

OMB APPROVAL

OMB Number: 3235-0045
Expires: June 30, 2010
Estimated average burden
hours per response.....38

Page 1 of 34

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. SR - 2008 - 008

Amendment No.

Proposed Rule Change by Financial Industry Regulatory Authority
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial ☒	Amendment ☐	Withdrawal ☐	Section 19(b)(2) ☐	Section 19(b)(3)(A) ☒	Section 19(b)(3)(B) ☐
			Rule		
Pilot ☐	Extension of Time Period for Commission Action ☐	Date Expires 	☒ 19b-4(f)(1)	☐ 19b-4(f)(4)	
			☐ 19b-4(f)(2)	☐ 19b-4(f)(5)	
			☐ 19b-4(f)(3)	☐ 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document

**Description**

Provide a brief description of the proposed rule change (limit 250 characters).

A proposed rule change to NASD Rule 1013 to change the manner in which applicants apply for membership.

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Last Name
Title
E-mail
Telephone Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date By
(Name)

(Title)

NOTE: Clicking the button at right will digitally sign and lock
this form. A digital signature is as legally binding as a physical
signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information

Add

Remove

View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

Add

Remove

View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Add

Remove

View

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

☐

Exhibit 3 - Form, Report, or Questionnaire

Add

Remove

View

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

☐

Exhibit 4 - Marked Copies

Add

Remove

View

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add

Remove

View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

Add

Remove

View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to NASD Rule 1013 (New Member Application and Interview) to amend the manner in which membership applicants submit their applications to FINRA. FINRA also is proposing changes to online Form NMA to make it a more interactive, user-friendly document that applicants can use to submit application information.

The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change has been approved by the General Counsel of FINRA (or his officer designee) pursuant to delegated authority. No other action by FINRA is necessary for the filing of the proposed rule change.

FINRA has filed the proposed rule change for immediate effectiveness. The effective date will be the date of filing, [insert date of filing]. FINRA will announce the implementation date in a Regulatory Notice to be published no later than 30 days following the effective date.

¹ 15 U.S.C. 78s(b)(1).

3. **Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

(a) Purpose

In an effort to streamline the membership application process and make it more efficient, FINRA recently required membership applicants to complete and submit electronically via the Electronic Filing System (“EFS”) FINRA’s standardized membership application form, the Form NMA. NASD Rule 1013 requires that the Form NMA and other required application materials be filed with the Department of Member Regulation (“Department”) at the district office in the district in which the applicant intends to have its principal place of business. Although the Form NMA can be forwarded electronically to the district offices, applicants must submit certain required application materials, such as the Form BD, fingerprint cards of associated persons, the new member assessment report, CRD entitlement forms, and the membership application fee via first class mail, overnight courier, or hand delivery.²

The proposed rule change would amend NASD Rule 1013 to require that an application be filed directly with the Department. Pursuant to the proposed rule change, FINRA will require applicants to send all hard copy application materials to a central location within the Department, and EFS automatically will route the Form NMA to the same location within the Department. The proposed rule change also would amend NASD Rule 1013 to eliminate the requirement that applicants submit the membership

² See NASD Rule 1012(a)(2) (requiring an applicant to file application documents and information by first class mail, overnight courier, or hand delivery where FINRA has not otherwise prescribed an electronic or alternative filing process).

application fee by physical check. Instead, FINRA will require applicants to pay the fees electronically.

Further, FINRA proposes to change the Form NMA from a static electronic document to an interactive, user-friendly document that will provide a more tailored application experience. The revised Form NMA automatically will retrieve certain information (e.g., identification information, proposed business lines, etc.) from the applicants' Forms U4 and the Form BD, which FINRA will require applicants to submit prior to completion of the Form NMA.³ The revised form also will have applicants provide a greater level of detail regarding the required application information. FINRA anticipates that these changes to the Form NMA will result in a more complete and accurate application that, in turn, will allow FINRA staff to conduct a more timely evaluation and make fewer information requests during the course of the review.

