

OMB APPROVAL

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

File No. SR - 2008 - 030

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

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Pilot ☐ Extension of Time Period
for Commission Action ☐ Date Expires

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).

Proposed rule change to adopt FINRA Rule 3130 (Annual Certification of Compliance and Supervisory Processes) in the Consolidated FINRA Rulebook.

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

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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

Exhibit Sent As Paper Document

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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 3 - Form, Report, or Questionnaire

Add Remove View

Exhibit Sent As Paper Document

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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 4 - Marked Copies

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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. or (“NASD”)) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to adopt NASD Rule 3013 (Annual Certification of Compliance and Supervisory Processes) and IM-3013 (Annual Compliance and Supervision Certification) as a FINRA rule in the consolidated FINRA rulebook without material change and to delete the corresponding provisions in Incorporated NYSE Rule 342.30 and NYSE Rule Interpretations 311(b)(5)/04 through /05 and 342.30(d)/01 through (e)/01. The proposed rule change would renumber NASD Rule 3013 and IM-3013 as FINRA Rule 3130 in the consolidated FINRA rulebook.

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

(b) Upon Commission approval and implementation of the proposed rule change, the corresponding NASD and incorporated NYSE rules, or sections thereof, will be eliminated from the current FINRA rulebook.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

At its meeting on April 17, 2008, the FINRA Board of Governors authorized the filing of the proposed rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

¹ 15 U.S.C. 78s(b)(1).

FINRA will announce the implementation date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval.

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

(a) Purpose

As part of the process of developing the new consolidated rulebook (the “Consolidated FINRA Rulebook”),² FINRA is proposing to adopt NASD Rule 3013 (Annual Certification of Compliance and Supervisory Processes) and IM-3013-1 (Annual Compliance and Supervision Certification) as a FINRA Rule in the Consolidated FINRA Rulebook.

NASD Rule 3013 and Incorporated NYSE Rule 342 require each member to designate one or more principals to serve as a chief compliance officer (“CCO”). The Rules further require that the chief executive officer(s) (“CEO”) certify annually that the member has in place processes to establish, maintain, review, modify and test policies and procedures reasonably designed to achieve compliance with applicable NASD (or NYSE) rules and federal securities laws and regulations. The certification includes not only a statement that the member has in place certain compliance processes, but also that the CEO(s) has conducted one or more meetings with the CCO(s) in the preceding 12 months to discuss the processes. Incorporated NYSE Rule 342 and NASD IM-3013

² The current FINRA rulebook consists of two sets of rules: (1) NASD Rules and (2) rules incorporated from NYSE (“Incorporated NYSE Rules”) (together referred to as the “Transitional Rulebook”). The Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (“Dual Members”). Dual Members also must comply with NASD Rules. For more information about the rulebook consolidation process, see FINRA Information Notice, March 12, 2008 (Rulebook Consolidation Process).

explain that the mandated meetings between the CEO(s) and CCO(s) must include a discussion of the member's compliance efforts to date and identify and address significant compliance problems and plans for emerging business areas. NASD IM-3013 contains additional guidance, including setting forth the expertise that is expected of a CCO. The same expertise requirements are also found in Incorporated NYSE Rule Interpretation 342.30.

There currently are four differences in the rules. First, NASD IM-3013 requires that the member provide to its board of directors and audit committees (or equivalent bodies) the report that evidences the processes to which the CEO(s) certifies either prior to execution of the certification or at the earlier of their next scheduled meetings or within 45 days of certification. The Incorporated NYSE rules require submission of the report to those bodies prior to certification. FINRA does not intend to require the board of directors or audit committee to review or consider the report as a condition to the CEO executing the certification; rather, FINRA intends the provision to ensure that those governing bodies remain informed of this aspect of the member's compliance system in the context of their overall responsibility for governance and internal controls of the member for which they serve. Accordingly, the proposed rule change would maintain the NASD rule requirements.

Second, the current rules differ in the certification deadline. Incorporated NYSE Rule 342.30 requires certification as part of the submission of a member's annual compliance report, which is due by April 1 of each year. NASD Rule 3013 requires certification not later than the anniversary of the prior year's certification. And while NASD allowed members to execute their first certification no later than April 1, 2006 to

accommodate Dual Members, many FINRA only firms executed their first certification earlier than that and thus have differing anniversary dates. Moreover, new members are required to execute their first certification within a year of approval for membership; therefore some firms necessarily are on a cycle that does not correspond to April 1. The proposed rule change would maintain the NASD rule deadline to provide firms the flexibility to certify on a schedule that meets with their organizational structure and procedures. Firms that have certified on April 1 of each year may continue to do so on that date.

