

Notice to Members

MAY 2007

SUGGESTED ROUTING

Legal and Compliance
Operations
Senior Management
Service Bureaus/Providers

KEY TOPICS

Form NMA
New Member Applications
Rule 1012
Rule 1013
Standardized Online Application Form

GUIDANCE

New Member Applications

NASD Amends Rules 1012 and 1013 to Require Applicants for Membership to Submit Applications Using Online Form NMA; **Implementation Date: May 7, 2007; Compliance Date: May 31, 2007**

Executive Summary

NASD is issuing this *Notice* to inform members and applicants for membership of amendments to Rules 1012 (General Provisions) and 1013 (New Member Application and Interview) to require that applicants submit Form NMA electronically.

The rule change, which was filed with the Securities and Exchange Commission (SEC), became effective upon filing.¹ The implementation date of the amendment and the date upon which applicants may begin using the online Form NMA to apply for NASD membership is May 7, 2007. **All applicants must begin using the online Form NMA by May 31, 2007.**

Questions/Further Information

Questions regarding this *Notice* may be directed to J. Barron Knight, Special Counsel, Office of Regulation Policy, NASD Department of Member Regulation, at (202) 728-8070.

Background and Discussion

To streamline the membership application process and outline clearly the information that must be submitted with the application, NASD previously amended Rule 1013 (New Member Application and Interview) to require applicants to use a standardized form, Form NMA, to submit their membership applications.² The Form NMA is organized according to the 14 individual standards for membership enumerated in Rule 1014 (Department Decision) and assists applicants in compiling a complete application package by identifying the information and supporting documentation required by Rule 1013. Applicants currently submit Form NMA in hard copy to NASD, along with the required forms and supporting documentation, via hand delivery, courier or first-class mail.

NASD is now implementing Online Form NMA and the new electronic application submission process.³ This new process does not change the information applicants must submit pursuant to Rule 1013 or the standards set forth in Rule 1014 for granting an applicant's membership application.

To effect this change to an electronic application system, NASD has amended Rules 1012 and 1013 to require applicants to file an application in the manner prescribed by NASD and today is prescribing that an application for member be filed electronically.⁴ NASD has also amended Rule 1012(a) (Filing by Applicant or Service by NASD) to reflect that the electronic filing of a new member application will be deemed complete on the date specified on the confirmation page generated by the electronic filing system (EFS).⁵ In addition, NASD has amended Rule 1013(a) to require new member applicants to include the completed online Form NMA as part of the contents of a membership application.⁶ This move away from a paper new member application to an electronic application will further streamline and make the new member application process more efficient.⁷

Form NMA Participant Guide

NASD has published the "New Membership Application Form NMA Participant Guide" (Guide), which applicants can access on NASD's Web site at www.nasd.com/OnlineFormNMA/instructions. The Guide has been developed to provide applicants with detailed instructions necessary to input information and electronic documents into the online Form NMA. The Guide will not instruct, give guidance to or advise the applicant regarding the sufficiency of the information entered into the online Form NMA. Questions regarding technical requirements may be directed to NASD's Gateway Call Center at (301) 590-6500.

Electronic Filing System (EFS)

Applicants can access the online Form NMA and EFS directly at www.nasd.com/OnlineFormNMA. Before entering the EFS, the applicant will have to create an account through the self-registration process. The EFS will allow the applicant to upload documents into the online Form NMA, print out the online Form NMA and save the online Form NMA in draft form and return to it later. The EFS will also allow the applicant to review the completed online Form NMA before it is submitted to ensure completeness and accuracy. The EFS will not allow applicants to submit the online Form NMA until all parts of the application have been completed.