The proposed rule change would alter the manner in which FINRA receives a membership application and revise the online Form NMA to make it more interactive; it would not change the information applicants must submit pursuant to NASD Rule 1013 during the application process or the standards set forth in NASD Rule 1014 for granting an applicant's membership application. Additionally, the proposed changes are consistent with the FINRA By-Laws, which allow FINRA to require that new member applications be made "via electronic process or such other process as the Corporation may prescribe."⁴

³ Although applicants submit their Form BD in hard copy, the revised Form NMA will be able to retrieve the information via an electronic database that FINRA staff currently populates with Form BD information. Applicants already submit Forms U4 in an electronic format accessible to the revised form.

⁴ FINRA By-Laws, Art. IV, Sec. 1(a).

Finally, the proposed rule change would amend the NASD Rule Series 1010 (Membership Proceedings) to reflect FINRA's change in corporate name or to otherwise delete references to "the Association."

Prior to the proposed rule change becoming operative, FINRA will outline in a Regulatory Notice the details regarding the changes to the electronic application process and how to complete the revised Form NMA.⁵

As noted in Item 2 of this filing, FINRA has filed the proposed rule change for immediate effectiveness. The effective date will be the date of filing, [insert date of filing]. FINRA will announce the implementation date in a Regulatory Notice to be published no later than 30 days following the effective date.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁶ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change amends NASD Rule 1013 to require that an applicant file a membership application directly with the Department of Member Regulation instead of with a particular district office and revises the online Form NMA to make it more interactive. The proposed rule change does not propose any new or additional content requirements for member applications. The proposed rule change also eliminates

⁵ FINRA will also provide advance notice through the Regulatory Notice process (or similar guidance) of any systems changes to the electronic application process that would alter the manner in which applicants interact with the electronic filing system.

⁶ 15 U.S.C. 78o-3(b)(6).

the requirement to pay the membership application fee with a physical check. FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) as it will ensure a more streamlined and efficient membership application process.

4. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The proposed rule change is effective upon filing pursuant to Section 19(b)(3) of the Act⁷ and paragraph (f)(1) of Rule 19b-4 thereunder,⁸ in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization.

⁷ 15 U.S.C. 78s(b)(3).

⁸ 17 CFR 240.19b-4(f)(1).

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

Exhibit 5. Text of proposed changes to NASD Rule 1000 Series.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-FINRA-2008-008)

Self-Regulatory Organizations: Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Rule 1013 (New Member Application and Interview) to Amend the Manner in which Membership Applicants Submit their Applications to FINRA

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on , Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as “constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule” under Section 19(b)(3)(A)(i) of the Act³ and Rule 19b-4(f)(1) thereunder,⁴ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend NASD Rule 1013 (New Member Application and Interview) to amend the manner in which membership applicants submit their applications to FINRA. FINRA also is proposing changes to online Form NMA to make it a more interactive, user-friendly document that applicants can use to submit application information.

The text of the proposed rule change is attached as Exhibit 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In an effort to streamline the membership application process and make it more efficient, FINRA recently required membership applicants to complete and submit electronically via the Electronic Filing System ("EFS") FINRA's standardized membership application form, the Form NMA. NASD Rule 1013 requires that the Form NMA and other required application materials be filed with the Department of Member Regulation ("Department") at the district office in the district in which the applicant intends to have its principal place of business. Although the Form NMA can be

forwarded electronically to the district offices, applicants must submit certain required application materials, such as the Form BD, fingerprint cards of associated persons, the new member assessment report, CRD entitlement forms, and the membership application fee via first class mail, overnight courier, or hand delivery.⁵

The proposed rule change would amend NASD Rule 1013 to require that an application be filed directly with the Department. Pursuant to the proposed rule change, FINRA will require applicants to send all hard copy application materials to a central location within the Department, and EFS automatically will route the Form NMA to the same location within the Department. The proposed rule change also would amend NASD Rule 1013 to eliminate the requirement that applicants submit the membership application fee by physical check. Instead, FINRA will require applicants to pay the fees electronically.

Further, FINRA proposes to change the Form NMA from a static electronic document to an interactive, user-friendly document that will provide a more tailored application experience. The revised Form NMA automatically will retrieve certain information (e.g., identification information, proposed business lines, etc.) from the applicants' Forms U4 and the Form BD, which FINRA will require applicants to submit prior to completion of the Form NMA.⁶ The revised form also will have applicants provide a greater level of detail regarding the required application information. FINRA

⁵ See NASD Rule 1012(a)(2) (requiring an applicant to file application documents and information by first class mail, overnight courier, or hand delivery where FINRA has not otherwise prescribed an electronic or alternative filing process).

