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Page 1 of * 619

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

File No.* SR - 2017 - * 007
Amendment No. (req. for Amendments *)

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

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐ Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐ Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposed Rule Change to Adopt Consolidated FINRA Registration Rules, Restructure the Representative-Level Qualification Examination Program and Amend the Continuing Education Requirements

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 action.

First Name * Afshin Last Name * Atabaki

Title * Associate General Counsel

E-mail * Afshin.Atabaki@finra.org

Telephone * (202) 728-8902 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.

Date 03/08/2017

By Patrice M. Gliniecki

(Name *)

(Title *)

Senior Vice President and Deputy General Counsel

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,

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS 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 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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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, security-based swap submission, or advance notice 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

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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

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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

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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 the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act," "Act" or "SEA"),[1] Financial Industry Regulatory Authority, Inc. ("FINRA") is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to adopt with amendments the NASD and Incorporated NYSE rules relating to qualification and registration requirements as FINRA rules in the Consolidated FINRA Rulebook.[2] The proposed rule change also restructures the current representative-level qualification examinations and creates a general knowledge examination and specialized knowledge examinations. In addition, the proposed rule change amends the Continuing Education ("CE") requirements.

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 meetings on February 11, 2009, April 16, 2009 and December 15, 2015, 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.

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

2 The current FINRA rulebook consists of: (1) FINRA rules; (2) NASD rules; and (3) Incorporated NYSE rules. While the NASD rules generally apply to all FINRA members, the Incorporated NYSE rules apply only to those members of FINRA that are also members of the NYSE ("dual members"). The FINRA rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see Information Notice, March 12, 2008 (Rulebook Consolidation Process).

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 90 days following Commission approval. The effective date will be no later than 18 months following Commission approval.

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

(a) Purpose

Background

Section 15A(g)(3) of the Act authorizes FINRA to prescribe standards of training, experience and competence for persons associated with FINRA members. Accordingly, FINRA has adopted registration requirements to ensure that associated persons attain and maintain specified levels of competence and knowledge pertinent to their function. The current FINRA registration rules include both NASD rules and rules incorporated from the NYSE ("Incorporated NYSE rules").

In general, the current rules: (1) require that persons engaged in a member's investment banking or securities business who are to function as representatives or principals register with FINRA in each category of registration appropriate to their functions by passing one or more qualification examinations; (2) exempt specified associated persons from the registration requirements; and (3) provide for permissive registration of specified persons.

As part of the process of developing the Consolidated FINRA Rulebook, FINRA published Regulatory Notice 09-70 (December 2009), seeking comment on a set of

proposed consolidated registration rules.[3] The proposed rules, among other changes, allowed any associated person to obtain and maintain any registration permitted by the member. FINRA also proposed adopting a Retained Associate ("RA") status in the Central Registration Depository ("CRD®") system for individuals who would be working for a financial services industry affiliate of a member, and who would not be working in any capacity for the member. Under the proposal, RAs would be able to obtain and maintain any registration permitted by the member, subject to specific requirements. Further, the proposal created an "active" and "inactive" registration status in the CRD system to distinguish between required and permissive registrations, including the proposed RA status. In addition, the proposal included several other substantive changes, such as adoption of a Compliance Officer registration category for Chief Compliance Officers ("CCOs"), designation of a Principal Financial Officer and Principal Operations Officer, enhancement of the examination requirements for Research Principals, adoption of registration categories for Supervisory Analysts, Securities Lending Representatives and Securities Lending Supervisors, imposition of an experience requirement for representatives functioning as principals for a limited period before passing a principal examination and elimination of the Foreign Associate registration category.

As discussed in Item 5 below, commenters were concerned with the complexity and operational and cost burden of the RA proposal. FINRA also engaged in discussions with SEC staff regarding the impact of the RA proposal. As a result, FINRA has revised

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[3] In addition, FINRA had proposed to transfer NASD Rule 3010(e) relating to background checks on registration applicants into the Consolidated FINRA Rulebook as a FINRA rule. FINRA adopted NASD Rule 3010(e) as FINRA Rule 3110(e) as part of a separate proposed rule change. See Regulatory Notice 15-05 (March 2015).

the proposal as published in Regulatory Notice 09-70. Specifically, rather than allowing individuals to obtain and maintain their registrations based on an RA status, the proposed rule change establishes a process whereby individuals who would be working for a financial services industry affiliate of a member would terminate their registrations with that member and would be granted a waiver of their qualification requirements upon re-registering with a member, provided the firm that is requesting the waiver and the individual satisfy specified conditions. FINRA has also eliminated the proposal to create an "active" and "inactive" registration status in the CRD system to distinguish between required and permissive registrations. Further, FINRA is no longer proposing to establish registration categories for Securities Lending Representatives and Securities Lending Supervisors.

FINRA administers qualification examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge. The first of these examinations was established in 1956. Over time, the examination program has increased in complexity to address the introduction of new products and functions, and related regulatory concerns and requirements. As a result, today, there are a large number of examinations, considerable content overlap across the representative-level examinations and requirements for individuals in various segments of the industry to pass multiple examinations.

To address these issues, FINRA published Regulatory Notice 15-20 (May 2015), seeking comment on a proposal to restructure the current representative-level

qualification examination program[4] into a more efficient format whereby all potential representative-level registrants would take a general knowledge examination called the Securities Industry Essentials™ ("SIE™") and a tailored, specialized knowledge examination for their particular registered role. The proposal, among other things, eliminates duplicative testing of general securities knowledge on examinations. The proposal also eliminates several representative-level registration categories and associated examinations that have become outdated or have limited utility. As described in more detail in Item 5 below, most of the commenters expressed overall support for the proposed approach.

The proposed rule change combines the proposals set forth in Regulatory Notices 09-70 and 15-20 with a few changes, including those made in response to comments.

Proposed Rules

A. Registration Requirements (Proposed FINRA Rule 1210)

NASD Rules 1021(a) and 1031(a) currently require that persons engaged, or to be engaged, in the investment banking or securities business of a member who are to function as representatives or principals register with FINRA in each category of registration appropriate to their functions as specified in NASD Rules 1022 and 1032.[5] FINRA is proposing to consolidate and streamline the provisions of NASD Rules 1021(a) and 1031(a) and adopt them as FINRA Rule 1210, subject to several changes.

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4 FINRA is also evaluating the structure of the principal-level examinations and may propose to streamline this examination structure at a later time.

5 In addition, NASD IM-1000-3 provides that the failure to register an individual as a registered representative may be deemed to be conduct inconsistent with just and equitable principles of trade and may be sufficient cause for appropriate disciplinary action.

Proposed FINRA Rule 1210 provides that each person engaged in the investment banking or securities business of a member must register with FINRA as a representative or principal in each category of registration appropriate to his or her functions and responsibilities as specified in proposed FINRA Rule 1220, unless exempt from registration pursuant to proposed FINRA Rule 1230. Proposed FINRA Rule 1210 also provides that such person is not qualified to function in any registered capacity other than that for which the person is registered, unless otherwise stated in the rules. This latter provision is a consolidation of similar provisions in the registration categories under the current NASD rules.[6]

The original proposal in Regulatory Notice 09-70 created an "active" and "inactive" registration status in the CRD system to distinguish between required and permissive registrations, and it required firms to notify FINRA of such status. The proposed rule change eliminates the distinction between an "active" and "inactive" status.[7]

Further, FINRA is proposing to delete NASD IM-1000-3 because it is superfluous. The failure to register a representative as required under current NASD Rule 1031(a) is in fact a violation of FINRA rules.

B. Minimum Number of Registered Principals (Proposed FINRA Rule 1210.01)

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6 See NASD Rules 1022(a)(6), (b)(3), (c)(4), (d)(2), (e)(3) and (f)(4) and NASD Rules 1032(b)(2), (c)(2), (d)(3), (e)(2), (f)(3), (g)(2), (h)(3) and (i)(4).

7 However, as is the case under the current rules, FINRA will continue to use the term "inactive" in the CRD system in reference to persons who have failed to satisfy the Regulatory Element of the CE requirements, persons who have failed to submit their fingerprint information within the required time period and persons who are in active duty in the Armed Forces of the United States.

NASD Rule 1021(e)(1) currently requires that a member, except a sole proprietorship, have a minimum of two registered principals with respect to each aspect of the member's investment banking and securities business pursuant to the applicable provisions of NASD Rule 1022.[8] This requirement applies to applicants for membership and existing members.

NASD Rule 1021(e)(2) provides that, pursuant to the FINRA Rule 9600 Series, FINRA may waive the two-principal requirement in situations that indicate conclusively that only one person associated with an applicant for membership should be required to register as a principal.

NASD Rule 1021(e)(3) provides that an applicant for membership, if the nature of its business so requires, must also have a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal) and a Registered Options Principal.[9]

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[8] In 2003, the rule was amended to replace the phrase "pursuant to the provisions of Rule 1022(a), (d) and (e), whichever are applicable" with the current phrase "pursuant to the applicable provisions of Rule 1022." See Securities Exchange Act Release No. 47433 (March 3, 2003), 68 FR 11424 (March 10, 2003) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–NASD–2003–24). NASD Rules 1022(a), (d) and (e) are the registration categories of General Securities Principal, Investment Company and Variable Contracts Products Principal and Direct Participation Programs Principal, respectively. These principal registration categories, which depend on the scope of a firm's activities, are the only current principal categories that satisfy the two-principal requirement. The 2003 change was made for stylistic purposes and was part of other technical changes to the registration rules.

[9] NASD Rules 1022(b) and (c) require all firms to have a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal, as applicable. This requirement became effective on September 17, 2001. However, the requirement does not apply to members that were granted an exemption prior to September 17, 2001. See Notice to Members ("NTM") 01-52 (August 2001).

FINRA is proposing to adopt NASD Rule 1021(e) as FINRA Rule 1210.01, subject to the changes below. FINRA is proposing to provide firms that limit the scope of their business with greater flexibility to satisfy the two-principal requirement. In particular, proposed FINRA Rule 1210.01 requires that a member have a minimum of two General Securities Principals, provided that a member that is limited in the scope of its activities may instead have two officers or partners who are registered in a principal category that corresponds to the scope of the member's activities.[10] For instance, if a firm's business is limited to securities trading, the firm may opt to have two Securities Trader Principals, instead of two General Securities Principals.

Currently, a sole proprietor member (without any other associated persons) is not subject to the two-principal requirement because such member is operating as a one-person firm. Given that one-person firms may be organized in legal forms other than a sole proprietorship (such as a single-person limited liability company), proposed FINRA Rule 1210.01 provides that any member with only one associated person is excluded from the two-principal requirement.

In addition, proposed FINRA Rule 1210.01 clarifies that existing members as well as new applicants may request a waiver of the two-principal requirement.

The proposed rule further provides that all members are required to have a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), a Principal Financial Officer and a Principal

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[10] The principal registration categories are described in greater detail below.

Operations Officer.[11] Moreover, the proposed rule requires that: (1) a member engaged in investment banking activities have an Investment Banking Principal;[12] (2) a member engaged in research activities have a Research Principal; (3) a member engaged in securities trading activities have a Securities Trader Principal; and (4) a member engaged in options activities with the public have a Registered Options Principal. These requirements extend to existing members as well as new applicants.

C. Permissive Registrations (Proposed FINRA Rule 1210.02)

NASD Rules 1021(a) and 1031(a) currently permit a member to register or maintain the registration(s) as a representative or principal of an individual performing legal, compliance, internal audit, back-office operations[13] or similar responsibilities for the member. NASD Rule 1031(a) also permits a member to register or maintain the registration as a representative of an individual performing administrative support functions for registered persons. In addition, NASD Rules 1021(a) and 1031(a) permit a member to register or maintain the registration(s) as a representative or principal of an

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11 Those members that are currently exempt from the requirement to have a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal based on an exemption granted to them prior to September 17, 2001 will continue to be exempt from this requirement. However, as noted below, such members will be subject to the requirement to designate a Principal Financial Officer and a Principal Operations Officer.

12 As described below, the Investment Banking Principal registration category is a newly proposed principal category that corresponds to the registration requirements of current NASD Rule 1022(a)(1)(B).

13 Back-office personnel that are functioning as Operations Professionals as set forth in FINRA Rule 1230(b)(6) are subject to the Operations Professional registration requirement.

individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

FINRA is proposing to consolidate these provisions under FINRA Rule 1210.02. FINRA is also proposing to expand the scope of permissive registrations and clarify a member's obligations regarding individuals who are maintaining such registrations.[14]

Specifically, proposed FINRA Rule 1210.02 allows any associated person to obtain and maintain any registration permitted by the member.[15] For instance, an associated person of a member working solely in a clerical or ministerial capacity, such as in an administrative capacity, would be able to obtain and maintain a General Securities Representative registration with the member. As another example, an associated person of a member who is registered, and functioning solely, as a General Securities Representative would be able to obtain and maintain a General Securities Principal registration with the member. Further, proposed FINRA Rule 1210.02 allows an individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of a member to obtain and maintain any registration permitted by the member.

FINRA is proposing to permit the registration of such individuals for several reasons. First, a member may foresee a need to move a former representative or principal who has not been registered for two or more years back into a position that would require

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14 In 2007, FINRA filed with the SEC a similar proposed rule change. The proposed rule change was not published for comment in the Federal Register. See SR-FINRA-2007-004. FINRA withdrew SR-FINRA-2007-004 prior to filing this proposed rule change.

15 In Regulatory Notice 09-70, FINRA referred to such individuals as associated person engaged in a bona fide business purpose of a member.

such person to be registered. Currently, such persons are required to requalify (or obtain a waiver of the applicable qualification examinations) and reapply for registration. Second, the proposed rule change would allow members to develop a depth of associated persons with registrations in the event of unanticipated personnel changes. Third, allowing registration in additional categories encourages greater regulatory understanding. Finally, the proposed rule change would eliminate an inconsistency in the current rules, which permit some associated persons of a member to obtain permissive registrations, but not others who equally are engaged in the member's business.

Individuals maintaining a permissive registration under the proposed rule change would be considered registered persons and subject to all FINRA rules, to the extent relevant to their activities.[16] For instance, an individual working solely in an administrative capacity would be able to maintain a General Securities Representative registration and would be considered a registered person for purposes of FINRA Rule 3240 relating to borrowing from or lending to customers, but the rule would have no practical application to his or her conduct because he or she would not have any customers.

Consistent with the requirements of FINRA Rule 3110, members would be required to have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their

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16 The original proposal included a subset of FINRA rules to which these individuals would be subject. FINRA believes that the revised approach, which is principle-based, provides firms the flexibility to tailor their supervisory systems to their business models and reduces the burden on FINRA of having to revise the subset of applicable rules each time FINRA adopts a new rule or amends an existing rule.

assigned functions. With respect to an individual who solely maintains a permissive registration, such as an individual working exclusively in an administrative capacity, the individual's day-to-day supervisor may be a non-registered person. For purposes of compliance with FINRA Rule 3110(a)(5) (which requires the assignment of each registered person to an appropriately registered supervisor), members would be required to assign a registered supervisor to this person who would be responsible for periodically contacting such individual's day-to-day supervisor to verify that the individual is not acting outside the scope of his or her assigned functions. If such individual is permissively registered as a representative, the registered supervisor must be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor must be registered as a principal.[17]

FINRA is also considering enhancements to the CRD system and BrokerCheck, as part of a separate proposal, to identify whether a registered person is maintaining only a permissive registration and to disclose the significance of such permissive registration to the general public.

D. Qualification Examinations and Waivers of Examinations (Proposed FINRA Rule 1210.03)

NASD Rules 1021(a) and 1031(a) currently set forth general requirements that an individual pass an appropriate qualification examination before his or her registration as a

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[17] In either case, the registered supervisor of an individual who solely maintains a permissive registration would not be required to be registered in the same representative or principal registration category as the permissively-registered individual. For instance, for purposes of FINRA Rule 3110(a)(5), an Investment Company and Variable Contracts Products Principal would be able to function as the registered supervisor of an individual who is permissively maintaining a General Securities Principal registration.

representative or principal can become effective. Incorporated NYSE Rule 345.15(1)(a) includes a substantially similar requirement. FINRA is proposing to consolidate these provisions and adopt them as FINRA Rule 1210.03.

In addition, as noted above, FINRA is proposing to adopt a restructured representative-level qualification examination program whereby representative-level registrants would be required to take a general knowledge examination (the SIE) and a specialized knowledge examination[18] appropriate to their job functions at the firm with which they are associating. Therefore, proposed FINRA Rule 1210.03 provides that before the registration of a person as a representative can become effective under proposed FINRA Rule 1210, such person must pass the SIE and an appropriate representative-level qualification examination as specified in proposed FINRA Rule 1220.[19] Proposed FINRA Rule 1210.03 also provides that before the registration of a person as a principal can become effective under proposed FINRA Rule 1210, such person must pass an appropriate principal-level qualification examination as specified in proposed FINRA Rule 1220.

Further, proposed FINRA Rule 1210.03 provides that if a registered person's job functions change and he or she needs to become registered in another representative-level category, he or she would not need to pass the SIE again. Rather, the registered person would need to pass only the appropriate representative-level qualification examination.

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[18] The term "specialized" as used in the proposed rule change is only intended for discussion purposes to identify the proposed representative-level examinations and distinguish them from the current representative-level examinations. FINRA is not proposing to use the term "specialized" in the proposed rule text.

[19] Proposed FINRA Rule 1220 sets forth each registration category and applicable qualification examination.

Moreover, proposed FINRA Rule 1210.03 provides that all associated persons, such as associated persons whose functions are solely and exclusively clerical or ministerial, are eligible to take the SIE. Proposed FINRA Rule 1210.03 also provides that individuals who are not associated persons of firms, such as members of the general public, are eligible to take the SIE. FINRA believes that expanding the pool of individuals who are eligible to take the SIE would enable prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to submitting a job application. Further, this approach would allow for more flexibility and career mobility within the securities industry. While all associated persons of firms as well as individuals who are not associated persons would be eligible to take the SIE pursuant to proposed FINRA Rule 1210.03, passing the SIE alone would not qualify them for registration with FINRA. Rather, to be eligible for registration with FINRA, an individual must pass an applicable representative or principal qualification examination and complete the other requirements of the registration process.

The SIE would assess basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices. In particular, the SIE will cover four major areas. The first, "Knowledge of Capital Markets," focuses on topics such as types of markets and offerings, broker-dealers and depositories, and economic cycles. The second, "Understanding Products and Their Risks," covers securities products at a high level as well as associated investment risks. The third, "Understanding Trading, Customer Accounts and Prohibited Activities," focuses on accounts, orders, settlement and prohibited activities. The final area, "Overview of the Regulatory Framework,"

encompasses topics such as SROs, registration requirements and specified conduct rules. FINRA is anticipating that the SIE would include 75 scored questions plus an additional 10 unscored pretest questions.[20] The passing score would be determined through methodologies compliant with testing industry standards used to develop examinations and set passing standards.

The current FINRA representative-level examination program consists of 16 examinations (Series 6, 7, 11, 17, 22, 37, 38, 42, 57, 62, 72, 79, 82, 86, 87 and 99). As described in greater detail below, FINRA is proposing to eliminate the current registration categories of Order Processing Assistant Representative, United Kingdom Securities Representative, Canadian Securities Representative, Options Representative, Corporate Securities Representative and Government Securities Representative as well as the associated examinations, the Series 11, Series 17, Series 37, Series 38, Series 42, Series 62 and Series 72, respectively. In addition, FINRA is proposing to revise the remaining representative-level qualification examinations, which include the Series 6, Series 7, Series 22, Series 57, Series 79, Series 82, Series 86, Series 87 and Series 99, to develop specialized knowledge examinations.

FINRA is consulting with committees of industry subject matter experts to develop the content of the specialized knowledge examinations, which would exclude the content covered on the SIE. FINRA will file the SIE and the specialized knowledge

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20 Pretest questions are designed to ensure that new examination items meet acceptable testing standards prior to use for scoring purposes. Consistent with FINRA's current practice, the SIE would include 10 additional, unidentified pretest questions that do not contribute towards the individual's score. Therefore, the SIE actually would consist of 85 questions, 75 of which would be scored. The 10 pretest questions would be randomly distributed throughout the examination.

examinations, including the content outlines for each examination, with the SEC separately.

The proposed rule change solely impacts the representative-level qualification requirements. The proposed rule change does not change the scope of the activities under the remaining representative categories. For instance, after the effective date of the proposed rule change, a previously unregistered individual registering as a Direct Participation Programs Representative for the first time would be required to pass the SIE and an appropriate specialized knowledge examination. However, such individual may engage only in those activities in which a current Direct Participation Programs Representative may engage under current NASD Rule 1032(c).

The table below illustrates the proposed changes to the representative-level examinations, including the anticipated number of questions[21] on each specialized knowledge examination, for those representative categories that would be retained under the proposed rule change.

Registration Category (and CRD System Designation)	**Current Examination(s)**	**Proposed Examination(s)**
Investment Company and Variable Contracts Products Representative (IR)	Series 6 (100 questions)	SIE (75 questions) + Specialized Series 6 (50 questions)
General Securities Representative (GS)	Series 7 (250 questions)	SIE (75 questions) + Specialized Series 7 (125 questions)

[21] The specified number of questions for each specialized knowledge examination are estimates. The final number of questions on each examination may slightly vary based on additional work with the respective examination committees. Further, the table does not include the number of pretest questions on each of the listed examinations.

Direct Participation Programs Representative (DR)	Series 22 (100 questions)	SIE (75 questions) + Specialized Series 22 (50 questions)
Securities Trader (TD)	Series 57 (125 questions)	SIE (75 questions) + Specialized Series 57 (50 questions)
Investment Banking Representative (IB)	Series 79 (175 questions)	SIE (75 questions) + Specialized Series 79 (75 questions)
Private Securities Offerings Representative (PR)	Series 82 (100 questions)	SIE (75 questions) + Specialized Series 82 (50 questions)
Research Analyst (RS)	Series 7 (250 questions) + Series 86 (Part I: Analysis) (100 questions) + Series 87 (Part II: Regulatory Administration and Best Practices) (50 questions)	SIE (75 questions) + Specialized Series 86 (Part I: Analysis) (100 questions) + Specialized Series 87 (Part II: Regulatory Administration and Best Practices) (50 questions)
Operations Professional (OS)	Series 99 (100 questions)	SIE (75 questions) + Specialized Series 99 (50 questions)

As noted in the table, FINRA is anticipating that the number of questions on each specialized knowledge examination would be equal to or shorter than the current qualification examination that it would replace. For example, the specialized Series 7 examination for General Securities Representatives would include 125 questions instead of the 250 questions on the current Series 7 examination, and the specialized Series 6 examination for Investment Company and Variable Contracts Products Representatives would include 50 questions instead of the 100 questions on the current Series 6 examination. However, the total number of questions on the SIE plus the applicable specialized knowledge examination could be fewer or greater than the number of questions on the current examinations.

As discussed below, FINRA is also proposing to eliminate the current prerequisite registration requirement for Research Analysts. An individual seeking registration as a Research Analyst would no longer be required to first register as a General Securities Representative as currently required. Instead, such individuals would need to pass the

SIE and corresponding specialized knowledge examination for Research Analyst, which, as reflected in the table above, would decrease from 400 questions to 225 questions the total number of questions for individuals registering as Research Analysts.

Moreover, under the proposed rule change, individuals seeking registration in two or more representative-level categories would experience a net decrease in the total number of questions because the SIE content would be tested only once. For example, an individual who seeks registration as a General Securities Representative and an Investment Banking Representative today would take two examinations, the Series 7 and Series 79, totaling 425 questions. Under the proposed structure, an individual who seeks registration in the same categories would take the SIE, the specialized Series 7 examination and the specialized Series 79 examination, totaling 275 questions.

Individuals who are registered on the effective date of the proposed rule change would be eligible to maintain those registrations without being subject to any additional requirements. Individuals who had been registered within the past two years prior to the effective date of the proposed rule change would also be eligible to maintain those registrations without being subject to any additional requirements, provided that they re-register with FINRA within two years from the date of their last registration. Further, such individuals, with the exception of Order Processing Assistant Representatives and Foreign Associates, would be considered to have passed the SIE in the CRD system, and thus if they wish to register in any other representative category after the effective date of the proposed rule change, they could do so by taking only the appropriate specialized

knowledge examination.[22] However, with respect to an individual who is not registered on the effective date of the proposed rule change but was registered within the past two years prior to the effective date of the proposed rule change, the individual's SIE status in the CRD system would be administratively terminated if such individual does not register with FINRA within four years from the date of the individual's last registration.[23]

In addition, individuals, with the exception of Order Processing Assistant Representatives and Foreign Associates, who had been registered as representatives two or more years, but less than four years, prior to the effective date of the proposed rule change would also be considered to have passed the SIE and designated as such in the CRD system. Moreover, if such individuals re-register with a firm after the effective date of the proposed rule change and within four years of having been previously registered, they would only need to pass the specialized knowledge examination associated with that registration position. However, if they do not register with FINRA within four years from the date of their last registration, their SIE status in the CRD system would be administratively terminated.

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22 As noted above, FINRA is evaluating the structure of the principal-level examinations. Under the proposed rule change, only individuals who have passed an appropriate representative-level examination would be considered to have passed the SIE. Registered principals who do not hold an appropriate representative-level registration would not be considered to have passed the SIE. For example, an individual who is registered solely as a Financial and Operations Principal (Series 27) today would have to take the Series 7 to become registered as a General Securities Representative. Under the proposed rule change, in the future, this individual would have to pass the SIE and the specialized Series 7 examination to obtain registration as a General Securities Representative.

23 As discussed below, FINRA is proposing a four-year expiration period for the SIE.

Subject to Commission approval and the timing of such approval, FINRA intends to implement the revised structure in March 2018. Similar to the current process for registration, firms would continue to use the CRD system to request registrations for representatives. An individual would be able to schedule both the SIE and specialized knowledge examinations for the same day, provided the individual is able to reserve space at one of FINRA's designated testing centers.

Further, FINRA is proposing to create an enrollment system separate from the CRD system to allow individuals who are not associated persons of a firm, including members of the general public, to enroll and pay the SIE examination fee. This system would also be available to associated persons of firms who are not required to be registered with FINRA. The enrollment system would provide individuals using the system with documentation (either in paper or electronic format) of a passing or failing result.

A firm would be able to obtain SIE results for associated persons who are registering as representatives through the CRD system. In addition, a firm would be able to view the passing status of an associated person who is not registering as a representative and an individual seeking to associate with the firm using an interface within the CRD system. The CRD system would also automatically obtain an individual's SIE results once a firm submits a Form U4 (Uniform Application for Securities Industry Registration or Transfer) and requests a registration for that individual.

FINRA is currently conducting a pricing analysis to determine a reasonable fee for the SIE and the specialized knowledge examinations. FINRA will file the examination fees with the SEC separately.

Finally, paragraph (d) of NASD Rule 1070 currently permits FINRA, in exceptional cases and where good cause is shown, to waive the applicable qualification examination and accept other standards as evidence of an applicant's qualifications for registration. The Incorporated NYSE rules include substantially similar provisions.[24] FINRA is proposing to transfer the provisions of NASD Rule 1070(d) into proposed FINRA Rule 1210.03 with the following changes.[25] The proposed rule provides that FINRA will only consider examination waiver requests submitted by a firm for individuals associated with the firm who are seeking registration in a representative- or principal-level registration category. Moreover, proposed FINRA Rule 1210.03 states that FINRA will consider waivers of the SIE alone or the SIE and the representative- and principal-level examination(s) for such individuals. FINRA would not consider a waiver of the SIE for non-associated persons or for associated persons who are not registering as representatives or principals.

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24 See Incorporated NYSE Rule 345.15(1)(b) and NYSE Rule Interpretation 345.15/01.

25 NASD Rules 1070(a), (b) and (c) provide general information relating to the examination process. FINRA is proposing to delete these provisions given that they relate to the administration of the examination program rather than rule requirements.

E. Requirements for Registered Persons Functioning as Principals for a Limited Period (Proposed FINRA Rule 1210.04)

NASD Rule 1021(d) provides that a person who is currently registered with a member as a representative and whose duties are changed by the member so as to require registration as a principal may function as a principal for up to 90 calendar days before he or she is required to pass the appropriate qualification examination for principal. In addition, it allows a formerly registered representative who is required to register as a principal to function as a principal without passing the appropriate principal qualification examination for up to 90 calendar days, provided the person first satisfies all applicable prerequisite requirements. A person who has never been registered does not qualify for this exception.

FINRA is proposing to adopt NASD Rule 1021(d) as FINRA Rule 1210.04, subject to the following changes. Proposed FINRA Rule 1210.04 states that a member may designate any person currently registered, or who becomes registered, with the member as a representative to function as a principal for a limited period, provided that such person has at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation. This change is intended to ensure that representatives designated to function as principals for the limited period under the proposed rule have an appropriate level of registered representative experience. The proposed rule clarifies that the requirements of the rule apply to designations to any principal category, including those categories that are not subject to a prerequisite representative-level registration requirement, such as the Financial and Operations Principal registration category.

The proposed rule also clarifies that the individual must fulfill all applicable prerequisite registration, fee and examination requirements before his or her designation as a principal. Further, the proposed rule extends the limited period that such person may function as a principal before passing the applicable principal examination from 90 calendar days to 120 calendar days (because the current window in the CRD system for passing an examination is 120 calendar days). A person registered as an Order Processing Assistant Representative or a Foreign Associate would be prohibited from functioning as a principal for purposes of proposed FINRA Rule 1210.04 because of the very limited scope of his or her activities. The proposed rule also provides an exception to the experience requirement for principals who are designated by members to function in other principal categories for a limited period. Specifically, the proposed rule states that a member may designate any person currently registered, or who becomes registered, with the member as a principal to function in another principal category for 120 calendar days before passing any applicable examinations. Finally, the proposed rule clarifies that members that lose their sole Registered Options Principal are subject to separate requirements set forth in proposed FINRA Rule 1220.03.

F. Rules of Conduct for Taking Examinations and Confidentiality of Examinations (Proposed FINRA Rule 1210.05)

Before taking an examination, FINRA currently requires each candidate to agree to the Rules of Conduct for taking a qualification examination. Among other things, the examination Rules of Conduct require each candidate to attest that he or she is in fact the person who is taking the examination. These Rules of Conduct also require that each candidate agree that the examination content is the intellectual property of FINRA and that the content cannot be copied or redistributed by any means. If FINRA discovers that

a candidate has violated the Rules of Conduct for taking a qualification examination, the candidate may forfeit the results of the examination and may be subject to disciplinary action by FINRA. For instance, for cheating on a qualifications examination, FINRA's Sanction Guidelines recommend a bar.[26]

FINRA is proposing to codify the requirements relating to the Rules of Conduct for examinations under FINRA Rule 1210.05. FINRA is also proposing to adopt Rules of Conduct for taking the SIE for associated persons and non-associated persons who take the SIE. Specifically, proposed FINRA Rule 1210.05 states that associated persons taking the SIE would be subject to the SIE Rules of Conduct, and associated persons taking a representative or principal examination would be subject to the Rules of Conduct for representative and principal examinations. Pursuant to proposed FINRA Rule 1210.05, a violation of the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations by an associated person would be deemed to be a violation of FINRA Rule 2010. Moreover, if FINRA determines that an associated person has violated the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations, the associated person may forfeit the results of the examination and may be subject to disciplinary action by FINRA.

Further, the proposed rule states that individuals taking the SIE who are not associated persons must agree to be subject to the SIE Rules of Conduct. Among other things, the SIE Rules of Conduct would require individuals to attest that they are not qualified to engage in the investment banking or securities business based on passing the

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26 See FINRA Sanction Guidelines at 40 (2013), http://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf.

SIE and would prohibit individuals from cheating on the examination or misrepresenting their qualifications to the public subsequent to passing the SIE. Moreover, non-associated persons may forfeit their SIE results and may be prohibited from retaking the SIE if FINRA determines that they cheated on the SIE or that they misrepresented their qualifications to the public subsequent to passing the SIE. In addition, if FINRA discovers that non-associated persons who have passed the SIE have subsequently engaged in other types of misconduct, FINRA would refer the matter to the appropriate authorities or regulators.

NASD Rule 1080 currently requires that qualification examinations content be kept confidential and addresses the disciplinary implications of violating the confidentiality provision.[27] FINRA is proposing to transfer the provisions of NASD Rule 1080 with non-substantive changes into proposed FINRA Rule 1210.05.

G. Waiting Periods for Retaking a Failed Examination (Proposed FINRA Rule 1210.06)

NASD Rule 1070(e) currently sets forth waiting periods for retaking failed examinations.[28] The rule provides that a person who fails a qualification examination would be permitted to retake the examination after either a period of 30 calendar days has elapsed from the date of the prior examination or the next administration of an examination administered on a monthly basis. However, if the person fails an examination three or more times in succession, he or she would be prohibited from retaking the examination either until a period of 180 calendar days has elapsed from the

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27 See also NYSE Information Memorandum 88-37 (November 1988).

28 See also NYSE Information Memorandum 04-16 (March 2004).

date of his or her last attempt to pass the examination or until the sixth subsequent administration of an examination administered on a monthly basis. FINRA is proposing to adopt NASD Rule 1070(e) as FINRA Rule 1210.06, with the following changes.

Proposed FINRA Rule 1210.06 provides that a person who fails an examination may retake that examination after 30 calendar days from the date of the person's last attempt to pass that examination. The proposed rule deletes the reference to examinations administered on a monthly basis because examinations are no longer administered in such a manner.

Proposed FINRA Rule 1210.06 further provides that if a person fails an examination three or more times in succession within a two-year period, the person is prohibited from retaking that examination until 180 calendar days from the date of the person's last attempt to pass it. These waiting periods would apply to the SIE and the representative- and principal-level examinations. Moreover, the proposed rule provides that non-associated persons taking the SIE must agree to be subject to the same waiting periods for retaking the SIE.

H. CE Requirements (Proposed FINRA Rule 1210.07)

Pursuant to FINRA Rule 1250,[29] the CE requirements applicable to registered persons consist of a Regulatory Element[30] and a Firm Element.[31] The Regulatory Element applies to registered persons and must be completed within prescribed time

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29 As discussed below, FINRA is proposing to renumber FINRA Rule 1250 as FINRA Rule 1240 as part of this proposed rule change.

30 See FINRA Rule 1250(a).

31 See FINRA Rule 1250(b).

frames.[32] For purposes of the Regulatory Element, a "registered person" is defined as any person registered with FINRA as a representative, principal, assistant representative or research analyst.[33] The Firm Element consists of annual, member-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member. For purposes of the Firm Element, the term "covered registered persons" is defined as any registered person who has direct contact with customers in the conduct of the member's securities sales, trading and investment banking activities, any person registered as an Operations Professional pursuant to FINRA Rule 1230(b)(6) or as a Research Analyst pursuant to NASD Rule 1050, and the immediate supervisors of such persons.[34]

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32 Pursuant to FINRA Rule 1250(a), each specified registered person is required to complete the Regulatory Element initially within 120 days after the person's second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date. A registered person who has not completed the Regulatory Element program within the prescribed time frames will have his or her FINRA registrations deemed inactive and designated as "CE inactive" on the CRD system until such time as the requirements of the program have been satisfied. A CE inactive person is prohibited from performing, or being compensated for, any activities requiring registration, including supervision. See also NTM 95-35 (May 1995). Moreover, if a registered person is CE inactive for a two-year period, FINRA will administratively terminate the person's registration status with FINRA. The two-year period would be calculated from the date the person becomes CE inactive. If a registered person becomes CE inactive but is not registered with a member when the two-year period ends, FINRA will nevertheless update the CRD system to reflect that the person did not satisfy the Regulatory Element program. In either case, such person must requalify (or obtain a waiver of the applicable qualification examination(s)) to be re-eligible for registration.

33 See FINRA Rule 1250(a)(5).

34 See FINRA Rule 1250(b)(1).

FINRA believes that all registered persons, regardless of their activities, should be subject to the Regulatory Element of the CE requirements so that they can keep their knowledge of the securities industry current. Therefore, FINRA is proposing to adopt FINRA Rule 1210.07 to clarify that all registered persons, including those who solely maintain a permissive registration, are required to satisfy the Regulatory Element, as specified in proposed FINRA Rule 1240. FINRA is making corresponding changes to proposed FINRA Rule 1240. FINRA is not proposing any changes to the Firm Element requirement at this time. Individuals who have passed the SIE but not a representative- or principal-level examination and do not hold a registered position would not be subject to any CE requirements.

Consistent with current practice, proposed FINRA Rule 1210.07 also provides that a registered person of a member who becomes CE inactive would not be permitted to be registered in another registration category with that member or be registered in any registration category with another member, until the person has satisfied the Regulatory Element.

I. Lapse of Registration and Expiration of SIE (Proposed FINRA Rule 1210.08)

NASD Rule 1021(c) currently states that any person whose registration has been revoked pursuant to FINRA Rule 8310 or whose most recent registration as a principal has been terminated for a period of two or more years immediately preceding the date of receipt by FINRA of a new application is required to pass a qualification examination for principals appropriate to the category of registration as specified in NASD Rule 1022. Pursuant to NASD Rule 1031(c), any person whose registration has been revoked pursuant to FINRA Rule 8310 or whose most recent registration as a representative or

principal has been terminated for a period of two or more years immediately preceding the date of receipt by FINRA of a new application is required to pass a qualification examination for representatives appropriate to the category of registration as specified in NASD Rule 1032.[35] The two years are calculated from the termination date stated on the individual's Form U5 (Uniform Termination Notice for Securities Industry Registration) and the date FINRA receives a new application for registration.

FINRA is proposing to consolidate the requirements of NASD Rules 1021(c) and 1031(c) and adopt them as FINRA Rule 1210.08. Proposed FINRA Rule 1210.08 clarifies that, for purposes of the proposed rule, an application would not be considered to have been received by FINRA if that application does not result in a registration.

Proposed FINRA Rule 1210.08 also sets forth the expiration period of the SIE. Based on the content covered on the SIE, FINRA is proposing that a passing result on the SIE be valid for four years. Therefore, under the proposed rule change, an individual who passes the SIE and is an associated person of a firm at the time would have up to four years from the date he or she passes the SIE to pass a representative-level examination to register as a representative with that firm, or a subsequent firm, without having to retake the SIE. In addition, an individual who passes the SIE and is not an associated person at the time would have up to four years from the date he or she passes

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35 In addition, NASD Rule 1041(c) provides that if any person whose most recent registration as an Order Processing Assistant Representative has been terminated for a period of two or more years immediately preceding the date of receipt by FINRA of a new application is required to pass a qualification examination for Order Processing Assistant Representative. As discussed below, FINRA is proposing to eliminate NASD Rule 1041(c) as part of the elimination of the Order Processing Assistant Representative registration category.

the SIE to become an associated person of a firm and pass a representative-level examination and register as a representative without having to retake the SIE.

Moreover, an individual holding a representative-level registration who leaves the industry after the effective date of the proposed rule change would have up to four years to reassociate with a firm and register as a representative without having to retake the SIE. However, the four-year expiration period in the proposed rule change extends only to the SIE, and not the representative- and principal-level registrations. The representative- and principal-level registrations would continue to be subject to a two-year expiration period as is the case today. However, in response to comments, FINRA will consider as part of a separate proposal the possibility of extending the two-year expiration period, provided that an individual can maintain specified levels of competence and knowledge of the industry and the related laws, rules and regulations through an alternative process, such as more frequent CE.

J. Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member (Proposed FINRA Rule 1210.09)

In Regulatory Notice 09-70, FINRA had proposed to adopt an RA status in the CRD system for individuals who would be working for a financial services industry affiliate of a member, and who would not be working in any capacity for the member. Specifically, the original proposal permitted a member to register or maintain the registration(s) as a representative or principal of any individual engaged in the business of a financial services industry affiliate of the member that controls, is controlled by or is under common control with the member. The proposal defined the term "financial services industry" as any industry regulated by the SEC, Commodity Futures Trading

Commission ("CFTC"), state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities.

The original proposal required members to notify FINRA of an individual's RA status and deemed an RA to have an inactive registration. Further, under the proposal, RAs were considered registered persons, but were subject only to a subset of FINRA rules. The proposal also required a member to supervise adequately RAs so that they did not act on behalf of the member and complied with the subset of rules applicable to them. The proposal provided that an individual could remain in an RA status for 10 non-consecutive years, which were tolled if the individual was working for the member or was outside the financial services industry. In addition, the proposal provided that a statutorily disqualified individual was not eligible for an RA status, and forfeited his or her status as a result of such disqualification. Moreover, under the proposal, the failure to comply with any of the RA requirements resulted in a forfeiture of an individual's RA status altogether.

The purpose of the RA proposal was to provide a firm greater flexibility to move personnel, including senior and middle management, between the firm and its financial services affiliate(s) so that they could gain organizational skills and better knowledge of products developed by the affiliate(s) without the individuals having to requalify by examination each time they returned to the firm.[36]

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[36] As noted above, an individual must requalify by examination (or obtain a waiver of the applicable qualification examination(s)) if the individual re-registers with a firm two or more years after the individual's most recent registration as a representative or principal has been terminated.

Rather than allowing individuals to maintain their registrations based on an RA status, FINRA is proposing to adopt FINRA Rule 1210.09 to provide an alternative process whereby individuals who would be working for a financial services industry affiliate of a member[37] would terminate their registrations with the member and would be granted a waiver of their requalification requirements upon re-registering with a member, provided the firm that is requesting the waiver and the individual satisfy the criteria for a Financial Services Affiliate ("FSA") waiver.

Under the proposed waiver process, the first time a registered person is designated as eligible for a waiver based on the FSA criteria, the member with which the individual is registered would notify FINRA of the FSA designation. The member would concurrently file a full Form U5 terminating the individual's registration with the firm, which would also terminate the individual's other SRO and state registrations. Further, BrokerCheck would reflect that the individual is no longer registered or associated with a member.