Third, Incorporated NYSE Rule 342.30 requires that the member submit its certification to the Exchange, whereas the NASD rule requires only that the certification be maintained for inspection. FINRA believes the submission of the certification creates an unnecessary – albeit small – additional burden on members with no attendant benefits to FINRA’s examination program. Therefore, the proposed rule change would retain the NASD requirement that the certifications be kept for inspection by members.

Finally, while both rules permit designation of multiple CCOs subject to certain conditions, Incorporated NYSE Rule Interpretation 311(b)(5) requires Exchange approval of the allocation of supervisory responsibilities between those CCOs. By comparison, the NASD rules rely on the business judgment of the member and require only that the member define and document the areas of responsibility allocated to each CCO. FINRA believes the NASD approach is more appropriate, and therefore the proposed rule change would not adopt the approval requirement into the new rule in the Consolidated FINRA Rulebook.

The proposed rule change would replace NASD Rule 3013 and IM-3013 with a single rule that integrates the substance of the IM either as provisions in the new rule or as supplementary material.

As noted above, FINRA will announce the implementation date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,³ 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 rules being adopted as part of the Consolidated FINRA Rulebook previously have been found to meet the statutory requirements, and FINRA believes those rules have since proven effective in achieving the statutory mandates.

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.

³ 15 U.S.C. 78o-3(b)(6).

6. **Extension of Time Period for Commission Action**

FINRA does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.⁴

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

Not applicable.

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 the proposed rule change.

⁴ 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-FINRA-2008-030)

Self-Regulatory Organizations: Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to adopt FINRA Rule 3130 (Annual Certification of Compliance and Supervisory Processes) in the Consolidated FINRA Rulebook

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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to adopt NASD Rule 3013 (Annual Certification of Compliance and Supervisory Processes) and IM-3013 (Annual Compliance and Supervision Certification) as a FINRA rule in the consolidated FINRA rulebook without material change and to delete the corresponding provisions in Incorporated NYSE Rule 342.30 and NYSE Rule Interpretations 311(b)(5)/04 through /05 and 342.30(d)/01 through (e)/01. The proposed rule change would renumber NASD Rule 3013 and IM-3013 as FINRA Rule 3130 in the consolidated FINRA rulebook. The text of the proposed rule change is attached as Exhibit 5.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

As part of the process of developing the new consolidated rulebook (the “Consolidated FINRA Rulebook”),³ FINRA is proposing to adopt NASD Rule 3013 (Annual Certification of Compliance and Supervisory Processes) and IM-3013-1 (Annual Compliance and Supervision Certification) as a FINRA Rule in the Consolidated FINRA Rulebook.

NASD Rule 3013 and Incorporated NYSE Rule 342 require each member to designate one or more principals to serve as a chief compliance officer (“CCO”). The Rules further require that the chief executive officer(s) (“CEO”) certify annually that the member has in place processes to establish, maintain, review, modify and test policies and procedures reasonably designed to achieve compliance with applicable NASD (or

³ The current FINRA rulebook consists of two sets of rules: (1) NASD Rules and (2) rules incorporated from NYSE (“Incorporated NYSE Rules”) (together referred to as the “Transitional Rulebook”). The Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (“Dual Members”). Dual Members also must comply with NASD Rules. For more information about the rulebook consolidation process, see FINRA Information Notice, March 12, 2008 (Rulebook Consolidation Process).

NYSE) rules and federal securities laws and regulations. The certification includes not only a statement that the member has in place certain compliance processes, but also that the CEO(s) has conducted one or more meetings with the CCO(s) in the preceding 12 months to discuss the processes. Incorporated NYSE Rule 342 and NASD IM-3013 explain that the mandated meetings between the CEO(s) and CCO(s) must include a discussion of the member's compliance efforts to date and identify and address significant compliance problems and plans for emerging business areas. NASD IM-3013 contains additional guidance, including setting forth the expertise that is expected of a CCO. The same expertise requirements are also found in Incorporated NYSE Rule Interpretation 342.30.

