

ACTION REQUESTED BY  
MARCH 1, 2002

## Rule Modernization Project

The NASD Requests  
Information On Steps  
That Can Be Taken To  
Streamline NASD Rules;  
**Response Period  
Expires on March 1,  
2002**

### SUGGESTED ROUTING

*The Suggested Routing function is meant to aid the reader of this document. Each NASD member firm should consider the appropriate distribution in the context of its own organizational structure.*

- Executive Representatives
- Legal and Compliance
- Senior Management

### KEY TOPICS

- Annual Compliance Conference
- Branch Office
- Customer Support Representatives
- General Securities Representative
- Proxy Materials
- Rule Modernization
- Rule Review
- Sponsoring Exam Applicants

### Executive Summary

The National Association of Securities Dealers, Inc. (NASD®) is conducting a comprehensive review of its rules to ensure that they are as streamlined as possible, and impose the least burden to accomplish their objectives. One key to the success of the NASD's efforts to modernize its rules will be industry input. Attached is the first in a series of questionnaires designed to collect information that will assist the NASD in assessing the costs and benefits of certain rules (see Attachment A). Responses that include specific explanations of the burdens imposed by a rule will be particularly helpful.

### Action Requested

NASD encourages all member firms to complete the questionnaire by **March 1, 2002**. Members can submit their responses using the following methods:

- mailing in written responses to the questionnaire that appears in Attachment A
- e-mailing written responses to [pubcom@nasd.com](mailto:pubcom@nasd.com)
- completing the online form on the NASDR Web Site ([www.nasdr.com](http://www.nasdr.com))

Written responses submitted via hard copy should be mailed to:

*Barbara Z. Sweeney  
Office of the Corporate Secretary  
National Association of Securities  
Dealers, Inc.  
1735 K Street, NW  
Washington, DC 20006-1500*

**Important Note:** The only responses that will be considered are those submitted in writing or by e-mail.

Before becoming effective, any rule change developed as a result of responses received must be adopted by the NASD Regulation Board of Directors, may be reviewed by the NASD Board of Governors, and must be approved by the Securities and Exchange Commission (SEC) following public comment.

### Questions/Further Information

Questions concerning this *Notice* may be directed to Eric J. Moss, Associate General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8982.

### Background

Over the past several years, the NASD has conducted a comprehensive review of its rules. Recently we have taken steps to expand and build upon this review to ensure that our rules are as streamlined as possible, and impose the least burden to accomplish their objectives. We have appointed an Economic Advisory Board with particular expertise in analyzing regulations to assist in this review. Also, we published *NASD Notice to Members 01-35* soliciting public input on the rules that should be the focus of this review.

In response to *NASD Notice to Members 01-35*, we received 37 comment letters identifying rules that should be the focus of our rule modernization initiative. To date, we have identified a number of proposals that we believe are particularly well suited to cost/benefit analysis.

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## Special NASD Notice to Members 02-10—Request for Information

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The proposals under consideration include, but are not limited to, whether:

- Regulators should eliminate the current requirement that generally only persons sponsored by broker/dealers may take the General Securities Representative (Series 7) exam.
- Regulators should develop a new registration category that would permit associated persons to perform basic customer support functions without being required to take and pass the comprehensive Series 7 exam.
- The requirement to hold an annual compliance conference, as outlined in NASD Rule 3010(a)(7), should be eliminated in light of the Continuing Education Firm Element required by NASD Rule 1120(b).
- The NASD definition of "branch office," as outlined in Rule 3010(g)(2), should be modified in light of: (1) the SEC's recent amendments to the definition of the term "office" in SEC Rules 17a-3 and 17a-4 (see *NASD Notice to Members 01-80*); (2) the branch office definitions used by the New York Stock Exchange and State regulators; (3) the new business practices that are developing based on technological innovations; and (4) the potential to develop a uniform registration system for branch offices through the Central Registration Depository (CRD) system maintained by the NASD.

- NASD Rule 2260 should be revised to expand the categories of persons to whom member firms may forward proxy material, annual reports, information statements, and other material sent to stockholders.

The attached questionnaire is designed to collect information that will assist the NASD in reviewing the costs and benefits of these proposals. Note that an online version of the questionnaire also appears on the NASD Regulation Web Site ([www.nasdr.com](http://www.nasdr.com)).

The NASD is considering a number of other proposals, and will publish additional questionnaires at a later date.

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## ATTACHMENT A

### NASD Rule Modernization Questionnaire

Using the questions below as your guide, please submit written comments via a separate document and send your responses to the NASD at the address indicated in the attached *Notice to Members*. Please note that you may also complete this survey online via the NASD Regulation Web Site at [www.nasdr.com](http://www.nasdr.com).

#### Your Firm And Position

Include with your response which of the following best describe your firm (you may include more than one category per question).