⁶ Although applicants submit their Form BD in hard copy, the revised Form NMA will be able to retrieve the information via an electronic database that FINRA staff currently populates with Form BD information. Applicants already submit Forms U4 in an electronic format accessible to the revised form.

anticipates that these changes to the Form NMA will result in a more complete and accurate application that, in turn, will allow FINRA staff to conduct a more timely evaluation and make fewer information requests during the course of the review.

The proposed rule change would alter the manner in which FINRA receives a membership application and revise the online Form NMA to make it more interactive; it would not change the information applicants must submit pursuant to NASD Rule 1013 during the application process or the standards set forth in NASD Rule 1014 for granting an applicant's membership application. Additionally, the proposed changes are consistent with the FINRA By-Laws, which allow FINRA to require that new member applications be made "via electronic process or such other process as the Corporation may prescribe."⁷

Finally, the proposed rule change would amend the NASD Rule Series 1010 (Membership Proceedings) to reflect FINRA's change in corporate name or to otherwise delete references to "the Association."

Prior to the proposed rule change becoming operative, FINRA will outline in a Regulatory Notice the details regarding the changes to the electronic application process and how to complete the revised Form NMA.⁸

FINRA has filed the proposed rule change for immediate effectiveness. The effective date will be the date of filing, [insert date of filing]. FINRA will announce the

⁷ FINRA By-Laws, Art. IV, Sec. 1(a).

⁸ FINRA will also provide advance notice through the Regulatory Notice process (or similar guidance) of any systems changes to the electronic application process that would alter the manner in which applicants interact with the electronic filing system.

implementation date in a Regulatory Notice to be published no later than 30 days following the effective date.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁹ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change amends NASD Rule 1013 to require that an applicant file a membership application directly with the Department of Member Regulation instead of with a particular district office and revises the online Form NMA to make it more interactive. The proposed rule change does not propose any new or additional content requirements for member applications. The proposed rule change also eliminates the requirement to pay the membership application fee with a physical check. FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) as it will ensure a more streamlined and efficient membership application process.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

⁹ 15 U.S.C. 78o-3(b)(6).

C. **Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

Written comments were neither solicited nor received.

III. **Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and paragraph (f)(1) of Rule 19b-4 thereunder.¹¹ At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. **Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2008-008 on the subject line.

Paper Comments:

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(1).

- Send paper comments in triplicate to Nancy M. Morris, Secretary,
Securities and Exchange Commission, 100 F Street, NE, Washington, DC
20549-1090.

All submissions should refer to File Number SR-FINRA-2008-008. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of FINRA.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2008-008 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Nancy M. Morris

Secretary

¹² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

1010. Membership Proceedings

1011. Definitions

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

(a) “Applicant”

The term “Applicant” means a person that applies for membership in [the NASD] FINRA under Rule 1013 or a member that files an application for approval of a change in ownership, control, or business operations under Rule 1017.

(b) “Associated Person”

The term “Associated Person” means: (1) a natural person registered under NASD Rules; or (2) a sole proprietor, or any partner, officer, director, branch manager of the Applicant, or any person occupying a similar status or performing similar functions; (3) any company, government or political subdivision or agency or instrumentality of a government controlled by or controlling the Applicant; (4) any employee of the Applicant, except any person whose functions are solely clerical or ministerial; (5) any person directly or indirectly controlling the Applicant whether or not such person is registered or exempt from registration under [NASD] the FINRA By-Laws or NASD Rules; (6) any person engaged in investment banking or securities business controlled directly or indirectly by the Applicant whether such person is registered or exempt from registration under [NASD] the FINRA By-Laws or NASD Rules; or (7) any person who

will be or is anticipated to be a person described in (1) through (6) above.

(c) “Department”

The term “Department” means the Department of Member Regulation of [NASD Regulation] FINRA.

(d) “Director”

The term “Director” means a member of the [NASD] FINRA Regulation Board.