To be eligible for initial designation as an FSA-eligible person by a member, an individual must have been registered for a total of five years within the most recent 10-year period prior to the designation, including for the most recent year with that member. An individual would have to satisfy these preconditions only for purposes of his or her initial designation as an FSA-eligible person, and not for any subsequent FSA

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37 Proposed FINRA Rule 1210.09 defines a "financial services industry affiliate of a member" as a legal entity that controls, is controlled by or is under common control with a member and is regulated by the SEC, CFTC, state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities, which is similar to the definition in Regulatory Notice 09-70.

designation(s). Thereafter, the individual would be eligible for a waiver for up to seven years from the date of initial designation,[38] provided that the other conditions of the waiver, as described below, have been satisfied. Consequently, a member other than the member that initially designated an individual as an FSA-eligible person may request a waiver for the individual and more than one member may request a waiver for the individual during the seven-year period.[39]

An individual designated as an FSA-eligible person would be subject to the Regulatory Element of CE while working for a financial services industry affiliate of a member. The individual would be subject to a Regulatory Element program that

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38 Individuals would be eligible for a single, fixed seven-year period from the date of initial designation, and the period would not be tolled or renewed.

39 The following examples illustrate this point:

Example 1. Firm A designates an individual as an FSA-eligible person by notifying FINRA and files a Form U5. The individual joins Firm A's financial services affiliate. Firm A does not submit a waiver request for the individual. After working for Firm A's financial services affiliate for three years, the individual directly joins Firm B's financial services affiliate for three years. Firm B then submits a waiver request to register the individual.

Example 2. Same as Example 1, but the individual directly joins Firm B after working for Firm A's financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

Example 3. Firm A designates an individual as an FSA-eligible person by notifying FINRA and files a Form U5. The individual joins Firm A's financial services affiliate for three years. Firm A then submits a waiver request to re-register the individual. After working for Firm A in a registered capacity for six months, Firm A re-designates the individual as an FSA-eligible person by notifying FINRA and files a Form U5. The individual rejoins Firm A's financial services affiliate for two years, after which the individual directly joins Firm B's financial services affiliate for one year. Firm B then submits a waiver request to register the individual.

Example 4. Same as Example 3, but the individual directly joins Firm B after the second period of working for Firm A's financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. If the individual fails to complete the prescribed Regulatory Element during the 120-day window for taking the session, he or she would lose FSA eligibility (i.e., the individual would have the standard two-year period after termination to re-register without having to retake an examination). FINRA is making corresponding changes to proposed FINRA Rule 1240.

Upon registering an FSA-eligible person, a firm would file a Form U4 and request the appropriate registration(s) for the individual. The firm would also submit an examination waiver request to FINRA,[40] similar to the process used today for waiver requests, and it would represent that the individual is eligible for an FSA waiver based on the conditions set forth below. FINRA would review the waiver request and make a determination of whether to grant the request within 30 calendar days of receiving the request. FINRA would summarily grant the request if the following conditions are met:

(1) Prior to the individual's initial designation as an FSA-eligible person, the individual was registered for a total of five years within the most recent 10-year period, including for the most recent year with the member that initially designated the individual as an FSA-eligible person;

(2) The waiver request is made within seven years of the individual's initial designation as an FSA-eligible person by a member;

(3) The individual continuously worked for the financial services affiliate(s) of a member since the last Form U5 filing;

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40 FINRA would consider a waiver of the representative-level qualification examination(s), the principal-level qualification examination(s) and the SIE, as applicable.

(4) The individual has complied with the Regulatory Element of CE; and

(5) The individual does not have any pending or adverse regulatory matters, or terminations, that are reportable on the Form U4, and has not otherwise been subject to a statutory disqualification while the individual was designated as an FSA-eligible person with a member.

Following the Form U5 filing, an individual could move between the financial services affiliates of a member so long as the individual is continuously working for an affiliate. Further, a member could submit multiple waiver requests for the individual, provided that the waiver requests are made during the course of the seven-year period.[41] An individual who has been designated as an FSA-eligible person by a member would not be able to take additional examinations to gain additional registrations while working for a financial services affiliate of a member.

K. Status of Persons Serving in the Armed Forces of the United States (Proposed FINRA Rule 1210.10)

NASD IM-1000-2(a) and (b) and Incorporated NYSE Rule Interpretation 345(a)/03, which is substantially similar, currently provide specific relief to registered persons serving in the Armed Forces of the United States. Among other things, these rules permit a registered person of a member who volunteers for or is called into active duty in the Armed Forces of the United States to be registered in an inactive status and

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[41] For example, if a member submits a waiver request for an FSA-eligible person who has been working for a financial services affiliate of the member for three years and re-registers the individual, the member could subsequently file a Form U5 and re-designate the individual as an FSA-eligible person. Moreover, if the individual works with a financial services affiliate of the member for another three years, the member could submit a second waiver request and re-register the individual upon returning to the member.

remain eligible to receive ongoing transaction-related compensation. NASD IM-1000-2(c) also includes specific provisions regarding the deferment of the lapse of registration requirements in NASD Rules 1021(c), 1031(c) and 1041(c) for formerly registered persons serving in the Armed Forces of the United States.

FINRA is proposing to adopt NASD IM-1000-2 as FINRA Rule 1210.10 with the following changes. To enhance the efficiency of the current notification process for registered persons serving in the Armed Forces, proposed FINRA Rule 1210.10 requires that the member with which such person is registered promptly notify FINRA of such person's return to employment with the member. A sole proprietor must similarly notify FINRA of his or her return to participation in the investment banking or securities business. Further, proposed FINRA Rule 1210.10 provides that FINRA would also defer the lapse of the SIE for formerly registered persons serving in the Armed Forces of the United States.

L. Impermissible Registrations (Proposed FINRA Rule 1210.11)

NASD Rules 1021(a) and 1031(a) currently prohibit a member from maintaining a representative or principal registration with FINRA for any person who is no longer active in the member's investment banking or securities business, who is no longer functioning as a representative or principal as defined under the rules or where the sole purpose is to avoid the requalification requirement applicable to persons who have not been registered for two or more years. These rules also prohibit a member from applying for the registration of a person as representative or principal where the member does not intend to employ the person in its investment banking or securities business. These prohibitions do not apply to the current permissive registration categories.

In light of proposed FINRA Rule 1210.02, FINRA is proposing to delete these provisions and instead adopt FINRA Rule 1210.11 prohibiting a member from registering or maintaining the registration of a person unless the registration is consistent with the requirements of proposed FINRA Rule 1210.

M. Registration Categories (Proposed FINRA Rule 1220)

FINRA is proposing to integrate the various registration categories and related definitions under the NASD rules into a single rule, FINRA Rule 1220,[42] subject to the changes described below.

1. Definition of Principal (Proposed FINRA Rule 1220(a)(1))

NASD Rule 1021(b) currently defines the term "principal" to include sole proprietors, officers, partners, managers of offices of supervisory jurisdiction and directors who are actively engaged in the management of the member's investment banking or securities business, such as supervision, solicitation, conduct of business or the training of persons associated with a member for any of these functions. Incorporated NYSE Rule 311.17 defines the term "principal executive" to include associated persons designated to exercise senior principal executive responsibility over the various areas of the member's business, such as operations, compliance, finances and credit, sales, underwriting, research and administration.[43]

FINRA believes that the definition of the term "principal" in NASD Rule 1021(b) generally captures principal executives as defined under Incorporated NYSE Rule

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42 FINRA is proposing to renumber FINRA Rule 1230 as FINRA Rule 1220 as part of the proposed rule change.

43 Incorporated NYSE Rule Interpretation 311(b)(5)/01 requires that principal executives be appropriately qualified to perform their assigned functions.

311.17. Thus, FINRA is proposing to streamline and adopt NASD Rule 1021(b) as FINRA Rule 1220(a)(1).

Proposed FINRA Rule 1220(a)(1) clarifies that a member's chief executive officer ("CEO") and chief financial officer ("CFO") (or equivalent officers) are considered principals based solely on their status. The proposed rule further clarifies that the term "principal" includes any other associated person who is performing functions or carrying out responsibilities that are required to be performed or carried out by a principal under FINRA rules. In addition, the proposed rule codifies existing guidance by providing that the phrase "actively engaged in the management of the member's investment banking or securities business" includes the management of, and the implementation of corporate policies related to, such business as well as managerial decision-making authority with respect to the member's business and management-level responsibilities for supervising any aspect of such business, such as serving as a voting member of the member's executive, management or operations committees.[44]

2. General Securities Principal (Proposed FINRA Rule 1220(a)(2))

NASD Rule 1022(a)(1) currently requires that an associated person who meets the definition of "principal" under NASD Rule 1021 register as a General Securities Principal. A person registering as a General Securities Principal must pass the General Securities Principal examination. The rule, however, provides that a principal is not required to register as a General Securities Principal if the person's activities are so limited as to qualify such person for one or more of the limited principal categories specified in NASD Rule 1022, such as a Financial and Operations Principal, an

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[44] See NTM 99-49 (June 1999).

Introducing Broker-Dealer Financial and Operations Principal, a Registered Options Principal, an Investment Company and Variable Contracts Products Principal, a Direct Participation Programs Principal, a General Securities Sales Supervisor or a Government Securities Principal. Further, the rule does not preclude individuals registered in a limited principal category from registering as General Securities Principals.

NASD Rule 1022(a)(1) also requires that a member's CCO designated on Schedule A of the member's Form BD (Uniform Application for Broker-Dealer Registration) register as a General Securities Principal.[45] NASD Rule 1022(a)(1)(C) provides that if a member's activities are limited to investment company and variable contracts products, direct participation program securities or government securities, the member's CCO may instead register as an Investment Company and Variable Contracts Principal, a Direct Participation Programs Principal or a Government Securities Principal, respectively. In addition, for purposes of the CCO requirement for dual members, FINRA recognizes the NYSE Compliance Official examination as an acceptable alternative to the principal examination requirements for General Securities Principal, Investment Company and Variable Contracts Principal and Direct Participation Programs Principal, as applicable.[46] NASD Rule 1022(a)(1)(C) also includes transitioning and grandfathering provisions for CCOs.

NASD Rule 1022(a)(1)(A) provides that unless stated otherwise a person seeking to register as a General Securities Principal must satisfy the General Securities Representative or Corporate Securities Representative prerequisite registration. NASD

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45 See also FINRA Rule 3130(a).

46 See NTM 01-51 (August 2001).

Rule 1022(a)(2) qualifies this provision by providing that the Corporate Securities Representative prerequisite registration gives a General Securities Principal only limited supervisory authority.

NASD Rule 1022(a)(1)(B) requires that a General Securities Principal with responsibility over the investment banking activities specified in NASD Rule 1032(i) also satisfy the Investment Banking Representative registration requirement.

NASD Rule 1022(a)(3) includes a grandfathering provision for persons who were registered as principals before the adoption of the General Securities Principal registration category.

NASD Rule 1022(a)(4) provides that an associated person registered solely as a General Securities Principal is not qualified to function as a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), Registered Options Principal, General Securities Sales Supervisor, Municipal Securities Principal or Municipal Fund Securities Limited Principal, unless the General Securities Principal is also registered in these other categories.

Pursuant to NASD Rule 1022(a)(5), a principal who is responsible for supervising the overall conduct of a Research Analyst or Supervisory Analyst engaged in equity research must be registered as a Research Principal.[47] In addition, existing rules and guidance provide that the content of a member's research reports on equity securities must be approved by a Research Principal or a Supervisory Analyst.[48] Existing guidance

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47 See also NTM 04-81 (November 2004) and NTM 07-04 (January 2007) (collectively, "Research NTMs").

48 See FINRA Rule 2210(b)(1)(B) and Research NTMs. Further, an exemption from NASD Rule 1050 for specified foreign analysts includes a condition that the

further provides that a General Securities Principal may review a member's research reports on equity securities for compliance with only the disclosure provisions of FINRA Rule 2241.[49]

NASD Rule 1022(a)(6) currently requires that each associated person who is included within the definition of "principal" in NASD Rule 1021 with supervisory responsibility over the securities trading activities described in NASD Rule 1032(f) register as a Securities Trader Principal. To qualify for registration as a Securities Trader Principal, an individual must be registered as a Securities Trader and pass the General Securities Principal qualification examination. The rule provides that a person qualified and registered as a Securities Trader Principal may only have supervisory responsibility over the activities specified in NASD Rule 1032(f), unless such person is separately registered in another appropriate principal registration category, such as the General Securities Principal registration category. The rule further provides that a person registered as a General Securities Principal is not qualified to supervise the trading activities described in NASD Rule 1032(f), unless he or she qualifies and registers as a Securities Trader (by passing the Series 57 examination) and affirmatively registers as a Securities Trader Principal.

FINRA is proposing to streamline the provisions of NASD Rule 1022(a) and adopt them as FINRA Rule 1220(a)(2) with the following changes.

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content of a globally branded research report prepared by such foreign research analyst that is published or otherwise distributed by a member must be approved by a Research Principal or Supervisory Analyst. See NASD Rule 1050(f)(3)(A).

49 See Research NTMs.

FINRA is proposing to more clearly set forth the obligation to register as a General Securities Principal. Specifically, proposed FINRA Rule 1220(a)(2)(A) states that each principal as defined in proposed FINRA Rule 1220(a)(1) is required to register with FINRA as a General Securities Principal, subject to the following exceptions. The proposed rule provides that if a principal's activities include the functions of a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), a Principal Financial Officer, a Principal Operations Officer, an Investment Banking Principal, a Research Principal, a Securities Trader Principal or a Registered Options Principal, then the principal must appropriately register in one or more of these categories. Proposed FINRA Rule 1220(a)(2)(A) also provides that if a principal's activities are limited solely to the functions of a Government Securities Principal, an Investment Company and Variable Contracts Products Principal, a Direct Participation Programs Principal or a Private Securities Offerings Principal, then the principal may appropriately register in one or more of these categories in lieu of registering as a General Securities Principal.

Proposed FINRA Rule 1220(a)(2)(A) further provides that if a principal's activities are limited solely to the functions of a General Securities Sales Supervisor, then the principal may appropriately register in that category in lieu of registering as a General Securities Principal, provided that if the principal is engaged in options sales activities he or she must register as a General Securities Sales Supervisor or Registered Options Principal. In addition, proposed FINRA Rule 1220(a)(2)(A) states that if a principal's activities are limited solely to the functions of a Supervisory Analyst, then the principal may appropriately register in that category in lieu of registering as a General Securities

Principal, provided that if the principal is responsible for approving the content of a member's research report on equity securities, he or she must register as a Research Principal or Supervisory Analyst.

Proposed FINRA Rule 1220(a)(2)(B) requires that an individual registering as a General Securities Principal satisfy the General Securities Representative prerequisite registration and pass the General Securities Principal qualification examination. Proposed FINRA Rule 1220(a)(2)(B) also clarifies that an individual may register as a General Securities Sales Supervisor and pass the General Securities Principal Sales Supervisor Module qualification examination in lieu of passing the General Securities Principal examination.

In conjunction with the elimination of the Corporate Securities Representative registration category, FINRA is proposing to delete the provision in NASD Rule 1022(a)(1)(A) permitting the Corporate Securities Representative prerequisite registration. However, the proposed rule provides that, subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, General Securities Principals who obtained the Corporate Securities Representative prerequisite registration in lieu of the General Securities Representative prerequisite registration and individuals who had been registered as such within the past two years prior to the effective date of the proposed rule change, may continue to supervise corporate securities activities as currently permitted.

Moreover, as described in greater detail below, FINRA is proposing to adopt with some changes the requirements of NASD Rule 1022(a)(1) relating to the registration of CCOs, NASD Rule 1022(a)(1)(B) relating to the supervision of investment banking activities, NASD Rule 1022(a)(5) relating to the supervision of research activities and

NASD Rule 1022(a)(6) relating to the supervision of securities trading activities as FINRA Rules 1220(a)(3), (a)(5), (a)(6) and (a)(7), respectively.

FINRA is also proposing to eliminate the grandfathering provision for individuals who were registered as principals prior to the adoption of the General Securities Principal registration category because it no longer has any practical application. Finally, FINRA is proposing to delete the provision that persons eligible for registration in other principal categories are not precluded from registering as General Securities Principals because it is superfluous.

3. Compliance Officer (Proposed FINRA Rule 1220(a)(3))

FINRA is proposing to adopt NASD Rule 1022(a)(1)'s CCO registration requirement as FINRA Rule 1220(a)(3), subject to the following changes.

Specifically, proposed FINRA Rule 1220(a)(3) establishes a Compliance Officer registration category and requires all persons designated as CCOs on Schedule A of Form BD to register as Compliance Officers, subject to an exception for members engaged in limited investment banking or securities business. The proposed rule only addresses the registration requirements for CCOs. However, consistent with proposed FINRA Rule 1210.02 relating to permissive registrations, a firm may allow other associated persons to register as Compliance Officers.

FINRA had originally proposed to also adopt a Compliance Officer qualification examination for CCOs and other individuals registering as Compliance Officers. However, FINRA is proposing to maintain the existing qualification requirements pending its evaluation of the structure of the principal-level examinations. In addition, FINRA is proposing to provide CCOs of firms that engage in limited investment banking

or securities business with greater flexibility to satisfy the qualification requirements for CCOs. Specifically, proposed FINRA Rule 1220(a)(3) sets forth the following qualification requirements for Compliance Officer registration:

- Subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, each person registered with FINRA as a General Securities Representative and a General Securities Principal on the effective date of the proposed rule change and each person who was registered with FINRA as a General Securities Representative and a General Securities Principal within two years prior to the effective date of the proposed rule change would be qualified to register as Compliance Officers without having to take any additional examinations. In addition, subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, individuals registered as Compliance Officials in the CRD system on the effective date of the proposed rule change and individuals who were registered as such within two years prior to the effective date of the proposed rule change would also be qualified to register as Compliance Officers without having to take any additional examinations;[50]
- All other individuals registering as Compliance Officers after the effective date of the proposed rule change would have to: (1) satisfy the General Securities Representative prerequisite registration and pass the General Securities Principal qualification examination; or (2) pass the Compliance Official qualification examination.

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50 FINRA notes that the proposed rule gives firms the option of registering Compliance Officials who are not designated as CCOs as Compliance Officers when the proposed rule becomes effective.

- An individual designated as a CCO on Schedule A of Form BD of a member that is engaged in limited investment banking or securities business may be registered in a principal category under proposed FINRA Rule 1220(a) that corresponds to the limited scope of the member's business.

4. Financial and Operations Principal, Introducing Broker-Dealer Financial and Operations Principal, Principal Financial Officer and Principal Operations Officer (Proposed FINRA Rule 1220(a)(4))

NASD Rule 1022(b) currently provides that a principal who is responsible for the financial and operational management of a member that has a minimum net capital requirement of $250,000 under SEA Rules 15c3-1(a)(1)(ii) and 15c3-1(a)(2)(i), or a member that has a minimum net capital requirement of $150,000 under SEA Rule 15c3-1(a)(8), must be designated and registered as a Financial and Operations Principal. Such members also are required to designate a CFO who is required to be registered as a Financial and Operations Principal. In addition, NASD Rule 1022(c) currently provides that a principal who is responsible for the financial and operational management of a member that is subject to the net capital requirements of SEA Rule 15c3-1, other than a member that is subject to the net capital requirements of SEA Rules 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), must be designated and registered as either a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal. Such members also are required to designate a CFO who is required to be registered as a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal. Financial and Operations Principals and Introducing Broker-Dealer Financial and Operations Principals are not subject to a prerequisite representative

registration, but they must pass the Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal examination, as applicable.

Incorporated NYSE Rule Interpretations 311(b)(5)/02 and /03 require that dual members designate a CFO and a COO and that the CFO and the COO register as Financial and Operations Principals if the member is a clearing firm, or as either Financial and Operations Principals or Introducing Broker-Dealer Financial and Operations Principals if the member is an introducing firm. If the member is an introducing firm, the same person may be designated as both the CFO and COO.

FINRA is proposing to merge the provisions in NASD Rules 1022(b) and 1022(c) regarding Financial and Operations Principals and Introducing Broker-Dealer Financial and Operations Principals and adopt them as FINRA Rule 1220(a)(4)(A). In addition, FINRA is proposing to revise the provisions in NASD Rules 1022(b) and (c) regarding the designation of CFOs and the provisions in Incorporated NYSE Rule Interpretations 311(b)(5)/02 and /03 regarding the designation of CFOs and COOs and adopt them as FINRA Rule 1220(a)(4)(B). FINRA does not believe it is necessary for an officer to have the title of CFO or COO for purposes of these provisions so long as the designated person performs the same functions. Therefore, proposed FINRA Rule 1220(a)(4)(B) requires members to instead designate: (1) a Principal Financial Officer with primary responsibility for financial filings and the related books and records; and (2) a Principal Operations Officer with primary responsibility for the day-to-day operations of the business, including overseeing the receipt and delivery of securities and funds, safeguarding customer and firm assets, calculation and collection of margin from

customers and processing dividend receivables and payables and reorganization redemptions and those books and records related to such activities.

Consistent with the current qualification and registration requirements for CFOs and COOs, the proposed rule requires that a firm's Principal Financial Officer and Principal Operations Officer qualify and register as Financial and Operations Principals or Introducing Broker-Dealer Financial and Operations Principals, as applicable.[51]

Because the financial and operational activities of members that neither self-clear nor provide clearing services are more limited, such members may designate the same person as the Principal Financial Officer, Principal Operations Officer and Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal (that is, such members are not required to designate different persons to function in these capacities).

Given the level of financial and operational responsibility at clearing and self-clearing members, FINRA believes that it is necessary for such members to designate separate persons to function as Principal Financial Officer and Principal Operations Officer. Such persons may also carry out the other responsibilities of a Financial and Operations Principal, such as supervision of individuals engaged in financial and operational activities. In addition, the proposed rule provides that a clearing or self-clearing member that is limited in size and resources may, pursuant to the FINRA Rule

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[51] This requirement also applies to those members that are currently exempt from the requirement to have a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal. See NTM 01-52 (August 2001).

9600 Series, request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer.

5. Investment Banking Principal (Proposed FINRA Rule 1220(a)(5))

FINRA is proposing to adopt NASD Rule 1022(a)(1)(B) regarding the qualification and registration requirements for principals with responsibility over specified investment banking activities as FINRA Rule 1220(a)(5). To further facilitate the registration of such individuals, proposed FINRA Rule 1220(a)(5) establishes a registration category for Investment Banking Principal and requires that a principal responsible for supervising the investment banking activities specified in proposed FINRA Rule 1220(b)(5) register as an Investment Banking Principal. The proposed rule provides that individuals registering as Investment Banking Principals must be registered as Investment Banking Representatives and pass the General Securities Principal qualification examination.

6. Research Principal (Proposed FINRA Rule 1220(a)(6))

FINRA is proposing to adopt NASD Rule 1022(a)(5) relating to the registration of Research Principals as FINRA Rule 1220(a)(6) with a few changes and clarifications.

First, proposed FINRA Rule 1220(a)(6) provides that a principal responsible for approving the content of a member's research reports on equity securities is required to register as a Research Principal, subject to the following exceptions: (1) a Supervisory Analyst may also approve the content of a member's research report on equity securities; and (2) a General Securities Principal may review a member's research report on equity securities only for compliance with the disclosure provisions of FINRA Rule 2241.

Second, the proposed rule clarifies that a Supervisory Analyst or General Securities Principal may approve the content of a member's research reports on debt securities and the content of third-party research reports in lieu of a Research Principal.[52] Third, the proposed rule modifies the examination requirements for Research Principals to require demonstrated competence in fundamental analysis and valuation of securities. By way of background, Research Analysts are required to pass the Series 86 and Series 87 examinations.[53] The Analysis (Series 86) portion of the Research Analyst examination tests knowledge of fundamental analysis and valuation of equity securities and the Regulatory Administration and Best Practices (Series 87) portion of the Research Analyst examination tests knowledge of applicable rules and regulations pertaining to research. The qualification examination for Supervisory Analysts, the Series 16 examination, tests both knowledge of applicable rules and regulations and fundamental analysis and valuation. Currently, a Research Principal is required to be registered as a General Securities Principal and pass either the Series 87 examination or the Series 16 examination.[54] FINRA believes that a Research Principal would be able to carry out his or her supervisory responsibilities more effectively by having a level of knowledge of fundamental analysis and valuation commensurate with the research analysts whose content they approve. Thus, proposed FINRA Rule 1220(a)(6) requires that individuals

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52 See FINRA Rules 2210(b)(1)(B) and 2241(h)(1) and Research NTMs.

53 Candidates are eligible for a waiver of the Series 86 examination, which tests knowledge of fundamental analysis and valuation of equity securities, if they have passed Levels I and II of the Chartered Financial Analyst ("CFA") examination and meet other eligibility criteria.

54 See Research NTMs.

registering as Research Principals after the effective date of the proposed rule change, register as either Research Analysts or Supervisory Analysts and pass the General Securities Principal qualification examination.

7. Securities Trader Principal (Proposed FINRA Rule 1220(a)(7))

FINRA is proposing to adopt NASD Rule 1022(a)(6) relating to Securities Trader Principal registration as FINRA Rule 1220(a)(7). Similar to the current rule, proposed FINRA Rule 1220(a)(7) requires that a principal responsible for supervising the securities trading activities specified in proposed FINRA Rule 1220(b)(4) register as a Securities Trader Principal. The proposed rule requires that individuals registering as Securities Trader Principals must be registered as Securities Traders and pass the General Securities Principal qualification examination.

8. Registered Options Principal (Proposed FINRA Rules 1220(a)(8), .02 and .03)

NASD Rule 1022(f) currently requires that members engaged in options transactions with the public have at least one Registered Options Principal. A Registered Options Principal is required to satisfy the following prerequisite representative registration(s): (1) General Securities Representative; or (2) Options Representative and Corporate Securities Representative. An individual registering as a Registered Options Principal must also pass the Registered Options Principal examination. The rule includes additional requirements applicable to Registered Options Principals engaged in security futures activities.[55] NASD IM-1022-1 further requires that members that have one

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55 This provision provides that a Registered Options Principal who intends to engage in security futures activities must complete a Firm Element CE program that addresses security futures products before he or she can engage in such activities. There are similar provisions in NASD Rules 1022(g), 1032(a) and 1032(d).

Registered Options Principal promptly notify FINRA and agree to specified conditions if such person is terminated, resigns, becomes incapacitated or is otherwise unable to perform his or her duties.

FINRA is proposing to adopt NASD Rule 1022(f) as FINRA Rule 1220(a)(8) with the following changes. Consistent with FINRA Rule 2360, which allows a General Securities Sales Supervisor (in addition to a Registered Options Principal) to approve accounts engaged in specified options activities, the proposed rule provides that a General Securities Sales Supervisor may also supervise options activities as specified in FINRA Rule 2360.

Further, as discussed below, FINRA is proposing to eliminate the Options Representative and Corporate Securities Representative registration categories. In conjunction with these changes, FINRA is proposing to eliminate registration as an Options Representative and a Corporate Securities Representative from the prerequisite choices in the current rule. Consequently, a person registering as a Registered Options Principal under proposed FINRA Rule 1220(a)(8) would be required to satisfy the General Securities Representative prerequisite registration.

FINRA is proposing to consolidate and adopt the provisions regarding security futures activities in NASD Rules 1022(f), 1022(g), 1032(a) and 1032(d) with non-substantive changes as Supplementary Material .02 of FINRA Rule 1220. Finally, FINRA is proposing to adopt NASD IM-1022-1 with non-substantive changes as Supplementary Material .03 of FINRA Rule 1220.

9. Government Securities Principal (Proposed FINRA Rule 1220(a)(9))

NASD Rule 1022(h) currently requires that associated persons functioning as principals with respect to members' government securities activities register as Government Securities Principals. Such persons are not subject to a principal qualification examination. However, a person registering as a Government Securities Principal is required to satisfy the General Securities Representative or Government Securities Representative prerequisite registration. Moreover, individuals registered as General Securities Principals who have the General Securities Representative or Government Securities Representative prerequisite registration are qualified to function as Government Securities Principals without having to register separately as such.

NASD Rule 1022(h) also includes a grandfathering provision for persons who were registered as principals before the 1988 adoption of the Government Securities Principal registration category, and it provides that a firm must notify FINRA via the Form U4 when a person not previously registered with the firm as a principal assumes the duties of a Government Securities Principal. FINRA is proposing to adopt NASD Rule 1022(h) as FINRA Rule 1220(a)(9) with a few changes.

As noted below, FINRA is proposing to eliminate the Government Securities Representative registration category. In conjunction with this change, FINRA is proposing to eliminate registration as a Government Securities Representative from the prerequisite registration choices in the current rule. Consequently, a person registering as a Government Securities Principal under proposed FINRA Rule 1220(a)(9) would be required to satisfy the General Securities Representative prerequisite registration. Alternatively, proposed FINRA Rule 1220(a)(9) provides that individuals registered as

General Securities Principals are qualified to function as Government Securities Principals without having to register separately under the proposed rule.

Proposed FINRA Rule 1220(a)(9) also eliminates the grandfathering provision in the current rule because it no longer has any practical application, and it eliminates the Form U4 notification requirement because it is redundant of other Form U4 requirements.[56]

10. General Securities Sales Supervisor (Proposed FINRA Rules 1220(a)(10) and 1220.04)

Pursuant to NASD Rule 1022(g), each associated person of a member who is included within the definition of "principal" in NASD Rule 1021 may register as a General Securities Sales Supervisor, instead of separately registering in multiple principal registration categories,[57] if the individual's supervisory responsibilities are limited solely to securities sales activities. A person registering as a General Securities Sales Supervisor must satisfy the General Securities Representative prerequisite registration and pass the General Securities Sales Supervisor examinations.[58] Moreover, a General Securities Sales Supervisor is precluded from performing any of the following activities: (1) supervision of the origination and structuring of underwritings; (2) supervision of market-making commitments; (3) supervision of the custody of firm or customer funds or

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56 See Article V, Section 2 of the FINRA By-Laws.

57 For instance, a principal supervising the sale of corporate securities and options must be registered as a General Securities Principal and a Registered Options Principal, unless the principal is registered as a General Securities Sales Supervisor.

58 An individual may also register as a General Securities Sales Supervisor by passing a combination of other principal-level examinations.

securities for purposes of SEA Rule 15c3-3; or (4) supervision of overall compliance with financial responsibility rules. NASD IM-1022-2 explains the purpose of the General Securities Sales Supervisor registration category.

FINRA is proposing to adopt NASD Rule 1022(g) and NASD IM-1022-2 as FINRA Rule 1220(a)(10) and FINRA Rule 1220.04, respectively, with non-substantive changes.

11. Investment Company and Variable Contracts Products Principal and Direct Participation Programs Principal (Proposed FINRA Rules 1220(a)(11) and (a)(12))

Pursuant to NASD Rule 1022(d), each associated person of a member who is included within the definition of "principal" in NASD Rule 1021 may register as an Investment Company and Variable Contracts Products Principal, instead of registering as a General Securities Principal, if the individual's activities are limited solely to the solicitation, purchase or sale of redeemable securities of companies registered under the Investment Company Act of 1940 ("Investment Company Act"), securities of closed-end companies registered under the Investment Company Act during the period of original distribution and specified insurance contracts, such as variable contracts. A person registering as an Investment Company and Variable Contracts Products Principal must satisfy the General Securities Representative or Investment Company and Variable Contracts Products Representative prerequisite registration and pass the Investment Company and Variable Contracts Products Principal examination.

Pursuant to NASD Rule 1022(e), each associated person of a member who is included within the definition of "principal" in NASD Rule 1021 may register as a Direct Participation Programs Principal, instead of registering as a General Securities Principal,

if the individual's activities are limited solely to direct participation program securities.[59] A person registering as a Direct Participation Programs Principal must satisfy the General Securities Representative or Direct Participation Programs Representative prerequisite registration and pass the Direct Participation Programs Principal examination.

FINRA is proposing to adopt NASD Rules 1022(d) and (e) as FINRA Rules 1220(a)(11) and (a)(12), respectively, subject to the following changes. FINRA is proposing to eliminate the securities products listed under the Investment Company and Variable Contracts Products Principal registration category and instead list the products under the Investment Company and Variable Contracts Products Representative registration category. Specifically, proposed FINRA Rule 1220(a)(11) provides that a principal may register as an Investment Company and Variable Contracts Products Principal if his or her activities in the investment banking or securities business of a member are limited to the activities specified in proposed FINRA Rule 1220(b)(7). Similarly, FINRA is proposing to transfer the definition of "direct participation program" from the Direct Participation Programs Principal registration category to the Direct Participation Programs Representative registration category. Therefore, proposed FINRA Rule 1220(a)(12) provides that a principal may register as a Direct Participation

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[59] For purposes of the registration rules, a direct participation program is defined as a program that provides for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution, including, but not limited to, oil and gas programs, cattle programs, condominium securities, Subchapter S corporate offerings and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof. Among other things, a real estate investment trust is excluded from the definition of a direct participation program. See NASD Rule 1022(e)(2).

Programs Principal if his or her activities in the investment banking or securities business of a member are limited to the activities specified in proposed FINRA Rule 1220(b)(8).

12. Private Securities Offerings Principal (Proposed FINRA Rule 1220(a)(13))

To provide firms with greater flexibility in designing their supervisory structure, FINRA is proposing to create a limited principal registration category under FINRA Rule 1220(a)(13) for principals whose activities are limited solely to the supervision of the private securities offerings specified in proposed FINRA Rule 1220(b)(9) (current NASD Rule 1032(h)). The proposed change is consistent with the limited registration categories for Investment Company and Variable Contracts Products Principals and Direct Participation Programs Principals. Specifically, under proposed FINRA Rule 1220(a)(13), if a principal's activities are limited solely to the supervision of the private securities activities specified in proposed FINRA Rule 1220(b)(9), the principal may register as a Private Securities Offerings Principal instead of registering as a General Securities Principal. A person registering as a Private Securities Offerings Principal must satisfy the Private Securities Offerings Representative prerequisite registration and pass the General Securities Principal examination.

13. Supervisory Analyst (Proposed FINRA Rule 1220(a)(14))

The Incorporated NYSE rules currently require that an individual who is responsible for approving research reports register as a Supervisory Analyst.[60] Such person is required to present evidence of appropriate experience (at least three years prior experience within the immediately preceding six years involving securities or financial

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60 See Incorporated NYSE Rules 344, 344.11 and 472(a)(2) and NYSE Rule Interpretations 344/03 and /04.

analysis) and pass the Supervisory Analyst qualification examination. Rather than passing the entire Supervisory Analyst qualification examination, such person may obtain a waiver from the securities analysis portion (Part II) of the Supervisory Analyst qualification examination upon verification that the person has passed Level I of the CFA examination. Incorporated NYSE Rule 472(a)(2) further provides that where a Supervisory Analyst lacks technical expertise in a particular product area that is the subject of a research report, the content in the report may be co-approved by a product specialist; if no such expertise resides within the member, the rule requires the member to arrange approval by a qualified outside Supervisory Analyst.

As noted above, pursuant to FINRA rules and existing guidance, a Supervisory Analyst is permitted to approve the content of a member's research report on equity or debt securities. A Supervisory Analyst is also permitted to approve the content of third-party research reports. However, a Research Principal must supervise the overall conduct of a Supervisory Analyst engaged in equity research.

FINRA is proposing to adopt the provisions in Incorporated NYSE Rule 344 and NYSE Rule Interpretations 344/03 and /04 regarding Supervisory Analysts as FINRA Rule 1220(a)(14) with the following changes. Consistent with existing FINRA rules and guidance, proposed FINRA Rule 1220(a)(14) provides that a principal whose activities are limited to approving the content of a member's research reports on equity or debt securities or the content of third-party research reports has the option of registering as a Supervisory Analyst instead of registering as a Research Principal or General Securities Principal, as applicable. The proposed rule clarifies that a Supervisory Analyst engaged in equity research must be supervised by a Research Principal. In addition, consistent

with FINRA Rule 2210(b)(1)(B), a Supervisory Analyst may approve (1) retail communications as described in FINRA Rule 2241(a)(11)(A); and (2) other research that does not meet the definition of a "research report" under FINRA Rule 2241, provided that the Supervisory Analyst has technical expertise in the particular product area.

Unlike the NYSE requirements, proposed FINRA Rule 1220(a)(14) does not require evidence of appropriate experience. FINRA believes that passing the Supervisory Analyst qualification examination and completing the CE requirements adequately demonstrate the level of competence and knowledge required. FINRA is also proposing to delete Incorporated NYSE Rule 472(a)(2), which requires that only Supervisory Analysts approve research reports. As described above, under FINRA rules, Supervisory Analysts are permitted to approve research reports, but they are not required to do so. For instance, a member may designate a Research Principal to approve its research reports.

14. Definition of Representative (Proposed FINRA Rule 1220(b)(1))

NASD Rule 1031(b) currently defines the term "representative" as an associated person, including an assistant officer other than a principal, who is engaged in the investment banking or securities business for the member, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions.

Incorporated NYSE Rule 10 defines the term "registered representative" as an employee of a member engaged in the solicitation or handling of accounts or orders for the purchase or sale of securities, or other similar instruments for the accounts of customers of his or her employer or in the solicitation or handling of business in

connection with investment advisory or investment management services furnished on a fee basis by his or her employer.

FINRA believes that the definition of the term "representative" in NASD Rule 1031(b) is more consistent with the functions customarily performed by a registered representative. Therefore, FINRA is proposing to adopt NASD Rule 1031(b) as FINRA Rule 1220(b)(1) with non-substantive changes.

15. General Securities Representative (Proposed FINRA Rule 1220(b)(2))

NASD Rule 1032(a)(1) currently requires that an associated person who meets the definition of "representative" under NASD Rule 1031 register as a General Securities Representative. A person registering as a General Securities Representative must pass the General Securities Representative examination.[61] The rule, however, provides that a representative is not required to register as a General Securities Representative if the person's activities are so limited as to qualify such person for one or more of the limited representative categories specified in NASD Rule 1032, such as an Investment Company and Variable Contracts Products Representative, a Direct Participation Programs Representative, an Options Representative, a Corporate Securities Representative, a Securities Trader, a Government Securities Representative, a Private Securities Offerings Representative or an Investment Banking Representative. Further, the rule does not preclude individuals registered in a limited representative category from registering as General Securities Representatives.

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61 An individual may also register as a General Securities Representative by passing a combination of other representative-level examinations.

NASD Rule 1032(a)(2) provides that if a representative does not engage in municipal securities activities, registration as a United Kingdom Securities Representative or Canada Securities Representative is equivalent to registration as a General Securities Representative. These foreign registration categories were created in the 1990s as an alternative to General Securities Representative registration for individuals who do not engage in municipal securities activities and who are in good standing as a representative with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator. To qualify for registration as a United Kingdom Securities Representative or Canada Securities Representative, an individual must pass the United Kingdom Securities Representative examination or Canada Securities Representative examinations, respectively. NASD Rule 1032(a)(2) also permits a person registered and in good standing as a representative with the Japanese securities regulators to become qualified to function as a General Securities Representative by passing the Japan Module of the General Securities Representative examination. The Japan Module, however, was never implemented.

NASD Rule 1032(a)(3) provides that an associated person registered solely as a General Securities Representative is not qualified to function as a Registered Options Representative, unless the General Securities Representative is separately qualified and registered as a Registered Options Representative.[62]

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[62] This provision was adopted in 1980 at a time when an associated person had to separately qualify and register as a Registered Options Representative. See Securities Exchange Act Release No. 16936 (June 26, 1980), 45 FR 45441 (July 3, 1980) (Order Approving Proposed Rule Change; File No. SR-NASD-80-1). In 1997, NASD Rule 1032(d) was amended to no longer require associated persons to separately qualify and register as Registered Options Representatives, but there was no corresponding change to NASD Rule 1032(a). See Securities Exchange

The Incorporated NYSE rules also require that a representative register as a General Securities Representative,[63] unless the representative's activities are so limited as to qualify him or her for one or more of the limited categories of representative registration, such as an Investment Company and Variable Contracts Products Representative or a Direct Participation Programs Representative.[64] The Incorporated NYSE rules further provide that registration as a United Kingdom Securities Representative or Canada Securities Representative is equivalent to registration as a General Securities Representative for those representatives who are not engaged in municipal securities activities.[65]

FINRA is proposing to streamline the provisions of NASD Rule 1032(a) and adopt them as FINRA Rule 1220(b)(2) with the following changes.

Similar to the proposed changes to the General Securities Principal registration category, FINRA is proposing to more clearly set forth the obligation to register as a General Securities Representative. Specifically, proposed FINRA Rule 1220(b)(2)(A) states that each representative as defined in proposed FINRA Rule 1220(b)(1) is required to register with FINRA as a General Securities Representative, subject to the following exceptions. The proposed rule provides that if a representative's activities include the

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Act Release No. 38969 (August 25, 1997), 62 FR 46535 (September 3, 1997) (Order Approving Proposed Rule Change; File No. SR-NASD-97-23).

63 See Incorporated NYSE Rule 345.10 and .15(2) and NYSE Rule Interpretation 345.15/02.

64 See Incorporated NYSE Rule 345.15(3) and NYSE Rule Interpretation 345.15/02.

65 See NYSE Information Memoranda 91-09 (March 1991) and 96-06 (March 1996).

functions of an Operations Professional, a Securities Trader, an Investment Banking Representative or a Research Analyst, then the representative must appropriately register in one or more of these categories. Proposed FINRA Rule 1220(b)(2)(A) also provides that if a representative's activities are limited solely to the functions of an Investment Company and Variable Contracts Products Representative, a Direct Participation Programs Representative or a Private Securities Offerings Representative, then the representative may appropriately register in one or more of these categories in lieu of registering as a General Securities Representative.

Further, consistent with the proposed restructuring of the representative-level examinations, proposed FINRA Rule 1220(b)(2)(B) would require that individuals registering as General Securities Representatives pass the SIE and the General Securities Representative examination.