1) **Firm Size**

- a) 10 or fewer registered representatives
- b) 11 to 49 registered representatives
- c) 50 to 499 registered representatives
- d) 500 or more registered representatives

2) **Firm Type**

- a) Self-clearing
- b) Introducing — sales
- c) Introducing — sales and trading
- d) Investment company products
- e) Variable contracts
- f) Direct participation programs
- g) Investment banking
- h) Other (please specify)

3) **Business**

- a) Retail business
- b) Institutional business
- c) Wholesale business
- d) Business in equity securities
- e) Business in debt securities
- f) Business in government/municipal securities
- g) Business in investment company/variable contract products
- h) Other (please specify)

4) **Position**

- a) CEO/President
- b) Owner
- c) Legal/Compliance Officer
- d) Chief Financial Officer
- e) Chief Operations Officer
- f) Other (please specify)

### **Sponsoring Qualification Exams**

- 1) Please describe the opportunities that your firm provides to applicants preparing for the Series 7 exam, including:
  - a) training courses;
  - b) time during normal working hours to study for the exam; and
  - c) the number of opportunities given to pass the exam.
- 2) Should regulators eliminate the general requirement that only broker/dealers sponsor Series 7 exam applicants? If so, should the exam be made available to the general public, or only to persons sponsored by certain institutions, such as universities or colleges?
- 3) What are the benefits and risks of making the Series 7 exam available to larger applicant pools (such as the general public or persons sponsored by universities or colleges)? For instance, would such a change:
  - a) affect the quality of persons wishing to work in the securities industry;
  - b) create more flexibility in the labor market; and/or
  - c) split the labor force between those sponsored by broker/dealers and those sponsored by other institutions, such as universities and colleges?
- 4) Would eliminating the general requirement that broker/dealers sponsor Series 7 exam applicants alter your firm's recruiting, hiring, or training practices? For instance, would your firm start requiring that applicants successfully pass the Series 7 exam before being considered for employment? Please estimate the amount of money that your firm would save with the elimination of the general requirement that broker/dealers sponsor exam applicants.
- 5) What administrative functions do Series 7 applicants at your firm perform while studying for the exam? Do those activities help train them to be registered representatives? If Series 7 applicants can take the exam before starting at your firm, would you have to hire additional staff for the administrative tasks the Series 7 applicants would have performed? Would it be cheaper to employ more support personnel for these tasks than use Series 7 applicants during their exam preparation?

### Customer Support Representatives

- 1) If regulators develop a limited registration category for Customer Support Representatives (CSR) that would permit associated persons to perform basic customer support functions without being required to take and pass the comprehensive Series 7 exam, would your firm take advantage of this category?
- 2) What functions would your firm consider to be most critical for CSRs to perform, considering that the more services authorized, the more challenging the exam?
- 3) Based on the functions you outlined in response to Question 2, how many people at your firm would qualify for CSR registration?
- 4) How would the CSR registration category affect career paths within your firm?
- 5) Would the development of a CSR registration category save your firm money?

### Annual Compliance Conference

- 1) Which of the following does your firm use to routinely address regulatory developments and compliance matters in addition to the annual compliance conference.
  - a) E-mail
  - b) Newsletters
  - c) Video-conferencing
  - d) Conference calls with branch offices
  - e) Regular meetings (circle: weekly, biweekly, monthly)
  - f) Circulation of *Notices to Members* and *Regulatory & Compliance Alerts*
  - g) Monitoring and reporting information posted on regulatory Web sites—*please specify the Web sites that your firm finds helpful and specify how this information is generally distributed.*
  - h) Other (please describe)
- 2) Describe how your firm complies with the requirement to hold an annual compliance conference in NASD Rule 3010(a)(7), including the meeting format, such as in-person meetings, videoconferences, etc.
- 3) List the topics your firm has covered at your last two annual compliance conferences.
- 4) If your firm has registered representatives in multiple offices, does that affect your compliance with NASD Rule 3010(a)(7)?
- 5) If the requirement to hold an annual compliance conference were abolished, what benefits would your firm lose?

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- 6) How much does your firm generally spend to comply with NASD Rule 3010(a)(7)? Please break out the components of the cost (*e.g.*, \$5,000 to fly in participants, reserve a meeting facility, and hire a facilitator; \$10,000 to maintain an administrative process to monitor compliance; and \$8,000 for the presentation), and describe any indirect costs as well.
- 7) The NASD also requires firms to comply with continuing education requirements, which include a Regulatory Element and a Firm Element. Does your firm hold the annual compliance conference in conjunction with a Firm Element meeting? Why or why not?

### Branch Offices

- 1) NASD Rule 3010(g)(2) generally defines a branch office as any location identified to the public as a place where a member conducts a securities business. How many branch offices does your firm have under this Rule?
- 2) How many of your *non*-branch locations have:
  - a) One registered person
  - b) Two registered persons
  - c) Three registered persons
  - d) Four or more registered persons
- 3) If the States adopt a uniform definition of branch office (for example, a location identified to the public as a place of business OR that has *two* or more registered persons) and your firm is able to register them through the CRD, would the benefits of uniformity and central registration outweigh the costs if the definition were to create additional branch offices of your firm?

### **Forwarding Materials**

- 1) Should NASD Rule 2260 be expanded to permit members to forward proxy materials, annual reports, information statements, and other materials furnished by issuers to any recipient designated in writing by the beneficial owner of the security?
- 2) Does your firm directly forward these materials to beneficial owners or their designated registered investment advisers, or has the firm contracted with a third-party distribution company to handle the mailings?
- 3) Would your firm need to modify its technology or software systems if NASD Rule 2260 were modified as described in Question 1? If so, what are the changes and associated costs?
- 4) What additional costs or burdens will your firm incur in forwarding materials furnished by issuers to any recipient designated by the beneficial owner?
- 5) Would the costs of implementing this proposal be offset if other self-regulatory organizations (e.g., the New York Stock Exchange) adopt a similar rule change?