(e) “district”

The term “district” means a district established by the [NASD] FINRA Regulation Board.

(f) “district office”

The term “district office” means an office of [NASD Regulation] FINRA located in a district.

(g) “FINRA Board”

The term “FINRA Board” means the Board of Governors of FINRA.

(h) FINRA Regulation Board”

The term “FINRA Regulation Board” means the Board of Directors of FINRA Regulation.

([g]i) “Governor”

The term “Governor” means a member of the [NASD] FINRA Board.

([h]j) “Interested [NASD] FINRA Staff”

The term “Interested [NASD] FINRA 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)k] “Material change in business operations”

No Change.

[(j) “NASD Board”]

[The term “NASD Board” means the Board of Governors of the NASD.]

[(k) “NASD Regulation Board”]

[The term “NASD Regulation Board” means the Board of Directors of NASD Regulation.]

(l) No Change.

(m) “sales practice event”

The term “sales practice event” means any customer complaint, arbitration, or civil litigation that has been reported to the Central Registration Depository, currently is required to be reported to the Central Registration Depository, or otherwise has been reported to [the Association] FINRA.

(n) No Change.

IM-1011-1. Safe Harbor for Business Expansions

This interpretive material concerns the types of business expansions that will not require a member to submit a Rule 1017 application to obtain [NASD’s] FINRA’s approval of the expansion. This safe harbor applies to: (1) firms that do not have a membership agreement, and (2) firms that have a membership agreement that does not contain a restriction on the factors listed below.

The safe harbor is not available to a member that has a membership agreement that

contains a specific restriction as to one or more of the factors listed below. In that case, the agreement takes precedence because [NASD] FINRA has determined that a particular restriction should apply as to one or more of the factors, and [NASD] FINRA has issued a decision with a rationale for that restriction. Similarly, the safe harbor also does not apply if the member has a membership agreement that permits expansion beyond the limits set forth below (e.g., an Applicant requests and obtains approval for ten registered representatives in the first six months with an additional ten registered representatives in the next year); in such case, [NASD] FINRA has specifically considered the firm's expansion plans and approved them.

The safe harbor is not available to any member that has disciplinary history. For purposes of this Interpretation, "disciplinary history" means a finding of a violation by the member or a principal of the member in the past five years by the Securities and Exchange Commission, a self-regulatory organization, or a foreign financial regulatory authority of one or more of the following provisions (or a comparable foreign provision) or rules or regulations thereunder: violations of the types enumerated in Section 15(b)(4)(E) of the Securities Exchange Act of 1934; Section 15(c) of the Securities Exchange Act of 1934; Section 17(a) of the Securities Act of 1933; SEC Rules 10b-5 and 15g-1 through 15g-9; NASD Rules 2110 (only if the finding of a violation is for unauthorized trading, churning, conversion, material misrepresentations or omissions to a customer, front-running, trading ahead of research reports or excessive markups), 2120, 2310, 2330, 2440, 3010 (failure to supervise only), 3310, and 3330; and MSRB Rules G-19, G-30, and G-37(b) & (c).

For those firms to which the safe harbor is available, the following types of

expansions are presumed not to be a material change in business operations and therefore do not require a Rule 1017 application. For any expansion beyond these limits, a member should contact its district office prior to implementing the change to determine whether the proposed expansion requires an application under Rule 1017. Expansions in each area are measured on a rolling 12-month basis; members are required to keep records of increases in personnel, offices, and markets to determine whether they are within the safe harbor.

“Associated Persons involved in sales” includes all Associated Persons, whether or not registered, who are involved in sales activities with public customers, including sales assistants and cold callers, but excludes clerical, back office, and trading personnel who are not involved in sales activities.

<i>Number of Associated Persons Involved in Sales</i>	<i>Safe Harbor — Increase Permitted Within One Year Period Without Rule 1017 Application</i>
1–10	10 persons
11 or more	10 persons or a 30 percent increase, whichever is greater
<i>Number of Offices (registered or unregistered)</i>	
1–5	3 offices
6 or more	3 offices or a 30 percent increase, whichever is greater
<i>Number of Markets Made</i>	
1–10	10 markets
11 or more	10 markets or a 30 percent increase, whichever is greater

1012. General Provisions

(a) Filing by Applicant or Service by [NASD] FINRA

- (1) No change.

