

Notice to Members

OCTOBER 2005

SUGGESTED ROUTING

Continuing Education
Legal & Compliance
Operations
Registered Representatives
Registration
Senior Management
Training

KEY TOPICS

Branch Office Registration
Central Registration Depository (CRD® or Web CRD)
Form ADV
Form BR (Uniform Branch Office Registration Form)
Form U4 (Uniform Application for Securities Industry and Transfer)
Form U5 (Uniform Termination Notice for Securities Industry Registration)
Investment Adviser Registration Depository (IARD®)
NYSE Branch Office Application Form

GUIDANCE

Branch Office Registration

SEC Approves Uniform Branch Office Registration Form (Form BR) and Conforming and Technical Changes to Forms U4 and U5; **Effective Date: October 31, 2005**

Executive Summary

The Securities and Exchange Commission (SEC) has approved the Form BR and technical changes to the Form U4 and Form U5.¹ The Form BR replaces Schedule E of the Form BD, the current New York Stock Exchange, Inc. (NYSE) Branch Office Application Form and certain state branch office forms, and will enable firms to register branch offices electronically with NASD, the NYSE and states that require branch registration or reporting via a single filing through the CRD system.

This *Notice* gives an overview of the new Form BR and revisions to the Forms U4 and U5. The *Notice* also provides members with a timetable and guidance to assist them in the transition from existing branch forms to the Form BR. Copies of the new forms are available on NASD's Web site at www.nasd.com/crdbranchoffice.

The new Form BR and the revised Forms U4 and U5 become effective on **October 31, 2005**. However, as described below, NASD will begin the transition process to the Form BR for branch offices in existence as of the close of business on **October 14, 2005**.

Questions/Further Information

Questions concerning this *Notice* may be directed to Chip Jones, Vice President, Registration and Disclosure (RAD), at (240) 386-4797; Richard E. Pullano, Associate Vice President/Chief Counsel, RAD, at (240) 386-4821; or Stefanie M. Watkins, Senior Counsel, RAD, at (240) 386-4824.

Background and Discussion

Branch Registration and Reporting

The Form BR replaces Schedule E of the Form BD, the current NYSE Branch Office Application Form, and certain state branch office forms. Consistent with the uniform form concept, the Form BR will enable firms to register or report² branch offices electronically with NASD, the NYSE, and states that require branch registration or reporting, via a single filing through the CRD system.³ Branch office registration through the CRD system will create efficiencies for firms by, among other things, making it easier for firms to register or report branch offices and to manage their ongoing registration and/or reporting responsibilities with regard to those branch offices. For example, in addition to being able to submit a single filing to fulfill the branch office registration requirements of NASD, the NYSE and states, firms will benefit from the centralized fee collection, online work queues, electronic notifications and other features available through the CRD system.

In preparation for the transition to the Form BR, NASD has been working with participating regulators and firms to identify existing branch offices for participating SROs and jurisdictions. As further detailed below, to assist firms in making the transition to the Form BR, NASD will use data previously filed on Schedule E, the NYSE Branch Office Application Form, and/or state branch office forms to create a "conversion" Form BR on the CRD system for all branch offices in existence as of the close of business on October 14, 2005.

Timetable for the Transition to the Form BR

October 14, 2005 is the last day NASD member firms may file a new or amended Schedule E through the CRD system. The CRD system will invalidate any new Schedule E filings or amendments to Schedule E that are in a "pending" status on October 15, 2005.⁴ For information regarding the NYSE's filing protocols during the Form BR transition, see www.nyse.com. For information on state filing protocols for transitioning to Form BR, see www.nasaa.org.

"Lock-out" Period (October 15, 2005 through October 30, 2005). There will be a two-week lock-out period beginning October 15, 2005 through October 30, 2005, so that NASD can begin the transition process to the Form BR for branch offices in existence as of the close of business on October 14, 2005. During the lock-out period, NASD will create a conversion Form BR on the CRD system for all branch offices in existence as of the close of business on October 14, 2005. NASD will assign a unique branch CRD number to each of these branches and pre-populate the conversion Forms BR with limited information for each of these branches.⁵ During this lock-out period, the CRD system will not accept any branch office forms or amendments via any of the current forms or Form BR.

