

# Notice to Members

AUGUST 2005

## SUGGESTED ROUTING

Executive Representative  
Senior Management  
Institutional  
Internal Audit  
Legal & Compliance  
Operations  
Registration  
Systems

## KEY TOPICS

Business Continuity  
Disaster Recovery  
Emergency Preparedness  
Rule 3012 (Supervisory Control  
Systems)

## GUIDANCE

### Guidance to Members Affected by Hurricane Katrina

#### Executive Summary

Due to the recent tragic events resulting from Hurricane Katrina, NASD is aware that members with offices in the affected areas are concerned with a number of regulatory and compliance issues. In this regard, NASD is providing guidance on these issues, including guidance on emergency office relocations, continuing education requirements for registered personnel, registered personnel engaged in active military duty, books and records, the handling of customers' funds and securities, and customer communications.

#### Questions/Further Information

Questions or comments concerning this *Notice* may be directed to Daniel M. Sibears, Executive Vice President and Deputy, Member Regulation, at (202) 728-6911 or Patricia Albrecht, Assistant General Counsel, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8026.

#### Discussion

##### Emergency Office Relocations

To relocate displaced personnel, members not impacted by Hurricane Katrina are encouraged to make office space available and to otherwise assist those who have been recently displaced. If a member relocates displaced personnel to a temporary location that is not currently registered as a branch office or identified as a regular nonbranch location, members should use their best efforts to provide written notification to NASD as soon as possible after establishing a new temporary office or space sharing arrangement, to include at minimum: the office address, the entities involved, the names of registered personnel, a contact phone number and, if possible, the expected duration. The notification should also indicate whether the space sharing arrangement is with an organization in a securities or kindred business.

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Members designated to the New Orleans District Office may direct inquires to any of three NASD District Offices as follows:

Dallas District Office (972) 701-8554  
Florida District Office (561) 443-8000  
Atlanta District Office (404) 239-6100

#### **Form U-4**

The requirement to maintain updated Form U-4 information (e.g., office of employment address) for registered employees affected by the referenced relocations associated with this event will be temporarily suspended. In addition, it is not necessary to submit branch office applications for any newly opened temporary office locations or space sharing arrangements established as a result of recent events.

#### **Books and Records Maintained at the Affected Locations**

Members that maintained books and records at the affected locations should make every effort to retrieve or back-up such records. If any such records were permanently destroyed, a list of the types of books and records required to be maintained pursuant to NASD Rule 3110 and Exchange Act Rules 17a-3 and 17a-4 must be prepared. The list should include the time periods affected, but need not include records that can be recreated from an electronic database or that can be retrieved otherwise from a service bureau, back-up records storage facility, etc. All such lists must be submitted to the contact information listed above as soon as possible, but no later than October 30, 2005. If you are unable to meet this time frame, please contact NASD at the aforementioned contact information.

#### **Customer Funds and Securities**

As soon as possible, members should determine the dollar amount of any customer checks or securities held at affected business offices that cannot be located or accounted for. This information should be provided, in writing, to NASD using the previously provided contact information. In areas where postal service has been suspended or the firm is concerned about the customer's ability to receive mail, NASD will not object to interim solutions to dealing with customer dividend, interest and similar cash payments. See the U.S. Postal Web Site for further information on areas with disrupted or suspended mail service at <http://www.usps.com/communications/news/serviceupdates.htm?from=bannercommunications&page=katrina>.

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In instances where a nonbranch location or branch office has been relocated or customer calls are being rerouted to another office, we understand that firms may need to deviate from standard operating procedures to accommodate customers who need to access their funds. Procedures that generally require written letters of authorization to move funds or direct a check to a third party address may be waived but firms should exercise as much due diligence as possible in validating the identity of the customer as well as provide heightened supervision of these accounts. Validating the identity of customers remains each member's responsibility.

Members should also review their supervisory control policies and procedures to ensure that the policies and procedures relating to the transmittal of customer funds, customer change of address and increased requests for hand delivery of checks are adequate after considering changes to normal operations. Supervisory control policies and procedures should be considered that will mitigate risk that may arise due to reduced ability to communicate with customers, inability to rely on mail, or other disruption to the existing controls. Please consult Rule 3012 (Supervisory Control Systems) for further guidance.