(2) Except where [NASD] FINRA 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.

(3) [NASD] FINRA 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.

(4) For purposes of the Rule 1010 Series, service by [NASD] FINRA or filing by an Applicant shall be deemed complete as follows:

(A) through (E) No change.

(b) Lapse of Application

(1) No change.

(A) through (C) 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. [NASD] FINRA shall not refund any fee for a lapsed application.

(c) Ex Parte Communications

(1) The prohibitions against ex parte communications shall become effective when [NASD] FINRA 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 [NASD] FINRA Staff to participate, or to the extent required for the disposition of ex parte matters as authorized by NASD Rules:

(A) an Applicant, a counsel or representative of an Applicant, or an Interested [NASD] FINRA 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 a[n NASD] FINRA 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 a[n NASD] FINRA 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 [NASD] FINRA 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 a[n NASD] FINRA 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) though (C) No change.

(d) Recusal or Disqualification

A Governor or a member of the National Adjudicatory Council or a Subcommittee thereof shall not participate in a matter governed by the Rule 1010 Series as to which that person has a conflict of interest or bias, or if circumstances otherwise exist where his or her fairness might reasonably be questioned. In such a case, the person shall recuse himself or shall be disqualified as follows:

(1) The Chair of the [NASD] FINRA Board shall have authority to direct the disqualification of a Governor, and a majority of the Governors of the [NASD] FINRA Board excluding the Chair shall have authority to direct the disqualification of the Chair of the [NASD] FINRA Board.

(2) No change.

(e) No change.

1013. New Member Application and Interview

(a) Filing of Application

(1) How to File

An Applicant for [NASD] FINRA membership shall file its application in the manner prescribed by [NASD] FINRA with the Department of Member Regulation ("the Department") [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:

(A) through (B) No change.

(C) an original [NASD] FINRA-approved fingerprint card for each Associated Person who will be subject to SEC Rule 17f-2;

(D) No change.

(E) [a check for] payment of the appropriate fee;

(F) a detailed business plan that adequately and comprehensively describes all material aspects of the business that will be, or are reasonably anticipated to be, performed at and after the initiation of business operations, including future business expansion plans, if any, and includes:

(i) through (iii) No change.

(iv) the intended location of the Applicant's principal place of business and all other offices, if any, whether or not such offices would be required to be registered under [the] NASD Rules [of the Association], and the names of the persons who will be in charge of each office;

(v) through (xii) No change.

(G) through (R) No Change.

(S) a[n NASD] FINRA Entitlement Program Agreement and Terms of Use and a[n NASD] FINRA Member Firm Account Administrator Entitlement Form.

(2) Uniform Registration Forms

Upon approval of the Applicant's [NASD] FINRA 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.

(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 therefore. [NASD] FINRA shall refund the application fee, less \$350, which shall be retained by [NASD] FINRA 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.

(4) No change.

(b) Membership Interview

(1) Requirement for Interview

Before the Department serves its decision on an application for new membership in [the Association] FINRA, the Department shall conduct a membership interview with a representative or representatives of the Applicant.

(2) through (4) No change.

(5) Updated Financial Documents

On or before the date of the membership interview, the Applicant shall file an updated trial balance, balance sheet, supporting schedules, and computation of net capital. The Applicant shall prepare such documents as of a date that is within 45 days before the date of the membership interview, unless the Applicant and the Department agree on a longer period. The Applicant shall promptly notify the Department in writing of any material adverse change in its financial condition

that occurs before a decision constituting final action of [the Association] FINRA is served on the Applicant.

(6) through (7) No change.

* * * * *

1014. Department Decision

(a) Standards for Admission

After considering the application, the membership interview, other information and documents provided by the Applicant, other information and documents obtained by the Department, and the public interest and the protection of investors, the Department shall determine whether the Applicant meets each of the following standards:

(1) through (9) No change.

