

Notice to Members

NOVEMBER 2002

SUGGESTED ROUTING

Continuing Education
Legal and Compliance
Registration
Senior Management

KEY TOPICS

Regulatory Element

Regulatory Element

SEC Approves Rule Establishing New Registration Category for Proctors of In-Firm Delivery of the Regulatory Element

Executive Summary

On September 24, 2002, the Securities and Exchange Commission (SEC) approved NASD Rule 1043, a new registration category for proctors of in-firm delivery of the Regulatory Element of NASD's continuing education requirements. The Rule permits registration by an associated person as a proctor without taking a qualification exam. A person may obtain designation as a proctor upon approval of an Application for Registration pursuant to Article V, Section 2 of NASD's By-Laws.

A person registered only as a proctor may not function in any other capacity that requires registration. However, the Rule does not prohibit a person who is registered with NASD in any other capacity from also serving as a proctor without being designated as such under the Rule.

Included with this *Notice* is Attachment A, the text of the rule.

Questions concerning this *Notice* should be directed to Philip Shaikun, Assistant General Counsel, Office of General Counsel, NASD Regulatory Policy and Oversight, at (202) 728-8451.

Background and Discussion

NASD Rule 1043 establishes a new registration category for proctors of in-firm delivery of the Regulatory Element of NASD's continuing education requirements. The Regulatory Element requires all registered persons to participate in a prescribed computer-based training session within 120 days of their second registration

anniversary date and every three years thereafter. The Regulatory Element focuses on compliance, regulatory and ethical standards.

NASD Rule 1120(a)(6) permits each member to administer the Regulatory Element to their registered persons through a program delivered on the member's premises, provided that the member adheres to certain technology, administrative and regulatory standards. Among the requirements for in-firm delivery of the Regulatory Element is that the program sessions be proctored by an individual registered with a self-regulatory organization and supervised by a designated principal.

NASD believes the new registration category will make in-firm delivery a more attractive and efficient option for members while maintaining the integrity of the program. It will obviate the current need for members to either use a registered person who also has other day-to-day responsibilities or to commit resources needed to prepare a proctor for an exam-based registration.

Importantly, while the rule permits proctors to be registered without an exam, it still requires proctors to submit an application for registration in accordance with NASD By-Laws. As such, proctors will be required to file a Form U-4, which provides detailed employment and disciplinary history so that NASD can monitor the fitness of individuals to serve in that capacity. Any person whose sole registration is as a proctor under new NASD Rule 1043 will not be permitted to engage in any other activities requiring registration with NASD. The proposal will not prohibit a person who is registered with NASD in any other capacity from also serving as a proctor, as is permitted under existing rules.

Effective Date

The Rule becomes effective on December 2, 2002. Members should note that Web CRD Release 4.2, which became available on October 21, 2002, contains an updated Form U-4 that includes a new category "IF" for the in-firm delivery proctor registration.

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ATTACHMENT A

New language is underlined; deletions in brackets.

1040. Registration of Assistant Representatives [-Order Processing] and Proctors

1041. Registration Requirements for Assistant Representatives

(a) through (c) No change.

1042. Restrictions for Assistant Representatives

(a) through (c) No change.

1043. Proctors of In-Firm Delivery of Regulatory Element

(a) Any person associated with a member seeking to be designated as a Proctor under Rule 1120(a)(6)(E) for the purposes of in-firm delivery of the Regulatory Element shall be required to be registered pursuant to Rule 1120(a)(6)(E)(iii), but shall not be required to pass a Qualification Examination.

(b) Any person associated with a member may be designated as a Proctor upon approval of an Application for Registration pursuant to Article V, Section 2 of NASD's By-Laws. Any person whose sole registration is as a Proctor pursuant to this Rule 1043 shall not be qualified to function in any other area requiring registration with NASD.

(c) Nothing in this Rule 1043 shall prohibit a person who is registered with NASD in any other capacity from also serving as a Proctor without being designated as such under these provisions.