Form BR Availability (starting on October 31, 2005). Starting on October 31, 2005, the new branch office functionality will be available in the CRD system, and firms will be able to file Forms BR for each of their branch offices. Beginning on that date, firms with branch offices in existence prior to the close of business on October 14, 2005 may: (1) complete the data fields for each conversion Form BR created by NASD during the lock-out period, and (2) file the completed Forms BR through CRD.

Also, starting on October 31, 2005, firms may register any new branch offices opened during the lock-out period or thereafter (*i.e.*, branch offices established on or after October 15, 2005).

In addition, firms will be able to amend Forms U4 to assign each registered person to a registered branch office. Firms may assign registered persons to branches by means of either individual Form U4 filings or an electronic file transfer (*i.e.*, a "batch" filing) established exclusively for this purpose. See www.nasd.com/crdbranchoffice for more details on the available filing alternatives.

Compliance with Form BR and Form U4 Filing Requirements for Branch Offices in Existence as of the Close of Business on October 14, 2005 (May 1, 2006 deadline). Firms with branch offices in existence prior to the close of business on October 14, 2005 will have until May 1, 2006 to comply with the Form BR and Form U4 filing requirements for those branch offices. Therefore, by May 1, 2006, these firms must have: (1) completed and filed the conversion Form BR for each such branch; and (2) with respect to the registered persons employed by such branches, amended all applicable Forms U4 to assign these registered persons to the branch office(s) (or other locations) from which they work (either through individual Form U4 filings or via batch filing described above).

Compliance with Form BR and Form U4 Filing Requirements for Branch Offices Established On Or After October 15, 2005. Starting on October 31, 2005, firms must file a Form BR to register any new branch office opened on or after October 15, 2005.⁶ Once a firm has filed a Form BR, the new branch will be established on the CRD system, and CRD will automatically populate the "Office of Employment Address" of the Form U4 for each person identified in Section 5 (Associated Individuals) of the Form BR. Individuals identified in this section will populate a dynamic "branch roster" of registered persons in CRD. After filing the initial Form BR, firms will be required to submit amended or new Forms U4, as appropriate, to assign additional registered persons to the branch, and the CRD system will automatically update the "branch roster" of registered persons in Web CRD.⁷

The Form BR

Types of Filings

There are three types of Form BR filings. Firms may make (1) an “initial” filing (to apply for approval of or report a branch office), (2) an “amendment” filing (to amend information previously filed), and (3) a “closing/withdrawal” filing (to terminate a branch office registration and/or to withdraw an initial filing prior to approval by a state or SRO). The Form BR *General Instructions* include electronic filing and paper filing instructions. Paper filings are permitted in certain state jurisdictions only.⁸ The *Specific Instructions* describe how firms should complete each section of the Form BR. Words that are defined in the *Explanation of Terms* section are italicized throughout the Form BR for easy reference. The Form BR adopts, to the extent possible, the “explained terms” used on the existing uniform registration forms. The Form BR also includes definitions of additional terms used in the context of branch office registration and reporting, including the terms “closing,” “person-in-charge,” “regular branch,” “small branch,” “supervisor” and “withdrawal.”⁹

Description of the Form BR

As described below, the Form BR consists of the following nine sections:

Section 1 (General Information):

Section 1 reports the applicant’s CRD Number, name, address, billing code, branch address and telephone number. Using information provided to the CRD system on Form BD, or to IARD on Form ADV, NASD will pre-populate the applicant/firm’s CRD Number and main office address. The CRD system will assign a unique CRD Branch Number. Firms must provide the physical location (*i.e.*, address), and telephone number of the branch. If the firm is an NYSE member firm, it must also provide an NYSE Branch Code Number, and may provide an internal billing code (the billing code field is optional).

Section 2 (Registration/Notice Filing/Type of Office):

Section 2 asks the applicant to state where the branch will be registered (or notice filed), the type of branch office registration and whether it is an NASD office of supervisory jurisdiction (OSJ). If it is not an OSJ, the applicant is required to provide the CRD Branch Number of the OSJ that has supervisory responsibility over the branch and the CRD Number of the supervisor in charge of that OSJ.

