

Notice to Members

APRIL 2004

SUGGESTED ROUTING

Legal & Compliance
Operations
Senior Management

KEY TOPICS

Executive Representative
Rule 1150

GUIDANCE

Executive Representatives

SEC Approves Amendments to Require Quarterly Review and Update of Executive Representative Contact Information; **Effective Date: May 14, 2004**

Executive Summary

On March 29, 2004, the Securities and Exchange Commission (SEC) approved a rule change to require members to review and, if necessary, update their executive representative designation and contact information on a quarterly basis.¹ New Rule 1150 is set forth in Attachment A. The rule requirements are effective as of Friday, May 14, 2004.

Questions/Further Information

Questions regarding this *Notice* may be directed to Grace Yeh, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-6939.

Background and Discussion

Under Article IV, Section 3 of the NASD By-laws, members must appoint and certify to NASD one executive representative to represent, vote, and act for the member in all affairs of NASD. The executive representative must be a member of senior management and a registered principal of the member. In addition, the executive representative is required to maintain an Internet electronic e-mail account for communication with NASD and must update firm contact information.

Given the important role of the executive representative in representing, voting, and acting for the member, as well as receiving communications from NASD, NASD believes that members should review and update the executive representative designation and contact information periodically to ensure its accuracy. Accordingly, NASD has amended its rules to require that each member conduct a review and, if necessary, update its executive representative information on a quarterly basis, specifically within 17 business days after the end of each calendar quarter.² NASD is examining different methods of reminding members of the obligation to quarterly review and update the executive representative information, including the possibility of a Web page linked to the act of filing the FOCUS report that would prompt members to update such information and/or through periodic e-mail reminders to member firms.³

Effective Date

The rule amendments become effective on May 14, 2004. Members will be required to conduct the first quarterly review and update of the executive representative designation and contact information within 17 business days after June 30, 2004.

Endnotes

- 1 See Securities Exchange Act Release No. 49497 (March 29, 2004), 69 FR 17723 (April 5, 2004) (File No. SR-NASD-2003-184) (SEC Approval Order).
 - 2 This review schedule is consistent with a member's quarterly FOCUS reporting schedule and a member's business continuity plan requirement to review and update emergency contact information on a quarterly basis. (See Securities Exchange Act Release No. 49537 (Apr. 7, 2004), 69 Fed. Reg. 19586 (Apr. 13, 2004) (File No. NASD-2002-108).)
 - 3 Similarly, the schedule is consistent with the requirement, which becomes effective on April 16, 2004, to designate a person to receive notifications relating to continuing education, and the need to review and update such designation and contact information (see *Notice to Members 04-22* (March 2004)).
- 3 Similarly, NASD would prompt members to review and update, where necessary, their emergency contact and continuing education contact information. See *supra* note 2.

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ATTACHMENT A

New language is underlined.

1150. Executive Representative

Each member must review and, if necessary, update its executive representative designation and contact information as required by Article IV, Section 3 of the NASD By-Laws within 17 business days after the end of each calendar quarter.