(10) The Applicant has a supervisory system, including written supervisory procedures, internal operating procedures (including operational and internal controls), and compliance procedures designed to prevent and detect, to the extent practicable, violations of the federal securities laws, the rules and regulations thereunder, and NASD Rules. In evaluating the adequacy of a supervisory system, the Department shall consider the overall nature and scope of the Applicant's intended business operations and shall consider whether:

(A) through (B) No change.

(C) the Applicant has identified the functions to be performed by each Associated Person and has adopted procedures to assure the registration with [NASD] FINRA and applicable states of all persons whose functions are subject to such registration requirements;

(D) through (J) No change.

(11) through (12) No change.

(13) [NASD] FINRA does not possess any information indicating that the Applicant may circumvent, evade, or otherwise avoid compliance with the federal securities laws, the rules and regulations thereunder, or NASD Rules.

(14) No change.

(b) No change.

(c) Decision

(1) through (2) No change.

(3) Failure to Serve Decision

If the Department fails to serve a decision within 180 days after the filing of an application or such later date as the Department and the Applicant have agreed in writing, the Applicant may file a written request with the [NASD] FINRA Board requesting that the [NASD] FINRA Board direct the Department to serve a decision. Within seven days after the filing of such a request, the [NASD] FINRA Board shall direct the Department to serve its written decision immediately or to show good cause for an extension of time. If the Department shows good cause for an extension of time, the [NASD] FINRA Board may extend the 180 day time limit by not more than 90 days.

(d) No change.

(e) Service and Effectiveness of Decision

The Department shall serve its decision and the membership agreement on the Applicant in accordance with Rule 1012. The decision shall become effective upon

service and shall remain in effect during the pendency of any review until a decision constituting final action of [NASD] FINRA is issued under Rule 1015 or 1016, unless otherwise directed by the National Adjudicatory Council, the [NASD] FINRA Board, or the Commission.

(f) Effectiveness of Restriction

A restriction imposed under this Rule shall remain in effect and bind the Applicant and all successors to the ownership or control of the Applicant unless:

(1) removed or modified by a decision constituting final action of [the Association] FINRA issued under Rule 1015, 1016, or 1017;

(2) stayed by the National Adjudicatory Council, the [NASD] FINRA Board, or the Commission.

(g) Final Action

Unless the Applicant files a written request for a review under Rule 1015, the Department's decision shall constitute final action by [NASD] FINRA.

1015. Review by National Adjudicatory Council

(a) through (b) No change.

(c) Membership Application Docket

The Department shall promptly record in [the Association's] FINRA's membership application docket each request for review filed with the National Adjudicatory Council under this Rule and each material subsequent event, filing, and change in the status of a membership proceeding.

(d) through (g) No Change.

(h) Abandonment of Request for Review

If an Applicant fails to specify the grounds for its request for review under Rule 1015(a)(1), appear at a hearing for which it has notice, or file information or briefs as directed, the National Adjudicatory Council or the Review Subcommittee may dismiss the request for review as abandoned, and the decision of the Department shall become the final action of [the Association] FINRA. Upon a showing of good cause, the National Adjudicatory Council or the Review Subcommittee may withdraw a dismissal entered pursuant to this paragraph.

(i) No change.

(j) Decision

(1) through (2) No change.

(3) Issuance of Decision After Expiration of Call for Review Periods

The National Adjudicatory Council shall provide its proposed written decision to the [NASD] FINRA Board. The [NASD] FINRA Board may call the membership proceeding for review pursuant to Rule 1016. If the [NASD] FINRA Board does not call the membership proceeding for review, the proposed written decision of the National Adjudicatory Council shall become final. The National Adjudicatory Council shall serve the Applicant with a written notice specifying the date on which the call for review period expired and stating that the final written decision will be served within 15 days after such date. The National Adjudicatory Council shall serve its final written decision within 15 days after the date on which the call for review period expired. The decision shall constitute the final action of [the Association] FINRA for purposes of SEC Rule 19d-3, unless the National Adjudicatory Council remands the membership proceeding.