Members that clear for introducing firms who are unable to conduct business are encouraged to accept liquidating orders from customers so that customers' access to funds is not restricted.

#### **Credit Regulation**

NASD will be accepting margin extensions on a case-by-case basis for reason code "Acts of God," for customers located in regions affected by the hurricane. Please contact Financial Operations at (240) 386-5156 prior to transmission.

#### **Confirmations and Customer Statements**

NASD will not object to members holding confirmations, statements, and other communications or notices on behalf of those customers located in the affected areas for a period not to exceed 90 calendar days, or until further notice. Members must exercise appropriate supervisory review of the accounts affected, maintain a log of those accounts whose mail is being held, and notify the customer that those communications are being held on their behalf, as soon as possible. If additional time is required beyond 90 calendar days, please contact NASD using the contact information provided above.

#### **Customer Communication**

Members are encouraged to promptly place a notice on their Web sites that indicates to affected customers whom they may contact concerning their accounts, access to funds or securities, etc. If feasible, members should consider the activation of toll free numbers dedicated to responding to customers.

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### **Business Continuity and Contingency Plans**

A member affected by Hurricane Katrina should contact NASD to discuss those business continuity and contingency plan actions implemented to address any problems that have resulted.

### **Qualifications Examinations and Continuing Education**

NASD is extending continuing education requirements and qualifications examination windows for candidates who reside in a Louisiana, Mississippi or Alabama county or parish declared a "major disaster" by the federal government. Registered representatives who have a qualifications examination or a continuing education window due to expire in September or October will have their windows extended to November 30, 2005. As more information becomes available, additional extensions may be provided. Please contact NASD Field Support Services at (800) 999-6647 with any questions or if you require additional information on test center status in these areas.

### **Information for Applicants for NASD Membership and Existing Member Firms**

NASD is currently unable to access its offices in New Orleans to retrieve membership application files. As a result, we are working to contact firms that have applications pending with the New Orleans District Office. Due to disruption in telephone service, among other things, we have not been able to reach all applicants. Accordingly, we may request that applicants assist us in re-constructing their application files at the appropriate time. NASD remains committed to working through membership applications so that decisions on applications may be issued as quickly as possible. If you wish to begin gathering and forwarding the information prior to being contacted by NASD, you may do so. In the event that an application was submitted on or around Monday, August 29, 2005, it may not have been received, so please feel free to re-file such applications in their entirety, or contact us for assistance at: NASD, 12801 North Central Expressway, Suite 1050, Dallas, TX 75243.

### **Military Personnel & National Guard**

NASD By-Laws provide specific relief to NASD registered persons engaged in the investment banking and securities business who volunteer or are called into active military duty. Under Interpretive Material 1000-2, such persons will be placed in a specially designated "inactive" status once NASD is notified of their military call-up, but will remain registered for NASD purposes. Such persons will remain eligible to receive transaction-related compensation, including continuing commissions, because they remain registered with a firm while on inactive status. Also, an employing firm may allow a registered person on inactive status to enter into an arrangement with another person registered with the employing firm to service his or her accounts and to share in commissions generated by those accounts. However, such a person on inactive status may not perform any duties of a registered person. In addition, dues and assessments

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identified in Article VI of the NASD By-Laws will be waived for such persons. Member firms should notify NASD of such events by mailing or faxing to the Registration and Disclosure Department a letter (on firm letterhead) identifying the name and CRD number of the person called into active duty, the name and CRD number of the firm (or firms) with whom the person is associated, the date the firm received notification from the individual, and a copy of the official call-up notification. Member firms should mail letters notifying NASD of military call-ups to NASD Registration and Disclosure Department, P.O. Box 9495, Gaithersburg, MD 20898-9495 or fax them to (240) 386-4751. If you have questions about this process, please call the Gateway Call Center at (301) 590-6500. For more information view our Active Military Leave Guidance Web page at [http://www.nasd.com/web/ldcplg?ldcService=SS\\_GET\\_PAGE&ssDocName=NASDW\\_005228&ssSourceNodeId](http://www.nasd.com/web/ldcplg?ldcService=SS_GET_PAGE&ssDocName=NASDW_005228&ssSourceNodeId).

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