction shall stay the effectiveness of the conditions or restrictions ordered by a Hearing Panel or Hearing Officer until the Review Subcommittee rules on the motion.

(c) Mandatory Heightened Supervision

(1) Requirement

When a Hearing Panel or Hearing Officer issues a decision pursuant to Rule 9268 or Rule 9269 in which the adjudicator finds that a Respondent violated a statute or rule provision, any firm with which the Respondent is associated must adopt a written plan of heightened supervision if any party appeals the decision to the National Adjudicatory Council, or if the National Adjudicatory Council calls the case for review. The firm must submit the written plan of heightened supervision within ten days of any party filing an appeal or the case being called for review. Respondent shall file a copy of the plan of heightened supervision with FINRA's Office of General Counsel and shall serve a copy on the Department of Enforcement. If a Respondent becomes associated with another firm while the Hearing Panel's or Hearing Officer's decision is on appeal to the National Adjudicatory Council, that firm, within ten days of the Respondent becoming associated with the firm, shall file a copy of a plan of heightened supervision with FINRA's Office of General Counsel and shall serve a copy on the Department of Enforcement.

(2) Provisions

The plan of heightened supervision shall comply with Rule 3110, and shall be reasonably designed and tailored to include specific supervisory policies and procedures that address the violations found by the Hearing Panel or Hearing Officer and shall be reasonably designed to prevent or detect a reoccurrence of those violations. The plan of heightened supervision shall, at a minimum, include the designation of an appropriately registered principal who is responsible for carrying out the plan of heightened

supervision, and take into account any conditions and restrictions imposed by the Hearing Panel or Hearing Officer pursuant to paragraph (a) of this Rule.

(3) Signature of Principal

The plan of heightened supervision shall be signed by the designated principal, and shall include an acknowledgement that the principal is responsible for implementing and maintaining the plan of heightened supervision.

(4) Duration

The plan of heightened supervision shall remain in place until FINRA's final decision takes effect.

* * * * *

9300. REVIEW OF DISCIPLINARY PROCEEDING BY NATIONAL ADJUDICATORY COUNCIL AND FINRA BOARD; APPLICATION FOR SEC REVIEW

9310. Appeal to or Review by National Adjudicatory Council

9311. Appeal by Any Party; Cross-Appeal

(a) No Change.

(b) Effect

An appeal to the National Adjudicatory Council from a decision issued pursuant to Rule 9268 or Rule 9269 shall operate as a stay of that decision until the National Adjudicatory Council issues a decision pursuant to Rule 9349 or, in cases called for discretionary review by the FINRA Board, until a decision is issued pursuant to Rule 9351. Any such appeal, however, will not stay a decision, or that part of a decision, that imposes a permanent cease and desist order. Notwithstanding the stay of sanctions under this Rule, the Hearing Panel or Hearing Officer may impose such conditions and restrictions on the activities of a Respondent as the Hearing Panel or Hearing Officer considers reasonably necessary for the purpose of preventing customer harm in accordance with Rule 9285(a).

(c) through (f) No Change.

* * * * *

9500. OTHER PROCEEDINGS

* * * * *

9520. Eligibility Proceedings

* * * * *

9523. Acceptance of Member Regulation Recommendations and Supervisory Plans by Consent Pursuant to SEA Rule 19h-1, and Requirements for an Interim Plan of Heightened Supervision

(a) through (b) No Change.

(c) Submission of an Interim Plan of Heightened Supervision

An application filed pursuant to FINRA Rule 9522(a)(3) or FINRA Rule 9522(b)(1)(B) or (C) that seeks the continued association of a disqualified person must include:

(1) An interim plan of heightened supervision. The application shall identify an appropriately registered principal responsible for carrying out the interim plan of heightened supervision, who has signed the plan and acknowledged his or her responsibility for implementing and maintaining such plan. The interim plan of heightened supervision shall be in effect throughout the entirety of the application review process which shall be considered concluded only upon the final resolution of the eligibility proceeding. The interim plan of heightened supervision shall comply with the provisions of Rule 3110, and be reasonably designed and tailored to include specific supervisory policies and procedures that address any regulatory concerns related to the nature of the disqualification, the nature of the sponsoring member's business, and the disqualified person's current and proposed activities during the review process. As a condition to the eligibility proceeding, the Department of Member Regulation, in its discretion and consistent with the public interest and the protection of investors, may modify any interim plan of heightened supervision.

