

Notice to Members

MARCH 2004

SUGGESTED ROUTING

Continuing Education
Legal & Compliance
Operations
Senior Management

KEY TOPICS

Continuing Education
Rule 1120

GUIDANCE

Continuing Education Rules

SEC Approves Amendments to Rule 1120 (Continuing Education Requirements) Regarding Regulatory Element Contact Person

Executive Summary

On February 13, 2004, the Securities and Exchange Commission (SEC) approved amendments to Rule 1120 to require that each member designate and identify to NASD the individual(s) who will receive Web Central Registration Depository (Web CRD®) Continuing Education (CE) Regulatory Element e-mails. The amendments also require each member to quarterly review and update the CE contact person(s) information.¹ Rule 1120, as amended, is set forth in Attachment A. The amendments are effective as of April 16, 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

NASD Rule 1120 sets forth the CE requirements for registered persons. The CE requirements consist of both a Firm Element and a Regulatory Element. The Firm Element requires each member firm to annually develop and implement a written plan for training its registered persons based on an assessment of its own specific training needs. The Regulatory Element is a computer-based education program administered by NASD to help ensure that registered persons are kept up-to-date on regulatory, compliance, and sales practice matters in the industry. Each registered person is required to complete the Regulatory Element initially within 120 days after the person's second registration anniversary date and,

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thereafter, within 120 days after every third registration anniversary date. A registered person who becomes inactive for failing to complete the required Regulatory Element program (CE inactive) is prohibited from performing, or being compensated for, any activities requiring registration, including supervision. Members are required under Rule 1120 to restrict CE inactive persons from performing the prohibited activities.

To help firms keep track of their registered persons' Regulatory Element status, NASD provides members with e-mail notifications through Web CRD when a person is both 90 days and 30 days away from the end of his or her period to complete the Regulatory Element program before going inactive. CRD also notifies members when a registered person at the firm becomes CE inactive. Receipt of the e-mail notifications has been optional, and some firms have elected not to receive the notifications.

To help firms avoid a Rule 1120(a) violation that would occur if an inactive person were permitted to perform, or receive compensation for, activities that required registration during the period of inactive status, NASD has amended Rule 1120 to require each member to designate a contact person or persons to receive the CRD Regulatory Element e-mail notifications. The amendments require the member to provide to NASD the name and e-mail address of the designated contact person(s) and to promptly notify NASD of any changes to the information. NASD will collect the contact information through the NASD Contact System on NASD's Web Site.² The notifications will ensure that firms are positioned to prevent any registered persons from becoming inactive or from conducting business if they become CE inactive.

The amendments also are designed to assist NASD with its efforts to further automate various aspects of its examination program with a goal of removing a substantial portion of CE compliance inspections from on-site firm examinations. NASD believes that a more automated approach will result in a less intrusive regulatory approach for firms and a more efficient use of NASD Department of Member Regulation resources.

To ensure the accuracy of the CE contact information, the amendments require that each member review and, if necessary, update its CE contact person information within 17 business days after the end of each calendar quarter.³ NASD is examining different methods of reminding members of the obligation to quarterly review and update contact person information, including the possibility of a Web page linked to the act of filing the FOCUS report that would prompt members to update such contact person and/or through periodic e-mail reminders to member firms.⁴

Effective Date

The rule amendments become effective on April 16, 2004. Members will be required to conduct the first quarterly review and update of the contact person information within 17 business days after June 30, 2004.

Endnotes

- 1 See Securities Exchange Act Release No. 49246 (February 13, 2004), 69 FR 8255 (February 23, 2004) (File No. SR-NASD-2003-183) (SEC Approval Order).
- 2 See www.nasdr.com/NCS.asp.
- 3 This review schedule is consistent with a member's quarterly FOCUS reporting schedule, as well as with the proposed rule change regarding members' business continuity plans (see SR-NASD-2002-108, which is pending at the SEC) which would require members to review and update emergency contact information within 17 business days after the end of each calendar quarter. Similarly, the proposed schedule is consistent with a proposed rule change regarding the review and update of a member's Executive Representative designation and contact information (see SR-NASD-2003-184).
- 4 Similarly, NASD would prompt members to review and update, where necessary, their emergency contact and Executive Representative information. See *supra* note 3.

ATTACHMENT A

New language is underlined; deletions are in brackets.

1120. Continuing Education Requirements

This Rule prescribes requirements regarding the continuing education of certain registered persons subsequent to their initial qualification and registration with NASD [the Association]. The requirements shall consist of a Regulatory Element and a Firm Element as set forth below.

(a) Regulatory Element

(1) through (6) No change.

(7) Regulatory Element Contact Person

Each member shall designate and identify to NASD (by name and e-mail address) an individual or individuals responsible for receiving e-mail notifications provided via the Central Registration Depository regarding when a registered person is approaching the end of his or her Regulatory Element time frame and when a registered person is deemed inactive due to failure to complete the requirements of the Regulatory Element program, and provide prompt notification to NASD regarding any change in such designation(s). Each member must review and, if necessary, update the information regarding its Regulatory Element contact person(s) within 17 business days after the end of each calendar quarter to ensure the information's accuracy.

(b) No change.