There currently are four differences in the rules. First, NASD IM-3013 requires that the member provide to its board of directors and audit committees (or equivalent bodies) the report that evidences the processes to which the CEO(s) certifies either prior to execution of the certification or at the earlier of their next scheduled meetings or within 45 days of certification. The Incorporated NYSE rules require submission of the report to those bodies prior to certification. FINRA does not intend to require the board of directors or audit committee to review or consider the report as a condition to the CEO executing the certification; rather, FINRA intends the provision to ensure that those governing bodies remain informed of this aspect of the member's compliance system in the context of their overall responsibility for governance and internal controls of the member for which they serve. Accordingly, the proposed rule change would maintain the NASD rule requirements.

Second, the current rules differ in the certification deadline. Incorporated NYSE Rule 342.30 requires certification as part of the submission of a member's annual compliance report, which is due by April 1 of each year. NASD Rule 3013 requires certification not later than the anniversary of the prior year's certification. And while NASD allowed members to execute their first certification no later than April 1, 2006 to accommodate Dual Members, many FINRA only firms executed their first certification earlier than that and thus have differing anniversary dates. Moreover, new members are required to execute their first certification within a year of approval for membership; therefore some firms necessarily are on a cycle that does not correspond to April 1. The proposed rule change would maintain the NASD rule deadline to provide firms the flexibility to certify on a schedule that meets with their organizational structure and procedures. Firms that have certified on April 1 of each year may continue to do so on that date.

Third, Incorporated NYSE Rule 342.30 requires that the member submit its certification to the Exchange, whereas the NASD rule requires only that the certification be maintained for inspection. FINRA believes the submission of the certification creates an unnecessary – albeit small – additional burden on members with no attendant benefits to FINRA's examination program. Therefore, the proposed rule change would retain the NASD requirement that the certifications be kept for inspection by members.

Finally, while both rules permit designation of multiple CCOs subject to certain conditions, Incorporated NYSE Rule Interpretation 311(b)(5) requires Exchange approval of the allocation of supervisory responsibilities between those CCOs. By comparison, the NASD rules rely on the business judgment of the member and require only that the

member define and document the areas of responsibility allocated to each CCO. FINRA believes the NASD approach is more appropriate, and therefore the proposed rule change would not adopt the approval requirement into the new rule in the Consolidated FINRA Rulebook.

The proposed rule change would replace NASD Rule 3013 and IM-3013 with a single rule that integrates the substance of the IM either as provisions in the new rule or as supplementary material.

As noted above, FINRA will announce the implementation date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁴ 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 rules being adopted as part of the Consolidated FINRA Rulebook previously have been found to meet the statutory requirements, and FINRA believes those rules have since proven effective in achieving the statutory mandates.

⁴ 15 U.S.C. 78o-3(b)(6).

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.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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-2008-030 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Florence Harmon, Deputy Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2008-030. 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-2008-030 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.⁵

Florence Harmon

Deputy Secretary

⁵ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Exhibit 5 shows the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

**Text of Proposed New FINRA Rule
(marked to show changes from NASD Rule 3013 and IM-3013; NASD Rule 3013
and IM-3013 to be deleted in their entirety from the Transitional Rulebook)**

* * * * *

[3013] 3130. Annual Certification of Compliance and Supervisory Processes

(a) Designation of Chief Compliance Officer(s)

Each member shall designate and specifically identify to [NASD] FINRA on Schedule A of Form BD one or more principals to serve as a chief compliance officer.

(b) Annual Certification Requirement

Each member shall have its chief executive officer(s) (or equivalent officer(s)) certify annually,¹ as set forth in [IM-3013] paragraph (c), that the member has in place processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures reasonably designed to achieve compliance with applicable [NASD] FINRA rules, MSRB rules and federal securities laws and regulations, and that the chief executive officer(s) has conducted one or more meetings

¹ [Rule 3013 and IM-3013 became effective on December 1, 2004, which would require a member's first certification to be executed by December 1, 2005 and annually thereafter; however, a member may elect to execute its first certification by no later than April 1, 2006 and annually thereafter.]

Members must ensure that each ensuing annual certification is effected no later than on the anniversary date of the previous year's certification.

with the chief compliance officer(s) in the preceding 12 months to discuss such processes.