In addition, as part of the proposed restructuring of the representative-level examinations, FINRA is proposing to eliminate the United Kingdom Securities Representative and Canada Securities Representative registration categories, and associated Series 17, Series 37 and Series 38 examinations. Instead, FINRA is proposing to adopt FINRA Rule 1220.01 to provide individuals who are associated persons of firms and hold foreign registrations an alternative, more flexible, process to obtain a FINRA representative-level registration. Based on FINRA's analysis of the relevant United Kingdom and Canadian qualification requirements, FINRA believes that there is sufficient overlap between the SIE and these foreign qualification requirements to permit them to act as exemptions to the SIE. Under proposed FINRA Rule 1220.01, individuals who are in good standing as representatives with the Financial Conduct Authority in the

United Kingdom or with a Canadian stock exchange or securities regulator would be exempt from the requirement to pass the SIE, and thus would be required only to pass a specialized knowledge examination to register with FINRA as a representative. The proposed approach would provide individuals with a United Kingdom or Canadian qualification more flexibility to obtain a FINRA representative-level registration. For instance, an individual with the appropriate United Kingdom qualification who seeks registration as an Investment Banking Representative today would take the Series 79 examination, totaling 175 questions. Under the proposed rule change, the same individual would only take the specialized Series 79 examination, which FINRA is anticipating would have 75 questions.

FINRA is also proposing to delete the provision regarding the Japan Module of the General Securities Representative examination because it was never implemented. Further, FINRA is proposing to delete the provision restricting a General Securities Representative from functioning as a Registered Options Representative as a corresponding change to the 1997 amendment of NASD Rule 1032(d). Finally, FINRA is proposing to delete the provision that persons eligible for registration in other representative categories are not precluded from registering as General Securities Representatives because it is superfluous.

16. Operations Professional, Securities Trader, Investment Banking Representative, Research Analyst, Investment Company and Variable Contracts Products Representative, Direct Participation Programs Representative and Private Securities Offerings Representative (Proposed FINRA Rules 1220(b)(3), 1220(b)(4), 1220(b)(5), 1220(b)(6), 1220(b)(7), 1220(b)(8), 1220(b)(9) and 1220.05)

FINRA Rule 1230(b)(6) currently requires that specified persons who are engaged in, responsible for or supervising specified covered functions relating to operations register as Operations Professionals. The specified persons are: (1) senior management with direct responsibility over the covered functions; (2) any person designated by such senior management as a supervisor, manager or other person responsible for approving or authorizing work in direct furtherance of the covered functions; and (3) persons with the authority or discretion materially to commit a firm's capital in direct furtherance of the covered functions or to commit a firm to any material contract or agreement in direct furtherance of the covered functions. Individuals registering as Operations Professionals must pass the Operations Professional examination, unless they hold an eligible registration, such as a General Securities Representative registration. In addition, FINRA Rule 1230(b)(6) includes specified time frames relating to the initial implementation of the rule and allows individuals to function as Operations Professionals for a limited period before having to pass an appropriate qualification examination. FINRA Rule 1230.06 provides that the determination of what constitutes "materially" or "material" in the third category of specified persons is based on a firm's pre-established spending guidelines and risk management policies. FINRA Rule 1230.06 also provides that any person whose activities are limited to performing a function ancillary to a covered function, or whose function is to serve a role that can be viewed as supportive of or advisory to the performance of a covered function, or who engages solely in clerical or ministerial activities in a covered function is not required to register as an Operations Professional. In addition, FINRA Rule 1230.06 provides an exception from the

registration requirements for employees of a foreign broker-dealer who are engaged in specified limited activities.

Pursuant to NASD Rule 1032(f), each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 is required to register as a Securities Trader if, with respect to transactions in equity (including equity options), preferred or convertible debt securities effected otherwise than on a securities exchange, such person is engaged in proprietary trading, the execution of transactions on an agency basis or the direct supervision of such activities. The rule provides an exception from the registration requirement for any associated person of a member whose trading activities are conducted principally on behalf of an investment company that is registered with the SEC pursuant to the Investment Company Act and that controls, is controlled by, or is under common control with the member. The rule also requires that associated persons primarily responsible for the design, development or significant modification of algorithmic trading strategies (or responsible for the day-to-day supervision or direction of such activities) register as Securities Traders. Individuals registering as Securities Traders must pass the Securities Trader examination.

NASD Rule 1032(i) currently requires that each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 and engaged in specified investment banking activities, such as advising on or facilitating debt or equity securities offerings through a private placement or a public offering, register as an Investment Banking Representative. Individuals registering as Investment Banking Representatives must pass the Investment Banking Representative examination. Individuals engaged in investment banking activities relating to direct participation

program securities or private securities offerings as well as individuals engaged in retail or institutional sales and trading activities are not required to register as Investment Banking Representatives. In addition, the rule provides a limited exception from the requirements of the rule for individuals participating in a specified employee training program. NASD Rule 1032(i) also includes an opt-in provision, which allowed General Securities Representatives, Corporate Securities Representatives, United Kingdom Securities Representatives and Canada Securities Representatives who were engaged in investment banking activities covered by the rule to have opted in to the Investment Banking Representative registration category by May 3, 2010.

NASD Rule 1050 currently requires that an associated person who is primarily responsible for the preparation of the substance of a research report or whose name appears on a research report register as a Research Analyst.[66] NASD Rule 1050 provides that a person registering as a Research Analyst must satisfy the General Securities Representative prerequisite registration and pass the Research Analyst examinations. The purpose of the current prerequisite registration is to ensure that Research Analysts have general securities knowledge. There is a corresponding requirement under the Incorporated NYSE rules.[67]

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66 NASD Rule 1050 applies only to an associated person who is primarily responsible for the preparation of the substance of an equity research report or whose name appears on an equity research report. See Research Rules Frequently Asked Questions, http://www.finra.org/industry/faq-research-rules-frequently-asked-questions-faq.

67 See Incorporated NYSE Rules 344, 344.10 and 344.12 and NYSE Rule Interpretations 344/01 and /02.

Pursuant to NASD Rule 1032(b), each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as an Investment Company and Variable Contracts Products Representative, instead of registering as a General Securities Representative, if the individual's activities are limited solely to redeemable securities of companies registered under the Investment Company Act, securities of closed-end companies registered under the Investment Company Act during the period of original distribution and specified insurance contracts, such as variable contracts. Individuals registering as Investment Company and Variable Contracts Products Representatives must pass the Investment Company and Variable Contracts Products Representative examination. Under NASD Rule 1032(c), each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as a Direct Participation Programs Representative, instead of registering as a General Securities Representative, if the individual's activities are limited solely to direct participation program securities. Individuals registering as Direct Participation Programs Representatives must pass the Direct Participation Programs Representative examination. The Incorporated NYSE rules include similar limited registration categories.[68]

Pursuant to NASD Rule 1032(h), each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as a Private Securities Offerings Representative, instead of registering as a General Securities Representative, if the individual's activities are limited solely to effecting sales of private placement securities, other than municipal, government or direct participation program

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[68] See Incorporated NYSE Rule 345.15(3) and NYSE Rule Interpretation 345.15/02.

securities, as part of a primary offering.[69] Individuals registering as Private Securities Offerings Representatives must pass the Private Securities Offerings Representative examination. NASD Rule 1032(h) includes a grandfathering provision that provides that any person who engaged in effecting sales of private securities offerings as an employee of a bank from May 12, 1999 to November 12, 1999, may register as a Private Securities Offerings Representative without having to pass the Private Securities Offerings Representative examination.

FINRA is proposing to adopt FINRA Rule 1230(b)(6), NASD Rule 1032(f), NASD Rule 1032(i), NASD Rule 1050, NASD Rule 1032(b), NASD Rule 1032(c) and NASD Rule 1032(h) with a few changes as FINRA Rules 1220(b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8) and (b)(9), respectively. In addition, FINRA is proposing to adopt FINRA Rule 1230.06 as FINRA Rule 1220.05 with non-substantive changes.

Specifically, consistent with the restructuring of the representative-level examinations, proposed FINRA Rules 1220(b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8) and (b)(9) would require individuals registering in the respective registration categories to pass the SIE and the applicable representative-level examination(s). With respect to Research Analysts, given that general securities knowledge would be covered on the SIE, FINRA is proposing to replace the General Securities Representative prerequisite registration requirement with the SIE. Therefore, under proposed FINRA Rule 1220(b)(6), individuals registering as Research Analysts would be required to pass the SIE and the Research Analyst examinations. Consistent with existing guidance, FINRA

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69 Private Securities Offerings Representatives cannot effect resales of or secondary market transactions in private placement securities.

is also proposing to clarify that the scope of FINRA Rule 1220(b)(6) is limited to equity research reports.

As noted above, FINRA is proposing to transfer the securities products listed under the Investment Company and Variable Contracts Products Principal registration category to the Investment Company and Variable Contracts Products Representative registration category. Further, consistent with the registration provisions of Municipal Securities Rulemaking Board ("MSRB") Rule G-3(a), proposed FINRA Rule 1220(b)(7) clarifies that Investment Company and Variable Contracts Products Representatives are permitted to engage in the solicitation, purchase or sale of municipal fund securities as defined under MSRB Rule D-12. FINRA is also proposing to eliminate the opt-in provision in current NASD Rule 1032(i) and the time frames relating to the initial implementation of the Operations Professional registration category because these periods have passed.

17. Eliminated Registration Categories (Proposed FINRA Rule 1220.06)

Pursuant to NASD Rule 1041, an associated person is not required to register as a General Securities Representative or in one or more of the limited categories of representative registration if the person's activities are so limited as to qualify such person for registration as an Order Processing Assistant Representative. An Order Processing Assistant Representative is an associated person whose only function is to accept unsolicited customer orders (other than orders for municipal securities and direct participation program securities)[70] from existing customers for submission for execution

[70] See NTM 89-78 (December 1989).

by the member. Pursuant to NASD Rule 1042, Order Processing Assistant Representatives are subject to specified restrictions regarding their activities and compensation and are subject to particular supervisory requirements. In addition, they may not be registered concurrently in any other capacity.

NASD Rule 1032(d) currently provides that each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as an Options Representative, instead of a General Securities Representative, if the individual's activities are limited solely to options, including option contracts on government securities. Individuals registering as Options Representatives must satisfy the Corporate Securities Representative or Government Securities Representative prerequisite registration and pass the Options Representative examination. The Incorporated NYSE rules require that a "Registered Options Representative," a representative who transacts business with the public in option contracts, pass the General Securities Representative qualification examination.[71]

NASD Rule 1032(e) currently provides that each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as a Corporate Securities Representative, instead of a General Securities Representative, if the individual's activities are limited solely to securities as defined under Section 3(a)(10) of the Act, other than municipal securities, options, mutual funds (except for money market funds), variable contracts and direct participation program securities. Individuals registering as Corporate Securities Representatives must pass the

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71 See Incorporated NYSE Rules 345.10 and 345.15(4) and NYSE Rule Interpretation 345.15/02.

Corporate Securities Representative examination. NASD Rule 1032(g) provides that each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as a Government Securities Representative, instead of a General Securities Representative, if the individual's activities are limited solely to government securities as defined in Sections 3(a)(42)(A) through (C) of the Act. Individuals registering as Government Securities Representatives must pass the Government Securities Representative examination.

Pursuant to NASD Rule 1100, associated persons registered as Foreign Associates[72] may function as registered representatives, including acting as traders or registered persons responsible for servicing the accounts of foreign nationals. However, they are exempt from the requirement to pass a qualification examination and are not subject to the Regulatory Element of CE requirements.

The Incorporated NYSE rules currently require that any person who has discretion to commit his or her employer member to any contract or agreement, written or oral, involving securities lending or borrowing activities and the direct supervisor of such person register as a Securities Lending Representative or Securities Lending Supervisor,

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[72] To qualify for registration as a Foreign Associate, an associated person: (1) cannot be a citizen, national, or resident of the United States or any of its territories or possessions; (2) must conduct all of his or her securities activities in areas outside the jurisdiction of the United States; and (3) cannot engage in any securities activities with or for any citizen, national or resident of the United States. To register an associated person as a Foreign Associate, a member must: (1) file a Form U4 with FINRA and certify that the person meets the criteria for a Foreign Associate; (2) attest that the person is not disqualified from registration; and (3) certify that service of process for any proceeding by FINRA for such person may be sent to an address designated by the member. If the Foreign Associate is terminated, the member must notify FINRA immediately by filing a Form U5.

as applicable.[73] Such individuals are also required to sign an agreement (representing a form of code of ethics) as an addendum to the Form U4. Such individuals are not required to pass a qualification examination, but they are required to complete the Regulatory Element of the CE requirements. NASD rules currently do not have a specific registration category for associated persons engaged in securities lending activities and in the direct supervision of such activities. Rather, securities lending is a covered function under the Operations Professional registration category.

FINRA is proposing to eliminate the current registration categories of Order Processing Assistant Representative, Options Representative, Corporate Securities Representative, Government Securities Representative and Foreign Associate.[74] FINRA believes that the utility of the Order Processing Assistant Representative registration category has diminished as technological advances and changes in industry practice have reduced the need for such representatives. As a result, the volume of candidates taking the Order Processing Assistant Representative examination has diminished and today less than 200 firms employ one or more Order Processing Assistant Representatives. The Options Representative, Corporate Securities Representative and Government Securities Representative registration categories were created over the years as subcategories of the General Securities Representative category. These subcategories currently allow an individual to sell a subset of the products (e.g., options, common stocks and corporate

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73 See Incorporated NYSE Rules 345(a) and .10 and NYSE Rule Interpretation 345.15/02.

74 As discussed above, FINRA is also proposing to eliminate the United Kingdom Securities Representative and Canada Securities Representative registration categories.

bonds, government securities) permitted to be sold by a General Securities Representative. In recent years, however, the utility of these subcategories has also diminished as a result of technological, regulatory and business practice changes. This is evidenced by the low annual volume for each of these examinations and the relatively low number of individuals who currently hold these registrations.

In addition, considering the type of interaction that Foreign Associates may have with customers, FINRA believes that such persons should demonstrate the same level of competence and knowledge required of their counterparts in the United States. Therefore, FINRA is proposing to eliminate this registration category.

Order Processing Assistant Representatives, United Kingdom Securities Representatives, Canada Securities Representatives, Options Representatives, Corporate Securities Representatives, Government Securities Representatives and Foreign Associates would be eligible to maintain their registrations with FINRA. Specifically, proposed FINRA Rule 1220.06 provides that, subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, individuals who are registered as Order Processing Assistant Representatives, United Kingdom Securities Representatives, Canada Securities Representatives, Options Representatives, Corporate Securities Representatives or Government Securities Representatives on the effective date of the proposed rule change and individuals who had been registered in such categories within the past two years prior to the effective date of the proposed rule change would be eligible to maintain their registrations with FINRA. However, if individuals registered in these categories terminate their registration with FINRA and the registration remains terminated for two or more years, they would not be able to re-register in that category.

With respect to Foreign Associates, proposed FINRA Rule 1220.06 provides that individuals registered as Foreign Associates on the effective date of the proposed rule change would also be eligible to maintain their registrations with FINRA. However, if Foreign Associates subsequently terminate their registrations with FINRA, they would not be able to re-register as Foreign Associates. Unlike the other eliminated categories, Foreign Associates would not be eligible to re-register in the same category within two years of terminating their registrations because the two-year lapse of registration provision is only applicable to those registration categories that have an associated qualification examination. In addition, proposed FINRA Rule 1220.06 would include the current restrictions to which Order Processing Assistant Representatives are subject as well as the current conditions to which Foreign Associates are subject.

With respect to the NYSE registration categories for Securities Lending Representatives and Securities Lending Supervisors, FINRA had originally proposed to adopt these categories under a FINRA rule. However, given that securities lending activities are covered under the Operations Professional registration category, which is a more recent registration category, FINRA does not believe that it is necessary to adopt specific registration categories for individuals engaged in such activities. Moreover, FINRA is considering potential changes to the CRD system that would enable firms to identify registered persons engaged in securities lending activities through other functionalities.

18. Grandfathering Provisions

In addition to the grandfathering provisions in proposed FINRA Rule 1220(a)(2) (relating to General Securities Principals), proposed FINRA Rule 1220(a)(3) (relating to

Compliance Officers) and proposed FINRA Rule 1220.06 (relating to the eliminated registration categories), FINRA is proposing to include grandfathering provisions in proposed FINRA Rules 1220(a)(5), (a)(6), (a)(8), (a)(9), (a)(13), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8) and (b)(9). Specifically, the proposed grandfathering provisions provide that, subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, individuals who are registered with FINRA in specified registration categories on the effective date of the proposed rule change and individuals who had been registered in such categories within the past two years prior to the effective date of the proposed rule change would be qualified to register in the proposed corresponding registration categories without having to take any additional examinations.

N. Associated Persons Exempt from Registration (Proposed FINRA Rules 1230 and 1230.01)

NASD Rule 1060(a) currently provides that the following associated persons are not required to register: (1) associated persons who are not actively engaged in the investment banking or securities business; (2) associated persons whose functions are related solely and exclusively to the member's need for nominal corporate officers or for capital participation; and (3) associated persons whose functions are related solely and exclusively to: effecting transactions on the floor of a national securities exchange and who are registered as floor members with such exchange, transactions in municipal securities, transactions in commodities or transactions in security futures (provided that any such person is registered with a registered futures association). In addition, both the NASD rules and the Incorporated NYSE rules provide an exemption from registration for

associated persons whose functions are solely and exclusively clerical or ministerial.[75] NASD Rule 1060(a) is not meant to provide an exclusive or exhaustive list of exemptions from registration. Associated persons may otherwise be exempt from registration based on their activities and functions.

FINRA is proposing to adopt NASD Rule 1060(a) as FINRA Rule 1230 subject to the following changes. As noted above, NASD Rule 1060(a) exempts from registration those associated persons who are not actively engaged in the investment banking or securities business. NASD Rule 1060(a) also exempts from registration those associated persons whose functions are related solely and exclusively to a member's need for nominal corporate officers or for capital participation.[76] FINRA believes that the determination of whether an associated person is required to register must be based on an analysis of the person's activities and functions in the context of the various registration categories. FINRA does not believe that categorical exemptions for associated persons who are not "actively engaged" in a member's investment banking or securities business, associated persons whose functions are related only to a member's need for nominal corporate officers or associated persons whose functions are related only to a member's need for capital participation is consistent with this analytical framework. FINRA therefore is proposing to delete these exemptions. NASD Rule 1060(a) further exempts from registration associated persons whose functions are related solely and exclusively to

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75 See NASD Rule 1060(a)(1) and Incorporated NYSE Rule Interpretations 10/01 and 345(a)/01.

76 These exemptions generally apply to associated persons who are corporate officers of a member in name only to meet specific corporate legal obligations or who only provide capital for a member, but have no other role in a member's business.

effecting transactions on the floor of a national securities exchange as long as they are registered as floor members with such exchange. Because exchanges have registration categories other than the floor member category, proposed FINRA Rule 1230 clarifies that the exemption applies to associated persons solely and exclusively effecting transactions on the floor of a national securities exchange, provided they are appropriately registered with such exchange.

In NTM 87-47 (July 1987), FINRA stated that unregistered administrative personnel may occasionally receive an unsolicited customer order at a time when appropriately qualified representatives or principals are unavailable. FINRA believes that to accept customer orders a person must be appropriately registered. Accordingly, FINRA is proposing to rescind the guidance provided in NTM 87-47 and instead adopt FINRA Rule 1230.01 to clarify that the function of accepting customer orders is not considered a clerical or ministerial function and that associated persons who accept customer orders under any circumstances are required to be appropriately registered. However, the proposed rule provides that an unregistered administrative person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the administrative person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

O. Changes to CE Requirements (Proposed FINRA Rule 1240)

As described above, FINRA Rule 1250 includes a Regulatory Element and a Firm Element. The Regulatory Element applies to registered persons and consists of periodic computer-based training on regulatory, compliance, ethical, supervisory subjects and sales practice standards. The Firm Element consists of at least annual, member-

developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member. FINRA is proposing to renumber FINRA Rule 1250 as FINRA Rule 1240 with the changes discussed below.

1. Regulatory Element

FINRA is proposing to replace the term "registered person" under current FINRA Rule 1250(a) with the term "covered person" and make conforming changes to proposed FINRA Rule 1240(a). For purposes of the Regulatory Element, FINRA is proposing to define the term "covered person" under FINRA Rule 1240(a) as any person, other than a Foreign Associate, registered pursuant to proposed FINRA Rule 1210, including any person who is permissively registered pursuant to proposed FINRA Rule 1210.02, and any person who is designated as eligible for an FSA waiver pursuant to proposed FINRA Rule 1210.09. The purpose of this change is to ensure that all registered persons, including those with permissive registrations, keep their knowledge of the securities industry current. The inclusion of persons designated as eligible for an FSA waiver under the term "covered persons" corresponds to the requirements of proposed FINRA Rule 1210.09. In addition, consistent with proposed FINRA Rule 1210.09, proposed FINRA Rule 1240(a) provides that an FSA-eligible person would be subject to a Regulatory Element program that correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. The proposed rule also provides that if an FSA-eligible person fails to complete the Regulatory Element during the prescribed time frames, he or she would lose FSA eligibility.

Further, FINRA is proposing to codify existing FINRA guidance regarding the impact of failing to complete the Regulatory Element on a registered person's activities and compensation.[77] Specifically, proposed FINRA Rule 1240(a)(2) provides that any person whose registration has been deemed inactive under the rule may not accept or solicit business or receive any compensation for the purchase or sale of securities. The proposed rule provides, however, that such person may receive trail or residual commissions resulting from transactions completed before the inactive status, unless the member with which the person is associated has a policy prohibiting such trail or residual commissions.

2. Firm Element

Current FINRA Rule 1250(b)(2)(B) provides that with respect to Research Analysts and their immediate supervisors, the minimum standards for the Firm Element training programs must cover training in ethics, professional responsibility and the requirements of FINRA Rule 2241.[78] FINRA believes that training in ethics and professional responsibility should apply to all covered registered persons. Moreover, FINRA Rule 1250(a)(2)(A) currently requires that a member maintain a CE program that enhances a covered registered person's professionalism. Therefore, proposed FINRA Rule 1240(b)(2)(B) requires that a firm's training program cover training in ethics and professional responsibility. FINRA is also proposing to eliminate the specific requirement that Research Analysts receive training regarding FINRA Rule 2241. FINRA believes that this requirement is already addressed under current FINRA Rule

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77 See, e.g., NTM 95-35 (May 1995).

78 See FINRA Rule 1250(b)(2)(B)(iv).

1250(b)(2)(B), which provides that the Firm Element training programs must cover applicable regulatory requirements.

P. Deletion of Incorporated NYSE Rules

FINRA is proposing to delete the following Incorporated NYSE rules as they are substantially similar to the proposed consolidated registration rules, otherwise incorporated as described above, rendered obsolete by the proposed approach reflected in the consolidated registration rules, or addressed by other rules:

- Incorporated NYSE Rule 10 (definition of "registered representative");
- Incorporated NYSE Rule Interpretations 10/01 and 345(a)/01 (clerical and ministerial exemption from registration);
- Incorporated NYSE Rule Interpretation 311(b)(5)/01 (qualification requirements for principal executives);
- Incorporated NYSE Rule Interpretations 311(b)(5)/02 and /03 (relating to the designation and registration of a CFO and a COO);
- Incorporated NYSE Rule Interpretation 311(g)/01 (requirement that members carrying customer accounts have at least two general partners);[79]
- Incorporated NYSE Rule 321.15 (registration of specified employees of a foreign subsidiary);
- Incorporated NYSE Rule 344 and its Interpretation (Research Analyst and Supervisory Analyst registration categories);

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79 This is a conforming change. The corresponding rule incorporated from the NYSE, Incorporated NYSE Rule 311(h), was deleted as part of a prior proposed rule change. See Securities Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (Order Approving Proposed Rule Change; File No. SR-FINRA-2008-036).

- Incorporated NYSE Rules 345(a), 345.10, 345.15(2) through 345.15(4) and NYSE Rule Interpretation 345.15/02 (representative categories);[80]
- Incorporated NYSE Rules 345.12, 345.13, 345.17 and 345.18 and NYSE Rule Interpretations 345.12/01 and 345.18/01 (Forms U4 and U5 filing requirements);
- Incorporated NYSE Rule 345.15(1)(a) (examination requirement);
- Incorporated NYSE Rule 345.15(1)(b) and NYSE Rule Interpretation 345.15/01 (examination waivers);
- Incorporated NYSE Rule Interpretation 345(a)/02 (independent contractor status);[81]
- Incorporated NYSE Rule Interpretation 345(a)/03 (status of persons serving in the Armed Forces);
- Incorporated NYSE Rule Interpretation 345(b) (provisions regarding

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80 FINRA is also proposing to delete the NYSE registration requirements relating to commodities solicitors (Incorporated NYSE Rule 345.15(5) (Commodities Solicitors)) and floor members and floor clerks (Incorporated NYSE Rule Interpretation 345.15/02) as these activities are not within the scope of the proposed FINRA registration rules.

81 Incorporated NYSE Rule Interpretation 345(a)/02 provides that an independent contractor is deemed an employee of a member for purposes of the NYSE rules and requires that the member comply with specified requirements when entering into an arrangement with any person asserting independent contractor status, including a requirement that the independent contractor execute a "consent to jurisdiction" form. The status of independent contractors as associated persons of a member under FINRA rules is well settled. See, e.g., Letter from Douglas Scarff, Director, Division of Market Regulation, SEC, to Gordon S. Macklin, President, NASD (June 18, 1982).

officers);[82]

- Incorporated NYSE Rule 345.16 (requirement to provide information regarding members' employees); and
- Incorporated NYSE Rule 472(a)(2) (requiring research reports to be approved by a Supervisory Analyst).

As noted in Item 2 of this filing, if the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 90 days following Commission approval. The effective date will be no later than 18 months 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,[83] 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, and Section 15A(g)(3) of the Act,[84] which authorizes FINRA to prescribe standards of training, experience and competence for persons associated with FINRA members.

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82 This is a conforming change. The corresponding NYSE rule, NYSE Rule 345(b), was deleted as part of a prior proposed rule change. See Securities Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (Order Approving Proposed Rule Change; File No. SR-FINRA-2008-036).

83 15 U.S.C. 78o-3(b)(6).

84 15 U.S.C. 78o-3(g)(3).

FINRA believes that the proposed rule change will streamline, and bring consistency and uniformity to, the registration rules, which will, in turn, assist members and their associated persons in complying with these rules and improve regulatory efficiency. The proposed rule change will also improve the efficiency of the examination program, without compromising the qualification standards, by eliminating duplicative testing of general securities knowledge on examinations and by removing examinations that currently have limited utility.

In addition, the proposed rule change will expand the scope of permissive registrations, which, among other things, will allow members to develop a depth of associated persons with registrations to respond to unanticipated personnel changes and will encourage greater regulatory understanding. Further, the proposed rule change will provide a more streamlined and effective waiver process for individuals working for a financial services industry affiliate of a member, and it will require such individuals to maintain specified levels of competence and knowledge while working in areas ancillary to the investment banking and securities business.

The proposed rule change will improve the supervisory structure of firms by imposing an experience requirement for representatives that are designated by firms to function as principals for a 120-day period before having to pass an appropriate principal qualification examination. The proposed rule change will also prohibit unregistered persons from accepting customer orders under any circumstances, which will enhance investor protection.

Finally, FINRA believes that, with the introduction of the SIE and expansion of the pool of individuals who are eligible to take the SIE, the proposed rule change has the

potential of enhancing the pool of prospective securities industry professionals by introducing them to securities laws, rules and regulations and appropriate conduct before they join the industry in a registered capacity.

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.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to further analyze the need for the proposed rulemaking, the regulatory objective of the rulemaking, the economic baseline of analysis, the economic impacts and the alternatives considered.

A. Need for the Rules

The Act authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has adopted registration requirements and developed qualification examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge consistent with the applicable registration requirements.

As part of the process of developing the Consolidated FINRA Rulebook, FINRA undertook a review of the NASD registration rules and the Incorporated NYSE rules relating to registration to streamline and update the rules and eliminate duplicative,

obsolete or superfluous provisions. The proposed consolidated registration rules are the result of that process.

FINRA also reviewed its representative-level examination program and determined to enhance the overall efficiency of the program by eliminating redundancy of subject matter content across examinations, retiring several outdated representative-level registrations and introducing a general knowledge examination that could be taken by all potential representative-level registrants and the general public.

B. Regulatory Objectives

The proposed rule change would create a more effective and efficient qualification and registration process, without impacting the proficiency required to function as a representative or principal or reducing investor protection. In addition, the proposed rule change has the potential of enhancing the pool of prospective securities industry professionals by familiarizing them with securities laws, rules and regulations and appropriate conduct at an earlier stage of career development.

C. Economic Baseline

The baseline for the economic impact assessment is the current structure of the registration rules and the examination program. As of October 2016, there were approximately 500,000 individuals holding representative level registrations and approximately 140,000 individuals holding principal level registrations (approximately 640,000 individuals total).[85]

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85 The numbers provided in this economic impact assessment are rounded to reasonable approximations for ease of reference.

The NASD rules relating to qualification and registration are a complex framework, which can result in compliance and operational challenges for firms. Moreover, dual members of FINRA and the NYSE are required to comply with the NASD rules and the Incorporated NYSE rules. As set forth in Regulatory Notice 09-70, the NASD and Incorporated NYSE rules include differences regarding the respective qualification and registration requirements, which create further compliance and operational challenges for dual members.

The qualification examination program sets basic standards of competency for persons associated with FINRA members, and fosters compliance with FINRA rules through required examinations and continuing education. The examinations collectively cover a broad range of subjects on the markets, the securities industry and its regulatory structure. The content includes knowledge of FINRA rules as well as the rules of the SEC and other SROs.

FINRA notes that in 2015, there were more than 90,000 exam candidates in 16 representative-level examinations. The Series 6, 7 and 79 examinations were the three examinations with the highest volume in terms of candidates, constituting more than 90% of the total candidate volume. The examinations that are proposed to be eliminated (Series 11, 17, 37, 38, 42, 62 and 72) constitute less than 1% of the total candidate volume in 2015.

There is considerable overlap in the general securities knowledge content of the current representative-level examinations, which results in duplicative testing of such content for individuals who are required to pass multiple examinations.

In addition, individuals generally must be associated with a member to be eligible to take a qualification examination, which, among other things, hinders the development of a pool of prospective securities industry professionals. In the absence of the proposed rule change, firms, associated persons and other impacted persons would continue to be subject to the complexities, challenges and inefficiencies of the current structure.

D. Economic Impacts

FINRA notes that the proposed rule change includes a variety of changes, some of which may have a more significant impact. The following analysis will focus on those changes that are anticipated to have a material impact.

1. Minimum Number of Registered Principals (Proposed FINRA Rule 1210.01)

The proposed rule provides firms with greater flexibility to satisfy the two-principal requirement, as members can choose a principal registration category that better matches with the scope of the member's activities. For example, if a firm's activities are focused solely on investment banking, it may choose to have two Investment Banking Principals, instead of two General Securities Principals. This flexibility should benefit members that specialize in a single security or market or otherwise engage in more limited activities.

2. Permissive Registrations (Proposed FINRA Rule 1210.02)

The proposed rule expands the scope of permissive registrations by allowing any associated person to obtain and maintain any registration permitted by the member. The proposed rule is expected to facilitate movement of registered personnel within and across firms and help firms better manage unanticipated needs for registered personnel by allowing them to maintain a roster of permissively registered persons available to meet

those needs. The ability to permissively register associated persons may benefit such individuals and their firms by creating savings in examination fees, examination preparation time and time spent in the examination centers.

However, members that choose to permissively register associated persons would incur the cost of complying with the requirements of the proposed rule, including the cost of establishing adequate supervisory systems and procedures reasonably designed to ensure that such individuals do not act outside the scope of their assigned functions. FINRA believes that the proposed requirements are necessary to protect against the potential misuse of permissive registrations and any attendant costs are only borne at the discretion of the firm.

3. Qualification Examinations and Waivers of Examinations (Proposed FINRA Rule 1210.03)

The proposed rule adopts a restructured representative-level qualification examination program whereby representative-level registrants would be required to take a general knowledge examination (the SIE) and a specialized knowledge examination. As noted above, FINRA is currently conducting a pricing analysis to determine a reasonable fee for the SIE and the specialized knowledge examinations. FINRA will file a separate proposed rule change to establish the fees for the SIE and the specialized knowledge examinations, which will include a pricing analysis. The focus of the economic impact assessment in this proposed rule change, therefore, is on the anticipated number of future candidates and the total number of examination questions that they would be required to answer as a proxy for the effort required to complete a qualification examination.

As described in greater detail below, while some individuals would see an increase in examination questions, FINRA is anticipating that more than half of the

individuals seeking a representative-level registration would see a reduction in the number of examination questions.

Under the proposed rule, individuals seeking representative-level registrations must prepare and sit for the SIE and a separate specialized knowledge examination instead of prepare and sit for a single examination that covers both general and specialized knowledge of the securities industry as currently required. Some of these individuals would experience a net decrease in their total number of examination questions, and some would experience a net increase.

Specifically, individuals seeking the General Securities Representative, Investment Banking Representative or Research Analyst registration would experience a net decrease in their total number of examination questions under the proposal.[86] This accounts for approximately 54% of individuals seeking registration for the first time or after a lapse in registration of four or more years.[87] Individuals seeking registration in other limited representative categories, including the Investment Company and Variable Contracts Products Representative, Direct Participation Programs Representative, Private Securities Offerings Representative or Operations Professional category, would experience a net increase in their total number of examination questions under the proposed rule. This accounts for approximately 44% of individuals seeking registration

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86 Individuals seeking registration as Research Analysts will experience a net decrease in the number of questions because such individuals would no longer be required to first register as General Securities Representatives.

87 The reported percentages are calculated from estimated volumes based on five-year averages for all examinations except the Operations Professional examination (Series 99). Volumes for the Series 99 examination are based on three-year averages because the Series 99 examination was implemented more recently than the other examinations.

for the first time or after a lapse in registration of four or more years. In 2015, approximately 75,000 individuals took at least one of the 16 representative-level examinations. Approximately 8% of these candidates took two or more distinct examinations that would be replaced by the SIE and the corresponding qualification examinations (e.g., Series 6, 7 and 79).[88] These individuals would experience a net decrease in their total number of examination questions under the proposed rule.

Further, candidates who were registered as representatives two or more years, but less than four years, prior to reapplying for registration would experience a net decrease in their total number of examination questions if they re-registered because they would be considered to have passed the SIE or their SIE result would still be valid. Similarly, current registrants seeking an additional or alternative representative registration category would also experience a net decrease in their total number of examination questions because they would have already satisfied the SIE requirement, so they only have to take the appropriate specialized knowledge examination. These groups represent a relatively small percentage of individuals seeking registrations.[89]

The cost of developing and implementing the new examination structure, including the development and maintenance of a management system to track SIE results, would primarily fall upon FINRA. Any individual, including the general public and investors, could take a general knowledge examination thereby enhancing the pool of prospective representatives. FINRA does not have estimates on the number of

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88 This data is based on a three-year review period (2012-2015).

89 These groups do not include Order Processing Assistant Representatives because they would not be considered to have passed the SIE.

individuals who are not associated persons, or are associated persons who are not required to register, who would take the SIE. However, FINRA anticipates that the participation of these individuals would defray the cost of the program to some extent.

Currently, individuals generally must be associated with a member to be eligible to take FINRA qualification exams. The new examination structure would permit the general public to take the SIE, enabling prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to a job application. Further, individuals can use the SIE to assess their readiness to enter the securities industry.

FINRA understands that currently some firms cover the examination fees for their representative-level registrants. Under the proposed rule, firms may choose to incur the cost of both the SIE and specialized knowledge examinations for their representative-level registrants. Alternatively, firms may require potential registrants to pass the SIE before they can be considered for a position, in which case the SIE fee may be incurred by the individual and the associated impact may be a shifting of some of the costs associated with qualification from the firm to the individual.

The proposed rule continues to ensure that registered persons attain and maintain specified levels of competence and knowledge and, thus, it will continue to support investor protection. Moreover, FINRA expects the introduction of the SIE, which would reduce the complexity of the examination program and reduce content overlap, to increase the efficiency of the examination program and potentially create savings for members.

4. Registered Persons Functioning as Principals for a Limited Period (Proposed FINRA Rule 1210.04)

The proposed rule requires that a representative designated by a member to function as a principal for a limited period before having to pass a principal-level examination have at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation. FINRA believes that the proposed condition is necessary to ensure that such representatives have an appropriate level of registered representative experience. However, the proposed rule extends the limited period that such representatives may function as principals before having to pass the applicable principal examination from 90 calendar days to 120 calendar days. The proposed rule also allows an individual registered as a principal to function in another principal category for 120 calendar days before having to pass the applicable principal examination for that category, without having to satisfy the proposed experience requirement for representatives.

5. Lapse of Registration and Expiration of SIE (Proposed FINRA Rule 1210.08)

The proposed rule maintains a two-year lapse of registration period, but establishes a four-year expiration period for the SIE. Therefore, candidates who were registered as representatives two or more years, but less than four years, prior to reapplying for registration would only be required to take an appropriate specialized knowledge examination, and not the SIE. FINRA believes that establishing a four-year expiration period for the SIE will reduce the overall cost of registration, such as the SIE examination fee and test preparation costs, for individuals returning to the industry after

two years, but less than four years, from the date of their last registration because they would not be required to retake the SIE.

6. Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member (Proposed FINRA Rule 1210.09)

The proposed rule provides a waiver program for individuals registered with a member who move to a financial services industry affiliate of a member, subject to specified conditions. The proposed rule waives the requalification requirements upon reassociation with a member, and thus may reduce the costs associated with requalification. Approximately half of the persons who gained a registration in 2015 held the same registration previously. Based on FINRA's experience with the examination waiver program, FINRA believes that a small percentage of these individuals had to terminate their registration(s) to work for a financial services industry affiliate of a member. These individuals and the firms with which they would associate would realize savings of the costs associated with examinations. However, there are costs associated with maintaining eligibility for the waiver, such as the cost of satisfying the Regulatory Element of CE.

7. Compliance Officer (Proposed FINRA Rule 1220(a)(3))

The proposed rule allows the CCO of a member that is engaged in limited investment banking or securities business to register in a principal category that corresponds to the limited scope of the member's business. Similar to the proposed change to the two-principal requirement, the proposed rule has the potential to benefit members that engage in more limited activities, by providing flexibility in choosing a principal registration category that is tailored to the scope of the firm's business.

8. Principal Financial Officer and Principal Operations Officer (Proposed FINRA Rule 1220(a)(4))

Under the proposed rule, members would be required to designate a Principal Financial Officer and a Principal Operations Officer. FINRA believes that the proposed rule would have a minimal impact on dual members of FINRA and the NYSE because they are currently required to designate a CFO and a COO under the Incorporated NYSE rules, which are analogous to a Principal Financial Officer and a Principal Operations Officer. Members that are not dual members are currently required to only designate a CFO, which is analogous to a Principal Financial Officer. There are approximately 4,000 members, 3,800 of which are not dual members of FINRA and the NYSE. The proposed rule requires members that are not dual members of FINRA and the NYSE to designate a Principal Operations Officer in addition to a Principal Financial Officer. Accordingly, such members would bear the cost of identifying and designating an associated person as Principal Operations Officer, including the potential costs associated with the qualification and registration of such a person (i.e., a Principal Operations Officer must be qualified and registered as a Financial and Operations Principals or an Introducing Broker-Dealer Financial and Operations Principals, as applicable). However, the proposed rule allows members that neither self-clear nor provide clearing services to designate the same person as the Principal Financial Officer and Principal Operations Officer. In addition, a clearing or self-clearing member that is limited in size and resources could request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer.

9. Research Principal (Proposed FINRA Rule 1220(a)(6))

Currently, an individual who seeks registration as a Research Principal would take three examinations, the Series 7, 24 and 87, totaling 450 questions, or the Series 7, 16 and 24, totaling 500 questions. Under the proposed rule, an individual who seeks registration in the same category would take either two or four examinations, the Series 16 and 24, totaling 250 questions, or the SIE, the Series 24, 86 and 87, totaling 375 questions. Therefore, while some individuals registering as Research Principals may be required to take an additional examination, all individuals seeking the Research Principal registration would experience a net decrease in their total number of examination questions under the proposed rule.

10. Eliminated Registration Categories (Proposed FINRA Rule 1220.06)

As discussed above, FINRA is proposing to eliminate the current registration categories of Order Processing Assistant Representative, United Kingdom Securities Representative, Canada Securities Representative, Options Representative, Corporate Securities Representative and Government Securities Representative. FINRA believes that the utility of these examinations has diminished based on changes to the industry, as evidenced by the low annual volume for each of these examinations and the relatively low number of individuals who currently hold these registrations. For example, in 2015, the volume of candidates for each of the examinations associated with these registration categories was as follows: Series 11 (100); Series 17 (20); Series 37 (50); Series 38 (20); Series 42 (2); Series 62 (300); and Series 72 (20). In addition, FINRA is proposing to eliminate the Foreign Associate registration category. There are approximately 500

Foreign Associates currently registered in the CRD system, which is less than 1% of the total number of registered persons.

While FINRA is proposing to eliminate these registration categories going forward, individuals registered in these categories would be eligible to maintain their registrations with FINRA, thus reducing the impact on them. Specifically, the proposed rule provides that individuals who are registered as Order Processing Assistant Representatives, United Kingdom Securities Representatives, Canada Securities Representatives, Options Representatives, Corporate Securities Representatives or Government Securities Representatives on the effective date of the proposed rule change and individuals who had been registered in such categories within the past two years prior to the effective date of the proposed rule change would be eligible to maintain their registrations with FINRA. However, if individuals registered in these categories terminate their registration with FINRA and the registration remains terminated for two or more years, they would not be able to re-register in that category. Individuals registered as Foreign Associates on the effective date of the proposed rule change would also be eligible to maintain their registrations with FINRA, provided that if they subsequently terminate their registrations with FINRA, they would not be able to re-register as Foreign Associates.