(2) A written representation from the sponsoring member that the disqualified person is currently subject to an interim plan of heightened supervision as set forth in paragraph (c)(1) of this Rule.

(d) Determination that an Application is Substantially Incomplete

If the Department of Member Regulation determines that an application is substantially incomplete, it may reject the application and deem it not to have been filed. In such case, the Department of Member Regulation shall provide the disqualified member or sponsoring member notice of the delinquency and its reasons for so doing. The disqualified member or sponsoring firm shall have ten business days to remedy the application, or such other time period prescribed by FINRA. An application will be deemed to be substantially incomplete if:

(1) It does not include the representation required by paragraph (c)(2) of this Rule; or

(2) FINRA determines that it does not include a reasonably designed interim plan of heightened supervision that complies with the standards of paragraph (c)(1) of this Rule.

(e) Consequences for Failure to Timely Remedy an Application that is Substantially Incomplete

If an applicant fails to remedy an application that is substantially incomplete, the Department of Member Regulation shall serve a written notice on the disqualified member or sponsoring member of its determination to reject the application and its reasons for so doing. FINRA shall refund the application fee, less \$1,000, which shall be retained by FINRA as a processing fee. Upon such rejection, the disqualified member or sponsoring member must promptly terminate association with the disqualified person.

* * * * *

9550. Expedited Proceedings

* * * * *

9556. Failure to Comply with Temporary and Permanent Cease and Desist Orders, or Hearing Panel or Hearing Officer Decisions that Impose Conditions or Restrictions

(a) Notice of Suspension, Cancellation or Bar

(1) If a member, person associated with a member or person subject to FINRA's jurisdiction fails to comply with a temporary or permanent cease and desist order issued under the Rule 9200, 9300 or 9800 Series, FINRA staff, after receiving written authorization from FINRA's Chief Executive Officer or such other senior officer as the Chief Executive Officer may designate, may issue a notice to such member or person stating that the failure to comply with the temporary or permanent cease and desist order within seven days of service of the notice will result in a suspension or cancellation of membership or a suspension or bar from associating with any member.

(2) If a respondent fails to comply with conditions or restrictions imposed pursuant to Rule 9285 in a Hearing Panel's or Hearing Officer's decision issued pursuant to Rule 9268 or Rule 9269, FINRA staff may issue a notice to a respondent stating that the failure to comply with the conditions or restrictions within seven days of service of the notice will result in a suspension or cancellation of membership or a suspension or bar from associating with any member.

(b) No Change.

(c) Contents of Notice

(1) [The]A notice issued pursuant to paragraph (a)(1) shall explicitly identify the provision of the permanent or temporary cease and desist order that is alleged to have been violated and shall contain a statement of facts specifying the alleged violation. The notice shall state when the FINRA action will take effect and explain what the respondent must do to avoid such action. The notice shall state that the respondent may file a written request for a hearing with the Office of Hearing Officers pursuant to Rule 9559. The notice also shall inform the respondent of the applicable deadline for filing a

request for a hearing and shall state that a request for a hearing must set forth with specificity any and all defenses to the FINRA action. In addition, the notice shall explain that, pursuant to Rules 8310(a) and 9559(n), a Hearing Officer or, if applicable, Hearing Panel, may approve, modify or withdraw any and all sanctions or limitations imposed by the notice, and may impose any other fitting sanction.

(2) A notice issued pursuant to paragraph (a)(2) shall explicitly identify conditions or restrictions that are alleged to have been violated and shall contain a statement of facts specifying the alleged violation. The notice shall state when the FINRA action will take effect and explain what the respondent must do to avoid such action. The notice shall state that the respondent may file a written request for a hearing with the Office of Hearing Officers pursuant to Rule 9559. The notice also shall inform the respondent of the applicable deadline for filing a request for a hearing and shall state that a request for a hearing must set forth with specificity any and all defenses to the FINRA action. In addition, the notice shall explain that, pursuant to Rules 8310(a) and 9559(n), a Hearing Officer or, if applicable, Hearing Panel, may approve, modify or withdraw any and all sanctions imposed by the notice, and may impose any other fitting sanction.

(d) through (h) No Change.

* * * * *

ⁱ FINRA will separately issue a *Regulatory Notice* soliciting comment on proposed changes to the membership application rules resulting from a retrospective review of the rules.