(c) Certification

The certification shall state the following:

The undersigned is/are the chief executive officer(s) (or equivalent officer(s)) of (name of member corporation/partnership/sole proprietorship) (the "Member"). As required by FINRA Rule 3130(b), the undersigned make(s) the following certification:

1. The Member has in place processes to:

(A) establish, maintain and review policies and procedures reasonably designed to achieve compliance with applicable FINRA rules, MSRB rules and federal securities laws and regulations;

(B) modify such policies and procedures as business, regulatory and legislative changes and events dictate; and

(C) test the effectiveness of such policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with FINRA rules, MSRB rules and federal securities laws and regulations.

2. The undersigned chief executive officer(s) (or equivalent officer(s)) has/have conducted one or more meetings with the chief compliance officer(s) in the preceding 12 months, the subject of which satisfy the obligations set forth in FINRA Rule 3130.

3. The Member's processes, with respect to paragraph 1 above, are evidenced in a report reviewed by the chief executive officer(s) (or equivalent

officer(s)), chief compliance officer(s), and such other officers as the Member may deem necessary to make this certification. The final report has been submitted to the Member's board of directors and audit committee or will be submitted to the Member's board of directors and audit committee (or equivalent bodies) at the earlier of their next scheduled meetings or within 45 days of the date of execution of this certification.

4. The undersigned chief executive officer(s) (or equivalent officer(s)) has/have consulted with the chief compliance officer(s) and other officers as applicable (referenced in paragraph 3 above) and such other employees, outside consultants, lawyers and accountants, to the extent deemed appropriate, in order to attest to the statements made in this certification.

[IM-3013. Annual Compliance and Supervision Certification]

[The NASD Board of Governors is issuing this interpretation to the requirement under Rule 3013(b), which requires that the member's chief executive officer(s) (or equivalent officer(s)) execute annually¹ a certification that the member has in place processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures reasonably designed to achieve compliance with applicable NASD rules, MSRB rules and federal securities laws and regulations.]

••• Supplementary Material: -----

.01 Designation of Co-Chief Executive Officers – A member may choose to designate a second co-chief executive officer, provided that each of the two chief executive officers

[¹ Members must ensure that each ensuing annual certification is effected no later than on the anniversary date of the previous year's certification.]

must individually discharge all of the obligations set forth in Rule [3013] 3130 [and this Interpretive Material], and each shall be held responsible for the representations in the certification as if they were the member's only chief executive officer.^[2] Designation of a co-chief executive officer pursuant to this Rule applies only for the purposes of this Rule and has no effect on any other regulatory obligation imposed on a member or its chief executive officer. [The certification shall state the following:]

[* * *]

[Annual Compliance and Supervision Certification]

[The undersigned is/are the chief executive officer(s) (or equivalent officer(s)) of [name of member corporation/partnership/sole proprietorship] (the "Member"). As required by NASD Rule 3013(b), the undersigned make(s) the following certification:]

[1. The Member has in place processes to:]

[(a) establish, maintain and review policies and procedures reasonably designed to achieve compliance with applicable NASD rules, MSRB rules and federal securities laws and regulations;]

[(b) modify such policies and procedures as business, regulatory and legislative changes and events dictate; and]

[(c) test the effectiveness of such policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to

^[2] Designation of a co-chief executive officer pursuant to this Interpretive Material applies only for the purposes of Rule 3013 and IM-3013 and has no effect on any other regulatory obligation imposed on a member or its chief executive officer.]

ensure continuing compliance with NASD rules, MSRB rules and federal securities laws and regulations.]

[2. The undersigned chief executive officer(s) (or equivalent officer(s)) has/have conducted one or more meetings with the chief compliance officer(s) in the preceding 12 months, the subject of which satisfy the obligations set forth in IM-3013.]

[3. The Member's processes, with respect to paragraph 1 above, are evidenced in a report reviewed by the chief executive officer(s) (or equivalent officer(s)), chief compliance officer(s), and such other officers as the Member may deem necessary to make this certification. The final report has been submitted to the Member's board of directors and audit committee or will be submitted to the Member's board of directors and audit committee (or equivalent bodies) at the earlier of their next scheduled meetings or within 45 days of the date of execution of this certification.]