Based upon the applicant's current registrations as provided to CRD on Form BD or as provided to IARD on Form ADV, the CRD system will pre-populate the checkbox(es) for the applicable SRO(s) and/or jurisdiction(s) with which the applicant may be required to register or report the branch office. If the applicant is not required to register or report the branch office with an SRO and/or jurisdiction, it may remove the registration request. If a firm unchecks the NYSE registration box, the firm must attest "that it is not required under NYSE rules to register this branch information location with the NYSE." If the applicant is registering the branch with a jurisdiction, it must indicate whether it is a broker-dealer and/or investment adviser. Firms must also provide the names of all supervisors and/or persons-in-charge.

Section 3 (Types of Activities/Other Business Names/Web Sites):

Firms must name the financial industry activities conducted by the applicant and any investment-related activities conducted by associated persons at the branch location. Firms must also provide the names being used by any associated person to conduct financial industry business at the branch office other than those names disclosed on the member firm's Form BD or Form ADV. In addition, firms must provide Web site addresses used by the branch office other than the applicant's primary Web site address.

Section 4 (Branch Office Arrangements):

Firms must provide information relating to branch office arrangements, including space-sharing arrangements and liability for expenses. Section 4 does not require member firms to report insurance agency agreements with the main office pursuant to which the branch operates.

Section 5 (Associated Individuals):

Firms are required to complete this section only when making an initial Form BR filing. In such cases, firms must provide the CRD numbers of all registered individuals who will be associated with the branch. "Associated individuals" who are supervisors or persons-in-charge should be reported in Section 2 (Registration/Notice Filing/Type of Office). Individuals identified by a firm in this section will populate a dynamic branch roster of registered persons in Web CRD, which will be made available to that firm. Once the branch has been established, changes to the branch roster will be automatically made through Web CRD when (1) the "Office of Employment Address" question on a registered person's Form U4 is amended when an individual leaves a branch for another branch,¹⁰ or (2) a Form U5 is filed to terminate the registration of that individual.

Section 6 (NYSE Branch Information):

With respect to NYSE member firms, the Form BR incorporates the information previously elicited on both the NYSE's Branch Office Application and office space-sharing forms. The CRD system will interact with the NYSE's internal branch office system when firms submit NYSE branch office registration filings and provide NYSE staff with the opportunity to review such filings. The NYSE's current protocol for requesting approval for new branch offices will not change; NYSE member firms will be required to use the Form BR to request such approvals, and the information provided by NYSE member firms will be transmitted to the NYSE, which, in turn, will communicate its determinations (e.g., approvals) back through the CRD system.¹¹ Only NYSE member firms will be able to access (i.e., view/file/complete) questions in Section 6 (NYSE Branch Information).

Section 7 (Branch Closing):

To close a branch office, firms must provide the date operations ceased (or will cease), the location of the branch's books and records and contact information. Prior to closing a branch, the CRD system will require firms to reassign the individuals associated with that branch to another branch or to terminate their registrations.

Section 8 (Branch Withdrawal/Pending Application):

To withdraw a pending request for branch office registration, firms must provide the date of withdrawal, the reason for the withdrawal, and name and telephone number of the contact person.

Section 9 (Signature):

The appropriate signatory of the firm must attest to the completeness and accuracy of the Form BR filing by executing the signature section.

Forms U4 and U5 Conforming and Technical Changes

Effective October 31, 2005, NASD also is implementing CRD system enhancements and Forms U4 and U5 changes to parallel the information reported on Form BR, and to ensure the accuracy and integrity of the link between registered representatives and their branches.¹² These changes will enable member firms to more effectively designate, and users to more easily identify, the branch office(s) to which a particular registered representative is assigned by ensuring that a registered person's Office of Employment Address in the "General Information" section of the Form U4 is a branch office established on the CRD system via Form BR. If a registered person is physically located at an office that is not required to be registered as a branch, the individual must provide the address of the non-registered location, and the branch office that supervises the non-registered location. Firms may file an amended Form U4 to reflect a change to an individual registered person's branch office assignment by noting the new branch in that person's Office of Employment Address (provided the new branch office has been previously established on the CRD system through the filing of Form BR).