11. Registration Requirements for Associated Persons Who Accept Customer Orders (Proposed FINRA Rule 1230.01)

The proposed rule rescinds existing guidance regarding the ability of unregistered persons to, on occasion and when a registered person is unavailable, accept an unsolicited customer order that is manually submitted. Moreover, the proposed rule prohibits unregistered persons from accepting customer orders under any circumstances. The

proposed rule would impact firms that currently rely on unregistered persons to accept unsolicited manual orders from customers when a registered person is unavailable, unregistered persons who accept the orders and customers who place such orders with unregistered persons. Under the proposed rule, only appropriately registered persons can accept customer orders. Therefore, firms that accept unsolicited manual orders from customers must have appropriately registered persons available to accept such orders. If an appropriately registered person is unavailable to accept a customer order that is manually submitted, the proposed rule would allow an unregistered person to transcribe the order details, provided that an appropriately registered person subsequently contacts the customer to confirm the order details before entering the order. FINRA does not have data on how many firms, or how often firms, permit unregistered persons to accept unsolicited manual orders from customers based on the existing guidance. However, FINRA believes that investor protection concerns outweigh any additional burden on such firms.

Alternatives Considered

The following are the most significant alternatives that were suggested by commenters or that FINRA considered on its own accord. Commenters also suggested other alternatives, which are discussed in Item 5 below.

FINRA originally considered whether individuals with permissive registrations should be subject to a subset of FINRA rules. FINRA determined to adopt an alternative approach that is principles-based and provides firms the flexibility to tailor their supervisory systems to their business models. Under the revised approach, individuals

maintaining a permissive registration would be considered registered persons and subject to all FINRA rules, but only to the extent relevant to their activities.

In addition, FINRA considered whether individuals who only maintain permissive registrations should be counted for purposes of a firm's number of registered persons. Currently, individuals who are permissively registered are counted for such purposes. FINRA determined that it is appropriate to continue to count such individuals for purposes of calculating the number of registered persons and assessing associated fees given that FINRA incurs costs for oversight and examinations relating to all registered persons.

FINRA originally considered whether to create an "active" and "inactive" registration status in the CRD system to distinguish between required and permissive registrations, and it determined not to do so. Rather, all individuals registered in the CRD system would be considered registered persons. Further, as noted above, FINRA will consider changes to the CRD system to require firms to identify whether a registered person is maintaining only a permissive registration, and it will consider changes to BrokerCheck to disclose the significance of such permissive registration.

FINRA also considered alternative models for restructuring the examinations and found the proposed approach to be the most efficient for achieving the goals of the proposal, including the elimination of duplicative testing of general securities knowledge. For instance, among other models, FINRA considered retaining the current Series 7 examination and revising the existing limited qualification examinations in addition to creating the SIE. FINRA also considered retaining the current limited qualification examinations and revising the existing Series 7 examination in addition to creating the

SIE. Under both of these alternatives, an individual would be subject to duplicative testing of general securities knowledge if the individual registers in a limited category and later decides to register as a General Securities Representative.

FINRA considered whether individuals who are not associated persons of firms should be allowed to take the SIE. FINRA determined that allowing individuals who are not associated persons of firms to take the SIE would enhance the pool of prospective securities industry professionals. FINRA also established appropriate safeguards that are intended to discourage such individuals from misrepresenting their qualifications to the public. Specifically, FINRA would require that such individuals attest that they are not qualified to engage in the investment banking or securities business based on passing the SIE and that they will not make any misrepresentations to the public as to their qualifications. In addition, if FINRA determines that non-associated persons cheated on the SIE or that they misrepresented their qualifications to the public subsequent to passing the SIE, they may forfeit their SIE results and may be prohibited from retaking the SIE. Further, if FINRA discovers that non-associated persons who have passed the SIE have subsequently engaged in other types of misconduct, FINRA will refer the matter to the appropriate authorities or regulators.

FINRA considered alternatives to the proposed experience requirement for representatives that are designated by firms to function as principals for a 120-day period before having to pass an appropriate principal qualification examination. FINRA determined to allow firms to designate a principal to function in another principal category for 120 calendar days before passing any applicable examinations, without having to satisfy the proposed experience requirement for representatives.

Further, FINRA considered alternatives to the two-year period for lapse of registration and the four-year expiration period for the SIE. FINRA determined that based on the content of the SIE, a passing result on the SIE would be valid for four years. With respect to the representative- and principal-level registrations, FINRA determined that the registrations would continue to be subject to a two-year expiration period. However, FINRA will explore the possibility of extending the two-year expiration period through the use of more frequent CE.

With respect to the FSA waiver program, FINRA originally considered a proposal whereby individuals could maintain their registrations in an RA status, subject to complex tracking and tolling provisions. FINRA determined that the proposed FSA waiver program would significantly reduce the operational, administrative and cost burden on members, associated persons and FINRA, as compared to the original proposal.

FINRA originally considered adopting a Compliance Officer qualification examination for CCOs and other individuals registering as Compliance Officers. However, FINRA determined not to adopt a separate qualification examination pending its evaluation of the structure of the principal-level examinations.

FINRA also considered whether to retain some of the registration categories that it initially proposed to eliminate, including the registration categories of United Kingdom Securities Representative, Canada Securities Representative, Options Representative, Corporate Securities Representative and Foreign Associate. As described above, the overall utility of these registration categories has diminished over the years, which is why FINRA proposes to eliminate them.

Finally, FINRA considered whether to revise the proposal regarding associated persons who accept customer orders to clarify its application to situations where an appropriately registered person is unavailable. FINRA determined to revise the proposal to clarify that an unregistered administrative person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the administrative person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

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

Comments Relating to Consolidated Registration Rules

In December 2009, FINRA published Regulatory Notice 09-70, seeking comment on the proposed consolidated registration rules.[90] FINRA received 22 comment letters in response to the Notice, which are discussed below. A copy of the Notice is attached as Exhibit 2a. A list of the comment letters received in response to the Notice is attached as Exhibit 2b.[91] Copies of the comment letters received in response to the Notice are attached as Exhibit 2c.

A. Permissive Registrations (Proposed FINRA Rule 1210.02)

1. General Comments

GWFS Equities appreciated the proposed provisions regarding permissive registrations, but stated that the costs associated with implementing the provisions,

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90 Some of the proposed changes discussed in this filing were not part of the proposals set forth in Regulatory Notice 09-70, including the proposed FSA waiver program.

91 All references to commenters are to the comment letters as listed in Exhibit 2b.

including tracking the status of individuals in an RA status, outweighed the benefits. FSI was concerned that the proposed requirements may result in the deregistration of individuals who are currently permissively registered. Nationwide was concerned with the feasibility of the RA status and the potential administrative and cost burdens. Nationwide also stated that the proposal would prevent some individuals from registering in an RA status because of the potential burdens.

As discussed above, FINRA has replaced the RA proposal with the FSA waiver program, which would significantly reduce the operational, administrative and cost burden on firms and associated persons. Further, the proposed rule change would not require firms to maintain permissive registrations. Rather, it provides firms the flexibility to do so, subject to specified conditions. Each firm is free to determine whether to maintain any permissive registrations.

2. Tolling and Forfeiture Provisions Relating to RA status

Several commenters stated that the tolling and forfeiture provisions for individuals in an RA status were too complicated and burdensome.[92] ICI and USAA requested exceptions from the RA conditions for specified persons. T. Rowe, ARM and CAI asked that the time limitation for remaining in an RA status be eliminated. NSCP stated that the time limitation was arbitrary. In addition, SIFMA suggested that individuals in an RA status be permitted to restart a fresh time limit if they satisfied specified conditions. In light of these and other comments, FINRA has replaced the RA proposal with the FSA waiver program.

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92 GWFS Equities, T. Rowe, ICI, ARM, FSI, USAA, Nationwide, NSCP, SIFMA and IMS-2.

3. Other Comments Relating to Permissive Registrations

AEC requested that individuals who only maintain permissive registrations not be counted for purposes of a firm's approved number of representatives. AEC also suggested that FINRA place time limits on permissive registrations. Currently, individuals who are permissively registered are counted for purposes of calculating the number of registered persons and assessing associated fees. FINRA believes that it is appropriate to continue to do so given that FINRA incurs costs for oversight and examinations relating to all registered persons. FINRA does not believe that individuals with a permissive registration should be subject to a time limitation because they would be subject to supervision by a member as described in the proposed rule change.

T. Rowe requested that FINRA create an "active" category for all required registrations and a "retained" category for all permissive registrations. T. Rowe added that "retained" persons should be deemed associated persons, but subject only to a subset of FINRA rules. ARM similarly requested that FINRA create an "active" category for all required registrations and a "permissive" category for all permissive registrations. Edward Jones stated that there was no regulatory distinction between an active and inactive status and that the proposal should not create such a distinction. NSCP requested additional clarification regarding the inactive status and the provisions applicable to individuals who would maintain a permissive registration. T. Rowe and ARM stated that the term "inactive" should not be used because it may be confused with the term "CE inactive."

FINRA has eliminated the distinction between an active and inactive status. Rather, all individuals registered in the CRD system would be considered registered

persons. As noted above, FINRA will consider changes to the CRD system to require firms to identify whether a registered person is maintaining only a permissive registration, and it will consider changes to BrokerCheck to disclose the significance of such permissive registration.

Under the proposed rule change, any associated person of a member is eligible to obtain and maintain any registration permitted by the member. For instance, an associated person of a member working solely in a clerical or ministerial capacity, such as in an administrative capacity, could maintain a representative-level registration. Further, an associated person of a member who is registered, and functioning solely, as a representative could obtain and maintain a permissive principal-level registration with the member. In addition, the proposed rule change allows an individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of a member to obtain and maintain any registration permitted by the member.

Individuals maintaining a permissive registration under the proposed rule change would be considered registered persons and subject to all FINRA rules, but only to the extent relevant to their activities. For instance, FINRA rules that relate to interactions with customers would have no practical application to the conduct of a permissively registered individual who does not have any customer contact. However, members would be required to have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions. FINRA had originally proposed that individuals with permissive registrations be subject to a subset of FINRA rules. FINRA believes that the

revised approach, which is principle-based, provides firms the flexibility to tailor their supervisory systems to their business models.

SIFMA requested that the proposal more clearly define the different categories of required and permissive registrations, including the Compliance Officer registration category. FINRA had originally proposed to allow individuals registering as Compliance Officers, other than CCOs, a choice between an active or inactive status, subject to specified conditions. Under the revised proposal, there is no longer a distinction between an active and inactive status. CCOs would be required to register as Compliance Officers or in a more limited principal category as specified in proposed FINRA Rule 1220(a)(3), and other associated persons would be allowed to permissively register as Compliance Officers.

Nationwide requested additional clarification regarding the supervision of individuals who maintain solely permissive registrations. Nationwide also noted that for purposes of compliance with FINRA Rule 3110(a)(5), the proposal should allow for risk-based supervision reasonably designed to ensure compliance, such as the use of periodic questionnaires and certifications to satisfy supervisory obligations.

A firm's supervisory procedures must be reasonably designed to achieve compliance with the requirements of the proposed rule change. FINRA does not believe that it is necessary to discuss whether any particular methodology, such as risk-based supervision, satisfies the requirements of the proposed rule change. Moreover, with respect to an individual who solely maintains a permissive registration, such individual's day-to-day supervisor may be a non-registered person. Though, for purposes of compliance with FINRA Rule 3110(a)(5), members would be required to assign a

registered supervisor who would be responsible for periodically contacting such individual's day-to-day supervisor to verify that the individual is not acting outside the scope of his or her assigned functions. If such individual is permissively registered as a representative, the registered supervisor must be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor must be registered as a principal. However, in either case, the registered supervisor of an individual who solely maintain a permissive registration would not be required to be registered in the same registration category as the permissively-registered individual.

Cornell asked whether individuals who solely maintain permissive registrations would be able to contact customers because they would be considered registered persons for purposes of FINRA rules. Individuals who contact existing or prospective customers would have to be authorized to do so by a member and maintain a required registration, unless otherwise permitted under FINRA rules. For purposes of contacting existing or prospective customers, individuals who solely maintain permissive registrations would be subject to the same limitations as unregistered persons.

SIFMA stated that assigning a registered supervisor to each individual in an RA status for purposes of FINRA Rule 3110(a)(5) would not be practical or effective in all cases. SIFMA suggested that the proposal be revised to require the assignment of a registered supervisor responsible for implementing a system of policies, procedures and controls reasonably designed to ensure that individuals in an RA status do not engage in activities that require registration. Alternatively, SIFMA suggested that the proposal be revised to require that individuals in an RA status be subject to the member's overall

supervisory system, including written procedures designed to address compliance with the rules applicable to them and the requirement that they act within the limits of their status. GWFS Equities noted that maintaining registrations for individuals in an RA status while they are working for affiliated investment advisers could present potential conflicts between broker-dealer and advisory activities for firms that are not dually registered.

As noted above, FINRA has replaced the RA proposal with the FSA waiver program, which would not require firms to assign a registered supervisor to individuals working for a financial services industry affiliate of a member. However, the proposed rule change would allow a member to permissively register an individual working for a foreign securities affiliate or subsidiary of the member, as currently permitted. If a member chooses to maintain such a permissive registration, it would be required to assign a registered supervisor to such permissively registered individuals, as described above.

Nationwide asked that the proposal be amended to expressly allow a firm to determine the scope of its bona fide business purpose. Cornell requested that FINRA define the term "bona fide business purpose." ACI stated that the term "bona fide business purpose" may be applied inconsistently across firms and that FINRA should recognize this when considering enforcement. FINRA had originally proposed to permit the registration of associated persons engaged in a bona fide business purpose of a member. The revised proposal would allow any associated person to obtain and maintain any registration permitted by the member. FINRA believes that associated persons by definition are engaged in a bona fide business purpose of a member.

Edward Jones and SIFMA requested that a person who was registered within the past two years prior to the effective date of the proposal be eligible for permissive registration. Nothing in the proposed rule change would preclude a member from applying to register such a person once the proposed rule change becomes effective.

Edward Jones stated that individuals who had been registered two or more years, but less than four years, prior to the effective date of the proposal be eligible for permissive registration. FSI stated that individuals who had been registered two or more years, but less than five years, prior to the effective date of the proposal be eligible for permissive registration, subject to satisfying their CE requirements. Individuals who have been out of the brokerage industry for two or more years prior to the effective date of the proposed rule change would be eligible for permissive registration, provided that they pass the requisite qualification examination or obtain a waiver upon re-registration. Moreover, individuals who had been registered as representatives two or more years, but less than four years, prior to the effective date of the proposed rule change would be considered to have passed the SIE and designated as such in the CRD system.

SIFMA and ABA stated that Section 3(a)(4) of the Act allows a nominal one-time referral fee to bank employees that are not associated persons. In addition, they noted that Rule 701 of SEC Regulation R allows more than the one-time referral fee to bank employees that are not registered for the referral of high net worth individuals or institutional customers. SIFMA and ABA requested that the proposal clarify that individuals in an RA status are not associated persons and not registered for purposes of these provisions. IMS asked whether the RA status should be limited to persons working at affiliates of a member. ABA requested that the proposal allow a member to maintain

registrations for persons who work for an unaffiliated bank with which the member has contractually entered into a networking arrangement.

As discussed above, FINRA has replaced the RA proposal with the FSA waiver program. Under the revised proposal, an FSA-eligible person who is working for a financial services industry affiliate of a member would not be considered an associated or registered person.

NASAA stated that the proposal did not articulate a sound regulatory basis for expanding permissive registrations and that the current restrictions regarding the "parking" of registrations should stay in place. NASAA also stated that the waiver process was more appropriate to achieve the goals of the proposal, rather than an expansion of permissive registrations. NASAA further stated that the proposal did not comply with the Act's provision that requires FINRA to prescribe standards of training, experience and competence for associated persons of members. In addition, NASAA stated that CE cannot be a substitute for qualification examinations because CE is not tailored to address the eventual function of permissively registered individuals at the member. NASAA noted that, at the very least, the proposal should include enhancements to existing CE requirements. IMS asked whether it was necessary to revise the current requirements applicable to permissively registered persons.

FINRA believes that there is a sound regulatory purpose for permitting permissive registrations for several reasons. First, the proposed rule change would in effect allow firms to maintain an individual's registration in a standby status in the event the firm has a foreseeable need to move the individual to a position that requires registration, without having to go through the registration process each time the individual moves between a

firm's business units. FINRA believes that this would simplify compliance with registration requirements. Second, the proposed rule change would allow associated persons to gain greater regulatory literacy, which would, in turn, enhance a firm's culture of compliance. Third, the proposed rule change would eliminate a regulatory inconsistency in the current rules, which permit some associated persons of a member to maintain permissive registrations, but not others who equally are engaged in the member's business. For instance, an individual working in a firm's internal audit department may be permissively registered, whereas an individual working in the Corporate Secretary's office of a firm is currently not permitted to do so.

The proposed rule change has other regulatory benefits. While all registered persons are subject to firm supervision under the current rules, the rules do not explicitly address the obligations of firms to supervise permissively registered persons, including individuals who are working in a non-registered capacity at the firm or who are working for a foreign securities affiliate or subsidiary of the firm. In conjunction with the expansion of permissive registrations, the proposed rule change expressly sets forth the obligation of firms to supervise permissively registered persons and specifies the manner in which firms must supervise such individuals, which will, in turn, improve regulatory compliance. Further, by replacing the RA proposal with the FSA waiver program, FINRA has limited the scope of permissive registrations.

FINRA believes that the proposed rule change satisfies its obligation under the Act to prescribe standards of training, experience and competence for the following reasons. Foremost, individuals who maintain solely permissive registrations are subject to the same qualification examinations as individuals who are required to register. As

such, the proposed rule change would not substitute CE requirements for qualification examinations; rather, CE remains a supplement to the examinations. Also, similar to individuals who are required to register, members would be required to conduct background investigations pursuant to FINRA Rule 3110(e) on individuals who maintain solely permissive registrations to establish, among other things, their qualifications and experience. Moreover, such individuals are equally subject to supervision by a member, including the requirement to participate in an annual compliance meeting. Further, as discussed above, such individuals would be subject to the Regulatory Element of the CE requirements. The required Regulatory Element would correspond to their registration status.[93]

Several commenters requested more details regarding the notification and tracking process for individuals with permissive registrations.[94] Edward Jones stated that the affirmative notification requirements of the proposal were too complicated and that the proposal should allow firms to maintain the required information regarding the status of such individuals and make it available upon request during the course of examinations. CAI asked whether the CRD system would be updated to track permissive registrations. CAI also requested that FINRA provide sufficient time for the implementation of the proposal. SIFMA requested that the CRD system and BrokerCheck be modified to

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93 The Regulatory Element of CE includes the following four programs: the S106 (for Investment Company and Variable Contracts Representatives), the S201 (for registered principals and supervisors), the S901 (for Operations Professionals) and the S101 (for all other registered persons). FINRA recently enhanced the S101 program by including personalized content that covers retail sales, institutional sales, trading, operations and investment banking and research.

94 T. Rowe, ARM, Edward Jones, NSCP, Cornell, SIFMA and CAI.

accommodate and disclose permissive registrations. NSCP stated that the current CRD system would not be able to handle the workload, and it asked that the notification process be further developed before the proposal is filed with the SEC. ARM requested that FINRA make the necessary system changes to accommodate the proposed tracking requirements.

The original proposal included a complex notification and tracking process that required firms to indicate to FINRA whether a registered person had an active or inactive status and whenever that status changed. FINRA has revised the proposal and simplified the overall process. Under the proposed rule change, all individuals who are registering with FINRA would go through the same process: there would be no distinction between an individual with a required registration and an individual with a permissive registration for purposes of the registration process. However, as noted above, FINRA will consider changes to the CRD system to require firms to identify whether a registered person is maintaining only a permissive registration, and it will consider changes to BrokerCheck to disclose the significance of such permissive registration to the general public. Moreover, FINRA will consider the need for firms to make procedural and systems changes in establishing an implementation date for the proposed rule change.

Nationwide asked whether FINRA intends to assert jurisdiction for purposes of examining individuals in an RA status. CAI stated that FINRA's oversight of and authority over individuals who solely maintain permissive registrations should be limited to activities that directly involve the securities activities of the member. Individuals would not be permitted to register in an RA status under the revised proposal. Further,

individuals who solely maintain a permissive registration under the proposed rule change would be subject to FINRA's jurisdiction by virtue of their status as associated persons.

NSCP noted that the definition of "financial services industry" for purposes of the RA status appeared to be broad enough to encompass the range of activities in which financial service providers are engaged, but suggested that the definition be broadened to facilitate the inclusion of other regulatory bodies, such as the Consumer Financial Protection Bureau. NSCP suggested that this could be achieved by FINRA having the authority to recognize a particular entity or type of entity as being in the financial services industry for purposes of the proposal, without the need to go through future rulemaking. As noted above, while FINRA has replaced the RA proposal with the proposed FSA waiver program, the definition of the term "financial services industry affiliate" is similar to the definition under the RA proposal. Further, FINRA believes that the proposed definition is sufficiently broad and should not be revised in a manner that may extend the definition beyond financial services.

B. Requirements for Registered Persons Functioning as Principals for a Limited Period (Proposed FINRA Rule 1210.04)

GWFS Equities, ARM and NSCP were concerned that the proposed experience requirement is an additional prerequisite requirement for registration as a principal. Proposed FINRA Rule 1210.04 does not impose an experience requirement for those persons designated to function as principals after passing an appropriate principal qualification examination. Rather, it creates an experience requirement for those representatives that are designated by firms to function as principals for a 120-day period before having to pass an appropriate principal qualification examination. Thus, the experience requirement is narrow in scope.

T. Rowe stated that requiring an individual to satisfy all applicable prerequisites to be eligible to be designated as a principal under the proposal was unwarranted. T. Rowe was also concerned with the proposed experience requirement. NASD Rule 1021(d)(2) currently provides that persons not currently associated with a member as representatives are allowed to be designated as principals for 90 days prior to passing the applicable principal examination, but only after all applicable prerequisites have been fulfilled. Proposed FINRA Rule 1210.04 simply clarifies that any person that is to be designated as principal for the proposed limited period must fulfill all applicable prerequisite registration, fee and examination requirements, such as passing the General Securities Representative examination, prior to his or her designation as a principal. In addition, the experience requirement is intended to ensure that a registered representative functioning as a principal for the 120-day time period before having to pass a principal examination has an appropriate level of experience to carry out such functions.

ARM asked whether the experience requirement applies to all principal designations or only those that have a prerequisite representative registration requirement. The experience requirement applies to all principal designations, including those without a prerequisite representative registration requirement (e.g., Financial and Operations Principal). FINRA has revised the proposed rule to clarify this point.

FSI stated that small firms may find it difficult to find an experienced representative and that small firms should be provided a limited size and resources exception. FINRA does not believe the experience requirement, which is only applicable in limited situations, imposes any undue burden on small firms. Moreover, as noted above, the requirement is intended to ensure that the representative has an appropriate

level of experience to carry out the assigned principal functions. However, in light of the comment, FINRA has revised the proposed rule to allow firms to designate a principal to function in another principal category for 120 calendar days before passing any applicable examinations, without having to satisfy the proposed experience requirement.

C. Waiting Periods for Retaking a Failed Examination (Proposed FINRA Rule 1210.06)

FSI asked whether the 180-day waiting period was triggered upon three successive examination failures within 30 calendar days of each other or three successive examination failures in any given period. In response, FINRA has revised the proposed rule to provide that the 180-day waiting period is triggered upon three successive examination failures within a two-year period.

D. Compliance Officer (Proposed FINRA Rule 1220(a)(3))

NSCP sought additional clarification regarding the Compliance Officer registration requirement and whether individuals could be permissively registered as Compliance Officers. Proposed FINRA Rule 1220(a)(3) would only require that CCOs register as Compliance Officers or in a more limited principal category as specified in the rule. However, consistent with proposed FINRA Rule 1210.02 relating to permissive registrations, a firm may allow other associated persons to register as Compliance Officers.

GWFS Equities stated that the requirement that CCOs pass the General Securities Principal qualification examination even if a firm's activities are limited to mutual funds and variable contracts seems unwarranted. As noted above, FINRA has revised the proposed rule to permit the CCO of a member that is engaged in limited investment banking or securities business to have a more limited principal-level qualification.

NSCP asked whether the Compliance Officer registration category would be a principal-level category. The Compliance Officer registration category would be a principal-level category.

FINRA had originally proposed to permit firms to designate Compliance Officers who are permissively registered in an active status, provided they were engaged in compliance activities. FSI asked whether such Compliance Officers were required to forego their active status if they moved to another department within the firm. As discussed above, FINRA has eliminated the proposed active and inactive status.

ARM, Pershing and SIFMA suggested that the proposal did not adequately explain whether the current NYSE Compliance Official category would be eliminated. The Incorporated NYSE rules relating to the Compliance Official registration requirement (former Incorporated NYSE Rule 342.13(b) and NYSE Rule Interpretation 342(a)(b)/02) were deleted as part of the proposed changes to the supervision rules. Subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, individuals registered as Compliance Officials in the CRD system on the effective date of the proposed rule change and individuals who were registered as such within two years prior to the effective date of the proposed rule change, would be qualified to register as Compliance Officers without having to take any additional examinations. FINRA understands that the NYSE will separately determine how to address the current Compliance Official requirement under its rules.

NSCP suggested that registration as a Corporate Securities Representative or Private Securities Offerings Representative should also be acceptable to satisfy the prerequisite representative-level registration for Compliance Officers. CAI suggested

that registration as an Investment Company and Variable Contracts Products Representative should also be acceptable to satisfy the prerequisite representative-level registration for Compliance Officers of firms that are engaged solely in activities relating to investment company and variable contracts products. FINRA is proposing to eliminate the Corporate Securities Representative registration category. However, as discussed above, FINRA has revised proposed FINRA Rule 1220(a)(3) to allow the CCO of a member that is limited in the scope of its activities to have a more limited principal-level qualification, which would include a more limited representative-level prerequisite registration.

CAI also asked whether a CCO who has been grandfathered as a Compliance Officer under the proposal could maintain that registration if the CCO changed firms. CCOs who are grandfathered as Compliance Officers under the proposed rule change would not lose those registrations, unless their registrations lapse under proposed FINRA Rule 1210.08.

ACI suggested that the Compliance Officer grandfathering provision should allow for the grandfathering of unemployed compliance officers. For purposes of grandfathering and subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, the proposed rule change would only recognize individuals who are registered in the CRD system on the effective date of the proposed rule change and individuals who were registered within two years prior to the effective date of the proposed rule change. FINRA would evaluate the status of other former compliance personnel on a case-by-case basis through the waiver process.

E. Principal Financial Officer and Principal Operations Officer (Proposed FINRA Rule 1220(a)(4)(B))

Pershing asserted that larger clearing firms may need to designate multiple Principal Financial Officers and Principal Operations Officers, and it asked whether the proposed rule would allow multiple designations. In addition, Pershing asked whether the proposed rule would allow the Principal Financial Officer or Principal Operations Officer to delegate the day-to-day duties to other principals at the firm, such as a General Securities Principal or a Financial and Operations Principal. A member may designate multiple Principal Operations Officers, provided that the member precisely defines and documents the areas of primary responsibility and makes specific provision for which of the officers has primary responsibility in areas that can reasonably be expected to overlap. A member, however, may not designate multiple Principal Financial Officers, given the importance of having one principal who is responsible for the financial statements as a whole. The Principal Financial Officer and Principal Operations Officer may delegate the day-to-day duties to other principals at the firm with the understanding that ultimate responsibility for the function rests with the Principal Financial Officer and Principal Operations Officer.

CAI stated that the Principal Operations Officer requirement should be limited to persons who are responsible for handling or processing customer funds or securities. CAI also stated that an officer responsible only for administrative and technical matters should not be subject to the requirement. FINRA believes that the proposed rule clearly articulates the functions that must be assigned to a Principal Operations Officer.

T. Rowe stated that a firm's Principal Operations Officer should register as a General Securities Principal. FINRA continues to believe that the Financial and

Operations Principal or Introducing Broker-Dealer Financial and Operations Principal, as applicable, is the more appropriate registration for a person designated as a Principal Operations Officer. FINRA notes that a Principal Financial Officer and a Principal Operations Officer would also be subject to the Operations Professional registration requirement.

IMS requested that the proposed rule exempt non-custodial clearing firms operating pursuant to SEA Rule 15a-6 from the requirement that clearing and self-clearing firms designate separate persons to function as Principal Financial Officer and Principal Operations Officer. The proposed rule provides that a clearing or self-clearing firm that is limited in size and resources may request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer. Consistent with the proposed rule, FINRA believes that it is more appropriate to consider waiver requests by firms on a case-by-case basis, rather than including a blanket exception in the proposed rule.

F. Elimination of Foreign Associate Registration Category (Proposed FINRA Rule 1220.06)

ARM and Konig stated that the Foreign Associate registration category should be retained. FINRA had originally proposed to eliminate this registration category and to require that persons registered as Foreign Associates in the CRD system qualify and register in an appropriate registration category, such as the General Securities Representative category, within one year of the effective date of the proposed rule change. FINRA continues to believe that the category should be eliminated and that such persons should demonstrate the same level of competence and knowledge required of their counterparts in the United States. However, as described above, FINRA has revised

the proposal to permit Foreign Associates registered with FINRA on the effective date of the proposed rule change to maintain their registrations with FINRA. FINRA believes that the revised proposal reduces the impact on current Foreign Associates. As an alternative, Konig requested that examinations be made available in foreign languages. Konig also incorrectly stated that Foreign Associates are exempt from the requirements of U.S. securities laws and should continue to be exempt from such requirements. As explained above, a Foreign Associate is considered a registered representative and subject to all the requirements to which registered representatives are subject, with the exception of the requirement to pass a qualification examination and comply with the Regulatory Element of the CE requirements. In addition, FINRA does not believe that it is practical to develop examinations in foreign languages. However, consistent with current policy, an examination candidate for whom English is a second language may request up to 60 minutes of additional examination time depending on the time allotted for taking the examination.

G. Associated Persons Exempt from Registration (Proposed FINRA Rules 1230 and 1230.01)

The original proposal in Regulatory Notice 09-70 provided that the function of accepting customer orders is not considered a clerical or ministerial function and that associated persons who accept customer orders under any circumstances are required to be appropriately registered. This is a rescission of the guidance provided in NTM 87-47.

NSCP stated that the existing guidance should remain intact. ACI believes that rescinding the guidance could cause significant disruption to firms' operations and that it requires further consideration. FINRA continues to believe that associated persons who accept customer orders under any circumstances should be appropriately registered and

continues to propose the rescission of the guidance provided in NTM 87-47. However, FINRA has revised the proposal to clarify that an unregistered administrative person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the administrative person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

H. Miscellaneous Comments

Dresdner stated that the proposal should allow a member to maintain registrations of associated persons specifically required by an exchange even after the member has terminated its exchange membership. The proposed rule change would allow such members to maintain those registrations that are also recognized by FINRA as acceptable registrations (e.g., General Securities Sales Supervisor). FINRA is not in a position to opine on the status of registrations that are not recognized by FINRA upon a member's termination of its exchange membership.

IMS requested that there be examination reciprocity between the SROs. Some examinations (e.g., the General Securities Sales Supervisor examinations) are recognized by most SROs. FINRA believes that it is more appropriate to evaluate examinations that are specific to an exchange on a case-by-case basis through the waiver process.

IMS also suggested that FINRA consider alternatives to the current lapse of registration period. For instance, IMS recommended that the two-year period be extended by a year for each three years that a person is registered. IMS further recommended that the two-year period should be replaced with a CE requirement similar to other professions (e.g., attorneys and certified public accountants). As described

above, FINRA is proposing that a passing result on the SIE be valid for four years, while the representative- and principal-level registrations would continue to be subject to a two-year expiration period. However, FINRA is considering the possibility of extending the two-year expiration period through the use of more frequent CE.

ARM was concerned that some NYSE supervisory registrations, such as the Compliance Official registration, held by individuals associated with a member that is not a dual member of FINRA and the NYSE may not be recognized by the CRD system for grandfathering purposes. As discussed above, FINRA prefers to evaluate the status of a person who would not be recognized for grandfathering purposes on a case-by-case basis through the waiver process. ARM also asked whether the waiver guidelines for the analytical portion of the Research Analyst qualification examination (Series 86) would continue to be applicable. FINRA is not proposing any changes to the current provisions for obtaining a waiver from the analytical portion of the Research Analyst qualification examination.

T. Rowe. asked whether its officers who have the authority to execute agreements with its clearing firm, including margin arrangements, and who also have the authority to allow specified securities lending and borrowing activities would be subject to the proposed registration requirements for Securities Lending Representatives and Securities Lending Supervisors. As noted above, FINRA is no longer proposing to adopt these registration categories. However, the individuals identified by T. Rowe may be required to register as Operations Professionals if they are functioning as Operations Professionals as set forth in proposed FINRA Rule 1220(b)(3).

The proposed rule change codifies existing guidance in NTM 99-49 regarding active management of a member's business. NSCP noted that the NTM included other relevant guidance and asked whether the other guidance would remain in effect. FINRA emphasizes that existing guidance and interpretations regarding registration requirements would continue to apply to the extent that they are not inconsistent with the proposed rules.

Further, NSCP asked that the proposal provide minimum requirements for personnel background investigations. In 2015, FINRA adopted FINRA Rule 3110(e), which sets forth the minimum requirements for background checks. NSCP also asked whether the proposal would impact referral fees. An associated person must be appropriately registered to be eligible to receive transaction-based compensation. Moreover, proposed FINRA Rule 1220.06 would expressly prohibit the payment of specific transaction-based compensation to Order Processing Assistant Representatives. In addition, NSCP requested further guidance regarding the supervision of unregistered persons. Unregistered persons engaged in a member's investment banking or securities business are considered associated persons. FINRA rules and Notices provide extensive guidance regarding supervisory requirements, including the supervision of associated persons that are not registered.

Comments Relating to Examination Restructuring

In May 2015, FINRA published Regulatory Notice 15-20, seeking comment on a proposal to restructure the representative-level qualification examinations. FINRA received 20 comment letters in response to the Notice, which are discussed below. A copy of the Notice is attached as Exhibit 2d. A list of the comment letters received in

response to the Notice is attached as Exhibit 2e.[95] Copies of the comment letters received in response to the Notice are attached as Exhibit 2f.

A. Requirement and Eligibility to Take the SIE and Specialized Knowledge Examinations

The majority of commenters supported creating the SIE and specialized knowledge examinations and streamlining the registration categories and associated qualification examinations as specified in the proposal.[96] SUI similarly supported the proposal, but it questioned the elimination of the Options Representative and Canadian Securities Representative registration categories as well as the associated examinations. Eder was likewise supportive of the proposal, but suggested that FINRA also eliminate the Direct Participation Programs Representative, Securities Trader, Investment Banking Representative, Private Securities Offerings Representative, Research Analyst and Operations Professional registration categories as well as the associated examinations, and instead require individuals performing these functions to register as General Securities Representatives by taking the specialized Series 7 examination.

Lincoln Financial and CAI supported the overall goals of the proposal, including eliminating the registration categories and qualification examinations specified in the proposal, but they questioned whether requiring individuals registering with FINRA as new representatives to take the SIE and a specialized knowledge examination would be the most efficient way of achieving the proposal's goals. Lincoln Financial noted that

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95 All references to commenters are to the comment letters as listed in Exhibit 2e.

96 Monahan & Roth, Tessera, Arrow Investments, SIFMA, XT Capital, ICI, CFA, Edward Jones, FSI, PFS, Wells Fargo and ARM. Tessera, Arrow Investments and XT Capital also supported the other comments made by Monahan & Roth. Further, Wells Fargo and ARM supported the other comments made by SIFMA.

FINRA may be able to achieve its goals by revising only the current limited representative-level examinations, such as the Series 55, Series 79, Series 86 and Series 87, and Series 99, rather than revising all the current representative-level examinations. Lincoln Financial suggested that, as an alternative, individuals who take more limited examinations today, such as the current Series 6 or Series 99 examination, should not be required to take the SIE. CAI is concerned that requiring a General Securities Representative or an Investment Company and Variable Contracts Products Representative to take the SIE and a specialized knowledge examination could impose additional burdens that may not necessarily achieve the regulatory objectives of the proposal.

FINRA considered a variety of models for restructuring the examinations and found the proposed approach to be the most effective method in achieving the main goals of the proposal, which are to eliminate duplicative testing of general securities knowledge on examinations, provide prospective securities industry professionals the ability to demonstrate fundamental securities knowledge and to do so in an equitable and uniform manner. For instance, if FINRA were to exclude the General Securities Representative registration category from the scope of the proposal, an individual who registers in a limited registration category, by passing the SIE and a specialized knowledge examination, would be subject to duplicative testing of general securities knowledge if he or she later decides to register as a General Securities Representative. Similarly, if FINRA were to remove the limited registration categories from the scope of the proposal, an individual who registers in a limited category and later decides to register as a General

Securities Representative would be subject to duplicative testing of general securities knowledge by having to pass the SIE and the specialized Series 7 examination.

In addition, the majority of commenters were generally supportive of allowing associated persons who will not be performing a registered representative job function as well as individuals who are not associated persons of firms to take the SIE.[97] ICI stated that FINRA should take steps to ensure that individuals who are permitted, but not required, to take the SIE do not make any misstatements to the public regarding their qualifications based on passing the SIE. ICI added that FINRA should clarify, either through an affirmation on the examination application or a new rule, that individuals who are not associated persons of firms are prohibited from holding themselves out to the public as having passed the SIE. In this regard, ICI also suggested that FINRA determine how to address any potential misconduct by individuals who are not associated persons of firms. FSI and Lincoln Financial similarly requested that FINRA address the potential risks of allowing individuals who are not associated persons of firms to take the SIE.

Monahan & Roth opposed allowing individuals who are not associated persons of firms to take the SIE because the proposed SIE Rules of Conduct do not address restrictions on the manner in which an individual who has passed the examination might hold himself or herself out to the public and because there is no supervisory system to monitor non-compliance by such individuals. Monahan & Roth also stated that allowing such individuals to take the SIE may result in investor confusion and potential misrepresentations to the public. Monahan & Roth requested that FINRA address

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97 Eder, SIFMA, ICI, CFA, Edward Jones, FSI, Lincoln Financial, DCI, CAI, PFS, Wells Fargo, SUI and ARM.

whether the status of such individuals would be reflected in BrokerCheck and specify the restrictions on the availability of information on them.

FINRA believes that allowing individuals who are not associated persons of firms to take the SIE will enhance the pool of prospective securities industry professionals by, among other things, familiarizing them with securities regulation and appropriate conduct at an early stage of career development. The SIE Rules of Conduct would require individuals, including non-associated persons, to attest that they are not qualified to engage in the investment banking or securities business based on passing the SIE and that they will not make any misrepresentations to the public as to their qualifications. Further, FINRA will engage in a communications campaign to ensure that the public, including retail investors, are well-informed of the SIE and its limitations. In addition, if FINRA determines that non-associated persons cheated on the SIE or that they misrepresented their qualifications to the public subsequent to passing the SIE, they may forfeit their SIE results and may be prohibited from retaking the SIE. Also, if FINRA discovers that non-associated persons who have passed the SIE have subsequently engaged in other types of misconduct, FINRA will refer the matter to the appropriate authorities or regulators.

BrokerCheck would not publicly reflect the status of individuals who have only taken the SIE, including individuals who are not associated persons, because passing the SIE alone does not qualify them for registration with FINRA via the CRD system. With respect to the availability of information on individuals who have only taken the SIE, access to this information would be limited. A firm would be able to view the passing status of an associated person who is not registering as a representative and an individual seeking to associate with the firm using an interface within the CRD system. A firm

would also be able to obtain SIE results for an individual if the firm submits a Form U4 and requests a registration for that individual. In addition, FINRA and other SROs that recognize the SIE would be able to obtain an individual's SIE results.

IMS agreed that individuals should not have to be associated with a FINRA member to take the SIE, but it disagreed with the rest of the proposal. IMS stated that professional proficiency can be maintained through the use of mandatory CE requirements and that an individual's qualification status should not expire so long as the individual completes his or her CE, regardless of whether the individual remains in the industry.

FINRA is considering the possibility of whether more frequent CE could be used to ensure that individuals who leave the industry for a limited period maintain specified levels of competence and knowledge to carry out their job functions upon returning to the industry.

N.I.S. opposed the proposal altogether. It stated, among other things, that its representatives are currently required to pass the Uniform State Law Examination (Series 63) and Series 6 examination, which provide them with the necessary knowledge to perform their functions, and that requiring its new representatives to also take the SIE would be time consuming and costly.

B. Scope and Content of the SIE and Specialized Knowledge Examinations

Monahan & Roth suggested that FINRA add the following topics to the SIE outline: (1) overview of other financial industry participants, such as advisers and portfolio managers; (2) requirements relating to communications with the public, including categories of communications and electronic communications; (3) discussion of

confidentiality and privacy; and (4) restrictions relating to borrowing from or lending to customers. In addition, Monahan & Roth stated that content on the SIE outline related to customer accounts, such as account types, should be moved to a specialized knowledge examination relating to general sales because many firms do not open customer accounts.

The purpose of the SIE is to establish that an individual has fundamental securities-related knowledge, including knowledge of the applicable laws, rules and regulations. Further, the SIE would likely be limited to 75 scored questions established through the use of testing industry standards in consultation with a committee of industry and SRO representatives. While knowledge of other financial industry participants has general educational value, FINRA does not believe that testing such knowledge is relevant to the purpose and scope of the SIE. FINRA expects that the SIE would cover the topic of communications with the public, confidentiality and privacy of consumer information and restrictions on borrowing from or lending to customers. FINRA does not believe that SIE content relating to customer accounts should be removed. The content relating to customer accounts is essential to understanding the different types of customers in the securities industry, such as retail and institutional customers, and a firm's related obligations.