[4. The undersigned chief executive officer(s) (or equivalent officer(s)) has/have consulted with the chief compliance officer(s) and other officers as applicable (referenced in paragraph 3 above) and such other employees, outside consultants, lawyers and accountants, to the extent deemed appropriate, in order to attest to the statements made in this certification.³]

[³ Members should understand that the requirements of Rule 3013 and this Interpretive Material represent, in part, a principle-based requirement to certify that the member has in place processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures

[* * *]

.02 Designation of Multiple Chief Compliance Officers – FINRA recognizes that compliance expertise may reside in more than one individual in firms with distinct business segments. Therefore, a member may choose to designate more than one chief compliance officer, provided that (1) each designated chief compliance officer is a principal; (2) the member precisely defines and documents the areas of primary compliance responsibility assigned to each designated chief compliance officer and makes specific provisions for which of the designated chief compliance officers has primary compliance responsibility in areas that can reasonably be expected to overlap; (3) each designated chief compliance officer satisfies all of the requirements of Rule 3130 with respect to his or her defined area of primary compliance responsibility as if that individual was the member's only chief compliance officer and (4) collectively, the

reasonably designed to achieve compliance with applicable NASD rules, MSRB rules and federal securities laws and regulations. Consequently, compliance with the periodic and content requirements in this Interpretive Material pertaining to meetings between the chief executive officer(s) (or equivalent officer(s)) and the chief compliance officer(s) does not satisfy the full extent of these principle-based obligations that will vary with the facts and circumstances of a member's business activities and organizational structure. Moreover, NASD emphasizes the testing aspect of this principle-based requirement; an integral purpose of NASD rules pertaining to supervision is that members adopt policies and procedures that are effective as to both the scope of, and the achievement of compliance with, applicable NASD rules, MSRB rules and federal securities laws and regulations.]

designated chief compliance officers have the responsibilities and expertise that enable them to consult with the chief executive officer(s) on the totality of the subject matters required to be addressed in the certification by the chief executive officer(s) under Rule 3130. Thus, for example, a member that chooses to have multiple chief compliance officers is required to conduct one or more meetings annually between the chief executive officer(s) (or equivalent officer(s)) and each designated chief compliance officer, individually or collectively. At each such meeting, the chief executive officer (or equivalent officer) would be required to discuss with each chief compliance officer the required topics, but only as it relates to the particular chief compliance officer's defined and documented area of primary compliance responsibility.

.03 Importance of Compliance Processes – It is critical that each [NASD] FINRA member understand the importance of employing comprehensive and effective compliance policies and written supervisory procedures. Compliance with applicable [NASD] FINRA rules, MSRB rules and federal securities laws and regulations is the foundation of ensuring investor protection and market integrity and is essential to the efficacy of self-regulation. Consequently, the certification requirement is intended to require processes by each member to establish, maintain, review, test and modify its compliance policies and written supervisory procedures in light of the nature of its businesses and the laws and rules that are applicable thereto, and to evidence such processes in a report reviewed by the chief executive officer(s) (or equivalent officer(s)) executing the certification.

.04 Content of Meetings Between Chief Executive Officer and Chief Compliance Officer – Included in this processes requirement is an obligation on the part of the

member to conduct one or more meetings annually between the chief executive officer(s) (or equivalent officer(s)) and the chief compliance officer(s) to: (1) discuss and review the matters that are the subject of the certification; (2) discuss and review the member's compliance efforts as of the date of such meetings; and (3) identify and address significant compliance problems and plans for emerging business areas.

.05 Role of the Chief Compliance Officer – The periodic and content requirements for meetings between the chief executive officer(s) (or equivalent officer(s)) and the chief compliance officer(s), as well as the pertinent requirements of paragraphs 3 and 4 of the certification, are intended to indicate the unique and integral role of a chief compliance officer both in the discharge of certain compliance processes and reporting requirements that are the subject matter of the certification and in providing a reliable basis upon which the chief executive officer(s) can execute the certification. A chief compliance officer is a primary advisor to the member on its overall compliance scheme and the particularized rules, policies and procedures that the member adopts. This is because a chief compliance officer should have an expertise in the process of (1) gaining an understanding of the products, services or line functions that need to be the subject of written compliance policies and written supervisory procedures; (2) identifying the relevant rules, regulations, laws and standards of conduct pertaining to such products, services or line functions based on experience and/or consultation with those persons who have a technical expertise in such areas of the member's business; (3) developing, or advising other business persons charged with the obligation to develop, policies and procedures that are reasonably designed to achieve compliance with those relevant rules, regulations, laws and standards of conduct; (4) evidencing the supervision by the line

managers who are responsible for the execution of compliance policies; and (5) developing programs to test compliance with the member's policies and procedures.