NASD plans to assist firms in completing the process of linking registered persons to branch offices in the CRD system by May 1, 2006, by enabling firms to submit electronic data files (*i.e.*, batch files) through a process established by NASD exclusively for this purpose. Firms making such submissions will be asked to provide the CRD numbers of a firm's registered persons, along with the CRD branch number that corresponds to the registered person's Office of Employment Address. Because the Form U4 is being amended to include a new question eliciting whether a registered person is an independent contractor, member firms may also indicate whether the registered person is an independent contractor in this data file. For more information about these procedures, please see www.nasd.com/crdbranchoffice.

During the conversion (lock-out) period, individuals registered with firms that have not registered or reported any branch offices as of the close of business on October 14, 2005, will be assigned by the CRD system to the firm's main office as reported on the Form BD or Form ADV. Firms will be able to report a new Office of Employment Address for multiple registered persons assigned to a branch office that has moved to a new location by filing an amended Form BR (rather than filing Form U4 amendments for each of the registered persons affected).

The registration positions of Research Analyst (RS) and Research Principal (RP) have been added to Forms U4 and U5. In addition, the following Pacific Stock Exchange positions were added: Market Maker (44); Floor Broker (45); and Market Maker acting as a Floor Broker (46). The Forms also include reference to the National Stock Exchange (NSX) (formerly Cincinnati Stock Exchange (CSE)). Finally, Section 6 (Regulatory Requests with Affiliated Firms) on Form U4 has been revised to reorder in a more logical format the electronic filing representations for submitting a fingerprint for registration with an affiliated firm.

Endnotes

- 1 See Exchange Act Release No. 52544 (September 30, 2005) (Order Granting Approval of Proposed Rule Change Relating to Proposed Form BR (Uniform Branch Office Registration form) and Conforming Changes and Technical Revisions to the Form U4 and Form U5); File No. SR-NASD-2005-030) (SEC Approval Order).
- 2 Although these terms may be used interchangeably by self-regulatory organizations (SROs) and/or states, "registration" typically refers to a process that requires an approval by the SRO or state before a branch may begin doing business, whereas "reporting" typically refers to a process by which firms "notice file" or notify an SRO or state of the existence of a branch office, but an approval is not required.
- 3 For information on which states will accept Form BR for branch office registration, see the North American Securities Administrators Association (NASAA) Web site at www.nasaa.org.
- 4 CRD will invalidate any Schedule E filing that has been started, but not filed, through CRD by the close of business on October 14, 2005.
- 5 The conversion process will download the following fields from existing data in CRD or IARD, as well as data provided from the NYSE and participating states: Branch Address, NASD Branch Number, NYSE Branch Code Number, NYSE Branch Type, NASD/NYSE Supervisor/Person-In-Charge Name and CRD Number, Operational Status and NYSE/Jurisdiction Registration Status.
- 6 Article IV, Section 8 of the NASD By-Laws requires firms to report the opening of a branch office not later than 30 days after the branch is opened.
- 7 Article V, Section 2 of the NASD By-Laws requires amendments to the Form U4 to be filed within 30 days after learning of the facts or circumstances giving rise to the amendment. The Specific Instructions for completing the Form U4, as amended, address procedures for updating the Form U4 to include all branch office addresses at which the individual is employed.
- 8 For information on which states require or permit paper filings of Form BR, see NASAA's Web site at www.nasaa.org.
- 9 Certain of these terms were included in the NYSE Branch Office Application Form.
- 10 The new branch office must be one that has been established on the CRD system through the filing of a Form BR.
- 11 Questions concerning the NYSE's branch office procedures should be addressed to Evelyn Kriegel, Director, NYSE, at (212) 656-6444.
- 12 The Form U5 Specific Instructions have been amended under Section 1 (General Information) and Section 6 (Registration Requests with Affiliated Firms) to clarify that the Office of Employment address will pre-populate based on information provided on a Form U4.

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