SIFMA considered the content of the SIE outline to cover fundamental securities industry knowledge. However, SIFMA noted that an individual taking the SIE should not be expected to have detailed knowledge of the rules listed in the outline, such as the SEC's net capital rule (SEA Rule 15c3-1), but rather be expected to have a general awareness of such rules. FSI and ARM had similar comments. Eder was concerned that the listing of broad rules and rule sets in the SIE outline, such as SEA Rule 15c3-1 and

the MSRB rules, would be confusing to individuals preparing for the SIE and stated that FINRA should provide more direction on the scope of the covered topics. CFA considered the content of the SIE outline to be common knowledge. However, it recommended that FINRA add content on quantitative concepts (such as time value of money), how best to serve client investment needs, and risk management.

In general, SIE content relating to professional conduct, characteristics of products and economic factors would be tested in more detail, whereas other content, such as the net capital rule, would be tested at a high level. FINRA believes that an understanding of quantitative concepts is more appropriate for individuals taking a specialized knowledge examination, such as the specialized Series 79 or specialized Series 86 examination. With respect to knowledge of client investment needs, the SIE would cover suitability requirements at a high level. In addition, FINRA believes that the concept of risk management is better suited for a representative- or principal-level examination.

Lincoln Financial did not consider many of the topics covered in the SIE outline to be common knowledge to some representatives, including representatives that do not work at a full-service broker-dealer. It asked that FINRA develop an outline that focuses on higher level topics common to all broker-dealers. DCI was concerned that the SIE covers complex content, such as options and municipal securities, that most representatives need not master today. SUI noted that the SIE outline does not cover Exchange-Traded Notes or derivatives in general (other than options). SIFMA and ARM asked that FINRA solicit comment on the content of the proposed specialized knowledge

examinations through a Regulatory Notice. PFS noted that the number of questions on the SIE should be reduced and determined by testing industry standards.

FINRA is developing the SIE with input from a committee that includes representatives from a broad spectrum of small, mid-sized and large firms. Based on the committee's feedback as well as the comments received from the other commenters, FINRA believes that the SIE content, including general coverage of options and municipal securities, represents broad-based knowledge of the securities industry. The SIE content would cover Exchange-Traded Notes. However, the content on derivatives would be limited to a general knowledge of options, which is the most common derivative. Consistent with testing industry standards, the specialized knowledge examinations would be developed with input from committees of industry representatives who have expertise on the covered subject matters based on their day-to-day roles, responsibilities and job functions. Further, consistent with FINRA's practice regarding examination-related filings, the specialized knowledge examinations would be filed with the SEC for immediate effectiveness. FINRA determined the number of questions on the SIE, which likely will be 75 questions, based on testing industry standards for establishing test reliability.

C. Expiration Period of the SIE and Specialized Knowledge Examinations

Eder and CFA agreed with the proposed four-year expiration period for the SIE. CAI stated that a four-year or longer period may be appropriate if the SIE will test fundamental concepts, but if the content of the SIE is more likely to change or be updated a shorter period, such as three years, may be appropriate. SUI stated that four years is a reasonable length of time and that five years should be the absolute maximum period.

SIFMA and Wells Fargo suggested that the SIE period be extended to five years. They also requested that the expiration period for the specialized knowledge examinations, which is two years as proposed, be aligned with the SIE and extended to five years. SIFMA noted that if FINRA extends the time period to five years, individuals who are not associated with a member during the five-year period could satisfy a CE requirement to maintain their proficiency. ARM requested that FINRA consider a six-year period for the SIE and a five-year period for the specialized knowledge examinations.

Based on the content covered on the SIE, FINRA continues to believe that a passing result on the SIE should be valid for four years. In addition, FINRA believes that the specialized knowledge examinations should be subject to a two-year expiration period similar to the current examinations. However, as noted above, FINRA is considering the possibility of extending the two-year expiration period through the use of more frequent CE.

D. Elimination of Registration Categories and Associated Examinations

SUI recommended that FINRA maintain the Options Representative registration category and develop a specialized knowledge examination for individuals advising the public on options trading, similar to the Canadian model. SUI also stated that FINRA should retain the Canadian Securities Representative registration categories and the associated examinations so that individuals have an understanding of the different legal frameworks in which they operate. Alternatively, SUI asked that if FINRA grandfathers existing Canadian Securities Representatives, FINRA should allow individuals who terminate their registrations a period of four or five years to re-register as Canadian Securities Representatives. Further, DCI stated that its business is limited to activities in

which a Corporate Securities Representative may engage, and it is concerned that the proposed elimination of the Corporate Securities Representative registration category and associated Series 62 examination might dissuade prospective representatives from joining the firm if they have to take a more comprehensive examination, such as the specialized Series 7 examination.

The overall utility of the Options Representative and Corporate Securities Representative registration categories has diminished over the years, which is why FINRA is proposing to eliminate them. For instance, fewer than five individuals registered as Options Representatives in 2014. FINRA believes that the Canadian Securities Representative registration categories should be eliminated and replaced with an alternative qualification process. Under the proposed rule change, an individual qualified in Canada would be exempt from taking the SIE and would be able to register in any registration category by taking and passing only the applicable specialized knowledge examination(s). FINRA believes that this alternative approach would provide individuals qualified in Canada more flexibility to obtain a FINRA representative-level registration. Further, as noted above, FINRA is considering the possibility of extending the current two-year expiration period for registrations.

Eder suggested that FINRA only retain the Investment Company and Variable Contracts Products Representative and General Securities Representative registration categories. FINRA disagrees and notes that the limited registration categories that FINRA is proposing to retain continue to have a regulatory purpose. For instance, the Equity Trader registration category, the predecessor to the Securities Trader category, was created for individuals engaged in securities trading activities over-the-counter or on

Nasdaq with the view that better training and qualification of such individuals was necessary. The Research Analyst registration category was created for associated persons engaged in research activities in conjunction with FINRA's research analyst rule, FINRA Rule 2241, addressing conflicts of interest.

E. Principal-Level Examinations and Other Qualification Examinations

Several commenters asked that FINRA consider similar changes to the principal-level examinations.[98] Tessera further asked that FINRA and the MSRB consider any duplicative content that may exist on a principal-level examination for supervisors of Municipal Advisors and on the current Series 24 examination.

Monahan & Roth suggested that FINRA also adopt a similar structure (that is, general knowledge and specialized knowledge examinations) for the proposed Compliance Officer registration category. In addition, Monahan & Roth requested that FINRA work with the MSRB to: (1) add the Municipal Advisor (Series 50) qualification examination to the list of proposed specialized knowledge examinations;[99] (2) grandfather General Securities Representatives and Municipal Securities Principals from the requirement to take a specialized Series 50 examination; and (3) avoid redundancies in developing the content outline of a specialized Series 50 examination. SIFMA asked that FINRA and the MSRB align their examination structures consistent with the proposal.

Tessera noted that the current Series 50 examination contains significant overlap with the current Series 7 examination and Municipal Advisors that have passed the Series

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98 Tessera, SIFMA, Edward Jones, FSI, Wells Fargo and ARM.

99 Tessera made the same comment.

7 examination should not be retested on duplicative content that appears on the Series 50 examination.

Edward Jones encouraged FINRA and NASAA to consider whether the Uniform Investment Adviser Law Examination (Series 65) could be updated in conjunction with the specialized Series 7 examination so that individuals working for registered investment advisers could demonstrate the necessary knowledge required to work as a registered representative.

FINRA is currently evaluating whether the principal-level examinations could be restructured in a similar manner. FINRA has also discussed with MSRB staff the possibility of their adoption of the SIE as a concurrent requirement for the MSRB representative-level examination, the Municipal Securities Representative (Series 52) examination, as part of the restructuring, and MSRB staff participate on the SIE committee. However, FINRA notes that the restructuring is limited to the representative-level examinations, and it does not extend to advisory-related examinations, such as the Series 50 or Series 65 examination.

F. Implementation and Administration

SIFMA requested that FINRA set a fixed, maximum amount of seat time for candidates to complete the SIE plus specialized knowledge examinations. Each of the proposed examinations, including the SIE, will include a time limit, which will correlate to the number of questions on each examination. While the SIE will have a fixed time limit, the time limit on each specialized knowledge examination will vary because the number of questions on each will vary.

PFS urged that FINRA continue the practice of allowing candidates to schedule and take multiple examinations on the same day. SIFMA and ARM asked that FINRA clarify whether an individual who fails the SIE would be permitted to take a specialized knowledge examination and the applicable fees in such situations. Further, with respect to individuals who schedule the SIE and a specialized knowledge examination for the same day, FSI suggested that FINRA allow them to withdraw from taking the specialized knowledge examination without incurring a fee for the withdrawal.

An individual who fails the SIE would be allowed to take a specialized knowledge examination. This would include an individual who schedules the examinations for the same day. However, such individual's registration would not be approved in the CRD system until he or she takes and passes the examinations required for that registration category. Moreover, if such individual determines not to take a scheduled specialized knowledge examination, the individual would be charged a fee for registering to take it.[100] This process is similar to the current process for registration categories that allow for concurrent qualifications, such as the Research Analyst registration category.

CFA requested that FINRA consider granting waivers to individuals who are in the process of completing an appropriate professional qualification, such as the CFA Program. In addition, CFA suggested that FINRA determine whether foreign qualifications would exempt an individual from taking a specialized knowledge examination and stated that its programs have considerable recognition in the United

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100 See also FINRA Rescheduling and Cancellation Policy, http://www.finra.org/industry/reschedule-or-cancel-your-appointment.

Kingdom and Canada. CFA also asked that FINRA consider dividing the SIE content into investment-related content and content that covers the applicable laws, rules and regulations, and it suggested that FINRA consider offering a waiver of the investment-related content to individuals who have passed a college level investments course or have made sufficient progress towards earning an appropriate professional qualification. CFA further stated that FINRA may want to consider outsourcing the development and testing of the laws, rules and regulations content on the SIE for economic reasons. Moreover, it asked that FINRA recognize the CFA's programs in granting exemptions from the restructured representative-level examinations.

Section 15A(g)(3) of the Act authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. FINRA believes that FINRA's current process for developing examinations, which includes input from committees of industry and SRO subject matter experts, is an effective means of developing the content of FINRA examinations and consistent with FINRA's regulatory authority. Under the proposed rule change, FINRA would continue to accept requests for waivers of the applicable qualification examinations and accept, where appropriate, other standards as evidence of an applicant's qualifications for registration.[101]

PFS suggested that FINRA shorten the waiting periods for retaking a failed examination and allow an individual who fails an examination to retest after seven days and allow an individual who has three successive examination failures to retest after three

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101 For instance, as noted above, candidates are eligible for a waiver of the current Series 86 examination if they have passed Levels I and II of the CFA examination and meet other eligibility criteria. Moreover, future candidates would be eligible for similar waivers for the specialized Series 86 examination.

months. In addition, PFS asked that FINRA post and periodically update pass rate information for each examination, including the first time pass rate, overall pass rate and the success ratio. PFS also asked that FINRA delay the implementation date of the proposed rule change until the third quarter of 2017 to provide the industry adequate preparation time.

Similar to the current waiting periods for failed examinations, an individual who fails the SIE or a specialized knowledge examination would have to wait 30 calendar days before retaking that particular examination. Further, pursuant to proposed FINRA Rule 1210.06, if an individual fails the SIE or a specialized knowledge examination in three successive attempts within a two-year period, the individual would have to wait 180 days before retaking that particular examination. These waiting periods are for test security purposes and to ensure an examination's effectiveness as a measure of ability. A firm would be able to obtain a report of examination results for its associated persons and for individuals seeking to associate with the firm.

FINRA had originally proposed to implement the revised structure in two phases. The first phase would have included the SIE and the specialized knowledge examinations for the Investment Company and Variable Contracts Products Representative, the General Securities Representative and the Investment Banking Representative registration categories, which represent the highest volume representative-level examinations. The second phase would have included the remaining specialized knowledge examinations. As originally proposed, the first phase would have occurred in the fourth quarter of 2016, and the second phase during the first half of 2017. Rather than a phased implementation, FINRA intends to implement the entire revised structure

in March 2018. FINRA believes that a single launch date in 2018 will provide greater uniformity to the implementation process and provide firms and examination applicants additional preparation time. In addition, FINRA will continue to seek industry feedback on the implementation process, and will consider extending the launch date to address any operational issues raised by the industry.

ARM requested that FINRA clarify the application process, including the applicable form(s), for individuals taking the SIE and whether they would be subject to the type of disclosures required on the Form U4 and the process by which FINRA would validate any such information. ARM further requested that FINRA publish basic guidelines or high-level requirements so that firms can better manage the expectations of associated persons seeking waivers.

Individuals taking the SIE, including associated persons of firms who are not registering as representatives, would be able to enroll for the SIE without the need to submit a Form U4, and they would not be subject to the type of disclosures required on the Form U4. FINRA is proposing to create an enrollment system that provides access through an interface in the CRD system to allow individuals who are not associated persons of a firm, including members of the general public, to enroll and pay the SIE examination fee. This system would also be available to associated persons of firms who are not required to register with FINRA. With respect to the waiver process, FINRA has published guidelines to assist firms and individuals with this process. Moreover, FINRA will consider reaching out to the industry on the need for additional guidelines.

G. Examination Fees and Other Costs

ICI recommended that, to the extent practicable, the fees for the proposed examinations not exceed the fees for the current examinations. FSI noted that a high SIE fee may act as a potential barrier to entry into the securities industry. CAI also stated that the cost of the SIE cannot be prohibitive. PFS stated that candidates should not be required to pay more for examinations simply because the content will be split into separate examinations. FINRA is undertaking a pricing analysis to determine a reasonable fee for the SIE and the specialized knowledge examinations. The total examination fees for individuals registering in each representative-level category may vary depending on the fee for the SIE.

Lincoln Financial asked that FINRA evaluate the costs of additional study materials and courses resulting from having to take two examinations as well as technological changes to track the additional examination requirements. While FINRA does not have data on the costs of preparing for both the SIE and a specialized knowledge examination, FINRA believes that the proposed structure has the potential of lowering the examination preparation costs or keeping the costs the same as today, because examination applicants will be able to leverage their existing educational courses in preparing for the SIE and the specialized knowledge examinations will be shorter in length or the same length. The cost of developing and maintaining a management system to track SIE results would primarily fall upon FINRA. Further, a firm would be able to use the CRD system to track SIE results for its associated persons and for individuals seeking to associate with the firm.

FINRA specifically requested comment on the restructuring proposal's impact on the allocation of examination fees between members and examination applicants. SIFMA noted that currently some firms pay for all of their employees' examination fees and that firms that have independent contractors generally require the independent contractor to cover such fees. SIFMA added that, at this stage of the proposal, many firms do not anticipate an impact on how they allocate examination fees. CFA observed that allowing individuals who are not associated persons of firms to take the SIE would likely result in some increase in the percentage of individuals paying their own fees compared to individuals whose employers are paying their fees. N.I.S. stated that its newly-hired representatives pay the current examination fees and that the proposal would increase the cost to those representatives.

H. Other Comments

IMS suggested that BrokerCheck should display information on an individual's grandfathered registrations and waived examinations, and it should display the individual's professional degrees and designations on an optional basis. IMS also suggested that all regulators and auditors of FINRA members should be required to take and pass qualification examinations within a short period after they are hired, and that regulators should be allowed to hold such examinations permanently. FINRA considers these comments to be outside the scope of the proposed rule change.

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.[102]

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102 15 U.S.C 78s(b)(2).

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

Not applicable.

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

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

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

Exhibit 2a. Regulatory Notice 09-70 (December 2009).

Exhibit 2b. List of commenters in response to Regulatory Notice 09-70 (December 2009).

Exhibit 2c. Comment Letters received in response to Regulatory Notice 09-70 (December 2009).

Exhibit 2d. Regulatory Notice 15-20 (May 2015).

Exhibit 2e. List of commenters in response to Regulatory Notice 15-20 (May 2015).

Exhibit 2f. Comment Letters received in response to Regulatory Notice 15-20 (May 2015).

Exhibit 5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2017-007)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Adopt Consolidated FINRA Registration Rules, Restructure the Representative-Level Qualification Examination Program and Amend the Continuing Education Requirements

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 adopt with amendments the NASD and Incorporated NYSE rules relating to qualification and registration requirements as FINRA rules in the Consolidated FINRA Rulebook.[3] The proposed rule change also restructures the current

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

2 17 CFR 240.19b-4.

3 The current FINRA rulebook consists of: (1) FINRA rules; (2) NASD rules; and (3) Incorporated NYSE rules. While the NASD rules generally apply to all FINRA members, the Incorporated NYSE rules apply only to those members of FINRA that are also members of the NYSE ("dual members"). The FINRA rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see Information Notice, March 12, 2008 (Rulebook Consolidation Process).

representative-level qualification examinations and creates a general knowledge examination and specialized knowledge examinations. In addition, the proposed rule change amends the Continuing Education ("CE") requirements.

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

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

Background

Section 15A(g)(3) of the Act authorizes FINRA to prescribe standards of training, experience and competence for persons associated with FINRA members. Accordingly, FINRA has adopted registration requirements to ensure that associated persons attain and maintain specified levels of competence and knowledge pertinent to their function. The current FINRA registration rules include both NASD rules and rules incorporated from the NYSE ("Incorporated NYSE rules").

In general, the current rules: (1) require that persons engaged in a member's investment banking or securities business who are to function as representatives or principals register with FINRA in each category of registration appropriate to their functions by passing one or more qualification examinations; (2) exempt specified associated persons from the registration requirements; and (3) provide for permissive registration of specified persons.

As part of the process of developing the Consolidated FINRA Rulebook, FINRA published Regulatory Notice 09-70 (December 2009), seeking comment on a set of proposed consolidated registration rules.[4] The proposed rules, among other changes, allowed any associated person to obtain and maintain any registration permitted by the member. FINRA also proposed adopting a Retained Associate ("RA") status in the Central Registration Depository ("CRD®") system for individuals who would be working for a financial services industry affiliate of a member, and who would not be working in any capacity for the member. Under the proposal, RAs would be able to obtain and maintain any registration permitted by the member, subject to specific requirements. Further, the proposal created an "active" and "inactive" registration status in the CRD system to distinguish between required and permissive registrations, including the proposed RA status. In addition, the proposal included several other substantive changes, such as adoption of a Compliance Officer registration category for Chief Compliance Officers ("CCOs"), designation of a Principal Financial Officer and Principal Operations

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4 In addition, FINRA had proposed to transfer NASD Rule 3010(e) relating to background checks on registration applicants into the Consolidated FINRA Rulebook as a FINRA rule. FINRA adopted NASD Rule 3010(e) as FINRA Rule 3110(e) as part of a separate proposed rule change. See Regulatory Notice 15-05 (March 2015).

Officer, enhancement of the examination requirements for Research Principals, adoption of registration categories for Supervisory Analysts, Securities Lending Representatives and Securities Lending Supervisors, imposition of an experience requirement for representatives functioning as principals for a limited period before passing a principal examination and elimination of the Foreign Associate registration category.

As discussed in Item II.C. below, commenters were concerned with the complexity and operational and cost burden of the RA proposal. FINRA also engaged in discussions with SEC staff regarding the impact of the RA proposal. As a result, FINRA has revised the proposal as published in Regulatory Notice 09-70. Specifically, rather than allowing individuals to obtain and maintain their registrations based on an RA status, the proposed rule change establishes a process whereby individuals who would be working for a financial services industry affiliate of a member would terminate their registrations with that member and would be granted a waiver of their qualification requirements upon re-registering with a member, provided the firm that is requesting the waiver and the individual satisfy specified conditions. FINRA has also eliminated the proposal to create an "active" and "inactive" registration status in the CRD system to distinguish between required and permissive registrations. Further, FINRA is no longer proposing to establish registration categories for Securities Lending Representatives and Securities Lending Supervisors.

FINRA administers qualification examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge. The first of these examinations was established in 1956. Over time, the examination program has increased in complexity to address the introduction of new

products and functions, and related regulatory concerns and requirements. As a result, today, there are a large number of examinations, considerable content overlap across the representative-level examinations and requirements for individuals in various segments of the industry to pass multiple examinations.

To address these issues, FINRA published Regulatory Notice 15-20 (May 2015), seeking comment on a proposal to restructure the current representative-level qualification examination program[5] into a more efficient format whereby all potential representative-level registrants would take a general knowledge examination called the Securities Industry Essentials™ ("SIE™") and a tailored, specialized knowledge examination for their particular registered role. The proposal, among other things, eliminates duplicative testing of general securities knowledge on examinations. The proposal also eliminates several representative-level registration categories and associated examinations that have become outdated or have limited utility. As described in more detail in Item II.C. below, most of the commenters expressed overall support for the proposed approach.

The proposed rule change combines the proposals set forth in Regulatory Notices 09-70 and 15-20 with a few changes, including those made in response to comments.

Proposed Rules

A. Registration Requirements (Proposed FINRA Rule 1210)

NASD Rules 1021(a) and 1031(a) currently require that persons engaged, or to be engaged, in the investment banking or securities business of a member who are to function as representatives or principals register with FINRA in each category of

5 FINRA is also evaluating the structure of the principal-level examinations and may propose to streamline this examination structure at a later time.

registration appropriate to their functions as specified in NASD Rules 1022 and 1032.[6] FINRA is proposing to consolidate and streamline the provisions of NASD Rules 1021(a) and 1031(a) and adopt them as FINRA Rule 1210, subject to several changes.

Proposed FINRA Rule 1210 provides that each person engaged in the investment banking or securities business of a member must register with FINRA as a representative or principal in each category of registration appropriate to his or her functions and responsibilities as specified in proposed FINRA Rule 1220, unless exempt from registration pursuant to proposed FINRA Rule 1230. Proposed FINRA Rule 1210 also provides that such person is not qualified to function in any registered capacity other than that for which the person is registered, unless otherwise stated in the rules. This latter provision is a consolidation of similar provisions in the registration categories under the current NASD rules.[7]

The original proposal in Regulatory Notice 09-70 created an "active" and "inactive" registration status in the CRD system to distinguish between required and permissive registrations, and it required firms to notify FINRA of such status. The proposed rule change eliminates the distinction between an "active" and "inactive" status.[8]

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6 In addition, NASD IM-1000-3 provides that the failure to register an individual as a registered representative may be deemed to be conduct inconsistent with just and equitable principles of trade and may be sufficient cause for appropriate disciplinary action.

7 See NASD Rules 1022(a)(6), (b)(3), (c)(4), (d)(2), (e)(3) and (f)(4) and NASD Rules 1032(b)(2), (c)(2), (d)(3), (e)(2), (f)(3), (g)(2), (h)(3) and (i)(4).

8 However, as is the case under the current rules, FINRA will continue to use the term "inactive" in the CRD system in reference to persons who have failed to satisfy the Regulatory Element of the CE requirements, persons who have failed

Further, FINRA is proposing to delete NASD IM-1000-3 because it is superfluous. The failure to register a representative as required under current NASD Rule 1031(a) is in fact a violation of FINRA rules.

B. Minimum Number of Registered Principals (Proposed FINRA Rule 1210.01)

NASD Rule 1021(e)(1) currently requires that a member, except a sole proprietorship, have a minimum of two registered principals with respect to each aspect of the member's investment banking and securities business pursuant to the applicable provisions of NASD Rule 1022.[9] This requirement applies to applicants for membership and existing members.

NASD Rule 1021(e)(2) provides that, pursuant to the FINRA Rule 9600 Series, FINRA may waive the two-principal requirement in situations that indicate conclusively that only one person associated with an applicant for membership should be required to register as a principal.

NASD Rule 1021(e)(3) provides that an applicant for membership, if the nature of its business so requires, must also have a Financial and Operations Principal (or an

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to submit their fingerprint information within the required time period and persons who are in active duty in the Armed Forces of the United States.

9 In 2003, the rule was amended to replace the phrase "pursuant to the provisions of Rule 1022(a), (d) and (e), whichever are applicable" with the current phrase "pursuant to the applicable provisions of Rule 1022." See Securities Exchange Act Release No. 47433 (March 3, 2003), 68 FR 11424 (March 10, 2003) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR–NASD–2003–24). NASD Rules 1022(a), (d) and (e) are the registration categories of General Securities Principal, Investment Company and Variable Contracts Products Principal and Direct Participation Programs Principal, respectively. These principal registration categories, which depend on the scope of a firm's activities, are the only current principal categories that satisfy the two-principal requirement. The 2003 change was made for stylistic purposes and was part of other technical changes to the registration rules.

Introducing Broker-Dealer Financial and Operations Principal) and a Registered Options Principal.[10]

FINRA is proposing to adopt NASD Rule 1021(e) as FINRA Rule 1210.01, subject to the changes below. FINRA is proposing to provide firms that limit the scope of their business with greater flexibility to satisfy the two-principal requirement. In particular, proposed FINRA Rule 1210.01 requires that a member have a minimum of two General Securities Principals, provided that a member that is limited in the scope of its activities may instead have two officers or partners who are registered in a principal category that corresponds to the scope of the member's activities.[11] For instance, if a firm's business is limited to securities trading, the firm may opt to have two Securities Trader Principals, instead of two General Securities Principals.

Currently, a sole proprietor member (without any other associated persons) is not subject to the two-principal requirement because such member is operating as a one-person firm. Given that one-person firms may be organized in legal forms other than a sole proprietorship (such as a single-person limited liability company), proposed FINRA Rule 1210.01 provides that any member with only one associated person is excluded from the two-principal requirement.

In addition, proposed FINRA Rule 1210.01 clarifies that existing members as well as new applicants may request a waiver of the two-principal requirement.

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10 NASD Rules 1022(b) and (c) require all firms to have a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal, as applicable. This requirement became effective on September 17, 2001. However, the requirement does not apply to members that were granted an exemption prior to September 17, 2001. See Notice to Members ("NTM") 01-52 (August 2001).

11 The principal registration categories are described in greater detail below.

The proposed rule further provides that all members are required to have a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), a Principal Financial Officer and a Principal Operations Officer.[12] Moreover, the proposed rule requires that: (1) a member engaged in investment banking activities have an Investment Banking Principal;[13] (2) a member engaged in research activities have a Research Principal; (3) a member engaged in securities trading activities have a Securities Trader Principal; and (4) a member engaged in options activities with the public have a Registered Options Principal. These requirements extend to existing members as well as new applicants.

C. Permissive Registrations (Proposed FINRA Rule 1210.02)

NASD Rules 1021(a) and 1031(a) currently permit a member to register or maintain the registration(s) as a representative or principal of an individual performing legal, compliance, internal audit, back-office operations[14] or similar responsibilities for the member. NASD Rule 1031(a) also permits a member to register or maintain the registration as a representative of an individual performing administrative support functions for registered persons. In addition, NASD Rules 1021(a) and 1031(a) permit a

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12 Those members that are currently exempt from the requirement to have a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal based on an exemption granted to them prior to September 17, 2001 will continue to be exempt from this requirement. However, as noted below, such members will be subject to the requirement to designate a Principal Financial Officer and a Principal Operations Officer.

13 As described below, the Investment Banking Principal registration category is a newly proposed principal category that corresponds to the registration requirements of current NASD Rule 1022(a)(1)(B).

14 Back-office personnel that are functioning as Operations Professionals as set forth in FINRA Rule 1230(b)(6) are subject to the Operations Professional registration requirement.

member to register or maintain the registration(s) as a representative or principal of an individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

FINRA is proposing to consolidate these provisions under FINRA Rule 1210.02. FINRA is also proposing to expand the scope of permissive registrations and clarify a member's obligations regarding individuals who are maintaining such registrations.[15]

Specifically, proposed FINRA Rule 1210.02 allows any associated person to obtain and maintain any registration permitted by the member.[16] For instance, an associated person of a member working solely in a clerical or ministerial capacity, such as in an administrative capacity, would be able to obtain and maintain a General Securities Representative registration with the member. As another example, an associated person of a member who is registered, and functioning solely, as a General Securities Representative would be able to obtain and maintain a General Securities Principal registration with the member. Further, proposed FINRA Rule 1210.02 allows an individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of a member to obtain and maintain any registration permitted by the member.

FINRA is proposing to permit the registration of such individuals for several reasons. First, a member may foresee a need to move a former representative or principal

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15 In 2007, FINRA filed with the SEC a similar proposed rule change. The proposed rule change was not published for comment in the Federal Register. See SR-FINRA-2007-004. FINRA withdrew SR-FINRA-2007-004 prior to filing this proposed rule change.

16 In Regulatory Notice 09-70, FINRA referred to such individuals as associated person engaged in a bona fide business purpose of a member.

who has not been registered for two or more years back into a position that would require such person to be registered. Currently, such persons are required to requalify (or obtain a waiver of the applicable qualification examinations) and reapply for registration. Second, the proposed rule change would allow members to develop a depth of associated persons with registrations in the event of unanticipated personnel changes. Third, allowing registration in additional categories encourages greater regulatory understanding. Finally, the proposed rule change would eliminate an inconsistency in the current rules, which permit some associated persons of a member to obtain permissive registrations, but not others who equally are engaged in the member's business.

Individuals maintaining a permissive registration under the proposed rule change would be considered registered persons and subject to all FINRA rules, to the extent relevant to their activities.[17] For instance, an individual working solely in an administrative capacity would be able to maintain a General Securities Representative registration and would be considered a registered person for purposes of FINRA Rule 3240 relating to borrowing from or lending to customers, but the rule would have no practical application to his or her conduct because he or she would not have any customers.

Consistent with the requirements of FINRA Rule 3110, members would be required to have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their

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17 The original proposal included a subset of FINRA rules to which these individuals would be subject. FINRA believes that the revised approach, which is principle-based, provides firms the flexibility to tailor their supervisory systems to their business models and reduces the burden on FINRA of having to revise the subset of applicable rules each time FINRA adopts a new rule or amends an existing rule.

assigned functions. With respect to an individual who solely maintains a permissive registration, such as an individual working exclusively in an administrative capacity, the individual's day-to-day supervisor may be a non-registered person. For purposes of compliance with FINRA Rule 3110(a)(5) (which requires the assignment of each registered person to an appropriately registered supervisor), members would be required to assign a registered supervisor to this person who would be responsible for periodically contacting such individual's day-to-day supervisor to verify that the individual is not acting outside the scope of his or her assigned functions. If such individual is permissively registered as a representative, the registered supervisor must be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor must be registered as a principal.[18]

FINRA is also considering enhancements to the CRD system and BrokerCheck, as part of a separate proposal, to identify whether a registered person is maintaining only a permissive registration and to disclose the significance of such permissive registration to the general public.

D. Qualification Examinations and Waivers of Examinations (Proposed FINRA Rule 1210.03)

NASD Rules 1021(a) and 1031(a) currently set forth general requirements that an individual pass an appropriate qualification examination before his or her registration as a representative or principal can become effective. Incorporated NYSE Rule 345.15(1)(a)

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[18] In either case, the registered supervisor of an individual who solely maintains a permissive registration would not be required to be registered in the same representative or principal registration category as the permissively-registered individual. For instance, for purposes of FINRA Rule 3110(a)(5), an Investment Company and Variable Contracts Products Principal would be able to function as the registered supervisor of an individual who is permissively maintaining a General Securities Principal registration.

includes a substantially similar requirement. FINRA is proposing to consolidate these provisions and adopt them as FINRA Rule 1210.03.

In addition, as noted above, FINRA is proposing to adopt a restructured representative-level qualification examination program whereby representative-level registrants would be required to take a general knowledge examination (the SIE) and a specialized knowledge examination[19] appropriate to their job functions at the firm with which they are associating. Therefore, proposed FINRA Rule 1210.03 provides that before the registration of a person as a representative can become effective under proposed FINRA Rule 1210, such person must pass the SIE and an appropriate representative-level qualification examination as specified in proposed FINRA Rule 1220.[20] Proposed FINRA Rule 1210.03 also provides that before the registration of a person as a principal can become effective under proposed FINRA Rule 1210, such person must pass an appropriate principal-level qualification examination as specified in proposed FINRA Rule 1220.

Further, proposed FINRA Rule 1210.03 provides that if a registered person's job functions change and he or she needs to become registered in another representative-level category, he or she would not need to pass the SIE again. Rather, the registered person would need to pass only the appropriate representative-level qualification examination.

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19 The term "specialized" as used in the proposed rule change is only intended for discussion purposes to identify the proposed representative-level examinations and distinguish them from the current representative-level examinations. FINRA is not proposing to use the term "specialized" in the proposed rule text.

20 Proposed FINRA Rule 1220 sets forth each registration category and applicable qualification examination.

Moreover, proposed FINRA Rule 1210.03 provides that all associated persons, such as associated persons whose functions are solely and exclusively clerical or ministerial, are eligible to take the SIE. Proposed FINRA Rule 1210.03 also provides that individuals who are not associated persons of firms, such as members of the general public, are eligible to take the SIE. FINRA believes that expanding the pool of individuals who are eligible to take the SIE would enable prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to submitting a job application. Further, this approach would allow for more flexibility and career mobility within the securities industry. While all associated persons of firms as well as individuals who are not associated persons would be eligible to take the SIE pursuant to proposed FINRA Rule 1210.03, passing the SIE alone would not qualify them for registration with FINRA. Rather, to be eligible for registration with FINRA, an individual must pass an applicable representative or principal qualification examination and complete the other requirements of the registration process.

The SIE would assess basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices. In particular, the SIE will cover four major areas. The first, "Knowledge of Capital Markets," focuses on topics such as types of markets and offerings, broker-dealers and depositories, and economic cycles. The second, "Understanding Products and Their Risks," covers securities products at a high level as well as associated investment risks. The third, "Understanding Trading, Customer Accounts and Prohibited Activities," focuses on accounts, orders, settlement and prohibited activities. The final area, "Overview of the Regulatory Framework,"

encompasses topics such as SROs, registration requirements and specified conduct rules. FINRA is anticipating that the SIE would include 75 scored questions plus an additional 10 unscored pretest questions.[21] The passing score would be determined through methodologies compliant with testing industry standards used to develop examinations and set passing standards.

The current FINRA representative-level examination program consists of 16 examinations (Series 6, 7, 11, 17, 22, 37, 38, 42, 57, 62, 72, 79, 82, 86, 87 and 99). As described in greater detail below, FINRA is proposing to eliminate the current registration categories of Order Processing Assistant Representative, United Kingdom Securities Representative, Canadian Securities Representative, Options Representative, Corporate Securities Representative and Government Securities Representative as well as the associated examinations, the Series 11, Series 17, Series 37, Series 38, Series 42, Series 62 and Series 72, respectively. In addition, FINRA is proposing to revise the remaining representative-level qualification examinations, which include the Series 6, Series 7, Series 22, Series 57, Series 79, Series 82, Series 86, Series 87 and Series 99, to develop specialized knowledge examinations.

FINRA is consulting with committees of industry subject matter experts to develop the content of the specialized knowledge examinations, which would exclude the content covered on the SIE. FINRA will file the SIE and the specialized knowledge

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21 Pretest questions are designed to ensure that new examination items meet acceptable testing standards prior to use for scoring purposes. Consistent with FINRA's current practice, the SIE would include 10 additional, unidentified pretest questions that do not contribute towards the individual's score. Therefore, the SIE actually would consist of 85 questions, 75 of which would be scored. The 10 pretest questions would be randomly distributed throughout the examination.

examinations, including the content outlines for each examination, with the SEC separately.

The proposed rule change solely impacts the representative-level qualification requirements. The proposed rule change does not change the scope of the activities under the remaining representative categories. For instance, after the effective date of the proposed rule change, a previously unregistered individual registering as a Direct Participation Programs Representative for the first time would be required to pass the SIE and an appropriate specialized knowledge examination. However, such individual may engage only in those activities in which a current Direct Participation Programs Representative may engage under current NASD Rule 1032(c).

The table below illustrates the proposed changes to the representative-level examinations, including the anticipated number of questions[22] on each specialized knowledge examination, for those representative categories that would be retained under the proposed rule change.

Registration Category (and CRD System Designation)	**Current Examination(s)**	**Proposed Examination(s)**
Investment Company and Variable Contracts Products Representative (IR)	Series 6 (100 questions)	SIE (75 questions) + Specialized Series 6 (50 questions)
General Securities Representative (GS)	Series 7 (250 questions)	SIE (75 questions) + Specialized Series 7 (125 questions)
Direct Participation Programs Representative (DR)	Series 22 (100 questions)	SIE (75 questions) + Specialized Series 22 (50 questions)

22 The specified number of questions for each specialized knowledge examination are estimates. The final number of questions on each examination may slightly vary based on additional work with the respective examination committees. Further, the table does not include the number of pretest questions on each of the listed examinations.

Securities Trader (TD)	Series 57 (125 questions)	SIE (75 questions) + Specialized Series 57 (50 questions)
Investment Banking Representative (IB)	Series 79 (175 questions)	SIE (75 questions) + Specialized Series 79 (75 questions)
Private Securities Offerings Representative (PR)	Series 82 (100 questions)	SIE (75 questions) + Specialized Series 82 (50 questions)
Research Analyst (RS)	Series 7 (250 questions) + Series 86 (Part I: Analysis) (100 questions) + Series 87 (Part II: Regulatory Administration and Best Practices) (50 questions)	SIE (75 questions) + Specialized Series 86 (Part I: Analysis) (100 questions) + Specialized Series 87 (Part II: Regulatory Administration and Best Practices) (50 questions)
Operations Professional (OS)	Series 99 (100 questions)	SIE (75 questions) + Specialized Series 99 (50 questions)

As noted in the table, FINRA is anticipating that the number of questions on each specialized knowledge examination would be equal to or shorter than the current qualification examination that it would replace. For example, the specialized Series 7 examination for General Securities Representatives would include 125 questions instead of the 250 questions on the current Series 7 examination, and the specialized Series 6 examination for Investment Company and Variable Contracts Products Representatives would include 50 questions instead of the 100 questions on the current Series 6 examination. However, the total number of questions on the SIE plus the applicable specialized knowledge examination could be fewer or greater than the number of questions on the current examinations.

As discussed below, FINRA is also proposing to eliminate the current prerequisite registration requirement for Research Analysts. An individual seeking registration as a Research Analyst would no longer be required to first register as a General Securities Representative as currently required. Instead, such individuals would need to pass the SIE and corresponding specialized knowledge examination for Research Analyst, which,

as reflected in the table above, would decrease from 400 questions to 225 questions the total number of questions for individuals registering as Research Analysts.

Moreover, under the proposed rule change, individuals seeking registration in two or more representative-level categories would experience a net decrease in the total number of questions because the SIE content would be tested only once. For example, an individual who seeks registration as a General Securities Representative and an Investment Banking Representative today would take two examinations, the Series 7 and Series 79, totaling 425 questions. Under the proposed structure, an individual who seeks registration in the same categories would take the SIE, the specialized Series 7 examination and the specialized Series 79 examination, totaling 275 questions.

Individuals who are registered on the effective date of the proposed rule change would be eligible to maintain those registrations without being subject to any additional requirements. Individuals who had been registered within the past two years prior to the effective date of the proposed rule change would also be eligible to maintain those registrations without being subject to any additional requirements, provided that they re-register with FINRA within two years from the date of their last registration. Further, such individuals, with the exception of Order Processing Assistant Representatives and Foreign Associates, would be considered to have passed the SIE in the CRD system, and thus if they wish to register in any other representative category after the effective date of the proposed rule change, they could do so by taking only the appropriate specialized knowledge examination.[23] However, with respect to an individual who is not registered

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[23] As noted above, FINRA is evaluating the structure of the principal-level examinations. Under the proposed rule change, only individuals who have passed an appropriate representative-level examination would be considered to have

on the effective date of the proposed rule change but was registered within the past two years prior to the effective date of the proposed rule change, the individual's SIE status in the CRD system would be administratively terminated if such individual does not register with FINRA within four years from the date of the individual's last registration.[24]

In addition, individuals, with the exception of Order Processing Assistant Representatives and Foreign Associates, who had been registered as representatives two or more years, but less than four years, prior to the effective date of the proposed rule change would also be considered to have passed the SIE and designated as such in the CRD system. Moreover, if such individuals re-register with a firm after the effective date of the proposed rule change and within four years of having been previously registered, they would only need to pass the specialized knowledge examination associated with that registration position. However, if they do not register with FINRA within four years from the date of their last registration, their SIE status in the CRD system would be administratively terminated.

Subject to Commission approval and the timing of such approval, FINRA intends to implement the revised structure in March 2018. Similar to the current process for registration, firms would continue to use the CRD system to request registrations for representatives. An individual would be able to schedule both the SIE and specialized

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passed the SIE. Registered principals who do not hold an appropriate representative-level registration would not be considered to have passed the SIE. For example, an individual who is registered solely as a Financial and Operations Principal (Series 27) today would have to take the Series 7 to become registered as a General Securities Representative. Under the proposed rule change, in the future, this individual would have to pass the SIE and the specialized Series 7 examination to obtain registration as a General Securities Representative.

24 As discussed below, FINRA is proposing a four-year expiration period for the SIE.

knowledge examinations for the same day, provided the individual is able to reserve space at one of FINRA's designated testing centers.

Further, FINRA is proposing to create an enrollment system separate from the CRD system to allow individuals who are not associated persons of a firm, including members of the general public, to enroll and pay the SIE examination fee. This system would also be available to associated persons of firms who are not required to be registered with FINRA. The enrollment system would provide individuals using the system with documentation (either in paper or electronic format) of a passing or failing result.

A firm would be able to obtain SIE results for associated persons who are registering as representatives through the CRD system. In addition, a firm would be able to view the passing status of an associated person who is not registering as a representative and an individual seeking to associate with the firm using an interface within the CRD system. The CRD system would also automatically obtain an individual's SIE results once a firm submits a Form U4 (Uniform Application for Securities Industry Registration or Transfer) and requests a registration for that individual.

FINRA is currently conducting a pricing analysis to determine a reasonable fee for the SIE and the specialized knowledge examinations. FINRA will file the examination fees with the SEC separately.

