

Notice to Members

DECEMBER 2004

SUGGESTED ROUTING

Legal & Compliance
Registered Representatives
Senior Management

KEY TOPICS

Advertising Regulation Department
Advertising Review Charges
Rule 2210 and Interpretations
Schedule A to the NASD By-Laws

GUIDANCE

Advertising Fees

Amendments to Section 13 of Schedule A to the NASD By-Laws Governing the Review Charge for Advertisement, Sales Literature, and Other Such Material Filed with or Submitted to NASD;

Implementation Date: January 1, 2005

Executive Summary

NASD has filed for immediate effectiveness amendments to Section 13 of Schedule A to the NASD By-Laws governing the review charge for advertisement, sales literature, and other such material filed with or submitted to NASD. The amendments raise the review charge for printed material and video or audio media from \$75.00 to \$100.00.¹

Included with this *Notice* is Attachment A, the text of amended Section 13.

Questions/Further Information

Questions concerning this *Notice* may be directed to Thomas A. Pappas, Associate Vice President, Advertising Regulation Department, at (240) 386-4500.

Background and Discussion

The Advertising Regulation Department (Department) is responsible for ensuring that all NASD member firms' communications with the public are fair, balanced, and not misleading. The mission of the Department, as provided in Rule 2210 and the Interpretations issued thereunder, is to ensure that all member communications with the public, including advertisements, sales literature, and correspondence, are based on principles of fair dealing and

good faith, are fair and balanced, and provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service. Among other things, the Department reviews member communications with the public for false, exaggerated, unwarranted, misleading statements or claims, and exaggerated or unwarranted claims, opinions, or forecasts.

The amendments to Section 13 raise the minimum fee that may be charged by the Department for reviewing each and every item of advertisement, sales literature, and other such material, whether in printed, video, or other form, filed with or submitted to NASD (except for items that are filed or submitted in response to a written request from the Department issued pursuant to the spot check procedures set forth in NASD's Rules) from \$75 to \$100.² A recent analysis of the Department's operating and technology costs, which showed that NASD's costs have increased significantly due to increased responsibilities, economic conditions and the need for enhanced technology. The raise in the review charge from \$75.00 to \$100.00 is designed to offset these cost increases. This rate change will be implemented on January 1, 2005.

Endnotes

1. SR-NASD-2004-187.
2. The filing fee for expedited review remains \$500 plus \$25 for every page over 10 pages.

ATTACHMENT A

SCHEDULE A TO NASD BY-LAWS

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Section 13 — Review Charge for Advertisement, Sales Literature, and Other Such Material Filed or Submitted

There shall be a review charge for each and every item of advertisement, sales literature, and other such material, whether in printed, video or other form, filed with or submitted to NASD, except for items that are filed or submitted in response to a written request from NASD's Advertising Regulation Department issued pursuant to the spot check procedures set forth in NASD's Rules as follows: (1) for printed material reviewed, [\$75.00] \$100.00, plus \$10.00 for each page reviewed in excess of 10 pages; and (2) for video or audio media, [\$75.00] \$100.00, plus \$10.00 per minute for each minute of tape reviewed in excess of 10 minutes.

Where a member requests expedited review of material submitted to the Advertising Regulation Department there shall be a review charge of \$500.00 per item plus \$25 for each page reviewed in excess of 10 pages. Expedited review shall be completed within three business days, not including the date the item is received by the Advertising Regulation Department, unless a shorter or longer period is agreed to by the Advertising Regulation Department. The Advertising Regulation Department may, in its sole discretion, refuse requests for expedited review.

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