

FINRA Membership

FINRA Adopts a Short-Form Membership Application Process for Certain Firms That Must Become FINRA Members due to Amended SEA Rule 15b9-1

Effective Date: October 30, 2023

Summary

FINRA has adopted a short-form membership application process for certain firms that must become FINRA members due to the recent amendments to Rule 15b9-1 of the Securities Exchange Act of 1934. Firms that are eligible for the short-form membership application process also must have been a member of a national securities exchange with which FINRA has had a regulatory services agreement for the 12-month period prior to August 23, 2023. FINRA has further adopted a partial waiver of the new membership application fee for those firms that apply for FINRA membership through the short-form membership application process. These rule changes became effective on October 30, 2023.

The text of the rule changes is set forth in [Attachment A](#). The short-form application is set forth in [Attachment B](#).

Questions concerning this *Notice* should be directed to firms' Risk Monitoring Analysts or:

- ▶ for membership application questions, (212) 858-4000 (Option 5 – Membership Applications) or by [email](#);
- ▶ for representative and principal registration questions, Alexandra Toton, Senior Director, Qualifications & Exams, at (240) 386-4677 or by [email](#); or Carl Rubin, Associate Director, Qualifications & Exams, at (240) 386-6446 or by [email](#); or
- ▶ for legal and interpretive questions, Phil Shaikun, Vice President and Associate General Counsel, Office of General Counsel (OGC), at (202) 728-8451 or by [email](#); or Carrie Jordan, Principal Counsel, OGC, at (212) 858-4210 or by [email](#).

November 9, 2023

Notice Type

- ▶ New Rule

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Registration
- ▶ Senior Management
- ▶ Trading

Key Topics

- ▶ New Member Application
- ▶ Proprietary Trading Firms

Referenced Rules & Notices

- ▶ Exchange Act Section 15(b)(8)
- ▶ FINRA By-Laws, Schedule A, Section 4
- ▶ FINRA IM-1013-3
- ▶ FINRA Rule 1013
- ▶ FINRA Rule 1210
- ▶ Regulatory Notice 23-16
- ▶ Rule 611 of SEC Regulation NMS
- ▶ SEA Rule 15b9-1

Background & Discussion

Section 15(b)(8) of the Securities Exchange Act of 1934 (SEA) generally requires that a registered broker-dealer that effects transactions in securities must be a member of a national securities association unless the broker-dealer effects transactions in securities solely on a national securities exchange of which it is a member or an exemption is available under SEA Rule 15b9-1.¹ On August 23, 2023, the SEC adopted amendments to SEA Rule 15b9-1 that significantly narrowed the exemption from FINRA membership (“Rule 15b9-1 Amendments”).² Under the Rule 15b9-1 Amendments, a broker-dealer will be required to become a FINRA member if the broker-dealer effects transactions other than on an exchange of which it is a member, unless (1) such transactions result solely from orders that are routed by a national securities exchange of which the firm is a member to comply with Rule 611 of Regulation NMS or the Options Order Protection and Locked/Crossed Market Plan, or (2) are solely for the purpose of executing the stock leg of a stock-option order.³ The Rule 15b9-1 Amendments became effective on November 6, 2023, and the SEC has announced a compliance date of September 6, 2024.⁴

Short-Form Membership Application Process

FINRA has adopted Interpretive Material 1013-3 (“IM-1013-3”) to implement a new membership application process that permits certain firms to complete a short-form membership application in lieu of the application and interview process typically required under Rule 1013 (New Member Application and Interview).⁵ IM-1013-3 is available only to SEC-registered non-FINRA member firms that must become FINRA members due to the Rule 15b9-1 Amendments and, as of August 23, 2023, have been a member of a national securities exchange with which FINRA has had a regulatory service agreement for the 12-month period prior to August 23, 2023 (“Eligible Firms”). Eligible Firms will otherwise be subject to all applicable FINRA rules, including but not limited to, registration requirements⁶ and trade reporting requirements.⁷

Depending on particular facts and circumstances, FINRA may find it necessary to obtain additional information to evaluate an Eligible Firm for membership. In such case, FINRA may require an Eligible Firm to provide FINRA with additional information or documents or meet any other requirement pursuant to Rule 1013, or to apply for membership pursuant to the full application and interview process under Rule 1013.⁸ In addition, if an Eligible Firm’s short-form membership application seeks to materially expand or change the firm’s business operations, such firm will be required to apply for FINRA membership pursuant to the full application and interview process under Rule 1013, including completing Form NMA.

Eligible Firms must submit the short-form membership application to FINRA via [email](#) at least 120 calendar days before the compliance date of the Rule 15b9-1 Amendments. However, FINRA encourages Eligible Firms to apply for membership pursuant to IM-1013-3 even earlier than 120 days before the compliance date of the Rule 15b9-1 Amendments because, as discussed above, certain factors may prompt a request for additional information or for a full membership application, which could prolong the time needed for FINRA to process a firm's application and issue a decision.

Partial Waiver of the New Membership Application Fee

FINRA has also adopted Interpretive Material Section 4(e) of Schedule A to the FINRA By-Laws ("IM-Section 4(e)") that provides a partial waiver of the new membership application fee to Eligible Firms that apply for FINRA membership pursuant to IM-1013-3. Eligible Firms that apply for FINRA membership pursuant to IM-1013-3 will be assessed one-half the applicable membership application fee set forth in Section 4(e) of Schedule A to the FINRA By-Laws.⁹ Eligible Firms will otherwise be subject to the FINRA By-Laws and Schedules to By-Laws, including all other applicable fees.¹⁰

If FINRA determines that an Eligible Firm must undergo the full application and interview process pursuant to Rule 1013, the firm will be assessed the full membership application fee set forth in Section 4(e) of Schedule A to the FINRA By-Laws. In addition, if an otherwise Eligible Firm is required to apply for FINRA membership pursuant to the full application and interview process under Rule 1013 because the Eligible Firm seeks to materially expand or change the firm's business operations, the firm will similarly be assessed the full membership application fee set forth in Section 4(e) of Schedule A to the FINRA By-Laws.

Endnotes

1. FINRA is currently the only registered national securities association.
2. See Securities Exchange Act Release No. 98202 (August 23, 2023), 88 FR 61850 (September 7, 2023) (Exemption for Certain Exchange Members; Final Rule).
3. See Rule 15b9-1 Amendments, 88 FR 61850, 61893.
4. See Rule 15b9-1 Amendments, 88 FR 61850, 61850.
5. See Securities Exchange Act Release No. 98850 (November 3, 2023), 88 FR 77384 (November 9, 2023) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2023-014).
6. Firms must register all associated persons whose registrations are approved with FINRA in registration categories recognized by FINRA. See Rule 1210.
7. To report trading activity to the applicable [facilities](#), in compliance with FINRA's trade reporting requirements, firms may need to establish connections to those facilities. Questions about obtaining entitlements or establishing connections should be directed to (866) 776-0800 or finraoperations@finra.org.
8. See FINRA Rule 1013 (New Member Application and Interview).
9. See FINRA By-Laws, Schedule A, Section 4(e).
10. FINRA has amended its By-Laws to exempt from the Trading Activity Fee any transaction by a proprietary trading firm that occurs on an exchange of which the proprietary trading firm is a member. See [Regulatory Notice 23-16](#) (October 2023).