Finally, paragraph (d) of NASD Rule 1070 currently permits FINRA, in exceptional cases and where good cause is shown, to waive the applicable qualification examination and accept other standards as evidence of an applicant's qualifications for

registration. The Incorporated NYSE rules include substantially similar provisions.[25] FINRA is proposing to transfer the provisions of NASD Rule 1070(d) into proposed FINRA Rule 1210.03 with the following changes.[26] The proposed rule provides that FINRA will only consider examination waiver requests submitted by a firm for individuals associated with the firm who are seeking registration in a representative- or principal-level registration category. Moreover, proposed FINRA Rule 1210.03 states that FINRA will consider waivers of the SIE alone or the SIE and the representative- and principal-level examination(s) for such individuals. FINRA would not consider a waiver of the SIE for non-associated persons or for associated persons who are not registering as representatives or principals.

E. Requirements for Registered Persons Functioning as Principals for a Limited Period (Proposed FINRA Rule 1210.04)

NASD Rule 1021(d) provides that a person who is currently registered with a member as a representative and whose duties are changed by the member so as to require registration as a principal may function as a principal for up to 90 calendar days before he or she is required to pass the appropriate qualification examination for principal. In addition, it allows a formerly registered representative who is required to register as a principal to function as a principal without passing the appropriate principal qualification examination for up to 90 calendar days, provided the person first satisfies all applicable

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25 See Incorporated NYSE Rule 345.15(1)(b) and NYSE Rule Interpretation 345.15/01.

26 NASD Rules 1070(a), (b) and (c) provide general information relating to the examination process. FINRA is proposing to delete these provisions given that they relate to the administration of the examination program rather than rule requirements.

prerequisite requirements. A person who has never been registered does not qualify for this exception.

FINRA is proposing to adopt NASD Rule 1021(d) as FINRA Rule 1210.04, subject to the following changes. Proposed FINRA Rule 1210.04 states that a member may designate any person currently registered, or who becomes registered, with the member as a representative to function as a principal for a limited period, provided that such person has at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation. This change is intended to ensure that representatives designated to function as principals for the limited period under the proposed rule have an appropriate level of registered representative experience. The proposed rule clarifies that the requirements of the rule apply to designations to any principal category, including those categories that are not subject to a prerequisite representative-level registration requirement, such as the Financial and Operations Principal registration category.

The proposed rule also clarifies that the individual must fulfill all applicable prerequisite registration, fee and examination requirements before his or her designation as a principal. Further, the proposed rule extends the limited period that such person may function as a principal before passing the applicable principal examination from 90 calendar days to 120 calendar days (because the current window in the CRD system for passing an examination is 120 calendar days). A person registered as an Order Processing Assistant Representative or a Foreign Associate would be prohibited from functioning as a principal for purposes of proposed FINRA Rule 1210.04 because of the very limited scope of his or her activities. The proposed rule also provides an exception

to the experience requirement for principals who are designated by members to function in other principal categories for a limited period. Specifically, the proposed rule states that a member may designate any person currently registered, or who becomes registered, with the member as a principal to function in another principal category for 120 calendar days before passing any applicable examinations. Finally, the proposed rule clarifies that members that lose their sole Registered Options Principal are subject to separate requirements set forth in proposed FINRA Rule 1220.03.

F. Rules of Conduct for Taking Examinations and Confidentiality of Examinations (Proposed FINRA Rule 1210.05)

Before taking an examination, FINRA currently requires each candidate to agree to the Rules of Conduct for taking a qualification examination. Among other things, the examination Rules of Conduct require each candidate to attest that he or she is in fact the person who is taking the examination. These Rules of Conduct also require that each candidate agree that the examination content is the intellectual property of FINRA and that the content cannot be copied or redistributed by any means. If FINRA discovers that a candidate has violated the Rules of Conduct for taking a qualification examination, the candidate may forfeit the results of the examination and may be subject to disciplinary action by FINRA. For instance, for cheating on a qualifications examination, FINRA's Sanction Guidelines recommend a bar.[27]

FINRA is proposing to codify the requirements relating to the Rules of Conduct for examinations under FINRA Rule 1210.05. FINRA is also proposing to adopt Rules of Conduct for taking the SIE for associated persons and non-associated persons who

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27 See FINRA Sanction Guidelines at 40 (2013), http://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf.

take the SIE. Specifically, proposed FINRA Rule 1210.05 states that associated persons taking the SIE would be subject to the SIE Rules of Conduct, and associated persons taking a representative or principal examination would be subject to the Rules of Conduct for representative and principal examinations. Pursuant to proposed FINRA Rule 1210.05, a violation of the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations by an associated person would be deemed to be a violation of FINRA Rule 2010. Moreover, if FINRA determines that an associated person has violated the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations, the associated person may forfeit the results of the examination and may be subject to disciplinary action by FINRA.

Further, the proposed rule states that individuals taking the SIE who are not associated persons must agree to be subject to the SIE Rules of Conduct. Among other things, the SIE Rules of Conduct would require individuals to attest that they are not qualified to engage in the investment banking or securities business based on passing the SIE and would prohibit individuals from cheating on the examination or misrepresenting their qualifications to the public subsequent to passing the SIE. Moreover, non-associated persons may forfeit their SIE results and may be prohibited from retaking the SIE if FINRA determines that they cheated on the SIE or that they misrepresented their qualifications to the public subsequent to passing the SIE. In addition, if FINRA discovers that non-associated persons who have passed the SIE have subsequently engaged in other types of misconduct, FINRA would refer the matter to the appropriate authorities or regulators.

NASD Rule 1080 currently requires that qualification examinations content be

kept confidential and addresses the disciplinary implications of violating the confidentiality provision.[28] FINRA is proposing to transfer the provisions of NASD Rule 1080 with non-substantive changes into proposed FINRA Rule 1210.05.

G. Waiting Periods for Retaking a Failed Examination (Proposed FINRA Rule 1210.06)

NASD Rule 1070(e) currently sets forth waiting periods for retaking failed examinations.[29] The rule provides that a person who fails a qualification examination would be permitted to retake the examination after either a period of 30 calendar days has elapsed from the date of the prior examination or the next administration of an examination administered on a monthly basis. However, if the person fails an examination three or more times in succession, he or she would be prohibited from retaking the examination either until a period of 180 calendar days has elapsed from the date of his or her last attempt to pass the examination or until the sixth subsequent administration of an examination administered on a monthly basis. FINRA is proposing to adopt NASD Rule 1070(e) as FINRA Rule 1210.06, with the following changes.

Proposed FINRA Rule 1210.06 provides that a person who fails an examination may retake that examination after 30 calendar days from the date of the person's last attempt to pass that examination. The proposed rule deletes the reference to examinations administered on a monthly basis because examinations are no longer administered in such a manner.

Proposed FINRA Rule 1210.06 further provides that if a person fails an examination three or more times in succession within a two-year period, the person is

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28 See also NYSE Information Memorandum 88-37 (November 1988).

29 See also NYSE Information Memorandum 04-16 (March 2004).

prohibited from retaking that examination until 180 calendar days from the date of the person's last attempt to pass it. These waiting periods would apply to the SIE and the representative- and principal-level examinations. Moreover, the proposed rule provides that non-associated persons taking the SIE must agree to be subject to the same waiting periods for retaking the SIE.

H. CE Requirements (Proposed FINRA Rule 1210.07)

Pursuant to FINRA Rule 1250,[30] the CE requirements applicable to registered persons consist of a Regulatory Element[31] and a Firm Element.[32] The Regulatory Element applies to registered persons and must be completed within prescribed time frames.[33] For purposes of the Regulatory Element, a "registered person" is defined as

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30 As discussed below, FINRA is proposing to renumber FINRA Rule 1250 as FINRA Rule 1240 as part of this proposed rule change.

31 See FINRA Rule 1250(a).

32 See FINRA Rule 1250(b).

33 Pursuant to FINRA Rule 1250(a), each specified registered person is required to complete the Regulatory Element initially within 120 days after the person's second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date. A registered person who has not completed the Regulatory Element program within the prescribed time frames will have his or her FINRA registrations deemed inactive and designated as "CE inactive" on the CRD system until such time as the requirements of the program have been satisfied. A CE inactive person is prohibited from performing, or being compensated for, any activities requiring registration, including supervision. See also NTM 95-35 (May 1995). Moreover, if a registered person is CE inactive for a two-year period, FINRA will administratively terminate the person's registration status with FINRA. The two-year period would be calculated from the date the person becomes CE inactive. If a registered person becomes CE inactive but is not registered with a member when the two-year period ends, FINRA will nevertheless update the CRD system to reflect that the person did not satisfy the Regulatory Element program. In either case, such person must requalify (or obtain a waiver of the applicable qualification examination(s)) to be re-eligible for registration.

any person registered with FINRA as a representative, principal, assistant representative or research analyst.[34] The Firm Element consists of annual, member-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member. For purposes of the Firm Element, the term "covered registered persons" is defined as any registered person who has direct contact with customers in the conduct of the member's securities sales, trading and investment banking activities, any person registered as an Operations Professional pursuant to FINRA Rule 1230(b)(6) or as a Research Analyst pursuant to NASD Rule 1050, and the immediate supervisors of such persons.[35]

FINRA believes that all registered persons, regardless of their activities, should be subject to the Regulatory Element of the CE requirements so that they can keep their knowledge of the securities industry current. Therefore, FINRA is proposing to adopt FINRA Rule 1210.07 to clarify that all registered persons, including those who solely maintain a permissive registration, are required to satisfy the Regulatory Element, as specified in proposed FINRA Rule 1240. FINRA is making corresponding changes to proposed FINRA Rule 1240. FINRA is not proposing any changes to the Firm Element requirement at this time. Individuals who have passed the SIE but not a representative- or principal-level examination and do not hold a registered position would not be subject to any CE requirements.

Consistent with current practice, proposed FINRA Rule 1210.07 also provides that a registered person of a member who becomes CE inactive would not be permitted to

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34 See FINRA Rule 1250(a)(5).

35 See FINRA Rule 1250(b)(1).

be registered in another registration category with that member or be registered in any registration category with another member, until the person has satisfied the Regulatory Element.

I. Lapse of Registration and Expiration of SIE (Proposed FINRA Rule 1210.08)

NASD Rule 1021(c) currently states that any person whose registration has been revoked pursuant to FINRA Rule 8310 or whose most recent registration as a principal has been terminated for a period of two or more years immediately preceding the date of receipt by FINRA of a new application is required to pass a qualification examination for principals appropriate to the category of registration as specified in NASD Rule 1022. Pursuant to NASD Rule 1031(c), any person whose registration has been revoked pursuant to FINRA Rule 8310 or whose most recent registration as a representative or principal has been terminated for a period of two or more years immediately preceding the date of receipt by FINRA of a new application is required to pass a qualification examination for representatives appropriate to the category of registration as specified in NASD Rule 1032.[36] The two years are calculated from the termination date stated on the individual's Form U5 (Uniform Termination Notice for Securities Industry Registration) and the date FINRA receives a new application for registration.

FINRA is proposing to consolidate the requirements of NASD Rules 1021(c) and 1031(c) and adopt them as FINRA Rule 1210.08. Proposed FINRA Rule 1210.08

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[36] In addition, NASD Rule 1041(c) provides that if any person whose most recent registration as an Order Processing Assistant Representative has been terminated for a period of two or more years immediately preceding the date of receipt by FINRA of a new application is required to pass a qualification examination for Order Processing Assistant Representative. As discussed below, FINRA is proposing to eliminate NASD Rule 1041(c) as part of the elimination of the Order Processing Assistant Representative registration category.

clarifies that, for purposes of the proposed rule, an application would not be considered to have been received by FINRA if that application does not result in a registration.

Proposed FINRA Rule 1210.08 also sets forth the expiration period of the SIE. Based on the content covered on the SIE, FINRA is proposing that a passing result on the SIE be valid for four years. Therefore, under the proposed rule change, an individual who passes the SIE and is an associated person of a firm at the time would have up to four years from the date he or she passes the SIE to pass a representative-level examination to register as a representative with that firm, or a subsequent firm, without having to retake the SIE. In addition, an individual who passes the SIE and is not an associated person at the time would have up to four years from the date he or she passes the SIE to become an associated person of a firm and pass a representative-level examination and register as a representative without having to retake the SIE.

Moreover, an individual holding a representative-level registration who leaves the industry after the effective date of the proposed rule change would have up to four years to reassociate with a firm and register as a representative without having to retake the SIE. However, the four-year expiration period in the proposed rule change extends only to the SIE, and not the representative- and principal-level registrations. The representative- and principal-level registrations would continue to be subject to a two-year expiration period as is the case today. However, in response to comments, FINRA will consider as part of a separate proposal the possibility of extending the two-year expiration period, provided that an individual can maintain specified levels of competence and knowledge of the industry and the related laws, rules and regulations through an alternative process, such as more frequent CE.

J. Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member (Proposed FINRA Rule 1210.09)

In Regulatory Notice 09-70, FINRA had proposed to adopt an RA status in the CRD system for individuals who would be working for a financial services industry affiliate of a member, and who would not be working in any capacity for the member. Specifically, the original proposal permitted a member to register or maintain the registration(s) as a representative or principal of any individual engaged in the business of a financial services industry affiliate of the member that controls, is controlled by or is under common control with the member. The proposal defined the term "financial services industry" as any industry regulated by the SEC, Commodity Futures Trading Commission ("CFTC"), state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities.

The original proposal required members to notify FINRA of an individual's RA status and deemed an RA to have an inactive registration. Further, under the proposal, RAs were considered registered persons, but were subject only to a subset of FINRA rules. The proposal also required a member to supervise adequately RAs so that they did not act on behalf of the member and complied with the subset of rules applicable to them. The proposal provided that an individual could remain in an RA status for 10 non-consecutive years, which were tolled if the individual was working for the member or was outside the financial services industry. In addition, the proposal provided that a statutorily disqualified individual was not eligible for an RA status, and forfeited his or her status as a result of such disqualification. Moreover, under the proposal, the failure to comply with any of the RA requirements resulted in a forfeiture of an individual's RA status altogether.

The purpose of the RA proposal was to provide a firm greater flexibility to move personnel, including senior and middle management, between the firm and its financial services affiliate(s) so that they could gain organizational skills and better knowledge of products developed by the affiliate(s) without the individuals having to requalify by examination each time they returned to the firm.[37]

Rather than allowing individuals to maintain their registrations based on an RA status, FINRA is proposing to adopt FINRA Rule 1210.09 to provide an alternative process whereby individuals who would be working for a financial services industry affiliate of a member[38] would terminate their registrations with the member and would be granted a waiver of their requalification requirements upon re-registering with a member, provided the firm that is requesting the waiver and the individual satisfy the criteria for a Financial Services Affiliate ("FSA") waiver.

Under the proposed waiver process, the first time a registered person is designated as eligible for a waiver based on the FSA criteria, the member with which the individual is registered would notify FINRA of the FSA designation. The member would concurrently file a full Form U5 terminating the individual's registration with the firm, which would also terminate the individual's other SRO and state registrations. Further,

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37 As noted above, an individual must requalify by examination (or obtain a waiver of the applicable qualification examination(s)) if the individual re-registers with a firm two or more years after the individual's most recent registration as a representative or principal has been terminated.

38 Proposed FINRA Rule 1210.09 defines a "financial services industry affiliate of a member" as a legal entity that controls, is controlled by or is under common control with a member and is regulated by the SEC, CFTC, state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities, which is similar to the definition in Regulatory Notice 09-70.

BrokerCheck would reflect that the individual is no longer registered or associated with a member.

To be eligible for initial designation as an FSA-eligible person by a member, an individual must have been registered for a total of five years within the most recent 10-year period prior to the designation, including for the most recent year with that member. An individual would have to satisfy these preconditions only for purposes of his or her initial designation as an FSA-eligible person, and not for any subsequent FSA designation(s). Thereafter, the individual would be eligible for a waiver for up to seven years from the date of initial designation,[39] provided that the other conditions of the waiver, as described below, have been satisfied. Consequently, a member other than the member that initially designated an individual as an FSA-eligible person may request a waiver for the individual and more than one member may request a waiver for the individual during the seven-year period.[40]

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39 Individuals would be eligible for a single, fixed seven-year period from the date of initial designation, and the period would not be tolled or renewed.

40 The following examples illustrate this point:

Example 1. Firm A designates an individual as an FSA-eligible person by notifying FINRA and files a Form U5. The individual joins Firm A's financial services affiliate. Firm A does not submit a waiver request for the individual. After working for Firm A's financial services affiliate for three years, the individual directly joins Firm B's financial services affiliate for three years. Firm B then submits a waiver request to register the individual.

Example 2. Same as Example 1, but the individual directly joins Firm B after working for Firm A's financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

Example 3. Firm A designates an individual as an FSA-eligible person by notifying FINRA and files a Form U5. The individual joins Firm A's financial services affiliate for three years. Firm A then submits a waiver request to re-register the individual. After working for Firm A in a registered capacity for six months, Firm A re-designates the individual as an FSA-eligible person by

An individual designated as an FSA-eligible person would be subject to the Regulatory Element of CE while working for a financial services industry affiliate of a member. The individual would be subject to a Regulatory Element program that correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. If the individual fails to complete the prescribed Regulatory Element during the 120-day window for taking the session, he or she would lose FSA eligibility (i.e., the individual would have the standard two-year period after termination to re-register without having to retake an examination). FINRA is making corresponding changes to proposed FINRA Rule 1240.

Upon registering an FSA-eligible person, a firm would file a Form U4 and request the appropriate registration(s) for the individual. The firm would also submit an examination waiver request to FINRA,[41] similar to the process used today for waiver requests, and it would represent that the individual is eligible for an FSA waiver based on the conditions set forth below. FINRA would review the waiver request and make a determination of whether to grant the request within 30 calendar days of receiving the request. FINRA would summarily grant the request if the following conditions are met:

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notifying FINRA and files a Form U5. The individual rejoins Firm A's financial services affiliate for two years, after which the individual directly joins Firm B's financial services affiliate for one year. Firm B then submits a waiver request to register the individual.

Example 4. Same as Example 3, but the individual directly joins Firm B after the second period of working for Firm A's financial services affiliate, and Firm B submits a waiver request to register the individual at that point in time.

41 FINRA would consider a waiver of the representative-level qualification examination(s), the principal-level qualification examination(s) and the SIE, as applicable.

(1) Prior to the individual's initial designation as an FSA-eligible person, the individual was registered for a total of five years within the most recent 10-year period, including for the most recent year with the member that initially designated the individual as an FSA-eligible person;

(2) The waiver request is made within seven years of the individual's initial designation as an FSA-eligible person by a member;

(3) The individual continuously worked for the financial services affiliate(s) of a member since the last Form U5 filing;

(4) The individual has complied with the Regulatory Element of CE; and

(5) The individual does not have any pending or adverse regulatory matters, or terminations, that are reportable on the Form U4, and has not otherwise been subject to a statutory disqualification while the individual was designated as an FSA-eligible person with a member.

Following the Form U5 filing, an individual could move between the financial services affiliates of a member so long as the individual is continuously working for an affiliate. Further, a member could submit multiple waiver requests for the individual, provided that the waiver requests are made during the course of the seven-year period.[42] An individual who has been designated as an FSA-eligible person by a member would

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[42] For example, if a member submits a waiver request for an FSA-eligible person who has been working for a financial services affiliate of the member for three years and re-registers the individual, the member could subsequently file a Form U5 and re-designate the individual as an FSA-eligible person. Moreover, if the individual works with a financial services affiliate of the member for another three years, the member could submit a second waiver request and re-register the individual upon returning to the member.

not be able to take additional examinations to gain additional registrations while working for a financial services affiliate of a member.

K. Status of Persons Serving in the Armed Forces of the United States (Proposed FINRA Rule 1210.10)

NASD IM-1000-2(a) and (b) and Incorporated NYSE Rule Interpretation 345(a)/03, which is substantially similar, currently provide specific relief to registered persons serving in the Armed Forces of the United States. Among other things, these rules permit a registered person of a member who volunteers for or is called into active duty in the Armed Forces of the United States to be registered in an inactive status and remain eligible to receive ongoing transaction-related compensation. NASD IM-1000-2(c) also includes specific provisions regarding the deferment of the lapse of registration requirements in NASD Rules 1021(c), 1031(c) and 1041(c) for formerly registered persons serving in the Armed Forces of the United States.

FINRA is proposing to adopt NASD IM-1000-2 as FINRA Rule 1210.10 with the following changes. To enhance the efficiency of the current notification process for registered persons serving in the Armed Forces, proposed FINRA Rule 1210.10 requires that the member with which such person is registered promptly notify FINRA of such person's return to employment with the member. A sole proprietor must similarly notify FINRA of his or her return to participation in the investment banking or securities business. Further, proposed FINRA Rule 1210.10 provides that FINRA would also defer the lapse of the SIE for formerly registered persons serving in the Armed Forces of the United States.

L. Impermissible Registrations (Proposed FINRA Rule 1210.11)

NASD Rules 1021(a) and 1031(a) currently prohibit a member from maintaining

a representative or principal registration with FINRA for any person who is no longer active in the member's investment banking or securities business, who is no longer functioning as a representative or principal as defined under the rules or where the sole purpose is to avoid the requalification requirement applicable to persons who have not been registered for two or more years. These rules also prohibit a member from applying for the registration of a person as representative or principal where the member does not intend to employ the person in its investment banking or securities business. These prohibitions do not apply to the current permissive registration categories.

In light of proposed FINRA Rule 1210.02, FINRA is proposing to delete these provisions and instead adopt FINRA Rule 1210.11 prohibiting a member from registering or maintaining the registration of a person unless the registration is consistent with the requirements of proposed FINRA Rule 1210.

M. Registration Categories (Proposed FINRA Rule 1220)

FINRA is proposing to integrate the various registration categories and related definitions under the NASD rules into a single rule, FINRA Rule 1220,[43] subject to the changes described below.

1. Definition of Principal (Proposed FINRA Rule 1220(a)(1))

NASD Rule 1021(b) currently defines the term "principal" to include sole proprietors, officers, partners, managers of offices of supervisory jurisdiction and directors who are actively engaged in the management of the member's investment banking or securities business, such as supervision, solicitation, conduct of business or the training of persons associated with a member for any of these functions. Incorporated

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43 FINRA is proposing to renumber FINRA Rule 1230 as FINRA Rule 1220 as part of the proposed rule change.

NYSE Rule 311.17 defines the term "principal executive" to include associated persons designated to exercise senior principal executive responsibility over the various areas of the member's business, such as operations, compliance, finances and credit, sales, underwriting, research and administration.[44]

FINRA believes that the definition of the term "principal" in NASD Rule 1021(b) generally captures principal executives as defined under Incorporated NYSE Rule 311.17. Thus, FINRA is proposing to streamline and adopt NASD Rule 1021(b) as FINRA Rule 1220(a)(1).

Proposed FINRA Rule 1220(a)(1) clarifies that a member's chief executive officer ("CEO") and chief financial officer ("CFO") (or equivalent officers) are considered principals based solely on their status. The proposed rule further clarifies that the term "principal" includes any other associated person who is performing functions or carrying out responsibilities that are required to be performed or carried out by a principal under FINRA rules. In addition, the proposed rule codifies existing guidance by providing that the phrase "actively engaged in the management of the member's investment banking or securities business" includes the management of, and the implementation of corporate policies related to, such business as well as managerial decision-making authority with respect to the member's business and management-level responsibilities for supervising any aspect of such business, such as serving as a voting member of the member's executive, management or operations committees.[45]

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44 Incorporated NYSE Rule Interpretation 311(b)(5)/01 requires that principal executives be appropriately qualified to perform their assigned functions.

45 See NTM 99-49 (June 1999).

2. General Securities Principal (Proposed FINRA Rule 1220(a)(2))

NASD Rule 1022(a)(1) currently requires that an associated person who meets the definition of "principal" under NASD Rule 1021 register as a General Securities Principal. A person registering as a General Securities Principal must pass the General Securities Principal examination. The rule, however, provides that a principal is not required to register as a General Securities Principal if the person's activities are so limited as to qualify such person for one or more of the limited principal categories specified in NASD Rule 1022, such as a Financial and Operations Principal, an Introducing Broker-Dealer Financial and Operations Principal, a Registered Options Principal, an Investment Company and Variable Contracts Products Principal, a Direct Participation Programs Principal, a General Securities Sales Supervisor or a Government Securities Principal. Further, the rule does not preclude individuals registered in a limited principal category from registering as General Securities Principals.

NASD Rule 1022(a)(1) also requires that a member's CCO designated on Schedule A of the member's Form BD (Uniform Application for Broker-Dealer Registration) register as a General Securities Principal.[46] NASD Rule 1022(a)(1)(C) provides that if a member's activities are limited to investment company and variable contracts products, direct participation program securities or government securities, the member's CCO may instead register as an Investment Company and Variable Contracts Principal, a Direct Participation Programs Principal or a Government Securities Principal, respectively. In addition, for purposes of the CCO requirement for dual members, FINRA recognizes the NYSE Compliance Official examination as an acceptable

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[46] See also FINRA Rule 3130(a).

alternative to the principal examination requirements for General Securities Principal, Investment Company and Variable Contracts Principal and Direct Participation Programs Principal, as applicable.[47] NASD Rule 1022(a)(1)(C) also includes transitioning and grandfathering provisions for CCOs.

NASD Rule 1022(a)(1)(A) provides that unless stated otherwise a person seeking to register as a General Securities Principal must satisfy the General Securities Representative or Corporate Securities Representative prerequisite registration. NASD Rule 1022(a)(2) qualifies this provision by providing that the Corporate Securities Representative prerequisite registration gives a General Securities Principal only limited supervisory authority.

NASD Rule 1022(a)(1)(B) requires that a General Securities Principal with responsibility over the investment banking activities specified in NASD Rule 1032(i) also satisfy the Investment Banking Representative registration requirement.

NASD Rule 1022(a)(3) includes a grandfathering provision for persons who were registered as principals before the adoption of the General Securities Principal registration category.

NASD Rule 1022(a)(4) provides that an associated person registered solely as a General Securities Principal is not qualified to function as a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), Registered Options Principal, General Securities Sales Supervisor, Municipal Securities Principal or Municipal Fund Securities Limited Principal, unless the General Securities Principal is also registered in these other categories.

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47 See NTM 01-51 (August 2001).

Pursuant to NASD Rule 1022(a)(5), a principal who is responsible for supervising the overall conduct of a Research Analyst or Supervisory Analyst engaged in equity research must be registered as a Research Principal.[48] In addition, existing rules and guidance provide that the content of a member's research reports on equity securities must be approved by a Research Principal or a Supervisory Analyst.[49] Existing guidance further provides that a General Securities Principal may review a member's research reports on equity securities for compliance with only the disclosure provisions of FINRA Rule 2241.[50]

NASD Rule 1022(a)(6) currently requires that each associated person who is included within the definition of "principal" in NASD Rule 1021 with supervisory responsibility over the securities trading activities described in NASD Rule 1032(f) register as a Securities Trader Principal. To qualify for registration as a Securities Trader Principal, an individual must be registered as a Securities Trader and pass the General Securities Principal qualification examination. The rule provides that a person qualified and registered as a Securities Trader Principal may only have supervisory responsibility over the activities specified in NASD Rule 1032(f), unless such person is separately registered in another appropriate principal registration category, such as the General Securities Principal registration category. The rule further provides that a person

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48 See also NTM 04-81 (November 2004) and NTM 07-04 (January 2007) (collectively, "Research NTMs").

49 See FINRA Rule 2210(b)(1)(B) and Research NTMs. Further, an exemption from NASD Rule 1050 for specified foreign analysts includes a condition that the content of a globally branded research report prepared by such foreign research analyst that is published or otherwise distributed by a member must be approved by a Research Principal or Supervisory Analyst. See NASD Rule 1050(f)(3)(A).

50 See Research NTMs.

registered as a General Securities Principal is not qualified to supervise the trading activities described in NASD Rule 1032(f), unless he or she qualifies and registers as a Securities Trader (by passing the Series 57 examination) and affirmatively registers as a Securities Trader Principal.

FINRA is proposing to streamline the provisions of NASD Rule 1022(a) and adopt them as FINRA Rule 1220(a)(2) with the following changes.

FINRA is proposing to more clearly set forth the obligation to register as a General Securities Principal. Specifically, proposed FINRA Rule 1220(a)(2)(A) states that each principal as defined in proposed FINRA Rule 1220(a)(1) is required to register with FINRA as a General Securities Principal, subject to the following exceptions. The proposed rule provides that if a principal's activities include the functions of a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), a Principal Financial Officer, a Principal Operations Officer, an Investment Banking Principal, a Research Principal, a Securities Trader Principal or a Registered Options Principal, then the principal must appropriately register in one or more of these categories. Proposed FINRA Rule 1220(a)(2)(A) also provides that if a principal's activities are limited solely to the functions of a Government Securities Principal, an Investment Company and Variable Contracts Products Principal, a Direct Participation Programs Principal or a Private Securities Offerings Principal, then the principal may appropriately register in one or more of these categories in lieu of registering as a General Securities Principal.

Proposed FINRA Rule 1220(a)(2)(A) further provides that if a principal's activities are limited solely to the functions of a General Securities Sales Supervisor, then

the principal may appropriately register in that category in lieu of registering as a General Securities Principal, provided that if the principal is engaged in options sales activities he or she must register as a General Securities Sales Supervisor or Registered Options Principal. In addition, proposed FINRA Rule 1220(a)(2)(A) states that if a principal's activities are limited solely to the functions of a Supervisory Analyst, then the principal may appropriately register in that category in lieu of registering as a General Securities Principal, provided that if the principal is responsible for approving the content of a member's research report on equity securities, he or she must register as a Research Principal or Supervisory Analyst.

Proposed FINRA Rule 1220(a)(2)(B) requires that an individual registering as a General Securities Principal satisfy the General Securities Representative prerequisite registration and pass the General Securities Principal qualification examination. Proposed FINRA Rule 1220(a)(2)(B) also clarifies that an individual may register as a General Securities Sales Supervisor and pass the General Securities Principal Sales Supervisor Module qualification examination in lieu of passing the General Securities Principal examination.

In conjunction with the elimination of the Corporate Securities Representative registration category, FINRA is proposing to delete the provision in NASD Rule 1022(a)(1)(A) permitting the Corporate Securities Representative prerequisite registration. However, the proposed rule provides that, subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, General Securities Principals who obtained the Corporate Securities Representative prerequisite registration in lieu of the General Securities Representative prerequisite registration and individuals who had been

registered as such within the past two years prior to the effective date of the proposed rule change, may continue to supervise corporate securities activities as currently permitted.

Moreover, as described in greater detail below, FINRA is proposing to adopt with some changes the requirements of NASD Rule 1022(a)(1) relating to the registration of CCOs, NASD Rule 1022(a)(1)(B) relating to the supervision of investment banking activities, NASD Rule 1022(a)(5) relating to the supervision of research activities and NASD Rule 1022(a)(6) relating to the supervision of securities trading activities as FINRA Rules 1220(a)(3), (a)(5), (a)(6) and (a)(7), respectively.

FINRA is also proposing to eliminate the grandfathering provision for individuals who were registered as principals prior to the adoption of the General Securities Principal registration category because it no longer has any practical application. Finally, FINRA is proposing to delete the provision that persons eligible for registration in other principal categories are not precluded from registering as General Securities Principals because it is superfluous.

3. Compliance Officer (Proposed FINRA Rule 1220(a)(3))

FINRA is proposing to adopt NASD Rule 1022(a)(1)'s CCO registration requirement as FINRA Rule 1220(a)(3), subject to the following changes.

Specifically, proposed FINRA Rule 1220(a)(3) establishes a Compliance Officer registration category and requires all persons designated as CCOs on Schedule A of Form BD to register as Compliance Officers, subject to an exception for members engaged in limited investment banking or securities business. The proposed rule only addresses the registration requirements for CCOs. However, consistent with proposed FINRA Rule

1210.02 relating to permissive registrations, a firm may allow other associated persons to register as Compliance Officers.

FINRA had originally proposed to also adopt a Compliance Officer qualification examination for CCOs and other individuals registering as Compliance Officers. However, FINRA is proposing to maintain the existing qualification requirements pending its evaluation of the structure of the principal-level examinations. In addition, FINRA is proposing to provide CCOs of firms that engage in limited investment banking or securities business with greater flexibility to satisfy the qualification requirements for CCOs. Specifically, proposed FINRA Rule 1220(a)(3) sets forth the following qualification requirements for Compliance Officer registration:

- Subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, each person registered with FINRA as a General Securities Representative and a General Securities Principal on the effective date of the proposed rule change and each person who was registered with FINRA as a General Securities Representative and a General Securities Principal within two years prior to the effective date of the proposed rule change would be qualified to register as Compliance Officers without having to take any additional examinations. In addition, subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, individuals registered as Compliance Officials in the CRD system on the effective date of the proposed rule change and individuals who were registered as such within two years prior to the effective date of the proposed rule change

would also be qualified to register as Compliance Officers without having to take any additional examinations;[51]

- All other individuals registering as Compliance Officers after the effective date of the proposed rule change would have to: (1) satisfy the General Securities Representative prerequisite registration and pass the General Securities Principal qualification examination; or (2) pass the Compliance Official qualification examination.
- An individual designated as a CCO on Schedule A of Form BD of a member that is engaged in limited investment banking or securities business may be registered in a principal category under proposed FINRA Rule 1220(a) that corresponds to the limited scope of the member's business.

4. Financial and Operations Principal, Introducing Broker-Dealer Financial and Operations Principal, Principal Financial Officer and Principal Operations Officer (Proposed FINRA Rule 1220(a)(4))

NASD Rule 1022(b) currently provides that a principal who is responsible for the financial and operational management of a member that has a minimum net capital requirement of $250,000 under SEA Rules 15c3-1(a)(1)(ii) and 15c3-1(a)(2)(i), or a member that has a minimum net capital requirement of $150,000 under SEA Rule 15c3-1(a)(8), must be designated and registered as a Financial and Operations Principal. Such members also are required to designate a CFO who is required to be registered as a Financial and Operations Principal. In addition, NASD Rule 1022(c) currently provides that a principal who is responsible for the financial and operational management of a

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51 FINRA notes that the proposed rule gives firms the option of registering Compliance Officials who are not designated as CCOs as Compliance Officers when the proposed rule becomes effective.

member that is subject to the net capital requirements of SEA Rule 15c3-1, other than a member that is subject to the net capital requirements of SEA Rules 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), must be designated and registered as either a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal. Such members also are required to designate a CFO who is required to be registered as a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal. Financial and Operations Principals and Introducing Broker-Dealer Financial and Operations Principals are not subject to a prerequisite representative registration, but they must pass the Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal examination, as applicable.

Incorporated NYSE Rule Interpretations 311(b)(5)/02 and /03 require that dual members designate a CFO and a COO and that the CFO and the COO register as Financial and Operations Principals if the member is a clearing firm, or as either Financial and Operations Principals or Introducing Broker-Dealer Financial and Operations Principals if the member is an introducing firm. If the member is an introducing firm, the same person may be designated as both the CFO and COO.

FINRA is proposing to merge the provisions in NASD Rules 1022(b) and 1022(c) regarding Financial and Operations Principals and Introducing Broker-Dealer Financial and Operations Principals and adopt them as FINRA Rule 1220(a)(4)(A). In addition, FINRA is proposing to revise the provisions in NASD Rules 1022(b) and (c) regarding the designation of CFOs and the provisions in Incorporated NYSE Rule Interpretations 311(b)(5)/02 and /03 regarding the designation of CFOs and COOs and adopt them as FINRA Rule 1220(a)(4)(B). FINRA does not believe it is necessary for an officer to

have the title of CFO or COO for purposes of these provisions so long as the designated person performs the same functions. Therefore, proposed FINRA Rule 1220(a)(4)(B) requires members to instead designate: (1) a Principal Financial Officer with primary responsibility for financial filings and the related books and records; and (2) a Principal Operations Officer with primary responsibility for the day-to-day operations of the business, including overseeing the receipt and delivery of securities and funds, safeguarding customer and firm assets, calculation and collection of margin from customers and processing dividend receivables and payables and reorganization redemptions and those books and records related to such activities.

Consistent with the current qualification and registration requirements for CFOs and COOs, the proposed rule requires that a firm's Principal Financial Officer and Principal Operations Officer qualify and register as Financial and Operations Principals or Introducing Broker-Dealer Financial and Operations Principals, as applicable.[52]

Because the financial and operational activities of members that neither self-clear nor provide clearing services are more limited, such members may designate the same person as the Principal Financial Officer, Principal Operations Officer and Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal (that is, such members are not required to designate different persons to function in these capacities).

Given the level of financial and operational responsibility at clearing and self-clearing members, FINRA believes that it is necessary for such members to designate

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[52] This requirement also applies to those members that are currently exempt from the requirement to have a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal. See NTM 01-52 (August 2001).

separate persons to function as Principal Financial Officer and Principal Operations Officer. Such persons may also carry out the other responsibilities of a Financial and Operations Principal, such as supervision of individuals engaged in financial and operational activities. In addition, the proposed rule provides that a clearing or self-clearing member that is limited in size and resources may, pursuant to the FINRA Rule 9600 Series, request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer.

5. Investment Banking Principal (Proposed FINRA Rule 1220(a)(5))

FINRA is proposing to adopt NASD Rule 1022(a)(1)(B) regarding the qualification and registration requirements for principals with responsibility over specified investment banking activities as FINRA Rule 1220(a)(5). To further facilitate the registration of such individuals, proposed FINRA Rule 1220(a)(5) establishes a registration category for Investment Banking Principal and requires that a principal responsible for supervising the investment banking activities specified in proposed FINRA Rule 1220(b)(5) register as an Investment Banking Principal. The proposed rule provides that individuals registering as Investment Banking Principals must be registered as Investment Banking Representatives and pass the General Securities Principal qualification examination.

6. Research Principal (Proposed FINRA Rule 1220(a)(6))

FINRA is proposing to adopt NASD Rule 1022(a)(5) relating to the registration of Research Principals as FINRA Rule 1220(a)(6) with a few changes and clarifications.

First, proposed FINRA Rule 1220(a)(6) provides that a principal responsible for approving the content of a member's research reports on equity securities is required to

register as a Research Principal, subject to the following exceptions: (1) a Supervisory Analyst may also approve the content of a member's research report on equity securities; and (2) a General Securities Principal may review a member's research report on equity securities only for compliance with the disclosure provisions of FINRA Rule 2241.

Second, the proposed rule clarifies that a Supervisory Analyst or General Securities Principal may approve the content of a member's research reports on debt securities and the content of third-party research reports in lieu of a Research Principal.[53] Third, the proposed rule modifies the examination requirements for Research Principals to require demonstrated competence in fundamental analysis and valuation of securities. By way of background, Research Analysts are required to pass the Series 86 and Series 87 examinations.[54] The Analysis (Series 86) portion of the Research Analyst examination tests knowledge of fundamental analysis and valuation of equity securities and the Regulatory Administration and Best Practices (Series 87) portion of the Research Analyst examination tests knowledge of applicable rules and regulations pertaining to research. The qualification examination for Supervisory Analysts, the Series 16 examination, tests both knowledge of applicable rules and regulations and fundamental analysis and valuation. Currently, a Research Principal is required to be registered as a General Securities Principal and pass either the Series 87 examination or the Series 16 examination.[55] FINRA believes that a Research Principal would be able to carry out his

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53 See FINRA Rules 2210(b)(1)(B) and 2241(h)(1) and Research NTMs.

54 Candidates are eligible for a waiver of the Series 86 examination, which tests knowledge of fundamental analysis and valuation of equity securities, if they have passed Levels I and II of the Chartered Financial Analyst ("CFA") examination and meet other eligibility criteria.

55 See Research NTMs.

or her supervisory responsibilities more effectively by having a level of knowledge of fundamental analysis and valuation commensurate with the research analysts whose content they approve. Thus, proposed FINRA Rule 1220(a)(6) requires that individuals registering as Research Principals after the effective date of the proposed rule change, register as either Research Analysts or Supervisory Analysts and pass the General Securities Principal qualification examination.

7. Securities Trader Principal (Proposed FINRA Rule 1220(a)(7))

FINRA is proposing to adopt NASD Rule 1022(a)(6) relating to Securities Trader Principal registration as FINRA Rule 1220(a)(7). Similar to the current rule, proposed FINRA Rule 1220(a)(7) requires that a principal responsible for supervising the securities trading activities specified in proposed FINRA Rule 1220(b)(4) register as a Securities Trader Principal. The proposed rule requires that individuals registering as Securities Trader Principals must be registered as Securities Traders and pass the General Securities Principal qualification examination.

8. Registered Options Principal (Proposed FINRA Rules 1220(a)(8), .02 and .03)

NASD Rule 1022(f) currently requires that members engaged in options transactions with the public have at least one Registered Options Principal. A Registered Options Principal is required to satisfy the following prerequisite representative registration(s): (1) General Securities Representative; or (2) Options Representative and Corporate Securities Representative. An individual registering as a Registered Options Principal must also pass the Registered Options Principal examination. The rule includes additional requirements applicable to Registered Options Principals engaged in security

futures activities.[56] NASD IM-1022-1 further requires that members that have one Registered Options Principal promptly notify FINRA and agree to specified conditions if such person is terminated, resigns, becomes incapacitated or is otherwise unable to perform his or her duties.

FINRA is proposing to adopt NASD Rule 1022(f) as FINRA Rule 1220(a)(8) with the following changes. Consistent with FINRA Rule 2360, which allows a General Securities Sales Supervisor (in addition to a Registered Options Principal) to approve accounts engaged in specified options activities, the proposed rule provides that a General Securities Sales Supervisor may also supervise options activities as specified in FINRA Rule 2360.

Further, as discussed below, FINRA is proposing to eliminate the Options Representative and Corporate Securities Representative registration categories. In conjunction with these changes, FINRA is proposing to eliminate registration as an Options Representative and a Corporate Securities Representative from the prerequisite choices in the current rule. Consequently, a person registering as a Registered Options Principal under proposed FINRA Rule 1220(a)(8) would be required to satisfy the General Securities Representative prerequisite registration.

