

Notice to Members

JUNE 2002

SUGGESTED ROUTING

Executive Representatives
Legal & Compliance
Operations
Senior Management

KEY TOPICS

Rule 3070
Reporting Requirements

Reporting of Criminal Offenses

SEC Approves Proposed Changes to Rule 3070
Concerning the Reporting of Criminal Offenses by
Members and Persons Associated with Members;
Effective Date: July 15, 2002

Executive Summary

On May 15, 2002, the Securities and Exchange Commission (SEC) approved amendments to NASD Rule 3070, concerning the reporting of criminal offenses by members and persons associated with members. Effective July 15, 2002, these amendments will require the reporting of the following criminal offenses under Rule 3070(a)(5): any felony; misdemeanors involving the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, misappropriation of funds or securities; a conspiracy to commit any of these offenses; or substantially equivalent activity in a domestic, military, or foreign court.

The text of the amendment to Rule 3070 as provided in Attachment A becomes effective on July 15, 2002.

Questions/Further Information

Questions concerning this *Notice* may be directed to Emily Gordy, Director, Regulation Policy, at (202) 728-8070, or Shirley H. Weiss, Associate General Counsel, at (202) 728-8844.

Discussion

Rule 3070, adopted in 1995, assists NASD in the timely identification and investigation of problem members, branch offices, and registered representatives that may pose heightened risks to public investors. Rule 3070 requires members promptly to report to NASD the occurrence of 10 specified events and to file quarterly statistical information concerning customer complaints.¹ The reporting requirements under Rule 3070 significantly parallel comparable provisions of NYSE Rule 351 as well as the disclosure requirements

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of the Uniform Application for Securities Industry Registration or Transfer (Form U-4). Rule 3070 exempts from its provisions any member subject to substantially similar reporting requirements of another self-regulatory organization of which it is a member.

To bring about greater consistency with NYSE Rule 351,² as well as Questions 14A(1)³ and 14B(1)⁴ of the Form U-4, NASD has amended NASD Rule 3070 to require the reporting of the following criminal offenses under Rule 3070(a)(5): any felony; misdemeanors involving the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, misappropriation of funds or securities; a conspiracy to commit any of these offenses; or substantially equivalent activity in a domestic, military, or foreign court. Previously, Rule 3070(a)(5) required members promptly to report to NASD indictments, convictions, guilty pleas, and no contest pleas with respect to “any criminal offense other than traffic violations.”

the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion or misappropriation of funds or securities, or substantially equivalent activity in a domestic, military, or foreign court.

- 3 Question 14A(1) of Form U-4 requires members and associated persons to report “any felony.”
- 4 Question 14B(1) of Form U-4 limits the scope of reportable misdemeanor criminal events to misdemeanors involving investments or an investment-related business, fraud, false statements or omissions, wrongful taking of property, bribery, forgery, counterfeiting or extortion, or a conspiracy to commit any of these offenses.

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Effective Date of Amendments

These amendments become effective on July 15, 2002.

ENDNOTES

- 1 For a complete list of the 10 reporting requirements, members should review Rule 3070.
- 2 Amended Rule 3070(a)(5) is consistent with recent amendments to NYSE Rule 351(a)(5) that require the reporting of criminal offenses to: any felony; or any misdemeanor that involves

ATTACHMENT A

Text of Rule

New language is underlined; deletions are in brackets.

3000. RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS, EMPLOYEES, AND OTHERS' EMPLOYEES

* * *

Rule 3070. Reporting Requirements

(a) Each member shall promptly report to the Association whenever such member or person associated with the member:

(1) through (4) No change.

(5) is indicted, or convicted of, or pleads guilty to, or pleads no contest to, [any criminal offense (other than traffic violations)] any felony; or any misdemeanor that involves the purchase or sale of any security, the taking of a false oath, the making of a false report, bribery, perjury, burglary, larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or a conspiracy to commit any of these offenses, or substantially equivalent activity in a domestic, military, or foreign court.