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

File No. SR - 2009 - 057
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)
☑	☐	☐	☑	☐	☐

Pilot ☐

Extension of Time Period for Commission Action ☐

Date Expires

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)

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 Relating to Section 1(c) of Schedule A to the FINRA By-Laws to Amend the Personnel Assessment and Gross Income Assessment

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: Philip
Last Name: Shaikun
Title: Associate Vice President and Associate General Counsel
E-mail: philip.shaikun@finra.org
Telephone: (202) 728-8451
Fax: (202) 728-8264

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: 08/20/2009

By: Patrice Gliniecki
(Name)

Senior Vice President and Deputy General Counsel
(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.

Patrice Gliniecki,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS 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 Exhibit Sent As Paper Document ☐	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 ☐	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 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") is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to Section 1(c) of Schedule A to the FINRA By-Laws to amend the Personnel Assessment and Gross Income Assessment paid by each FINRA member.

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

At its meeting on July 16, 2009, the Board of Governors of FINRA authorized the filing of the rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

FINRA will announce the proposed rule change and subsequent approval in a Regulatory Notice. The proposed rule change will become effective January 1, 2010.

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

(a) Purpose

FINRA's primary member regulatory pricing structure consists of the following fees: the Personnel Assessment ("PA"); the Gross Income Assessment ("GIA"); the Trading Activity Fee; and the Branch Office Assessment. These fees are used to fund

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[1] 15 U.S.C. 78s(b)(1).

FINRA's regulatory activities, including rulemaking and FINRA's examination and enforcement programs.

The proposed rule change would amend the PA and GIA to achieve a more consistent and predictable funding stream to carry out FINRA's regulatory mandate. The economic and industry downturns experienced in 2008 and 2009 have strained FINRA's resources, yet its regulatory responsibilities remain constant and its programs robust. FINRA believes the proposed rule change is needed to stabilize its revenues and provide protection against future industry downturns.

To those ends, the proposed rule change first would increase the PA for all members. The PA is currently assessed on a three-tiered rate structure: members with one to five registered representatives and principals are assessed $75 for each such registered person; 6-25 registered persons, $70 each; and 26 or more registered persons, $65 each. The proposed rule change would increase those rates to $150, $140 and $130, respectively, based on the same tiered structure. This proposal would represent the first PA rate increase in over five years. Moreover, given the correlation between the cost of FINRA's regulatory programs and the number of registered persons within a firm, FINRA notes that the population of registered persons has remained fairly stable, even throughout the recent economic downturn.[2] Accordingly, FINRA believes an increase of the PA is both a fair and appropriate means to achieve a more consistent and reliable foundation to fund its regulatory operations.

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[2] For example, FINRA records show that since 2000, the average number of registered persons per year has been approximately 667,680 and that for each of the past three years the population has been 669,626 (2009), 676,927 (2008) and 662,742 (2007) (based on numbers at the end of the preceding calendar year).

Even with the proposed increase of the PA, the GIA remains the most important component of FINRA's regulatory funding. The GIA is currently assessed through a seven-tier rate structure with a minimum GIA of $1,200.00. Under the existing GIA rate structure, members are required to pay an annual GIA as follows:

(1) $1,200.00 on annual gross revenue up to $1 million;

(2) 0.1215% of annual gross revenue greater than $1 million up to $25 million;

(3) 0.2599% of annual gross revenue greater than $25 million up to $50 million;

(4) 0.0518% of annual gross revenue greater than $50 million up to $100 million;

(5) 0.0365% of annual gross revenue greater than $100 million up to $5 billion;

(6) 0.0397% of annual gross revenue greater than $5 billion up to $25 billion; and

(7) 0.0855% of annual gross revenue greater than $25 billion.

For 2010, the current year GIA would be subject to the cap set forth in Regulatory Notice 08-07 (February 2008), which describes the new funding structure that resulted from the consolidation of NASD's and the New York Stock Exchange's member regulation operations. FINRA states in the Notice that it will apply a ten-percent cap on any increase or decrease to a firm's 2010 current year GIA resulting from the new pricing structure implemented in January 2008.

Since the GIA is assessed based on a member's annual gross revenue for the preceding calendar year,[3] FINRA's revenues derived from the GIA are subject to the year-to-year volatility of member revenues. In years where industry revenues are

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3 Gross revenue for assessment purposes is set out in Section 2 of Schedule A, which defines gross revenue as total income as reported on FOCUS form Part II or IIA excluding commodities income.

significantly down, FINRA's operating revenues can drop precipitously: in 2009, for example, GIA revenues are down approximately 37 percent due to 2008 fourth quarter write-offs taken by members, particularly the largest securities firms.