FINRA is proposing to consolidate and adopt the provisions regarding security futures activities in NASD Rules 1022(f), 1022(g), 1032(a) and 1032(d) with non-substantive changes as Supplementary Material .02 of FINRA Rule 1220. Finally,

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[56] This provision provides that a Registered Options Principal who intends to engage in security futures activities must complete a Firm Element CE program that addresses security futures products before he or she can engage in such activities. There are similar provisions in NASD Rules 1022(g), 1032(a) and 1032(d).

FINRA is proposing to adopt NASD IM-1022-1 with non-substantive changes as Supplementary Material .03 of FINRA Rule 1220.

9. Government Securities Principal (Proposed FINRA Rule 1220(a)(9))

NASD Rule 1022(h) currently requires that associated persons functioning as principals with respect to members' government securities activities register as Government Securities Principals. Such persons are not subject to a principal qualification examination. However, a person registering as a Government Securities Principal is required to satisfy the General Securities Representative or Government Securities Representative prerequisite registration. Moreover, individuals registered as General Securities Principals who have the General Securities Representative or Government Securities Representative prerequisite registration are qualified to function as Government Securities Principals without having to register separately as such.

NASD Rule 1022(h) also includes a grandfathering provision for persons who were registered as principals before the 1988 adoption of the Government Securities Principal registration category, and it provides that a firm must notify FINRA via the Form U4 when a person not previously registered with the firm as a principal assumes the duties of a Government Securities Principal. FINRA is proposing to adopt NASD Rule 1022(h) as FINRA Rule 1220(a)(9) with a few changes.

As noted below, FINRA is proposing to eliminate the Government Securities Representative registration category. In conjunction with this change, FINRA is proposing to eliminate registration as a Government Securities Representative from the prerequisite registration choices in the current rule. Consequently, a person registering as a Government Securities Principal under proposed FINRA Rule 1220(a)(9) would be

required to satisfy the General Securities Representative prerequisite registration. Alternatively, proposed FINRA Rule 1220(a)(9) provides that individuals registered as General Securities Principals are qualified to function as Government Securities Principals without having to register separately under the proposed rule.

Proposed FINRA Rule 1220(a)(9) also eliminates the grandfathering provision in the current rule because it no longer has any practical application, and it eliminates the Form U4 notification requirement because it is redundant of other Form U4 requirements.[57]

10. General Securities Sales Supervisor (Proposed FINRA Rules 1220(a)(10) and 1220.04)

Pursuant to NASD Rule 1022(g), each associated person of a member who is included within the definition of "principal" in NASD Rule 1021 may register as a General Securities Sales Supervisor, instead of separately registering in multiple principal registration categories,[58] if the individual's supervisory responsibilities are limited solely to securities sales activities. A person registering as a General Securities Sales Supervisor must satisfy the General Securities Representative prerequisite registration and pass the General Securities Sales Supervisor examinations.[59] Moreover, a General Securities Sales Supervisor is precluded from performing any of the following activities: (1) supervision of the origination and structuring of underwritings; (2) supervision of

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57 See Article V, Section 2 of the FINRA By-Laws.

58 For instance, a principal supervising the sale of corporate securities and options must be registered as a General Securities Principal and a Registered Options Principal, unless the principal is registered as a General Securities Sales Supervisor.

59 An individual may also register as a General Securities Sales Supervisor by passing a combination of other principal-level examinations.

market-making commitments; (3) supervision of the custody of firm or customer funds or securities for purposes of SEA Rule 15c3-3; or (4) supervision of overall compliance with financial responsibility rules. NASD IM-1022-2 explains the purpose of the General Securities Sales Supervisor registration category.

FINRA is proposing to adopt NASD Rule 1022(g) and NASD IM-1022-2 as FINRA Rule 1220(a)(10) and FINRA Rule 1220.04, respectively, with non-substantive changes.

11. Investment Company and Variable Contracts Products Principal and Direct Participation Programs Principal (Proposed FINRA Rules 1220(a)(11) and (a)(12))

Pursuant to NASD Rule 1022(d), each associated person of a member who is included within the definition of "principal" in NASD Rule 1021 may register as an Investment Company and Variable Contracts Products Principal, instead of registering as a General Securities Principal, if the individual's activities are limited solely to the solicitation, purchase or sale of redeemable securities of companies registered under the Investment Company Act of 1940 ("Investment Company Act"), securities of closed-end companies registered under the Investment Company Act during the period of original distribution and specified insurance contracts, such as variable contracts. A person registering as an Investment Company and Variable Contracts Products Principal must satisfy the General Securities Representative or Investment Company and Variable Contracts Products Representative prerequisite registration and pass the Investment Company and Variable Contracts Products Principal examination.

Pursuant to NASD Rule 1022(e), each associated person of a member who is included within the definition of "principal" in NASD Rule 1021 may register as a Direct

Participation Programs Principal, instead of registering as a General Securities Principal, if the individual's activities are limited solely to direct participation program securities.[60] A person registering as a Direct Participation Programs Principal must satisfy the General Securities Representative or Direct Participation Programs Representative prerequisite registration and pass the Direct Participation Programs Principal examination.

FINRA is proposing to adopt NASD Rules 1022(d) and (e) as FINRA Rules 1220(a)(11) and (a)(12), respectively, subject to the following changes. FINRA is proposing to eliminate the securities products listed under the Investment Company and Variable Contracts Products Principal registration category and instead list the products under the Investment Company and Variable Contracts Products Representative registration category. Specifically, proposed FINRA Rule 1220(a)(11) provides that a principal may register as an Investment Company and Variable Contracts Products Principal if his or her activities in the investment banking or securities business of a member are limited to the activities specified in proposed FINRA Rule 1220(b)(7). Similarly, FINRA is proposing to transfer the definition of "direct participation program" from the Direct Participation Programs Principal registration category to the Direct Participation Programs Representative registration category. Therefore, proposed FINRA Rule 1220(a)(12) provides that a principal may register as a Direct Participation

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60 For purposes of the registration rules, a direct participation program is defined as a program that provides for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution, including, but not limited to, oil and gas programs, cattle programs, condominium securities, Subchapter S corporate offerings and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof. Among other things, a real estate investment trust is excluded from the definition of a direct participation program. See NASD Rule 1022(e)(2).

Programs Principal if his or her activities in the investment banking or securities business of a member are limited to the activities specified in proposed FINRA Rule 1220(b)(8).

12. Private Securities Offerings Principal (Proposed FINRA Rule 1220(a)(13))

To provide firms with greater flexibility in designing their supervisory structure, FINRA is proposing to create a limited principal registration category under FINRA Rule 1220(a)(13) for principals whose activities are limited solely to the supervision of the private securities offerings specified in proposed FINRA Rule 1220(b)(9) (current NASD Rule 1032(h)). The proposed change is consistent with the limited registration categories for Investment Company and Variable Contracts Products Principals and Direct Participation Programs Principals. Specifically, under proposed FINRA Rule 1220(a)(13), if a principal's activities are limited solely to the supervision of the private securities activities specified in proposed FINRA Rule 1220(b)(9), the principal may register as a Private Securities Offerings Principal instead of registering as a General Securities Principal. A person registering as a Private Securities Offerings Principal must satisfy the Private Securities Offerings Representative prerequisite registration and pass the General Securities Principal examination.

13. Supervisory Analyst (Proposed FINRA Rule 1220(a)(14))

The Incorporated NYSE rules currently require that an individual who is responsible for approving research reports register as a Supervisory Analyst.[61] Such person is required to present evidence of appropriate experience (at least three years prior experience within the immediately preceding six years involving securities or financial

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61 See Incorporated NYSE Rules 344, 344.11 and 472(a)(2) and NYSE Rule Interpretations 344/03 and /04.

analysis) and pass the Supervisory Analyst qualification examination. Rather than passing the entire Supervisory Analyst qualification examination, such person may obtain a waiver from the securities analysis portion (Part II) of the Supervisory Analyst qualification examination upon verification that the person has passed Level I of the CFA examination. Incorporated NYSE Rule 472(a)(2) further provides that where a Supervisory Analyst lacks technical expertise in a particular product area that is the subject of a research report, the content in the report may be co-approved by a product specialist; if no such expertise resides within the member, the rule requires the member to arrange approval by a qualified outside Supervisory Analyst.

As noted above, pursuant to FINRA rules and existing guidance, a Supervisory Analyst is permitted to approve the content of a member's research report on equity or debt securities. A Supervisory Analyst is also permitted to approve the content of third-party research reports. However, a Research Principal must supervise the overall conduct of a Supervisory Analyst engaged in equity research.

FINRA is proposing to adopt the provisions in Incorporated NYSE Rule 344 and NYSE Rule Interpretations 344/03 and /04 regarding Supervisory Analysts as FINRA Rule 1220(a)(14) with the following changes. Consistent with existing FINRA rules and guidance, proposed FINRA Rule 1220(a)(14) provides that a principal whose activities are limited to approving the content of a member's research reports on equity or debt securities or the content of third-party research reports has the option of registering as a Supervisory Analyst instead of registering as a Research Principal or General Securities Principal, as applicable. The proposed rule clarifies that a Supervisory Analyst engaged in equity research must be supervised by a Research Principal. In addition, consistent

with FINRA Rule 2210(b)(1)(B), a Supervisory Analyst may approve (1) retail communications as described in FINRA Rule 2241(a)(11)(A); and (2) other research that does not meet the definition of a "research report" under FINRA Rule 2241, provided that the Supervisory Analyst has technical expertise in the particular product area.

Unlike the NYSE requirements, proposed FINRA Rule 1220(a)(14) does not require evidence of appropriate experience. FINRA believes that passing the Supervisory Analyst qualification examination and completing the CE requirements adequately demonstrate the level of competence and knowledge required. FINRA is also proposing to delete Incorporated NYSE Rule 472(a)(2), which requires that only Supervisory Analysts approve research reports. As described above, under FINRA rules, Supervisory Analysts are permitted to approve research reports, but they are not required to do so. For instance, a member may designate a Research Principal to approve its research reports.

14. Definition of Representative (Proposed FINRA Rule 1220(b)(1))

NASD Rule 1031(b) currently defines the term "representative" as an associated person, including an assistant officer other than a principal, who is engaged in the investment banking or securities business for the member, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions.

Incorporated NYSE Rule 10 defines the term "registered representative" as an employee of a member engaged in the solicitation or handling of accounts or orders for the purchase or sale of securities, or other similar instruments for the accounts of customers of his or her employer or in the solicitation or handling of business in

connection with investment advisory or investment management services furnished on a fee basis by his or her employer.

FINRA believes that the definition of the term "representative" in NASD Rule 1031(b) is more consistent with the functions customarily performed by a registered representative. Therefore, FINRA is proposing to adopt NASD Rule 1031(b) as FINRA Rule 1220(b)(1) with non-substantive changes.

15. General Securities Representative (Proposed FINRA Rule 1220(b)(2))

NASD Rule 1032(a)(1) currently requires that an associated person who meets the definition of "representative" under NASD Rule 1031 register as a General Securities Representative. A person registering as a General Securities Representative must pass the General Securities Representative examination.[62] The rule, however, provides that a representative is not required to register as a General Securities Representative if the person's activities are so limited as to qualify such person for one or more of the limited representative categories specified in NASD Rule 1032, such as an Investment Company and Variable Contracts Products Representative, a Direct Participation Programs Representative, an Options Representative, a Corporate Securities Representative, a Securities Trader, a Government Securities Representative, a Private Securities Offerings Representative or an Investment Banking Representative. Further, the rule does not preclude individuals registered in a limited representative category from registering as General Securities Representatives.

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62 An individual may also register as a General Securities Representative by passing a combination of other representative-level examinations.

NASD Rule 1032(a)(2) provides that if a representative does not engage in municipal securities activities, registration as a United Kingdom Securities Representative or Canada Securities Representative is equivalent to registration as a General Securities Representative. These foreign registration categories were created in the 1990s as an alternative to General Securities Representative registration for individuals who do not engage in municipal securities activities and who are in good standing as a representative with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator. To qualify for registration as a United Kingdom Securities Representative or Canada Securities Representative, an individual must pass the United Kingdom Securities Representative examination or Canada Securities Representative examinations, respectively. NASD Rule 1032(a)(2) also permits a person registered and in good standing as a representative with the Japanese securities regulators to become qualified to function as a General Securities Representative by passing the Japan Module of the General Securities Representative examination. The Japan Module, however, was never implemented.

NASD Rule 1032(a)(3) provides that an associated person registered solely as a General Securities Representative is not qualified to function as a Registered Options Representative, unless the General Securities Representative is separately qualified and registered as a Registered Options Representative.[63]

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[63] This provision was adopted in 1980 at a time when an associated person had to separately qualify and register as a Registered Options Representative. See Securities Exchange Act Release No. 16936 (June 26, 1980), 45 FR 45441 (July 3, 1980) (Order Approving Proposed Rule Change; File No. SR-NASD-80-1). In 1997, NASD Rule 1032(d) was amended to no longer require associated persons to separately qualify and register as Registered Options Representatives, but there was no corresponding change to NASD Rule 1032(a). See Securities Exchange

The Incorporated NYSE rules also require that a representative register as a General Securities Representative,[64] unless the representative's activities are so limited as to qualify him or her for one or more of the limited categories of representative registration, such as an Investment Company and Variable Contracts Products Representative or a Direct Participation Programs Representative.[65] The Incorporated NYSE rules further provide that registration as a United Kingdom Securities Representative or Canada Securities Representative is equivalent to registration as a General Securities Representative for those representatives who are not engaged in municipal securities activities.[66]

FINRA is proposing to streamline the provisions of NASD Rule 1032(a) and adopt them as FINRA Rule 1220(b)(2) with the following changes.

Similar to the proposed changes to the General Securities Principal registration category, FINRA is proposing to more clearly set forth the obligation to register as a General Securities Representative. Specifically, proposed FINRA Rule 1220(b)(2)(A) states that each representative as defined in proposed FINRA Rule 1220(b)(1) is required to register with FINRA as a General Securities Representative, subject to the following exceptions. The proposed rule provides that if a representative's activities include the functions of an Operations Professional, a Securities Trader, an Investment Banking

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Act Release No. 38969 (August 25, 1997), 62 FR 46535 (September 3, 1997) (Order Approving Proposed Rule Change; File No. SR-NASD-97-23).

64 See Incorporated NYSE Rule 345.10 and .15(2) and NYSE Rule Interpretation 345.15/02.

65 See Incorporated NYSE Rule 345.15(3) and NYSE Rule Interpretation 345.15/02.

66 See NYSE Information Memoranda 91-09 (March 1991) and 96-06 (March 1996).

Representative or a Research Analyst, then the representative must appropriately register in one or more of these categories. Proposed FINRA Rule 1220(b)(2)(A) also provides that if a representative's activities are limited solely to the functions of an Investment Company and Variable Contracts Products Representative, a Direct Participation Programs Representative or a Private Securities Offerings Representative, then the representative may appropriately register in one or more of these categories in lieu of registering as a General Securities Representative.

Further, consistent with the proposed restructuring of the representative-level examinations, proposed FINRA Rule 1220(b)(2)(B) would require that individuals registering as General Securities Representatives pass the SIE and the General Securities Representative examination.

In addition, as part of the proposed restructuring of the representative-level examinations, FINRA is proposing to eliminate the United Kingdom Securities Representative and Canada Securities Representative registration categories, and associated Series 17, Series 37 and Series 38 examinations. Instead, FINRA is proposing to adopt FINRA Rule 1220.01 to provide individuals who are associated persons of firms and hold foreign registrations an alternative, more flexible, process to obtain a FINRA representative-level registration. Based on FINRA's analysis of the relevant United Kingdom and Canadian qualification requirements, FINRA believes that there is sufficient overlap between the SIE and these foreign qualification requirements to permit them to act as exemptions to the SIE. Under proposed FINRA Rule 1220.01, individuals who are in good standing as representatives with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator would be

exempt from the requirement to pass the SIE, and thus would be required only to pass a specialized knowledge examination to register with FINRA as a representative. The proposed approach would provide individuals with a United Kingdom or Canadian qualification more flexibility to obtain a FINRA representative-level registration. For instance, an individual with the appropriate United Kingdom qualification who seeks registration as an Investment Banking Representative today would take the Series 79 examination, totaling 175 questions. Under the proposed rule change, the same individual would only take the specialized Series 79 examination, which FINRA is anticipating would have 75 questions.

FINRA is also proposing to delete the provision regarding the Japan Module of the General Securities Representative examination because it was never implemented. Further, FINRA is proposing to delete the provision restricting a General Securities Representative from functioning as a Registered Options Representative as a corresponding change to the 1997 amendment of NASD Rule 1032(d). Finally, FINRA is proposing to delete the provision that persons eligible for registration in other representative categories are not precluded from registering as General Securities Representatives because it is superfluous.

16. Operations Professional, Securities Trader, Investment Banking Representative, Research Analyst, Investment Company and Variable Contracts Products Representative, Direct Participation Programs Representative and Private Securities Offerings Representative (Proposed FINRA Rules 1220(b)(3), 1220(b)(4), 1220(b)(5), 1220(b)(6), 1220(b)(7), 1220(b)(8), 1220(b)(9) and 1220.05)

FINRA Rule 1230(b)(6) currently requires that specified persons who are engaged in, responsible for or supervising specified covered functions relating to operations

register as Operations Professionals. The specified persons are: (1) senior management with direct responsibility over the covered functions; (2) any person designated by such senior management as a supervisor, manager or other person responsible for approving or authorizing work in direct furtherance of the covered functions; and (3) persons with the authority or discretion materially to commit a firm's capital in direct furtherance of the covered functions or to commit a firm to any material contract or agreement in direct furtherance of the covered functions. Individuals registering as Operations Professionals must pass the Operations Professional examination, unless they hold an eligible registration, such as a General Securities Representative registration. In addition, FINRA Rule 1230(b)(6) includes specified time frames relating to the initial implementation of the rule and allows individuals to function as Operations Professionals for a limited period before having to pass an appropriate qualification examination. FINRA Rule 1230.06 provides that the determination of what constitutes "materially" or "material" in the third category of specified persons is based on a firm's pre-established spending guidelines and risk management policies. FINRA Rule 1230.06 also provides that any person whose activities are limited to performing a function ancillary to a covered function, or whose function is to serve a role that can be viewed as supportive of or advisory to the performance of a covered function, or who engages solely in clerical or ministerial activities in a covered function is not required to register as an Operations Professional. In addition, FINRA Rule 1230.06 provides an exception from the registration requirements for employees of a foreign broker-dealer who are engaged in specified limited activities.

Pursuant to NASD Rule 1032(f), each associated person of a member who is

included within the definition of "representative" in NASD Rule 1031 is required to register as a Securities Trader if, with respect to transactions in equity (including equity options), preferred or convertible debt securities effected otherwise than on a securities exchange, such person is engaged in proprietary trading, the execution of transactions on an agency basis or the direct supervision of such activities. The rule provides an exception from the registration requirement for any associated person of a member whose trading activities are conducted principally on behalf of an investment company that is registered with the SEC pursuant to the Investment Company Act and that controls, is controlled by, or is under common control with the member. The rule also requires that associated persons primarily responsible for the design, development or significant modification of algorithmic trading strategies (or responsible for the day-to-day supervision or direction of such activities) register as Securities Traders. Individuals registering as Securities Traders must pass the Securities Trader examination.

NASD Rule 1032(i) currently requires that each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 and engaged in specified investment banking activities, such as advising on or facilitating debt or equity securities offerings through a private placement or a public offering, register as an Investment Banking Representative. Individuals registering as Investment Banking Representatives must pass the Investment Banking Representative examination. Individuals engaged in investment banking activities relating to direct participation program securities or private securities offerings as well as individuals engaged in retail or institutional sales and trading activities are not required to register as Investment Banking Representatives. In addition, the rule provides a limited exception from the

requirements of the rule for individuals participating in a specified employee training program. NASD Rule 1032(i) also includes an opt-in provision, which allowed General Securities Representatives, Corporate Securities Representatives, United Kingdom Securities Representatives and Canada Securities Representatives who were engaged in investment banking activities covered by the rule to have opted in to the Investment Banking Representative registration category by May 3, 2010.

NASD Rule 1050 currently requires that an associated person who is primarily responsible for the preparation of the substance of a research report or whose name appears on a research report register as a Research Analyst.[67] NASD Rule 1050 provides that a person registering as a Research Analyst must satisfy the General Securities Representative prerequisite registration and pass the Research Analyst examinations. The purpose of the current prerequisite registration is to ensure that Research Analysts have general securities knowledge. There is a corresponding requirement under the Incorporated NYSE rules.[68]

Pursuant to NASD Rule 1032(b), each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as an Investment Company and Variable Contracts Products Representative, instead of registering as a General Securities Representative, if the individual's activities are limited solely to redeemable securities of companies registered under the Investment Company

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67 NASD Rule 1050 applies only to an associated person who is primarily responsible for the preparation of the substance of an equity research report or whose name appears on an equity research report. See Research Rules Frequently Asked Questions, http://www.finra.org/industry/faq-research-rules-frequently-asked-questions-faq.

68 See Incorporated NYSE Rules 344, 344.10 and 344.12 and NYSE Rule Interpretations 344/01 and /02.

Act, securities of closed-end companies registered under the Investment Company Act during the period of original distribution and specified insurance contracts, such as variable contracts. Individuals registering as Investment Company and Variable Contracts Products Representatives must pass the Investment Company and Variable Contracts Products Representative examination. Under NASD Rule 1032(c), each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as a Direct Participation Programs Representative, instead of registering as a General Securities Representative, if the individual's activities are limited solely to direct participation program securities. Individuals registering as Direct Participation Programs Representatives must pass the Direct Participation Programs Representative examination. The Incorporated NYSE rules include similar limited registration categories.[69]

Pursuant to NASD Rule 1032(h), each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as a Private Securities Offerings Representative, instead of registering as a General Securities Representative, if the individual's activities are limited solely to effecting sales of private placement securities, other than municipal, government or direct participation program securities, as part of a primary offering.[70] Individuals registering as Private Securities Offerings Representatives must pass the Private Securities Offerings Representative examination. NASD Rule 1032(h) includes a grandfathering provision that provides that any person who engaged in effecting sales of private securities offerings as an employee

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69 See Incorporated NYSE Rule 345.15(3) and NYSE Rule Interpretation 345.15/02.

70 Private Securities Offerings Representatives cannot effect resales of or secondary market transactions in private placement securities.

of a bank from May 12, 1999 to November 12, 1999, may register as a Private Securities Offerings Representative without having to pass the Private Securities Offerings Representative examination.

FINRA is proposing to adopt FINRA Rule 1230(b)(6), NASD Rule 1032(f), NASD Rule 1032(i), NASD Rule 1050, NASD Rule 1032(b), NASD Rule 1032(c) and NASD Rule 1032(h) with a few changes as FINRA Rules 1220(b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8) and (b)(9), respectively. In addition, FINRA is proposing to adopt FINRA Rule 1230.06 as FINRA Rule 1220.05 with non-substantive changes.

Specifically, consistent with the restructuring of the representative-level examinations, proposed FINRA Rules 1220(b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8) and (b)(9) would require individuals registering in the respective registration categories to pass the SIE and the applicable representative-level examination(s). With respect to Research Analysts, given that general securities knowledge would be covered on the SIE, FINRA is proposing to replace the General Securities Representative prerequisite registration requirement with the SIE. Therefore, under proposed FINRA Rule 1220(b)(6), individuals registering as Research Analysts would be required to pass the SIE and the Research Analyst examinations. Consistent with existing guidance, FINRA is also proposing to clarify that the scope of FINRA Rule 1220(b)(6) is limited to equity research reports.

As noted above, FINRA is proposing to transfer the securities products listed under the Investment Company and Variable Contracts Products Principal registration category to the Investment Company and Variable Contracts Products Representative registration category. Further, consistent with the registration provisions of Municipal

Securities Rulemaking Board ("MSRB") Rule G-3(a), proposed FINRA Rule 1220(b)(7) clarifies that Investment Company and Variable Contracts Products Representatives are permitted to engage in the solicitation, purchase or sale of municipal fund securities as defined under MSRB Rule D-12. FINRA is also proposing to eliminate the opt-in provision in current NASD Rule 1032(i) and the time frames relating to the initial implementation of the Operations Professional registration category because these periods have passed.

17. Eliminated Registration Categories (Proposed FINRA Rule 1220.06)

Pursuant to NASD Rule 1041, an associated person is not required to register as a General Securities Representative or in one or more of the limited categories of representative registration if the person's activities are so limited as to qualify such person for registration as an Order Processing Assistant Representative. An Order Processing Assistant Representative is an associated person whose only function is to accept unsolicited customer orders (other than orders for municipal securities and direct participation program securities)[71] from existing customers for submission for execution by the member. Pursuant to NASD Rule 1042, Order Processing Assistant Representatives are subject to specified restrictions regarding their activities and compensation and are subject to particular supervisory requirements. In addition, they may not be registered concurrently in any other capacity.

NASD Rule 1032(d) currently provides that each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as an Options Representative, instead of a General Securities Representative, if

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71 See NTM 89-78 (December 1989).

the individual's activities are limited solely to options, including option contracts on government securities. Individuals registering as Options Representatives must satisfy the Corporate Securities Representative or Government Securities Representative prerequisite registration and pass the Options Representative examination. The Incorporated NYSE rules require that a "Registered Options Representative," a representative who transacts business with the public in option contracts, pass the General Securities Representative qualification examination.[72]

NASD Rule 1032(e) currently provides that each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as a Corporate Securities Representative, instead of a General Securities Representative, if the individual's activities are limited solely to securities as defined under Section 3(a)(10) of the Act, other than municipal securities, options, mutual funds (except for money market funds), variable contracts and direct participation program securities. Individuals registering as Corporate Securities Representatives must pass the Corporate Securities Representative examination. NASD Rule 1032(g) provides that each associated person of a member who is included within the definition of "representative" in NASD Rule 1031 may register as a Government Securities Representative, instead of a General Securities Representative, if the individual's activities are limited solely to government securities as defined in Sections 3(a)(42)(A) through (C) of the Act. Individuals registering as Government Securities Representatives must pass the Government Securities Representative examination.

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[72] See Incorporated NYSE Rules 345.10 and 345.15(4) and NYSE Rule Interpretation 345.15/02.

Pursuant to NASD Rule 1100, associated persons registered as Foreign Associates[73] may function as registered representatives, including acting as traders or registered persons responsible for servicing the accounts of foreign nationals. However, they are exempt from the requirement to pass a qualification examination and are not subject to the Regulatory Element of CE requirements.

The Incorporated NYSE rules currently require that any person who has discretion to commit his or her employer member to any contract or agreement, written or oral, involving securities lending or borrowing activities and the direct supervisor of such person register as a Securities Lending Representative or Securities Lending Supervisor, as applicable.[74] Such individuals are also required to sign an agreement (representing a form of code of ethics) as an addendum to the Form U4. Such individuals are not required to pass a qualification examination, but they are required to complete the Regulatory Element of the CE requirements. NASD rules currently do not have a specific registration category for associated persons engaged in securities lending activities and in the direct supervision of such activities. Rather, securities lending is a

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73 To qualify for registration as a Foreign Associate, an associated person: (1) cannot be a citizen, national, or resident of the United States or any of its territories or possessions; (2) must conduct all of his or her securities activities in areas outside the jurisdiction of the United States; and (3) cannot engage in any securities activities with or for any citizen, national or resident of the United States. To register an associated person as a Foreign Associate, a member must: (1) file a Form U4 with FINRA and certify that the person meets the criteria for a Foreign Associate; (2) attest that the person is not disqualified from registration; and (3) certify that service of process for any proceeding by FINRA for such person may be sent to an address designated by the member. If the Foreign Associate is terminated, the member must notify FINRA immediately by filing a Form U5.

74 See Incorporated NYSE Rules 345(a) and .10 and NYSE Rule Interpretation 345.15/02.

covered function under the Operations Professional registration category.

FINRA is proposing to eliminate the current registration categories of Order Processing Assistant Representative, Options Representative, Corporate Securities Representative, Government Securities Representative and Foreign Associate.[75] FINRA believes that the utility of the Order Processing Assistant Representative registration category has diminished as technological advances and changes in industry practice have reduced the need for such representatives. As a result, the volume of candidates taking the Order Processing Assistant Representative examination has diminished and today less than 200 firms employ one or more Order Processing Assistant Representatives. The Options Representative, Corporate Securities Representative and Government Securities Representative registration categories were created over the years as subcategories of the General Securities Representative category. These subcategories currently allow an individual to sell a subset of the products (e.g., options, common stocks and corporate bonds, government securities) permitted to be sold by a General Securities Representative. In recent years, however, the utility of these subcategories has also diminished as a result of technological, regulatory and business practice changes. This is evidenced by the low annual volume for each of these examinations and the relatively low number of individuals who currently hold these registrations.

In addition, considering the type of interaction that Foreign Associates may have with customers, FINRA believes that such persons should demonstrate the same level of

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75 As discussed above, FINRA is also proposing to eliminate the United Kingdom Securities Representative and Canada Securities Representative registration categories.

competence and knowledge required of their counterparts in the United States. Therefore, FINRA is proposing to eliminate this registration category.

Order Processing Assistant Representatives, United Kingdom Securities Representatives, Canada Securities Representatives, Options Representatives, Corporate Securities Representatives, Government Securities Representatives and Foreign Associates would be eligible to maintain their registrations with FINRA. Specifically, proposed FINRA Rule 1220.06 provides that, subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, individuals who are registered as Order Processing Assistant Representatives, United Kingdom Securities Representatives, Canada Securities Representatives, Options Representatives, Corporate Securities Representatives or Government Securities Representatives on the effective date of the proposed rule change and individuals who had been registered in such categories within the past two years prior to the effective date of the proposed rule change would be eligible to maintain their registrations with FINRA. However, if individuals registered in these categories terminate their registration with FINRA and the registration remains terminated for two or more years, they would not be able to re-register in that category. With respect to Foreign Associates, proposed FINRA Rule 1220.06 provides that individuals registered as Foreign Associates on the effective date of the proposed rule change would also be eligible to maintain their registrations with FINRA. However, if Foreign Associates subsequently terminate their registrations with FINRA, they would not be able to re-register as Foreign Associates. Unlike the other eliminated categories, Foreign Associates would not be eligible to re-register in the same category within two years of terminating their registrations because the two-year lapse of registration

provision is only applicable to those registration categories that have an associated qualification examination. In addition, proposed FINRA Rule 1220.06 would include the current restrictions to which Order Processing Assistant Representatives are subject as well as the current conditions to which Foreign Associates are subject.

With respect to the NYSE registration categories for Securities Lending Representatives and Securities Lending Supervisors, FINRA had originally proposed to adopt these categories under a FINRA rule. However, given that securities lending activities are covered under the Operations Professional registration category, which is a more recent registration category, FINRA does not believe that it is necessary to adopt specific registration categories for individuals engaged in such activities. Moreover, FINRA is considering potential changes to the CRD system that would enable firms to identify registered persons engaged in securities lending activities through other functionalities.

18. Grandfathering Provisions

In addition to the grandfathering provisions in proposed FINRA Rule 1220(a)(2) (relating to General Securities Principals), proposed FINRA Rule 1220(a)(3) (relating to Compliance Officers) and proposed FINRA Rule 1220.06 (relating to the eliminated registration categories), FINRA is proposing to include grandfathering provisions in proposed FINRA Rules 1220(a)(5), (a)(6), (a)(8), (a)(9), (a)(13), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8) and (b)(9). Specifically, the proposed grandfathering provisions provide that, subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, individuals who are registered with FINRA in specified registration categories on the effective date of the proposed rule change and individuals who had been

registered in such categories within the past two years prior to the effective date of the proposed rule change would be qualified to register in the proposed corresponding registration categories without having to take any additional examinations.

N. Associated Persons Exempt from Registration (Proposed FINRA Rules 1230 and 1230.01)

NASD Rule 1060(a) currently provides that the following associated persons are not required to register: (1) associated persons who are not actively engaged in the investment banking or securities business; (2) associated persons whose functions are related solely and exclusively to the member's need for nominal corporate officers or for capital participation; and (3) associated persons whose functions are related solely and exclusively to: effecting transactions on the floor of a national securities exchange and who are registered as floor members with such exchange, transactions in municipal securities, transactions in commodities or transactions in security futures (provided that any such person is registered with a registered futures association). In addition, both the NASD rules and the Incorporated NYSE rules provide an exemption from registration for associated persons whose functions are solely and exclusively clerical or ministerial.[76] NASD Rule 1060(a) is not meant to provide an exclusive or exhaustive list of exemptions from registration. Associated persons may otherwise be exempt from registration based on their activities and functions.

FINRA is proposing to adopt NASD Rule 1060(a) as FINRA Rule 1230 subject to the following changes. As noted above, NASD Rule 1060(a) exempts from registration those associated persons who are not actively engaged in the investment banking or

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[76] See NASD Rule 1060(a)(1) and Incorporated NYSE Rule Interpretations 10/01 and 345(a)/01.

securities business. NASD Rule 1060(a) also exempts from registration those associated persons whose functions are related solely and exclusively to a member's need for nominal corporate officers or for capital participation.[77] FINRA believes that the determination of whether an associated person is required to register must be based on an analysis of the person's activities and functions in the context of the various registration categories. FINRA does not believe that categorical exemptions for associated persons who are not "actively engaged" in a member's investment banking or securities business, associated persons whose functions are related only to a member's need for nominal corporate officers or associated persons whose functions are related only to a member's need for capital participation is consistent with this analytical framework. FINRA therefore is proposing to delete these exemptions. NASD Rule 1060(a) further exempts from registration associated persons whose functions are related solely and exclusively to effecting transactions on the floor of a national securities exchange as long as they are registered as floor members with such exchange. Because exchanges have registration categories other than the floor member category, proposed FINRA Rule 1230 clarifies that the exemption applies to associated persons solely and exclusively effecting transactions on the floor of a national securities exchange, provided they are appropriately registered with such exchange.

In NTM 87-47 (July 1987), FINRA stated that unregistered administrative personnel may occasionally receive an unsolicited customer order at a time when appropriately qualified representatives or principals are unavailable. FINRA believes that

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77 These exemptions generally apply to associated persons who are corporate officers of a member in name only to meet specific corporate legal obligations or who only provide capital for a member, but have no other role in a member's business.

to accept customer orders a person must be appropriately registered. Accordingly, FINRA is proposing to rescind the guidance provided in NTM 87-47 and instead adopt FINRA Rule 1230.01 to clarify that the function of accepting customer orders is not considered a clerical or ministerial function and that associated persons who accept customer orders under any circumstances are required to be appropriately registered. However, the proposed rule provides that an unregistered administrative person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the administrative person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

O. Changes to CE Requirements (Proposed FINRA Rule 1240)

As described above, FINRA Rule 1250 includes a Regulatory Element and a Firm Element. The Regulatory Element applies to registered persons and consists of periodic computer-based training on regulatory, compliance, ethical, supervisory subjects and sales practice standards. The Firm Element consists of at least annual, member-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member. FINRA is proposing to renumber FINRA Rule 1250 as FINRA Rule 1240 with the changes discussed below.

1. Regulatory Element

FINRA is proposing to replace the term "registered person" under current FINRA Rule 1250(a) with the term "covered person" and make conforming changes to proposed FINRA Rule 1240(a). For purposes of the Regulatory Element, FINRA is proposing to define the term "covered person" under FINRA Rule 1240(a) as any person, other than a

Foreign Associate, registered pursuant to proposed FINRA Rule 1210, including any person who is permissively registered pursuant to proposed FINRA Rule 1210.02, and any person who is designated as eligible for an FSA waiver pursuant to proposed FINRA Rule 1210.09. The purpose of this change is to ensure that all registered persons, including those with permissive registrations, keep their knowledge of the securities industry current. The inclusion of persons designated as eligible for an FSA waiver under the term "covered persons" corresponds to the requirements of proposed FINRA Rule 1210.09. In addition, consistent with proposed FINRA Rule 1210.09, proposed FINRA Rule 1240(a) provides that an FSA-eligible person would be subject to a Regulatory Element program that correlates to his or her most recent registration category, and CE would be based on the same cycle had the individual remained registered. The proposed rule also provides that if an FSA-eligible person fails to complete the Regulatory Element during the prescribed time frames, he or she would lose FSA eligibility.

Further, FINRA is proposing to codify existing FINRA guidance regarding the impact of failing to complete the Regulatory Element on a registered person's activities and compensation.[78] Specifically, proposed FINRA Rule 1240(a)(2) provides that any person whose registration has been deemed inactive under the rule may not accept or solicit business or receive any compensation for the purchase or sale of securities. The proposed rule provides, however, that such person may receive trail or residual commissions resulting from transactions completed before the inactive status, unless the

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78 See, e.g., NTM 95-35 (May 1995).

member with which the person is associated has a policy prohibiting such trail or residual commissions.

2. Firm Element

Current FINRA Rule 1250(b)(2)(B) provides that with respect to Research Analysts and their immediate supervisors, the minimum standards for the Firm Element training programs must cover training in ethics, professional responsibility and the requirements of FINRA Rule 2241.[79] FINRA believes that training in ethics and professional responsibility should apply to all covered registered persons. Moreover, FINRA Rule 1250(a)(2)(A) currently requires that a member maintain a CE program that enhances a covered registered person's professionalism. Therefore, proposed FINRA Rule 1240(b)(2)(B) requires that a firm's training program cover training in ethics and professional responsibility. FINRA is also proposing to eliminate the specific requirement that Research Analysts receive training regarding FINRA Rule 2241. FINRA believes that this requirement is already addressed under current FINRA Rule 1250(b)(2)(B), which provides that the Firm Element training programs must cover applicable regulatory requirements.

P. Deletion of Incorporated NYSE Rules

FINRA is proposing to delete the following Incorporated NYSE rules as they are substantially similar to the proposed consolidated registration rules, otherwise incorporated as described above, rendered obsolete by the proposed approach reflected in the consolidated registration rules, or addressed by other rules:

- Incorporated NYSE Rule 10 (definition of "registered representative");

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79 See FINRA Rule 1250(b)(2)(B)(iv).

- Incorporated NYSE Rule Interpretations 10/01 and 345(a)/01 (clerical and ministerial exemption from registration);
- Incorporated NYSE Rule Interpretation 311(b)(5)/01 (qualification requirements for principal executives);
- Incorporated NYSE Rule Interpretations 311(b)(5)/02 and /03 (relating to the designation and registration of a CFO and a COO);
- Incorporated NYSE Rule Interpretation 311(g)/01 (requirement that members carrying customer accounts have at least two general partners);[80]
- Incorporated NYSE Rule 321.15 (registration of specified employees of a foreign subsidiary);
- Incorporated NYSE Rule 344 and its Interpretation (Research Analyst and Supervisory Analyst registration categories);
- Incorporated NYSE Rules 345(a), 345.10, 345.15(2) through 345.15(4) and NYSE Rule Interpretation 345.15/02 (representative categories);[81]
- Incorporated NYSE Rules 345.12, 345.13, 345.17 and 345.18 and NYSE Rule Interpretations 345.12/01 and 345.18/01 (Forms U4 and U5 filing requirements);

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80 This is a conforming change. The corresponding rule incorporated from the NYSE, Incorporated NYSE Rule 311(h), was deleted as part of a prior proposed rule change. See Securities Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (Order Approving Proposed Rule Change; File No. SR-FINRA-2008-036).

81 FINRA is also proposing to delete the NYSE registration requirements relating to commodities solicitors (Incorporated NYSE Rule 345.15(5) (Commodities Solicitors)) and floor members and floor clerks (Incorporated NYSE Rule Interpretation 345.15/02) as these activities are not within the scope of the proposed FINRA registration rules.

- Incorporated NYSE Rule 345.15(1)(a) (examination requirement);
- Incorporated NYSE Rule 345.15(1)(b) and NYSE Rule Interpretation 345.15/01 (examination waivers);
- Incorporated NYSE Rule Interpretation 345(a)/02 (independent contractor status);[82]
- Incorporated NYSE Rule Interpretation 345(a)/03 (status of persons serving in the Armed Forces);
- Incorporated NYSE Rule Interpretation 345(b) (provisions regarding officers);[83]
- Incorporated NYSE Rule 345.16 (requirement to provide information regarding members' employees); and
- Incorporated NYSE Rule 472(a)(2) (requiring research reports to be approved by a Supervisory Analyst).

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later

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82 Incorporated NYSE Rule Interpretation 345(a)/02 provides that an independent contractor is deemed an employee of a member for purposes of the NYSE rules and requires that the member comply with specified requirements when entering into an arrangement with any person asserting independent contractor status, including a requirement that the independent contractor execute a "consent to jurisdiction" form. The status of independent contractors as associated persons of a member under FINRA rules is well settled. See, e.g., Letter from Douglas Scarff, Director, Division of Market Regulation, SEC, to Gordon S. Macklin, President, NASD (June 18, 1982).

83 This is a conforming change. The corresponding NYSE rule, NYSE Rule 345(b), was deleted as part of a prior proposed rule change. See Securities Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (Order Approving Proposed Rule Change; File No. SR-FINRA-2008-036).

than 90 days following Commission approval. The effective date will be no later than 18 months 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,[84] 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, and Section 15A(g)(3) of the Act,[85] which authorizes FINRA to prescribe standards of training, experience and competence for persons associated with FINRA members.

FINRA believes that the proposed rule change will streamline, and bring consistency and uniformity to, the registration rules, which will, in turn, assist members and their associated persons in complying with these rules and improve regulatory efficiency. The proposed rule change will also improve the efficiency of the examination program, without compromising the qualification standards, by eliminating duplicative testing of general securities knowledge on examinations and by removing examinations that currently have limited utility.

In addition, the proposed rule change will expand the scope of permissive registrations, which, among other things, will allow members to develop a depth of associated persons with registrations to respond to unanticipated personnel changes and will encourage greater regulatory understanding. Further, the proposed rule change will

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84 15 U.S.C. 78o-3(b)(6).

85 15 U.S.C. 78o-3(g)(3).

provide a more streamlined and effective waiver process for individuals working for a financial services industry affiliate of a member, and it will require such individuals to maintain specified levels of competence and knowledge while working in areas ancillary to the investment banking and securities business.

