

Notice to Members

AUGUST 2004

SUGGESTED ROUTING

Legal & Compliance
Registered Representatives
Senior Management

KEY TOPICS

Obsolete Rules
Rule 3400 Series

GUIDANCE

Deletion of Obsolete Rules

SEC Announces Immediate Effectiveness of the Deletion of IM-2210-4(b) and Rule Series 3400 as Obsolete;
Effective Date: August 10, 2004

Executive Summary

The Securities and Exchange Commission (SEC) has announced the immediate effectiveness of an amendment to delete as obsolete IM-2210-4(b) (Certification of Membership) and Rule Series 3400 (Computer Systems). The rule change is immediately effective on its August 10, 2004 filing date.

The text of the amendment is set forth in Attachment A.

Questions/Further Information

Questions concerning this *Notice* may be directed to Patricia Albrecht, Assistant General Counsel, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8026.

Discussion

NASD recently repealed IM-2210-4(b) and the Rule 3400 Series as obsolete rules. Specifically, IM-2210-4(b) provides that, upon request to NASD, a member may receive an appropriate certification of membership. However, because NASD no longer issues Membership Certifications, IM-2210-4(b) is no longer necessary.

Additionally, Rule 3420 (Mandatory Decimal Pricing Testing), the sole remaining rule in the Rule 3400 Series,¹ is also unnecessary. Rule 3420 was enacted to require clearing firms and market makers that are NASD members to conduct or participate in the securities industry's decimalization pricing tests. Such testing was required by NASD in compliance with the SEC's order for certain securities industry participants to develop plans for the initial, and now completed, conversion to decimal pricing.²

On August 10, 2003, NASD filed with the SEC a rule filing that became immediately effective deleting these obsolete rules from the *NASD Manual*.

Endnotes

1 The only other rule in the series, Rule 3410 (Mandatory Year 2000 Testing), automatically expired by its own terms on January 1, 2001, and has already been deleted from the Rule 3400 Series.

2 *Order Directing the Exchanges and NASD to Submit a Decimalization Implementation Plan*, Securities Exchange Act Rel. No. 42360 (Jan. 28, 2000).

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ATTACHMENT A

New text is underlined; deletions are in brackets.

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IM-2210-4. Limitations on Use of NASD's Name

[(a) Statements of Membership]

Members may indicate NASD membership in conformity with Article XV, Section 2 of the NASD By-Laws in one or more of the following ways:

(1) in any communication with the public, provided that the communication complies with the applicable standards of Rule 2210 and neither states nor implies that NASD or any other regulatory organization endorses, indemnifies, or guarantees the member's business practices, selling methods, the class or type of securities offered, or any specific security;

(2) in a confirmation statement for an over-the-counter transaction that states: "This transaction has been executed in conformity with the NASD Uniform Practice Code."

[(b) Certification of Membership]

Upon request to NASD, a member will be entitled to receive an appropriate certification of membership, which may be displayed in the principal office or a registered branch office of the member. The certification shall remain the property of NASD and must be returned by the member upon request of the NASD Board or its Chief Executive Officer.]

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[3400. COMPUTER SYSTEMS]

[3420. Mandatory Decimal Pricing Testing]

[(a) Clearing firms and market makers of the Association must conduct or participate in the testing of their computer systems to ascertain decimal pricing conversion compatibility of such systems in such manner and frequency as the Association may prescribe.]

[(b) Every clearing firm and market maker required by the Association to conduct or participate in testing of computer systems shall provide to the Association such reports relating to the testing as the Association may prescribe.]

[(c) Clearing firms and market makers shall maintain adequate documentation of tests required pursuant to this Rule and the results of such testing for examination by the Association.]