[NASD recognizes that such expertise may reside in more than one individual in firms with distinct business segments. Therefore, a member may choose to designate more than one chief compliance officer, provided that (1) each designated chief compliance officer is a principal; (2) the member precisely defines and documents the areas of primary compliance responsibility assigned to each designated chief compliance officer and makes specific provisions for which of the designated chief compliance officers has primary compliance responsibility in areas that can reasonably be expected to overlap; (3) each designated chief compliance officer satisfies all of the requirements of Rule 3013 and this Interpretive Material with respect to his or her defined area of primary compliance responsibility as if that individual was the member's only chief compliance officer and (4) collectively, the designated chief compliance officers have the responsibilities and expertise that enable them to consult with the chief executive officer(s) on the totality of the subject matters required to be addressed in the certification by the chief executive officer(s) under Rule 3013. Thus, for example, a member that chooses to have multiple chief compliance officers is required to conduct one or more meetings annually between the chief executive officer(s) (or equivalent officer(s)) and each designated chief compliance officer, individually or collectively. At each such meeting, the chief executive officer (or equivalent officer) would be required to discuss with each chief compliance officer the required topics, but only as it relates to the particular chief compliance officer's defined and documented area of primary compliance responsibility.]

It is the expertise in the process of compliance that makes a chief compliance officer an indispensable party to enable the chief executive officer(s) to reach the conclusions stated in the certification. Consequently, any certification made by a chief executive officer (or equivalent officer) under circumstances where a chief compliance officer has concluded, after consultation, that there is an inadequate basis for making such certification would be, without limitation, conduct inconsistent with the observance of the high standards of commercial honor and the just and equitable principles of trade — a violation of Rule 2110. Beyond the certification requirement, it is the intention of [both Rule 3013 and this Interpretive Material] this Rule to foster regular and significant interaction between senior management and the chief compliance officer(s) regarding the member's comprehensive compliance program.

.06 Responsibility for Compliance Functions – The chief compliance officer(s) and other compliance officers that report to the chief compliance officer(s) (as described in the sentence that immediately follows) shall perform the compliance functions contemplated by this [Interpretive Material]Rule, including [and] paragraphs 3 and 4 of the certification. Nothing in this [Interpretive Material]Rule is intended to limit or discourage the participation of other employees both within and without the member's compliance department in any aspect of the member's compliance programs or processes, including those matters discussed in this [Interpretive Material] Rule. However, it is understood that a chief compliance officer and, where applicable, the most senior compliance officers having primary compliance department responsibility for each of the member's business segments, will retain responsibility for the compliance functions

contemplated by this [Interpretive Material] Rule, including [and] paragraphs 3 and 4 of the certification.

As may be necessary to render their views and advice, the chief compliance officer(s) and the other officers referenced in paragraph 3 of the certification who consult with the chief executive officer(s) (or equivalent officer(s)) pursuant to paragraph 4, shall, in turn, consult with other employees, officers, outside consultants, lawyers and accountants.

.07 Effect of Certification on Business Line Responsibility – The [NASD] FINRA Board of Governors recognizes that supervisors with business line responsibility are accountable for the discharge of a member's compliance policies and written supervisory procedures. The signatory to the certification is certifying only as to having processes in place to establish, maintain, review, test and modify the member's written compliance and supervisory policies and procedures and the execution of this certification and any consultation rendered in connection with such certification does not by itself establish business line responsibility.

.08 Ability of Chief Compliance Officer to Hold Other Positions – The requirement to designate one or more chief compliance officers does not preclude such persons from holding any other position within the member, including the position of chief executive officer, provided that such persons can discharge the duties of a chief compliance officer in light of his or her other additional responsibilities.

.09 Members Without a Board of Directors or Audit Committee – The requirement that a member's processes include providing the report to the board of directors and audit committee (required by paragraph 3 of the certification) does not apply to members that

do not utilize these types of governing bodies and committees in the conduct of their business.^{[4]2}