(4) Failure to Issue Decision

If the National Adjudicatory Council fails to serve its final written decision within the time prescribed in subparagraph (3), the Applicant may file a written request with the [NASD] FINRA Board requesting that the [NASD] FINRA Board direct the National Adjudicatory Council to serve its decision immediately or to show good cause for an extension of time. Within seven days after the filing of such a request, the [NASD] FINRA Board shall direct the National Adjudicatory Council to serve its written decision immediately or to show good cause for an extension of time. If the National Adjudicatory Council shows good cause for an extension of time, the [NASD] FINRA Board may extend the 15 day time limit by not more than 15 days.

1016. Discretionary Review by [NASD] FINRA Board

(a) Call For Review By Governor

A Governor may call a membership proceeding for review by the [NASD] FINRA Board if the call for review is made within the period prescribed in paragraph (b).

(b) 15 Day Period; Waiver

A Governor shall make his or her call for review at the next meeting of the [NASD] FINRA Board that is at least 15 days after the date on which the [NASD] FINRA Board receives the proposed written decision of the National Adjudicatory Council. By unanimous vote of the [NASD] FINRA Board, the [NASD] FINRA Board may shorten the period to less than 15 days. By an affirmative vote of the majority of the [NASD] FINRA Board then in office, the [NASD] FINRA Board may, during the 15 day period, vote to extend the period to more than 15 days.

(c) Review At Next Meeting

If a Governor calls a membership proceeding for review within the time prescribed in paragraph (b), the [NASD] FINRA Board shall review the membership proceeding not later than the next meeting of the [NASD] FINRA Board. The [NASD] FINRA Board may order the Applicant and the Department to file briefs in connection with review proceedings pursuant to this paragraph.

(d) Decision of [NASD] FINRA Board, Including Remand

After review, the [NASD] FINRA Board may affirm, modify, or reverse the proposed written decision of the National Adjudicatory Council. Alternatively, the [NASD] FINRA Board may remand the membership proceeding with instructions. The [NASD] FINRA Board shall prepare a written decision that includes all of the elements described in Rule 1015(j)(2).

(e) Issuance of Decision

The [NASD] FINRA Board shall serve its written decision on the Applicant within 15 days after the meeting at which it conducted its review. The decision shall constitute the final action of [the Association] FINRA for purposes of SEC Rule 19d-3, unless the [NASD] FINRA Board remands the membership proceeding.

1017. Application for Approval of Change in Ownership, Control, or Business Operations

(a) Events Requiring Application

A member shall file an application for approval of any of the following changes to its ownership, control, or business operations:

(1) through (4) No Change.

(5) a material change in business operations as defined in Rule 1011([i]k).

(g) Department Decision

(1) through (2) No change.

(3) If the Department fails to serve a decision within 180 days after filing of an application or such later date as the Department and the Applicant have agreed in writing, the Applicant may file a written request with the [NASD] FINRA Board requesting that the [NASD] FINRA Board direct the Department to issue a decision. Within seven days after the filing of such a request, the [NASD] FINRA Board shall direct the Department to issue a written decision immediately or to show good cause for an extension of time. If the Department shows good cause for an extension of time, the [NASD] FINRA Board may extend the time limit for issuing a decision by not more than 30 days.

(4) No change.

(h) Service and Effectiveness of Decision

The Department shall serve its decision on the Applicant in accordance with Rule 1012. The decision shall become effective upon service and shall remain in effect during the pendency of any review until a decision constituting final action of [NASD] FINRA is issued under Rule 1015 or 1016, unless otherwise directed by the National Adjudicatory Council, the [NASD] FINRA Board, or the Commission.

(i) Request for Review; Final Action

An Applicant may file a written request for review of the Department's decision with the National Adjudicatory Council pursuant to Rule 1015. The procedures set forth in Rule 1015 shall apply to such review, and the National Adjudicatory Council's

decision shall be subject to discretionary review by the [NASD] FINRA Board pursuant to Rule 1016. If the Applicant does not file a request for a review, the Department's decision shall constitute final action by [NASD] FINRA.

(j) through (k) No Change.

* * * * *

1019. Application to Commission for Review

A person aggrieved by final action of [the Association] FINRA under the Rule 1010 Series may apply for review by the Commission pursuant to Section 19(d)(2) of the Act. The filing of an application for review shall not stay the effectiveness of a decision constituting final action of [the Association] FINRA, unless the Commission otherwise orders.

* * * * *