

Election Notice

NAC Election

FINRA Announces Nominees for Vacant Small Firm and Mid-Size Firm Industry National Adjudicatory Council Seats

Executive Summary

The purpose of this *Election Notice* is to announce FINRA's nominees for two vacancies on the National Adjudicatory Council (NAC) to be filled by one Small Firm NAC Member and one Mid-Size Firm NAC Member.

FINRA's Nominating and Governance Committee reviewed the backgrounds of potential candidates and nominated the following individuals: Thomas T. Wallace for the Small Firm NAC seat and John Muschalek for the Mid-Size Firm NAC seat. Eligible individuals who were not nominated may petition to have their name included on a ballot for a contested election by following the procedure below.

Note: This *Notice* was distributed electronically to the executive representative of each FINRA member firm and it is posted on FINRA's Web site at www.finra.org/Notices/Election/072009. Executive representatives should circulate this *Notice* to their firms' branch managers.

Questions regarding this *Election Notice* may be directed to:

- Marcia E. Asquith, Senior Vice President and Corporate Secretary, at (202) 728-8949; or
- Marc Menchel, Executive Vice President and Regulatory General Counsel, at (202) 728-8410.

July 20, 2009

Suggested Routing

- Executive Representatives
- Senior Management

Background

The NAC is appointed by the FINRA Board of Governors to review all disciplinary decisions issued by FINRA hearing panels and presides over disciplinary matters that have been appealed to or called for review by the NAC. The NAC also reviews statutory disqualification matters and considers appeals of membership proceedings and exemption requests.

Composition of the NAC

On November 6, 2008, the SEC approved a rule change to amend FINRA Regulation's By-Laws to restructure the industry representation on the NAC. Pursuant to these changes, the regionally based approach to appointing industry members to the NAC was replaced by a process that is based on firm size and is similar to the FINRA Board approach. Under the amended FINRA Regulation By-Laws, the seven industry members of the NAC shall include two Small Firm, one Mid-Size Firm, two Large Firm and two At-Large Industry NAC Members. The other members of the NAC are seven Non-Industry Members, three of whom are public.

These changes to the composition of the NAC are being phased in over three years, as the terms of the existing industry members expire.

The Nominating and Governance Committee identifies candidates for all NAC seats, including the five industry member seats that are based on firm size.

Vacancies and Terms

The term of one regionally based industry member will expire at the end of 2009, and another industry member's seat is vacant because a NAC member resigned. These two industry seats will be replaced by one Small and one Mid-Size Firm NAC Member.

The Small Firm NAC Member will be appointed to a three-year term beginning January 1, 2010.

The Mid-Size Firm NAC Member will be appointed to complete the term of the NAC member who resigned, which is scheduled to end in December 2010.

Nominees and Nomination Process

FINRA's Nominating and Governance Committee has nominated the following individuals to fill the vacant seats on the NAC:

Nominee for Small Firm NAC Member

- ▶ Thomas T. Wallace – President/CEO Johnston, Lemon & Co. Incorporated

Nominee for Mid-Size Firm NAC Member

- ▶ John Muschalek – Managing Director Clearing Services Division First Southwest Company

Profiles of the FINRA nominees are included in Attachment A.

Pursuant to Article VI, Section 6.2 of the FINRA Regulation By-Laws, a person who has not been nominated may be included on a ballot for an election to fill the open NAC seats if:

- (a) Within 45 days of the date of this *Election Notice*, such person presents to the Secretary of FINRA, in the case of petitions solely in support of such person, petitions in support of his or her nomination duly executed by three percent of the members entitled to vote (based on firm size classification) for such nominee's election or, in the case of petitions in support of more than one person, petitions in support of the nominations of such persons duly executed by ten percent of the members entitled to vote (based on firm size classification) for such nominees' election; and
- (b) The Secretary certifies that the petitions are duly executed by the executive representatives of the requisite number of members entitled to vote for such nominee's/nominees' election, and the person(s) satisfies/satisfy the classification (Large Firm, Mid-Size Firm or Small Firm) of the NAC seat to be filled, based on such information provided by the person(s) as is reasonably necessary to make the certification.

Firms may only endorse a petition candidate for an open seat that corresponds to the firm's size classification. No firm may endorse more than one such candidate.

Individuals interested in petitioning to become candidates must complete a candidate profile form (Attachment B) and submit it to FINRA's Corporate Secretary. Upon receipt of a candidate profile form, the Corporate Secretary will forward the interested individual a list of all firms eligible to endorse a candidate for that seat (based on firm size classification).

Individuals submitting petitions must provide information sufficient for the Corporate Secretary to determine that the petitions are duly executed by the executive representatives of the requisite number of small or mid-size firms by **Thursday, September 3, 2009**.

The number of FINRA small firms as of the close of business on July 17, 2009, was 4,439, and the number of FINRA mid-size firms as of the close of business on July 17, 2009, was 221. The requisite number of small firm endorsements required to meet the above-referenced threshold is 134, and the requisite number of mid-sized firm endorsements required to meet the above-referenced threshold is 7 for petitions in support of the nomination of a single person. Please note that, if a petition slate includes individuals from different firm size categories, the signatures of 10 percent of each respective class size are required.

Voting Eligibility

In the case of a contested election, firms are eligible to cast one vote for an industry candidate who is running for a seat that is in the same size category as their own firm. Therefore, small firms may vote for a Small Firm NAC candidate and mid-size firms may vote for a Mid-Size Firm NAC candidate.