.10 Content of Report Documenting Processes – The report required in paragraph 3 of the certification must document the member's processes for establishing, maintaining, reviewing, testing and modifying compliance policies, that are reasonably designed to achieve compliance with applicable [NASD] FINRA rules, MSRB rules and federal securities laws and regulations, and any principal designated by the member may prepare the report. The report must be produced prior to execution of the certification and be reviewed by the chief executive officer(s) (or equivalent officer(s)), chief compliance officer(s) and any other officers the member deems necessary to make the certification and must be provided to the member's board of directors and audit committee in final form either prior to execution of the certification or at the earlier of their next scheduled meetings or within 45 days of execution of the certification. The report should include the manner and frequency in which the processes are administered, as well as the identification of officers and supervisors who have responsibility for such administration. The report need not contain any conclusions produced as a result of following the processes set forth therein. The report may be combined with any other compliance report or other similar report required by any other self-regulatory organization provided that (1) such report is clearly titled in a manner indicating that it is responsive to the requirements of the certification and this [Interpretive Material] Rule; (2) a member that

^{[4]2} As a part of their process, members must have the report reviewed by their governing bodies and committees that serve similar functions in lieu of a board of directors and audit committee.

submits a report for review in response to a[n NASD] FINRA request must submit the report in its entirety; and (3) the member makes such report in a timely manner, i.e., annually.

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Text of Incorporated NYSE Rule to Remain in the Transitional Rulebook

Incorporated NYSE Rules

Rule 342. Offices—Approval, Supervision and Control

• • • Supplementary Material: -----

.10 through **.28** No Change.

.30 Annual Report and Certification.—By April 1 of each year, each member not associated with a member organization and each member organization shall submit to the Exchange a report on the member or member organization's supervision and compliance effort during the preceding year and on the adequacy of the member or member organization's ongoing compliance processes and procedures. The report shall include:

(a) through (c) No Change.

(d) Reserved. [For each member organization, the designation of a general partner or principal executive officer as Chief Compliance Officer (which designation shall be updated on Schedule A of Form BD).]

(e) Reserved. [A certification signed by the member, or by the member organization's Chief Executive Officer (or equivalent officer), that:]

[(i) The member or member organization has in place processes to:]

[(A) establish and maintain policies and procedures reasonably designed to achieve compliance with applicable Exchange rules and federal securities laws and regulations,]

[(B) modify such policies and procedures as business, regulatory and legislative changes and events dictate, and]

[(C) test the effectiveness of such policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with Exchange and federal securities laws and regulations.]

[(ii) In member organizations, the Chief Executive Officer (or equivalent officer) conducted one or more meetings with the organization's Chief Compliance Officer during the preceding 12 months, and that they discussed and reviewed the matters described in this certification, including the organization's prior compliance efforts, and identified and addressed significant compliance problems and plans for emerging business areas.]

[(iii) In member organizations, the processes described in item (i), above, are evidenced in a report reviewed by the Chief Executive Officer (or equivalent officer), Chief Compliance Officer, and such other officers as the organization may deem necessary to make this certification, and submitted to the organization's board of directors and audit committee (if such committee exists) on or before April 1st of each year.]

[(iv) In member organizations, the Chief Executive Officer (or equivalent officer) has consulted with the Chief Compliance Officer and other officers referenced in item (iii), above, and such other employees, outside consultants, lawyers and accountants, to the extent they deem appropriate, in order to attest to the statements made in this certification.]

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**Text of Incorporated NYSE Rule Interpretation to Remain
in the Transitional Rulebook**

NYSE RULE INTERPRETATION

RULE 311 FORMATION AND APPROVAL OF MERGER ORGANIZATIONS

(b) (5) OFFICERS

/01 through /03 No Change.

[/04 Other Dual or Multi-Designations]

Entire text deleted.

[/05 Co-Designation of Principal Executive Officers]

Entire text deleted

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Rule 342 OFFICES – APPROVAL, SUPERVISION AND CONTROL

(a)(b)

/01 through /03 No Change.

(b) BRANCH OFFICES

/01 through /02 No Change.

(c) BRANCH OFFICES

/02 No Change.

(e) SUPERVISION: EXTENSION OF CREDIT AND CONCENTRATIONS OF

RISK

/01 No Change.

.10 REGISTERED REPRESENTATIVE OPERATING FROM RESIDENCE

/01 No Change.

.13 ACCEPTABILITY OF SUPERVISORS

/01 No Change.

.15 SMALL OFFICES

/01 through /05 No Change.

.16 SUPERVISION OF REGISTERED REPRESENTATIVES

/01 through /03 No Change.

.30 Reserved. [ANNUAL REPORTS AND CERTIFICATION]

[(d) Designation of Chief Compliance Officer]

[/01 Chief Compliance Officer Qualifications]

Entire text deleted

[(e) Annual Certification]

[/01 Requirements and Guidelines]

Entire text deleted.

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