The proposed rule change thus seeks to ameliorate this vulnerability by not only shifting some of FINRA's revenue generation to the more consistent PA stream, but also by smoothing out the volatility inherent in the GIA. To that end, the proposed rule change would further amend Schedule A to assess a GIA of the greater of (1) the amount that would be the GIA based on the existing rate structure ("current year GIA") or (2) a three-year average of the GIA to be calculated by adding the current year GIA plus the GIA assessed on the member over the previous two calendar years, divided by three. For a newer firm that has only been assessed in the prior year, FINRA would compare the current year GIA to the two-year average and assess the greater amount. The existing GIA rate structure and phase-in implementation through 2010 would remain the same.[4] Accordingly, the proposed rule change would preserve the current rate structure, while building a buffer against industry downturns. FINRA notes that it has a long history of providing rebates to members when revenues exceed the expenditures necessary to discharge its regulatory obligations and is committed to continuing that practice in the future.

FINRA believes the proposed rule change will stabilize its operating cash flows by augmenting revenues based on the registered person population, where FINRA's costs

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4 The actual amount of GIA assessed in any given year – e.g., the current year GIA (including a cap, if applicable) or the three-year average – will be used to calculate subsequent three-year average determinations.

are more closely aligned, and reducing dependency on, and exposure to, less predictable industry revenues. FINRA estimates that if the proposed rule change had been in effect for 2009, it would have replaced about 90% of the revenue shortfall that resulted primarily from the significant drop in GIA revenues. In general, those replacement revenues would come from several larger firms whose steep income declines in 2008 primarily account for FINRA's current revenue deficit.

As noted in Item 2 of this filing, FINRA will announce the proposed rule change and subsequent approval in a Regulatory Notice. The proposed rule change will become effective January 1, 2010.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[5] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

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.

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5 15 U.S.C. 78o–3(b)(5).

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.[6]

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. Proposed changes to Schedule A to the FINRA By-Laws.

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6 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2009-057)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to Section 1(c) of Schedule A to the FINRA By-Laws to Amend the Personnel Assessment and Gross Income Assessment

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") 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 change Section 1(c) of Schedule A to the FINRA By-Laws ("Schedule A") to amend the Personnel Assessment and Gross Income Assessment paid by each FINRA member.

The text of the proposed rule change is available on FINRA's Web site at http://www.finra.org, at the principal office of FINRA and at the Commission's Public Reference Room.

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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

FINRA's primary member regulatory pricing structure consists of the following fees: the Personnel Assessment ("PA"); the Gross Income Assessment ("GIA"); the Trading Activity Fee; and the Branch Office Assessment. These fees are used to fund FINRA's regulatory activities, including rulemaking and FINRA's examination and enforcement programs.

The proposed rule change would amend the PA and GIA to achieve a more consistent and predictable funding stream to carry out FINRA's regulatory mandate. The economic and industry downturns experienced in 2008 and 2009 have strained FINRA's resources, yet its regulatory responsibilities remain constant and its programs robust. FINRA believes the proposed rule change is needed to stabilize its revenues and provide protection against future industry downturns.

To those ends, the proposed rule change first would increase the PA for all members. The PA is currently assessed on a three-tiered rate structure: members with one to five registered representatives and principals are assessed $75 for each such registered person; 6-25 registered persons, $70 each; and 26 or more registered persons, $65 each. The proposed rule change would increase those rates to $150, $140 and $130, respectively, based on the same tiered structure. This proposal would represent the first PA rate increase in over five years. Moreover, given the correlation between the cost of FINRA's regulatory programs and the number of registered persons within a firm, FINRA notes that the population of registered persons has remained fairly stable, even throughout the recent economic downturn.[3] Accordingly, FINRA believes an increase of the PA is both a fair and appropriate means to achieve a more consistent and reliable foundation to fund its regulatory operations.

Even with the proposed increase of the PA, the GIA remains the most important component of FINRA's regulatory funding. The GIA is currently assessed through a seven-tier rate structure with a minimum GIA of $1,200.00. Under the existing GIA rate structure, members are required to pay an annual GIA as follows:

(1) $1,200.00 on annual gross revenue up to $1 million;

(2) 0.1215% of annual gross revenue greater than $1 million up to $25 million;

(3) 0.2599% of annual gross revenue greater than $25 million up to $50 million;

(4) 0.0518% of annual gross revenue greater than $50 million up to $100 million;

(5) 0.0365% of annual gross revenue greater than $100 million up to $5 billion;

(6) 0.0397% of annual gross revenue greater than $5 billion up to $25 billion; and

(7) 0.0855% of annual gross revenue greater than $25 billion.

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3 For example, FINRA records show that since 2000, the average number of registered persons per year has been approximately 667,680 and that for each of the past three years the population has been 669,626 (2009), 676,927 (2008) and 662,742 (2007) (based on numbers at the end of the preceding calendar year).

For 2010, the current year GIA would be subject to the cap set forth in Regulatory Notice 08-07 (February 2008), which describes the new funding structure that resulted from the consolidation of NASD's and the New York Stock Exchange's member regulation operations. FINRA states in the Notice that it will apply a ten-percent cap on any increase or decrease to a firm's 2010 current year GIA resulting from the new pricing structure implemented in January 2008.