Additional Application Materials

Applicants should be aware that some mandatory items, such as the Form BD, fingerprint cards, new member assessment report and CRD entitlement forms cannot be submitted through EFS. Those items and the membership application fee will still need to be submitted via first class mail, overnight courier or hand delivery.⁸ Information and/or forms for the above-mentioned items can be obtained either through the links in the online Form NMA or on the NASD Web site, as indicated below:

- Form BD: www.nasd.com/CRD/formBD
- New Member Assessment Report: via online Form NMA under Standard 2, Number 7, or at www.nasd.com/becomeamember/assessment
- CRD Entitlement Forms: via online Form NMA under Standard 2, Number 13, or at www.nasd.com/entitlementagree and www.nasd.com/entitlementforms
- Fingerprint cards: via online Form NMA under Standard 2, Number 5, or at www.nasd.com/CRD/e-fingerprint_vendors

After an applicant has completed the online Form NMA and has submitted all the items that can be submitted electronically, EFS will generate a confirmation page that will provide the address of where to submit the membership fees and those items that cannot be submitted electronically. The fees and items must be submitted via first-class mail, overnight courier or hand delivery.

The implementation date of the rule amendment is May 7, 2007. Accordingly, all new membership applications submitted on or after that date can be submitted via the EFS using the online Form NMA. The compliance date is May 31, 2007. Accordingly, all new membership applications submitted on or after May 31 must be submitted via the EFS using the online Form NMA.

Endnotes

- 1 See Securities Exchange Act Release No. 55412 (March 7, 2007), 72 FR 11414 (March 13, 2007) (SR-NASD-2007-015).
- 2 See Securities Exchange Act Release No. 53564 (March 29, 2006), 71 FR 16847 (April 4, 2006) (SR-NASD-2006-038); see also *Notice to Members 06-16* (May 2006).
- 3 See Securities Exchange Act Release No. 53564 (March 29, 2006), 71 FR 16847 (April 4, 2006) (SR-NASD-2006-038).
- 4 See Rule 1012(a)(1) and Rule 1013(a)(1).
- 5 Rule 1012(a)(4)(E).
- 6 Rule 1013(a)(1)(A).
- 7 Cf. Securities Exchange Act Release No. 54654 (October 26, 2006), 71 FR 64326 (November 1, 2006) (SR-NASD-2006-60) (order approving new NASD Rule 3170 (Mandatory Electronic Filing Requirements) giving NASD the authority to require members to file or submit electronically any regulatory notice or other document that a member is required to file with (or otherwise submit to) NASD).
- 8 See Rule 1012(a)(4)(A) through (4)(C).

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ATTACHMENT A

New language is underlined, deletions are in brackets.

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1011. Definitions

Unless otherwise provided, terms used in the Rule 1010 Series shall have the meaning as defined in Rule 0120.

(a) through (g) No Change.

(h) "Interested [Association]NASD Staff"

The term "Interested [Association]NASD Staff" means an employee who directly participates in a decision under Rule 1014 or 1017, an employee who directly supervises an employee with respect to such decision, an employee who conducted an investigation or examination of a member that files an application under Rule 1017, the District Director for the relevant district, and the head of the Department.

(i) through (n) No Change.

1012. General Provisions

(a) Filing by Applicant or Service by [the Association]NASD

(1) An Applicant for membership [may]shall file an application in the manner prescribed in Rule 1013.

(2) Except where NASD has otherwise prescribed an electronic or alternative filing process, an Applicant may file an application or any document or information requested under the Rule 1010 Series by first-class mail, overnight courier, or hand delivery. If the Department and the Applicant agree, the Applicant also may file a requested document or information by facsimile.

[(2) The Association](3) NASD shall serve a notice or decision issued under the Rule 1010 Series by first-class mail on the Applicant or its counsel, unless a Rule specifies a different method of service.

~~[(3)](4)~~ For purposes of the Rule 1010 Series, [S]ervice by [the Association] NASD or filing by an Applicant shall be deemed complete as follows:

(A) Service or filing by first-class mail shall be deemed complete on the date of postmark;

(B) Service or filing by overnight courier shall be deemed complete on the date of delivery to the overnight courier as specified in the airbill;

(C) Service or filing by hand delivery shall be deemed complete on the date of receipt as evidenced by a date stamp;[and]

(D) Service or filing by facsimile shall be deemed complete on the date specified in the document and on the written confirmation of transmission[.]; and

(E) Filing by an electronic system shall be deemed complete on the date specified on the confirmation page generated by the electronic filing system.