The size classification of each FINRA member firm will be verified on the day the ballots are mailed. All eligible small and mid-size firms will receive a ballot containing the candidates for the vacant Small Firm or Mid-Size Firm NAC seat.

Firm Contact Information

Firms are reminded to accurately maintain their executive representative's name and email address, as well as their firm's main postal address in FINRA's records. This will ensure that important mailings, such as election information, will be properly directed. A firm's failure to keep this information accurate may jeopardize the firm's ability to participate in elections.

Pursuant to NASD Rule 1160, firms must update their contact information promptly, but in any event not later than 30 days following any change in such information, as well as review and, if necessary, update the information within 17 business days after the end of each calendar year. Additionally, firms must comply with any FINRA request for such information promptly, but in any event not later than 15 days following the request, or such longer period that may be agreed to by FINRA staff.¹

To update an executive representative's name and email address, firms may access the FINRA Contact System, located on FINRA's Web site at www.finra.org/fcs. To update postal address information, firms must file a Form BD Amendment via the Web CRD system. For assistance updating information via either of these systems, please contact the FINRA Call Center at (301) 590-6500.

Endnote

- ¹ See NASD Rule 1160 and *FINRA Regulatory Notice 07-42* (September 2007).

Attachment A: Profiles of FINRA's Nominees to the NAC

FINRA Nominee for Small Firm NAC Member Seat

Thomas T. Wallace

President/CEO
Johnston Lemon & Co. Incorporated

Thomas T. Wallace is the President and CEO of Johnston, Lemon & Co. Incorporated, a Washington, DC-based, NYSE member firm founded in 1920. The early part of Mr. Wallace's career was spent as a retail broker concentrating on clients within the Washington, DC, metropolitan area. He later progressed to Branch Office Manager then to Sales Manager and eventually President & CEO.

Mr. Wallace has served on many committees within the securities industry, for both FINRA, formerly known as NASD, and SIFMA, formerly known as SIA. Mr. Wallace served for four years on the FINRA Small Firm Advisory Board and three years on the FINRA District 9 Committee. He is currently serving on the FINRA District 9 Nominating Committee and maintains his status as a hearing officer for District 9. Mr. Wallace currently serves on the SIFMA Small Firms Advisory Board, and has done so for approximate 10 years.

Mr. Wallace graduated from the University of Maryland in 1967 with a bachelor of science degree in business administration. Upon graduation he immediately began active duty in the United States Army.

FINRA Nominee for Mid-Size Firm NAC Member Seat

John Muschalek

Managing Director, Clearing Services Division
First Southwest Company

John Muschalek is Managing Director and head of First Southwest Company's Correspondent Clearing and Securities Lending divisions. He joined First Southwest Company in February 1992. He has also served as the firm's Chief Financial Officer and Financial and Operations Principal. Mr. Muschalek serves on the firm's Risk and Operations Management Committees. Before joining First Southwest Company, he served as the firm's auditor while working with the worldwide accounting firm KPMG Peat Marwick.

Mr. Muschalek represents the firm on numerous industry committees and civic boards. He is a member of the FINRA Financial Responsibility Committee (national committee) and completed a term (2003 – 2005, Chairman 2005) on the FINRA District Committee (District 6). Other FINRA Committees that Mr. Muschalek serves on include the Uniform Practice Code Committee, FINRA Consultative Committee and the District 6 Nominating Committee. Mr. Muschalek also serves on the Securities Industry and Financial Markets Association (SIFMA) Operations Red Group Roundtable (national committee – 2006 Chairman) and the SIFMA Clearing Firms Committee (Vice Chair 2009). He is also a frequent speaker at local and national industry conferences. Additionally, Mr. Muschalek has served five years on the Board of Directors and three years as the Vice Chairman of the Executive Committee of the Wilkinson Center, a Dallas-based charity.

Mr. Muschalek maintains FINRA Series 7, 24, 27 and 63 licenses. He is also a Certified Public Accountant and member of the American Institute of CPAs and the Texas Society of CPAs. He earned a bachelor of science degree in business administration, majoring in accounting, from Texas A&M University in 1988.

ATTACHMENT B - NAC Election Candidate Profile Form

Indicate the position for which you wish to be considered:

Small Firm NAC Member **OR** Mid-Size Firm NAC Member

Current Registration

Name: _____ CRD #: _____

Firm Name: _____ Firm #: _____

Title/Primary Responsibility: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax: _____

Email: _____

Prior Registration (List the most recent first. Feel free to include extra pages if necessary.)

Firm: _____

Title/Primary Responsibility: _____

Firm: _____

Title/Primary Responsibility: _____

General Areas of Expertise

(please check all that apply)

- Compliance/Legal
- Corporate Finance
- Financial/Operational
- Institutional Sales
- Investment Advisory
- Retail Sales
- Trading/Market Making
- Other

Product Expertise

(please check all that apply)

- Corporate Bonds
- Direct Participation Programs
- Equity Securities
- Investment Company
- Municipal/Government Securities
- Options
- Variable Contracts Securities
- Other

Memberships/Positions in Trade or Business Organizations

Past NASD or FINRA Experience and Dates of Service (please check all that apply)

Committee Member (Identify committee): _____ Approx. Dates: _____

Arbitrator _____ Approx. Dates: _____

Mediator _____ Approx. Dates: _____

Expert Witness (arbitrations; disciplinary proceedings) _____ Approx. Dates: _____

Other: _____ Approx. Dates: _____

Educational Background

School: _____ Degree: _____

School: _____ Degree: _____

Return the completed candidate profile form to Marcia Asquith via fax at (202) 728-8075 or email at CorporateSecretary@finra.org.