Since the GIA is assessed based on a member's annual gross revenue for the preceding calendar year,[4] FINRA's revenues derived from the GIA are subject to the year-to-year volatility of member revenues. In years where industry revenues are significantly down, FINRA's operating revenues can drop precipitously: in 2009, for example, GIA revenues are down approximately 37 percent due to 2008 fourth quarter write-offs taken by members, particularly the largest securities firms.

The proposed rule change thus seeks to ameliorate this vulnerability by not only shifting some of FINRA's revenue generation to the more consistent PA stream, but also by smoothing out the volatility inherent in the GIA. To that end, the proposed rule change would further amend Schedule A to assess a GIA of the greater of (1) the amount that would be the GIA based on the existing rate structure ("current year GIA") or (2) a three-year average of the GIA to be calculated by adding the current year GIA plus the GIA assessed on the member over the previous two calendar years, divided by three. For a newer firm that has only been assessed in the prior year, FINRA would compare the current year GIA to the two-year average and assess the greater amount. The existing

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[4] Gross revenue for assessment purposes is set out in Section 2 of Schedule A, which defines gross revenue as total income as reported on FOCUS form Part II or IIA excluding commodities income.

GIA rate structure and phase-in implementation through 2010 would remain the same.[5] Accordingly, the proposed rule change would preserve the current rate structure, while building a buffer against industry downturns. FINRA notes that it has a long history of providing rebates to members when revenues exceed the expenditures necessary to discharge its regulatory obligations and is committed to continuing that practice in the future.

FINRA believes the proposed rule change will stabilize its operating cash flows by augmenting revenues based on the registered person population, where FINRA's costs are more closely aligned, and reducing dependency on, and exposure to, less predictable industry revenues. FINRA estimates that if the proposed rule change had been in effect for 2009, it would have replaced about 90% of the revenue shortfall that resulted primarily from the significant drop in GIA revenues. In general, those replacement revenues would come from several larger firms whose steep income declines in 2008 primarily account for FINRA's current revenue deficit.

As noted in Item 2 of this filing, FINRA will announce the proposed rule change and subsequent approval in a Regulatory Notice. The proposed rule change will become effective January 1, 2010.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[6] which requires, among other things, that FINRA rules

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[5] The actual amount of GIA assessed in any given year – e.g., the current year GIA (including a cap, if applicable) or the three-year average – will be used to calculate subsequent three-year average determinations.

[6] 15 U.S.C. 78o–3(b)(5).

provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

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-2009-057 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2009-057. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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-2009-057 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.[7]

Florence E. Harmon

Deputy Secretary

[7] 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.

* * * * *

SCHEDULE A TO THE BY-LAWS OF THE CORPORATION

Assessments and fees pursuant to the provisions of Article VI of the By-Laws of the Corporation shall be determined on the following basis.

Section 1 — Member Regulatory Fees

(a) through (b) No Change.

(c) Each member shall pay an annual Gross Income Assessment equal to the <u>greater</u> [total] of:

<u>(1) the total of:</u>

[(1)]<u>(A)</u> $1,200.00 on annual gross revenue up to $1 million;

[(2)]<u>(B)</u> 0.1215% of annual gross revenue greater than $1 million up to $25 million;

[(3)]<u>(C)</u> 0.2599% of annual gross revenue greater than $25 million up to $50 million;

[(4)]<u>(D)</u> 0.0518% of annual gross revenue greater than $50 million up to $100 million;

[(5)]<u>(E)</u> 0.0365% of annual gross revenue greater than $100 million up to $5 billion;

[(6)]<u>(F)</u> 0.0397% of annual gross revenue greater than $5 billion up to $25 billion; and

[(7)](G) 0.0855% of annual gross revenue greater than $25 billion[.]; or

(2) The average Gross Income Assessment from the preceding three calendar years, to be determined by adding the Gross Income Assessment calculation pursuant to paragraph (c)(1) to the actual Gross Income Assessment in the preceding two calendar years, then dividing by three.

The rate structure set forth in paragraph (c)(1) [above] will be implemented over a three year period beginning in 2008 in such manner as specified by FINRA.

For the purpose of paragraph (c)(1), [E]each member is to report annual gross revenue as defined in Section 2 of this Schedule[,] for the preceding calendar year.

(d) Each member shall pay an annual Personnel Assessment equal to:

(1) [$75]$150.00 per principal and each representative up to five principals and representatives as defined below;

(2) [$70]$140.00 per principal and each representative for six principals and representatives up to twenty-five principals and representatives as defined below; or

(3) [$65]$130.00 per principal and each representative for twenty-six or more principals and representatives as defined below.

A principal or representative is defined as a principal or representative in the member's organization who is registered with FINRA as of December 31st of the prior fiscal year.

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