(b) Lapse of Application

(1) No Change.

(2) If an Applicant wishes to continue to seek membership or approval of a change in ownership, control, or business operations, then the Applicant shall be required to submit a new application and fee under Rule 1013 or 1017, respectively. [The Association]NASD shall not refund any fee for a lapsed application.

(c) Ex Parte Communications

(1) The prohibitions against ex parte communications shall become effective when [Association] NASD staff has knowledge that an Applicant intends to file a written request for review by the National Adjudicatory Council under Rule 1015.

(2) Unless on notice and opportunity for an Applicant and Interested [Association]NASD Staff to participate, or to the extent required for the disposition of ex parte matters as authorized by [the]NASD Rules[of the Association]:

(A) an Applicant, a counsel or representative of an Applicant, or an Interested [Association]NASD Staff shall not make or knowingly cause to be made an ex parte communication relevant to the merits of a membership proceeding under the Rule 1010 Series to a Governor, a member of the National Adjudicatory Council or a Subcommittee thereof, or an [Association] NASD employee who is participating or advising in a decision of such a person with respect to that proceeding; and

(B) a Governor, a member of the National Adjudicatory Council or a Subcommittee thereof, or an [Association]NASD employee who is participating or advising in the decision of such a person with respect to a membership proceeding shall not make or knowingly cause to be made to an Applicant, a counsel or representative of the Applicant, or an Interested [Association]NASD Staff an ex parte communication relevant to the merits of that proceeding.

(3) A Governor, a member of the National Adjudicatory Council or a Subcommittee thereof, or an [Association]NASD employee participating or advising in the decision of such a person, who receives, makes, or knowingly causes to be made a communication prohibited by this paragraph shall place in the record of the membership proceeding:

(A) through (C) No Change.

(d) through (e) No Change.

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1013. New Member Application and Interview

(a) Filing of Application

(1) ~~[Where]~~How to File

An Applicant for NASD membership shall file its application in the manner prescribed by NASD with the Department of Member Regulation at the district office in the district in which the Applicant intends to have its principal place of business as defined in Rule 1011(l). An Applicant shall submit an application that includes:

~~[(2) Contents]~~

[An Applicant shall submit an application using NASD Form NMA The application shall include:]

(A) Form NMA;

Existing (A) through (R) relabeled (B) through (S).

~~[(3)](2) [Electronic Filings]Uniform Registration Forms~~

Upon approval of the Applicant's NASD Member Firm Account Administrator Entitlement Form, the Applicant shall submit its Forms U4 for each Associated Person who is required to be registered under NASD Rules, any amendments to its Forms BD or U4, and any Form U5 electronically via Web CRD.

~~[(4)](3) Rejection of Application That Is Not Substantially Complete~~

If the Department determines within 30 days after the filing of an application that the application is not substantially complete, the Department may reject the application and deem it not to have been filed. In such case, within the 30 day period, the Department shall serve a written notice on the Applicant of the Department's determination and the reasons therefor. ~~[The Association]~~NASD shall refund the application fee, less \$350, which shall be retained by ~~[the Association]~~NASD as a processing fee. If the Applicant determines to continue to seek membership, the Applicant shall submit a new application and fee under this Rule.

[(5)](4) Request For Additional Documents Or Information

Within 30 days after the filing of an application, the Department shall serve an initial request for any additional information or documents necessary to render a decision on the application. The Department may serve subsequent requests for additional information or documents at any time during the membership application process.

Unless otherwise agreed by the Department and the Applicant, the Applicant shall file any additional information and documents with the Department within 60 days after service of the Department's initial request and 30 days after service of any subsequent request.

(b) No Change.

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(b) Not applicable.

(c) Not applicable.

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