The proposed rule change will improve the supervisory structure of firms by imposing an experience requirement for representatives that are designated by firms to function as principals for a 120-day period before having to pass an appropriate principal qualification examination. The proposed rule change will also prohibit unregistered persons from accepting customer orders under any circumstances, which will enhance investor protection.

Finally, FINRA believes that, with the introduction of the SIE and expansion of the pool of individuals who are eligible to take the SIE, the proposed rule change has the potential of enhancing the pool of prospective securities industry professionals by introducing them to securities laws, rules and regulations and appropriate conduct before they join the industry in a registered capacity.

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.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to further analyze the need for the proposed rulemaking, the regulatory objective of the

rulemaking, the economic baseline of analysis, the economic impacts and the alternatives considered.

1. Need for the Rules

The Act authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has adopted registration requirements and developed qualification examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge consistent with the applicable registration requirements.

As part of the process of developing the Consolidated FINRA Rulebook, FINRA undertook a review of the NASD registration rules and the Incorporated NYSE rules relating to registration to streamline and update the rules and eliminate duplicative, obsolete or superfluous provisions. The proposed consolidated registration rules are the result of that process.

FINRA also reviewed its representative-level examination program and determined to enhance the overall efficiency of the program by eliminating redundancy of subject matter content across examinations, retiring several outdated representative-level registrations and introducing a general knowledge examination that could be taken by all potential representative-level registrants and the general public.

2. Regulatory Objectives

The proposed rule change would create a more effective and efficient qualification and registration process, without impacting the proficiency required to function as a representative or principal or reducing investor protection. In addition, the

proposed rule change has the potential of enhancing the pool of prospective securities industry professionals by familiarizing them with securities laws, rules and regulations and appropriate conduct at an earlier stage of career development.

3. Economic Baseline

The baseline for the economic impact assessment is the current structure of the registration rules and the examination program. As of October 2016, there were approximately 500,000 individuals holding representative level registrations and approximately 140,000 individuals holding principal level registrations (approximately 640,000 individuals total).[86]

The NASD rules relating to qualification and registration are a complex framework, which can result in compliance and operational challenges for firms. Moreover, dual members of FINRA and the NYSE are required to comply with the NASD rules and the Incorporated NYSE rules. As set forth in Regulatory Notice 09-70, the NASD and Incorporated NYSE rules include differences regarding the respective qualification and registration requirements, which create further compliance and operational challenges for dual members.

The qualification examination program sets basic standards of competency for persons associated with FINRA members, and fosters compliance with FINRA rules through required examinations and continuing education. The examinations collectively cover a broad range of subjects on the markets, the securities industry and its regulatory structure. The content includes knowledge of FINRA rules as well as the rules of the

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86 The numbers provided in this economic impact assessment are rounded to reasonable approximations for ease of reference.

SEC and other SROs.

FINRA notes that in 2015, there were more than 90,000 exam candidates in 16 representative-level examinations. The Series 6, 7 and 79 examinations were the three examinations with the highest volume in terms of candidates, constituting more than 90% of the total candidate volume. The examinations that are proposed to be eliminated (Series 11, 17, 37, 38, 42, 62 and 72) constitute less than 1% of the total candidate volume in 2015.

There is considerable overlap in the general securities knowledge content of the current representative-level examinations, which results in duplicative testing of such content for individuals who are required to pass multiple examinations.

In addition, individuals generally must be associated with a member to be eligible to take a qualification examination, which, among other things, hinders the development of a pool of prospective securities industry professionals. In the absence of the proposed rule change, firms, associated persons and other impacted persons would continue to be subject to the complexities, challenges and inefficiencies of the current structure.

4. Economic Impacts

FINRA notes that the proposed rule change includes a variety of changes, some of which may have a more significant impact. The following analysis will focus on those changes that are anticipated to have a material impact.

A. Minimum Number of Registered Principals (Proposed FINRA Rule 1210.01)

The proposed rule provides firms with greater flexibility to satisfy the two-principal requirement, as members can choose a principal registration category that better matches with the scope of the member's activities. For example, if a firm's activities are

focused solely on investment banking, it may choose to have two Investment Banking Principals, instead of two General Securities Principals. This flexibility should benefit members that specialize in a single security or market or otherwise engage in more limited activities.

B. Permissive Registrations (Proposed FINRA Rule 1210.02)

The proposed rule expands the scope of permissive registrations by allowing any associated person to obtain and maintain any registration permitted by the member. The proposed rule is expected to facilitate movement of registered personnel within and across firms and help firms better manage unanticipated needs for registered personnel by allowing them to maintain a roster of permissively registered persons available to meet those needs. The ability to permissively register associated persons may benefit such individuals and their firms by creating savings in examination fees, examination preparation time and time spent in the examination centers.

However, members that choose to permissively register associated persons would incur the cost of complying with the requirements of the proposed rule, including the cost of establishing adequate supervisory systems and procedures reasonably designed to ensure that such individuals do not act outside the scope of their assigned functions. FINRA believes that the proposed requirements are necessary to protect against the potential misuse of permissive registrations and any attendant costs are only borne at the discretion of the firm.

C. Qualification Examinations and Waivers of Examinations (Proposed FINRA Rule 1210.03)

The proposed rule adopts a restructured representative-level qualification examination program whereby representative-level registrants would be required to take a

general knowledge examination (the SIE) and a specialized knowledge examination. As noted above, FINRA is currently conducting a pricing analysis to determine a reasonable fee for the SIE and the specialized knowledge examinations. FINRA will file a separate proposed rule change to establish the fees for the SIE and the specialized knowledge examinations, which will include a pricing analysis. The focus of the economic impact assessment in this proposed rule change, therefore, is on the anticipated number of future candidates and the total number of examination questions that they would be required to answer as a proxy for the effort required to complete a qualification examination.

As described in greater detail below, while some individuals would see an increase in examination questions, FINRA is anticipating that more than half of the individuals seeking a representative-level registration would see a reduction in the number of examination questions.

Under the proposed rule, individuals seeking representative-level registrations must prepare and sit for the SIE and a separate specialized knowledge examination instead of prepare and sit for a single examination that covers both general and specialized knowledge of the securities industry as currently required. Some of these individuals would experience a net decrease in their total number of examination questions, and some would experience a net increase.

Specifically, individuals seeking the General Securities Representative, Investment Banking Representative or Research Analyst registration would experience a net decrease in their total number of examination questions under the proposal.[87] This

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87 Individuals seeking registration as Research Analysts will experience a net decrease in the number of questions because such individuals would no longer be required to first register as General Securities Representatives.

accounts for approximately 54% of individuals seeking registration for the first time or after a lapse in registration of four or more years.[88] Individuals seeking registration in other limited representative categories, including the Investment Company and Variable Contracts Products Representative, Direct Participation Programs Representative, Private Securities Offerings Representative or Operations Professional category, would experience a net increase in their total number of examination questions under the proposed rule. This accounts for approximately 44% of individuals seeking registration for the first time or after a lapse in registration of four or more years. In 2015, approximately 75,000 individuals took at least one of the 16 representative-level examinations. Approximately 8% of these candidates took two or more distinct examinations that would be replaced by the SIE and the corresponding qualification examinations (e.g., Series 6, 7 and 79).[89] These individuals would experience a net decrease in their total number of examination questions under the proposed rule.

Further, candidates who were registered as representatives two or more years, but less than four years, prior to reapplying for registration would experience a net decrease in their total number of examination questions if they re-registered because they would be considered to have passed the SIE or their SIE result would still be valid. Similarly, current registrants seeking an additional or alternative representative registration category would also experience a net decrease in their total number of examination questions

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88 The reported percentages are calculated from estimated volumes based on five-year averages for all examinations except the Operations Professional examination (Series 99). Volumes for the Series 99 examination are based on three-year averages because the Series 99 examination was implemented more recently than the other examinations.

89 This data is based on a three-year review period (2012-2015).

because they would have already satisfied the SIE requirement, so they only have to take the appropriate specialized knowledge examination. These groups represent a relatively small percentage of individuals seeking registrations.[90]

The cost of developing and implementing the new examination structure, including the development and maintenance of a management system to track SIE results, would primarily fall upon FINRA. Any individual, including the general public and investors, could take a general knowledge examination thereby enhancing the pool of prospective representatives. FINRA does not have estimates on the number of individuals who are not associated persons, or are associated persons who are not required to register, who would take the SIE. However, FINRA anticipates that the participation of these individuals would defray the cost of the program to some extent.

Currently, individuals generally must be associated with a member to be eligible to take FINRA qualification exams. The new examination structure would permit the general public to take the SIE, enabling prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to a job application. Further, individuals can use the SIE to assess their readiness to enter the securities industry.

FINRA understands that currently some firms cover the examination fees for their representative-level registrants. Under the proposed rule, firms may choose to incur the cost of both the SIE and specialized knowledge examinations for their representative-level registrants. Alternatively, firms may require potential registrants to pass the SIE before they can be considered for a position, in which case the SIE fee may be incurred

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[90] These groups do not include Order Processing Assistant Representatives because they would not be considered to have passed the SIE.

by the individual and the associated impact may be a shifting of some of the costs associated with qualification from the firm to the individual.

The proposed rule continues to ensure that registered persons attain and maintain specified levels of competence and knowledge and, thus, it will continue to support investor protection. Moreover, FINRA expects the introduction of the SIE, which would reduce the complexity of the examination program and reduce content overlap, to increase the efficiency of the examination program and potentially create savings for members.

D. Registered Persons Functioning as Principals for a Limited Period (Proposed FINRA Rule 1210.04)

The proposed rule requires that a representative designated by a member to function as a principal for a limited period before having to pass a principal-level examination have at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation. FINRA believes that the proposed condition is necessary to ensure that such representatives have an appropriate level of registered representative experience. However, the proposed rule extends the limited period that such representatives may function as principals before having to pass the applicable principal examination from 90 calendar days to 120 calendar days. The proposed rule also allows an individual registered as a principal to function in another principal category for 120 calendar days before having to pass the applicable principal examination for that category, without having to satisfy the proposed experience requirement for representatives.

E. Lapse of Registration and Expiration of SIE (Proposed FINRA Rule 1210.08)

The proposed rule maintains a two-year lapse of registration period, but establishes a four-year expiration period for the SIE. Therefore, candidates who were registered as representatives two or more years, but less than four years, prior to reapplying for registration would only be required to take an appropriate specialized knowledge examination, and not the SIE. FINRA believes that establishing a four-year expiration period for the SIE will reduce the overall cost of registration, such as the SIE examination fee and test preparation costs, for individuals returning to the industry after two years, but less than four years, from the date of their last registration because they would not be required to retake the SIE.

F. Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member (Proposed FINRA Rule 1210.09)

The proposed rule provides a waiver program for individuals registered with a member who move to a financial services industry affiliate of a member, subject to specified conditions. The proposed rule waives the requalification requirements upon reassociation with a member, and thus may reduce the costs associated with requalification. Approximately half of the persons who gained a registration in 2015 held the same registration previously. Based on FINRA's experience with the examination waiver program, FINRA believes that a small percentage of these individuals had to terminate their registration(s) to work for a financial services industry affiliate of a member. These individuals and the firms with which they would associate would realize savings of the costs associated with examinations. However, there are costs associated

with maintaining eligibility for the waiver, such as the cost of satisfying the Regulatory Element of CE.

G. Compliance Officer (Proposed FINRA Rule 1220(a)(3))

The proposed rule allows the CCO of a member that is engaged in limited investment banking or securities business to register in a principal category that corresponds to the limited scope of the member's business. Similar to the proposed change to the two-principal requirement, the proposed rule has the potential to benefit members that engage in more limited activities, by providing flexibility in choosing a principal registration category that is tailored to the scope of the firm's business.

H. Principal Financial Officer and Principal Operations Officer (Proposed FINRA Rule 1220(a)(4))

Under the proposed rule, members would be required to designate a Principal Financial Officer and a Principal Operations Officer. FINRA believes that the proposed rule would have a minimal impact on dual members of FINRA and the NYSE because they are currently required to designate a CFO and a COO under the Incorporated NYSE rules, which are analogous to a Principal Financial Officer and a Principal Operations Officer. Members that are not dual members are currently required to only designate a CFO, which is analogous to a Principal Financial Officer. There are approximately 4,000 members, 3,800 of which are not dual members of FINRA and the NYSE. The proposed rule requires members that are not dual members of FINRA and the NYSE to designate a Principal Operations Officer in addition to a Principal Financial Officer. Accordingly, such members would bear the cost of identifying and designating an associated person as Principal Operations Officer, including the potential costs associated with the qualification and registration of such a person (i.e., a Principal Operations Officer must

be qualified and registered as a Financial and Operations Principals or an Introducing Broker-Dealer Financial and Operations Principals, as applicable). However, the proposed rule allows members that neither self-clear nor provide clearing services to designate the same person as the Principal Financial Officer and Principal Operations Officer. In addition, a clearing or self-clearing member that is limited in size and resources could request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer.

I. Research Principal (Proposed FINRA Rule 1220(a)(6))

Currently, an individual who seeks registration as a Research Principal would take three examinations, the Series 7, 24 and 87, totaling 450 questions, or the Series 7, 16 and 24, totaling 500 questions. Under the proposed rule, an individual who seeks registration in the same category would take either two or four examinations, the Series 16 and 24, totaling 250 questions, or the SIE, the Series 24, 86 and 87, totaling 375 questions. Therefore, while some individuals registering as Research Principals may be required to take an additional examination, all individuals seeking the Research Principal registration would experience a net decrease in their total number of examination questions under the proposed rule.

J. Eliminated Registration Categories (Proposed FINRA Rule 1220.06)

As discussed above, FINRA is proposing to eliminate the current registration categories of Order Processing Assistant Representative, United Kingdom Securities Representative, Canada Securities Representative, Options Representative, Corporate Securities Representative and Government Securities Representative. FINRA believes that the utility of these examinations has diminished based on changes to the industry, as

evidenced by the low annual volume for each of these examinations and the relatively low number of individuals who currently hold these registrations. For example, in 2015, the volume of candidates for each of the examinations associated with these registration categories was as follows: Series 11 (100); Series 17 (20); Series 37 (50); Series 38 (20); Series 42 (2); Series 62 (300); and Series 72 (20). In addition, FINRA is proposing to eliminate the Foreign Associate registration category. There are approximately 500 Foreign Associates currently registered in the CRD system, which is less than 1% of the total number of registered persons.

While FINRA is proposing to eliminate these registration categories going forward, individuals registered in these categories would be eligible to maintain their registrations with FINRA, thus reducing the impact on them. Specifically, the proposed rule provides that individuals who are registered as Order Processing Assistant Representatives, United Kingdom Securities Representatives, Canada Securities Representatives, Options Representatives, Corporate Securities Representatives or Government Securities Representatives on the effective date of the proposed rule change and individuals who had been registered in such categories within the past two years prior to the effective date of the proposed rule change would be eligible to maintain their registrations with FINRA. However, if individuals registered in these categories terminate their registration with FINRA and the registration remains terminated for two or more years, they would not be able to re-register in that category. Individuals registered as Foreign Associates on the effective date of the proposed rule change would also be eligible to maintain their registrations with FINRA, provided that if they

subsequently terminate their registrations with FINRA, they would not be able to re-register as Foreign Associates.

K. Registration Requirements for Associated Persons Who Accept Customer Orders (Proposed FINRA Rule 1230.01)

The proposed rule rescinds existing guidance regarding the ability of unregistered persons to, on occasion and when a registered person is unavailable, accept an unsolicited customer order that is manually submitted. Moreover, the proposed rule prohibits unregistered persons from accepting customer orders under any circumstances. The proposed rule would impact firms that currently rely on unregistered persons to accept unsolicited manual orders from customers when a registered person is unavailable, unregistered persons who accept the orders and customers who place such orders with unregistered persons. Under the proposed rule, only appropriately registered persons can accept customer orders. Therefore, firms that accept unsolicited manual orders from customers must have appropriately registered persons available to accept such orders. If an appropriately registered person is unavailable to accept a customer order that is manually submitted, the proposed rule would allow an unregistered person to transcribe the order details, provided that an appropriately registered person subsequently contacts the customer to confirm the order details before entering the order. FINRA does not have data on how many firms, or how often firms, permit unregistered persons to accept unsolicited manual orders from customers based on the existing guidance. However, FINRA believes that investor protection concerns outweigh any additional burden on such firms.

Alternatives Considered

The following are the most significant alternatives that were suggested by

commenters or that FINRA considered on its own accord. Commenters also suggested other alternatives, which are discussed in Item II.C. below.

FINRA originally considered whether individuals with permissive registrations should be subject to a subset of FINRA rules. FINRA determined to adopt an alternative approach that is principles-based and provides firms the flexibility to tailor their supervisory systems to their business models. Under the revised approach, individuals maintaining a permissive registration would be considered registered persons and subject to all FINRA rules, but only to the extent relevant to their activities.

In addition, FINRA considered whether individuals who only maintain permissive registrations should be counted for purposes of a firm's number of registered persons. Currently, individuals who are permissively registered are counted for such purposes. FINRA determined that it is appropriate to continue to count such individuals for purposes of calculating the number of registered persons and assessing associated fees given that FINRA incurs costs for oversight and examinations relating to all registered persons.

FINRA originally considered whether to create an "active" and "inactive" registration status in the CRD system to distinguish between required and permissive registrations, and it determined not to do so. Rather, all individuals registered in the CRD system would be considered registered persons. Further, as noted above, FINRA will consider changes to the CRD system to require firms to identify whether a registered person is maintaining only a permissive registration, and it will consider changes to BrokerCheck to disclose the significance of such permissive registration.

FINRA also considered alternative models for restructuring the examinations and found the proposed approach to be the most efficient for achieving the goals of the proposal, including the elimination of duplicative testing of general securities knowledge. For instance, among other models, FINRA considered retaining the current Series 7 examination and revising the existing limited qualification examinations in addition to creating the SIE. FINRA also considered retaining the current limited qualification examinations and revising the existing Series 7 examination in addition to creating the SIE. Under both of these alternatives, an individual would be subject to duplicative testing of general securities knowledge if the individual registers in a limited category and later decides to register as a General Securities Representative.

FINRA considered whether individuals who are not associated persons of firms should be allowed to take the SIE. FINRA determined that allowing individuals who are not associated persons of firms to take the SIE would enhance the pool of prospective securities industry professionals. FINRA also established appropriate safeguards that are intended to discourage such individuals from misrepresenting their qualifications to the public. Specifically, FINRA would require that such individuals attest that they are not qualified to engage in the investment banking or securities business based on passing the SIE and that they will not make any misrepresentations to the public as to their qualifications. In addition, if FINRA determines that non-associated persons cheated on the SIE or that they misrepresented their qualifications to the public subsequent to passing the SIE, they may forfeit their SIE results and may be prohibited from retaking the SIE. Further, if FINRA discovers that non-associated persons who have passed the

SIE have subsequently engaged in other types of misconduct, FINRA will refer the matter to the appropriate authorities or regulators.

FINRA considered alternatives to the proposed experience requirement for representatives that are designated by firms to function as principals for a 120-day period before having to pass an appropriate principal qualification examination. FINRA determined to allow firms to designate a principal to function in another principal category for 120 calendar days before passing any applicable examinations, without having to satisfy the proposed experience requirement for representatives.

Further, FINRA considered alternatives to the two-year period for lapse of registration and the four-year expiration period for the SIE. FINRA determined that based on the content of the SIE, a passing result on the SIE would be valid for four years. With respect to the representative- and principal-level registrations, FINRA determined that the registrations would continue to be subject to a two-year expiration period. However, FINRA will explore the possibility of extending the two-year expiration period through the use of more frequent CE.

With respect to the FSA waiver program, FINRA originally considered a proposal whereby individuals could maintain their registrations in an RA status, subject to complex tracking and tolling provisions. FINRA determined that the proposed FSA waiver program would significantly reduce the operational, administrative and cost burden on members, associated persons and FINRA, as compared to the original proposal.

FINRA originally considered adopting a Compliance Officer qualification examination for CCOs and other individuals registering as Compliance Officers.

However, FINRA determined not to adopt a separate qualification examination pending its evaluation of the structure of the principal-level examinations.

FINRA also considered whether to retain some of the registration categories that it initially proposed to eliminate, including the registration categories of United Kingdom Securities Representative, Canada Securities Representative, Options Representative, Corporate Securities Representative and Foreign Associate. As described above, the overall utility of these registration categories has diminished over the years, which is why FINRA proposes to eliminate them.

Finally, FINRA considered whether to revise the proposal regarding associated persons who accept customer orders to clarify its application to situations where an appropriately registered person is unavailable. FINRA determined to revise the proposal to clarify that an unregistered administrative person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the administrative person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

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

Comments Relating to Consolidated Registration Rules

In December 2009, FINRA published Regulatory Notice 09-70, seeking comment on the proposed consolidated registration rules.[91] FINRA received 22 comment letters in response to the Notice, which are discussed below. A copy of the Notice is attached as Exhibit 2a. A list of the comment letters received in response to the Notice is attached as

[91] Some of the proposed changes discussed in this filing were not part of the proposals set forth in Regulatory Notice 09-70, including the proposed FSA waiver program.

Exhibit 2b.[92] Copies of the comment letters received in response to the Notice are attached as Exhibit 2c.

1. Permissive Registrations (Proposed FINRA Rule 1210.02)

A. General Comments

GWFS Equities appreciated the proposed provisions regarding permissive registrations, but stated that the costs associated with implementing the provisions, including tracking the status of individuals in an RA status, outweighed the benefits. FSI was concerned that the proposed requirements may result in the deregistration of individuals who are currently permissively registered. Nationwide was concerned with the feasibility of the RA status and the potential administrative and cost burdens. Nationwide also stated that the proposal would prevent some individuals from registering in an RA status because of the potential burdens.

As discussed above, FINRA has replaced the RA proposal with the FSA waiver program, which would significantly reduce the operational, administrative and cost burden on firms and associated persons. Further, the proposed rule change would not require firms to maintain permissive registrations. Rather, it provides firms the flexibility to do so, subject to specified conditions. Each firm is free to determine whether to maintain any permissive registrations.

B. Tolling and Forfeiture Provisions Relating to RA status

Several commenters stated that the tolling and forfeiture provisions for individuals in an RA status were too complicated and burdensome.[93] ICI and USAA requested

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92 All references to commenters are to the comment letters as listed in Exhibit 2b.

93 GWFS Equities, T. Rowe, ICI, ARM, FSI, USAA, Nationwide, NSCP, SIFMA and IMS-2.

exceptions from the RA conditions for specified persons. T. Rowe, ARM and CAI asked that the time limitation for remaining in an RA status be eliminated. NSCP stated that the time limitation was arbitrary. In addition, SIFMA suggested that individuals in an RA status be permitted to restart a fresh time limit if they satisfied specified conditions. In light of these and other comments, FINRA has replaced the RA proposal with the FSA waiver program.

C. Other Comments Relating to Permissive Registrations

AEC requested that individuals who only maintain permissive registrations not be counted for purposes of a firm's approved number of representatives. AEC also suggested that FINRA place time limits on permissive registrations. Currently, individuals who are permissively registered are counted for purposes of calculating the number of registered persons and assessing associated fees. FINRA believes that it is appropriate to continue to do so given that FINRA incurs costs for oversight and examinations relating to all registered persons. FINRA does not believe that individuals with a permissive registration should be subject to a time limitation because they would be subject to supervision by a member as described in the proposed rule change.

T. Rowe requested that FINRA create an "active" category for all required registrations and a "retained" category for all permissive registrations. T. Rowe added that "retained" persons should be deemed associated persons, but subject only to a subset of FINRA rules. ARM similarly requested that FINRA create an "active" category for all required registrations and a "permissive" category for all permissive registrations. Edward Jones stated that there was no regulatory distinction between an active and inactive status and that the proposal should not create such a distinction. NSCP requested

additional clarification regarding the inactive status and the provisions applicable to individuals who would maintain a permissive registration. T. Rowe and ARM stated that the term "inactive" should not be used because it may be confused with the term "CE inactive."

FINRA has eliminated the distinction between an active and inactive status. Rather, all individuals registered in the CRD system would be considered registered persons. As noted above, FINRA will consider changes to the CRD system to require firms to identify whether a registered person is maintaining only a permissive registration, and it will consider changes to BrokerCheck to disclose the significance of such permissive registration.

Under the proposed rule change, any associated person of a member is eligible to obtain and maintain any registration permitted by the member. For instance, an associated person of a member working solely in a clerical or ministerial capacity, such as in an administrative capacity, could maintain a representative-level registration. Further, an associated person of a member who is registered, and functioning solely, as a representative could obtain and maintain a permissive principal-level registration with the member. In addition, the proposed rule change allows an individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of a member to obtain and maintain any registration permitted by the member.

Individuals maintaining a permissive registration under the proposed rule change would be considered registered persons and subject to all FINRA rules, but only to the extent relevant to their activities. For instance, FINRA rules that relate to interactions with customers would have no practical application to the conduct of a permissively

registered individual who does not have any customer contact. However, members would be required to have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions. FINRA had originally proposed that individuals with permissive registrations be subject to a subset of FINRA rules. FINRA believes that the revised approach, which is principle-based, provides firms the flexibility to tailor their supervisory systems to their business models.

SIFMA requested that the proposal more clearly define the different categories of required and permissive registrations, including the Compliance Officer registration category. FINRA had originally proposed to allow individuals registering as Compliance Officers, other than CCOs, a choice between an active or inactive status, subject to specified conditions. Under the revised proposal, there is no longer a distinction between an active and inactive status. CCOs would be required to register as Compliance Officers or in a more limited principal category as specified in proposed FINRA Rule 1220(a)(3), and other associated persons would be allowed to permissively register as Compliance Officers.

Nationwide requested additional clarification regarding the supervision of individuals who maintain solely permissive registrations. Nationwide also noted that for purposes of compliance with FINRA Rule 3110(a)(5), the proposal should allow for risk-based supervision reasonably designed to ensure compliance, such as the use of periodic questionnaires and certifications to satisfy supervisory obligations.

A firm's supervisory procedures must be reasonably designed to achieve compliance with the requirements of the proposed rule change. FINRA does not believe

that it is necessary to discuss whether any particular methodology, such as risk-based supervision, satisfies the requirements of the proposed rule change. Moreover, with respect to an individual who solely maintains a permissive registration, such individual's day-to-day supervisor may be a non-registered person. Though, for purposes of compliance with FINRA Rule 3110(a)(5), members would be required to assign a registered supervisor who would be responsible for periodically contacting such individual's day-to-day supervisor to verify that the individual is not acting outside the scope of his or her assigned functions. If such individual is permissively registered as a representative, the registered supervisor must be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor must be registered as a principal. However, in either case, the registered supervisor of an individual who solely maintain a permissive registration would not be required to be registered in the same registration category as the permissively-registered individual.

Cornell asked whether individuals who solely maintain permissive registrations would be able to contact customers because they would be considered registered persons for purposes of FINRA rules. Individuals who contact existing or prospective customers would have to be authorized to do so by a member and maintain a required registration, unless otherwise permitted under FINRA rules. For purposes of contacting existing or prospective customers, individuals who solely maintain permissive registrations would be subject to the same limitations as unregistered persons.

SIFMA stated that assigning a registered supervisor to each individual in an RA status for purposes of FINRA Rule 3110(a)(5) would not be practical or effective in all

cases. SIFMA suggested that the proposal be revised to require the assignment of a registered supervisor responsible for implementing a system of policies, procedures and controls reasonably designed to ensure that individuals in an RA status do not engage in activities that require registration. Alternatively, SIFMA suggested that the proposal be revised to require that individuals in an RA status be subject to the member's overall supervisory system, including written procedures designed to address compliance with the rules applicable to them and the requirement that they act within the limits of their status. GWFS Equities noted that maintaining registrations for individuals in an RA status while they are working for affiliated investment advisers could present potential conflicts between broker-dealer and advisory activities for firms that are not dually registered.

As noted above, FINRA has replaced the RA proposal with the FSA waiver program, which would not require firms to assign a registered supervisor to individuals working for a financial services industry affiliate of a member. However, the proposed rule change would allow a member to permissively register an individual working for a foreign securities affiliate or subsidiary of the member, as currently permitted. If a member chooses to maintain such a permissive registration, it would be required to assign a registered supervisor to such permissively registered individuals, as described above.

Nationwide asked that the proposal be amended to expressly allow a firm to determine the scope of its bona fide business purpose. Cornell requested that FINRA define the term "bona fide business purpose." ACI stated that the term "bona fide business purpose" may be applied inconsistently across firms and that FINRA should recognize this when considering enforcement. FINRA had originally proposed to permit

the registration of associated persons engaged in a bona fide business purpose of a member. The revised proposal would allow any associated person to obtain and maintain any registration permitted by the member. FINRA believes that associated persons by definition are engaged in a bona fide business purpose of a member.

Edward Jones and SIFMA requested that a person who was registered within the past two years prior to the effective date of the proposal be eligible for permissive registration. Nothing in the proposed rule change would preclude a member from applying to register such a person once the proposed rule change becomes effective.

Edward Jones stated that individuals who had been registered two or more years, but less than four years, prior to the effective date of the proposal be eligible for permissive registration. FSI stated that individuals who had been registered two or more years, but less than five years, prior to the effective date of the proposal be eligible for permissive registration, subject to satisfying their CE requirements. Individuals who have been out of the brokerage industry for two or more years prior to the effective date of the proposed rule change would be eligible for permissive registration, provided that they pass the requisite qualification examination or obtain a waiver upon re-registration. Moreover, individuals who had been registered as representatives two or more years, but less than four years, prior to the effective date of the proposed rule change would be considered to have passed the SIE and designated as such in the CRD system.

SIFMA and ABA stated that Section 3(a)(4) of the Act allows a nominal one-time referral fee to bank employees that are not associated persons. In addition, they noted that Rule 701 of SEC Regulation R allows more than the one-time referral fee to bank employees that are not registered for the referral of high net worth individuals or

institutional customers. SIFMA and ABA requested that the proposal clarify that individuals in an RA status are not associated persons and not registered for purposes of these provisions. IMS asked whether the RA status should be limited to persons working at affiliates of a member. ABA requested that the proposal allow a member to maintain registrations for persons who work for an unaffiliated bank with which the member has contractually entered into a networking arrangement.

As discussed above, FINRA has replaced the RA proposal with the FSA waiver program. Under the revised proposal, an FSA-eligible person who is working for a financial services industry affiliate of a member would not be considered an associated or registered person.

NASAA stated that the proposal did not articulate a sound regulatory basis for expanding permissive registrations and that the current restrictions regarding the "parking" of registrations should stay in place. NASAA also stated that the waiver process was more appropriate to achieve the goals of the proposal, rather than an expansion of permissive registrations. NASAA further stated that the proposal did not comply with the Act's provision that requires FINRA to prescribe standards of training, experience and competence for associated persons of members. In addition, NASAA stated that CE cannot be a substitute for qualification examinations because CE is not tailored to address the eventual function of permissively registered individuals at the member. NASAA noted that, at the very least, the proposal should include enhancements to existing CE requirements. IMS asked whether it was necessary to revise the current requirements applicable to permissively registered persons.

FINRA believes that there is a sound regulatory purpose for permitting permissive registrations for several reasons. First, the proposed rule change would in effect allow firms to maintain an individual's registration in a standby status in the event the firm has a foreseeable need to move the individual to a position that requires registration, without having to go through the registration process each time the individual moves between a firm's business units. FINRA believes that this would simplify compliance with registration requirements. Second, the proposed rule change would allow associated persons to gain greater regulatory literacy, which would, in turn, enhance a firm's culture of compliance. Third, the proposed rule change would eliminate a regulatory inconsistency in the current rules, which permit some associated persons of a member to maintain permissive registrations, but not others who equally are engaged in the member's business. For instance, an individual working in a firm's internal audit department may be permissively registered, whereas an individual working in the Corporate Secretary's office of a firm is currently not permitted to do so.

The proposed rule change has other regulatory benefits. While all registered persons are subject to firm supervision under the current rules, the rules do not explicitly address the obligations of firms to supervise permissively registered persons, including individuals who are working in a non-registered capacity at the firm or who are working for a foreign securities affiliate or subsidiary of the firm. In conjunction with the expansion of permissive registrations, the proposed rule change expressly sets forth the obligation of firms to supervise permissively registered persons and specifies the manner in which firms must supervise such individuals, which will, in turn, improve regulatory

compliance. Further, by replacing the RA proposal with the FSA waiver program, FINRA has limited the scope of permissive registrations.

FINRA believes that the proposed rule change satisfies its obligation under the Act to prescribe standards of training, experience and competence for the following reasons. Foremost, individuals who maintain solely permissive registrations are subject to the same qualification examinations as individuals who are required to register. As such, the proposed rule change would not substitute CE requirements for qualification examinations; rather, CE remains a supplement to the examinations. Also, similar to individuals who are required to register, members would be required to conduct background investigations pursuant to FINRA Rule 3110(e) on individuals who maintain solely permissive registrations to establish, among other things, their qualifications and experience. Moreover, such individuals are equally subject to supervision by a member, including the requirement to participate in an annual compliance meeting. Further, as discussed above, such individuals would be subject to the Regulatory Element of the CE requirements. The required Regulatory Element would correspond to their registration status.[94]

Several commenters requested more details regarding the notification and tracking process for individuals with permissive registrations.[95] Edward Jones stated that the affirmative notification requirements of the proposal were too complicated and that the

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94 The Regulatory Element of CE includes the following four programs: the S106 (for Investment Company and Variable Contracts Representatives), the S201 (for registered principals and supervisors), the S901 (for Operations Professionals) and the S101 (for all other registered persons). FINRA recently enhanced the S101 program by including personalized content that covers retail sales, institutional sales, trading, operations and investment banking and research.

95 T. Rowe, ARM, Edward Jones, NSCP, Cornell, SIFMA and CAI.

proposal should allow firms to maintain the required information regarding the status of such individuals and make it available upon request during the course of examinations. CAI asked whether the CRD system would be updated to track permissive registrations. CAI also requested that FINRA provide sufficient time for the implementation of the proposal. SIFMA requested that the CRD system and BrokerCheck be modified to accommodate and disclose permissive registrations. NSCP stated that the current CRD system would not be able to handle the workload, and it asked that the notification process be further developed before the proposal is filed with the SEC. ARM requested that FINRA make the necessary system changes to accommodate the proposed tracking requirements.

The original proposal included a complex notification and tracking process that required firms to indicate to FINRA whether a registered person had an active or inactive status and whenever that status changed. FINRA has revised the proposal and simplified the overall process. Under the proposed rule change, all individuals who are registering with FINRA would go through the same process: there would be no distinction between an individual with a required registration and an individual with a permissive registration for purposes of the registration process. However, as noted above, FINRA will consider changes to the CRD system to require firms to identify whether a registered person is maintaining only a permissive registration, and it will consider changes to BrokerCheck to disclose the significance of such permissive registration to the general public. Moreover, FINRA will consider the need for firms to make procedural and systems changes in establishing an implementation date for the proposed rule change.

Nationwide asked whether FINRA intends to assert jurisdiction for purposes of examining individuals in an RA status. CAI stated that FINRA's oversight of and authority over individuals who solely maintain permissive registrations should be limited to activities that directly involve the securities activities of the member. Individuals would not be permitted to register in an RA status under the revised proposal. Further, individuals who solely maintain a permissive registration under the proposed rule change would be subject to FINRA's jurisdiction by virtue of their status as associated persons.

NSCP noted that the definition of "financial services industry" for purposes of the RA status appeared to be broad enough to encompass the range of activities in which financial service providers are engaged, but suggested that the definition be broadened to facilitate the inclusion of other regulatory bodies, such as the Consumer Financial Protection Bureau. NSCP suggested that this could be achieved by FINRA having the authority to recognize a particular entity or type of entity as being in the financial services industry for purposes of the proposal, without the need to go through future rulemaking. As noted above, while FINRA has replaced the RA proposal with the proposed FSA waiver program, the definition of the term "financial services industry affiliate" is similar to the definition under the RA proposal. Further, FINRA believes that the proposed definition is sufficiently broad and should not be revised in a manner that may extend the definition beyond financial services.

2. Requirements for Registered Persons Functioning as Principals for a Limited Period (Proposed FINRA Rule 1210.04)

GWFS Equities, ARM and NSCP were concerned that the proposed experience requirement is an additional prerequisite requirement for registration as a principal. Proposed FINRA Rule 1210.04 does not impose an experience requirement for those

persons designated to function as principals after passing an appropriate principal qualification examination. Rather, it creates an experience requirement for those representatives that are designated by firms to function as principals for a 120-day period before having to pass an appropriate principal qualification examination. Thus, the experience requirement is narrow in scope.

T. Rowe stated that requiring an individual to satisfy all applicable prerequisites to be eligible to be designated as a principal under the proposal was unwarranted. T. Rowe was also concerned with the proposed experience requirement. NASD Rule 1021(d)(2) currently provides that persons not currently associated with a member as representatives are allowed to be designated as principals for 90 days prior to passing the applicable principal examination, but only after all applicable prerequisites have been fulfilled. Proposed FINRA Rule 1210.04 simply clarifies that any person that is to be designated as principal for the proposed limited period must fulfill all applicable prerequisite registration, fee and examination requirements, such as passing the General Securities Representative examination, prior to his or her designation as a principal. In addition, the experience requirement is intended to ensure that a registered representative functioning as a principal for the 120-day time period before having to pass a principal examination has an appropriate level of experience to carry out such functions.

ARM asked whether the experience requirement applies to all principal designations or only those that have a prerequisite representative registration requirement. The experience requirement applies to all principal designations, including those without a prerequisite representative registration requirement (e.g., Financial and Operations Principal). FINRA has revised the proposed rule to clarify this point.

FSI stated that small firms may find it difficult to find an experienced representative and that small firms should be provided a limited size and resources exception. FINRA does not believe the experience requirement, which is only applicable in limited situations, imposes any undue burden on small firms. Moreover, as noted above, the requirement is intended to ensure that the representative has an appropriate level of experience to carry out the assigned principal functions. However, in light of the comment, FINRA has revised the proposed rule to allow firms to designate a principal to function in another principal category for 120 calendar days before passing any applicable examinations, without having to satisfy the proposed experience requirement.

3. Waiting Periods for Retaking a Failed Examination (Proposed FINRA Rule 1210.06)

FSI asked whether the 180-day waiting period was triggered upon three successive examination failures within 30 calendar days of each other or three successive examination failures in any given period. In response, FINRA has revised the proposed rule to provide that the 180-day waiting period is triggered upon three successive examination failures within a two-year period.

4. Compliance Officer (Proposed FINRA Rule 1220(a)(3))

NSCP sought additional clarification regarding the Compliance Officer registration requirement and whether individuals could be permissively registered as Compliance Officers. Proposed FINRA Rule 1220(a)(3) would only require that CCOs register as Compliance Officers or in a more limited principal category as specified in the rule. However, consistent with proposed FINRA Rule 1210.02 relating to permissive registrations, a firm may allow other associated persons to register as Compliance Officers.

GWFS Equities stated that the requirement that CCOs pass the General Securities Principal qualification examination even if a firm's activities are limited to mutual funds and variable contracts seems unwarranted. As noted above, FINRA has revised the proposed rule to permit the CCO of a member that is engaged in limited investment banking or securities business to have a more limited principal-level qualification.

NSCP asked whether the Compliance Officer registration category would be a principal-level category. The Compliance Officer registration category would be a principal-level category.

FINRA had originally proposed to permit firms to designate Compliance Officers who are permissively registered in an active status, provided they were engaged in compliance activities. FSI asked whether such Compliance Officers were required to forego their active status if they moved to another department within the firm. As discussed above, FINRA has eliminated the proposed active and inactive status.

ARM, Pershing and SIFMA suggested that the proposal did not adequately explain whether the current NYSE Compliance Official category would be eliminated. The Incorporated NYSE rules relating to the Compliance Official registration requirement (former Incorporated NYSE Rule 342.13(b) and NYSE Rule Interpretation 342(a)(b)/02) were deleted as part of the proposed changes to the supervision rules. Subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, individuals registered as Compliance Officials in the CRD system on the effective date of the proposed rule change and individuals who were registered as such within two years prior to the effective date of the proposed rule change, would be qualified to register as Compliance Officers without having to take any additional examinations. FINRA

understands that the NYSE will separately determine how to address the current Compliance Official requirement under its rules.

NSCP suggested that registration as a Corporate Securities Representative or Private Securities Offerings Representative should also be acceptable to satisfy the prerequisite representative-level registration for Compliance Officers. CAI suggested that registration as an Investment Company and Variable Contracts Products Representative should also be acceptable to satisfy the prerequisite representative-level registration for Compliance Officers of firms that are engaged solely in activities relating to investment company and variable contracts products. FINRA is proposing to eliminate the Corporate Securities Representative registration category. However, as discussed above, FINRA has revised proposed FINRA Rule 1220(a)(3) to allow the CCO of a member that is limited in the scope of its activities to have a more limited principal-level qualification, which would include a more limited representative-level prerequisite registration.

CAI also asked whether a CCO who has been grandfathered as a Compliance Officer under the proposal could maintain that registration if the CCO changed firms. CCOs who are grandfathered as Compliance Officers under the proposed rule change would not lose those registrations, unless their registrations lapse under proposed FINRA Rule 1210.08.

ACI suggested that the Compliance Officer grandfathering provision should allow for the grandfathering of unemployed compliance officers. For purposes of grandfathering and subject to the lapse of registration provisions in proposed FINRA Rule 1210.08, the proposed rule change would only recognize individuals who are

registered in the CRD system on the effective date of the proposed rule change and individuals who were registered within two years prior to the effective date of the proposed rule change. FINRA would evaluate the status of other former compliance personnel on a case-by-case basis through the waiver process.

5. Principal Financial Officer and Principal Operations Officer (Proposed FINRA Rule 1220(a)(4)(B))

Pershing asserted that larger clearing firms may need to designate multiple Principal Financial Officers and Principal Operations Officers, and it asked whether the proposed rule would allow multiple designations. In addition, Pershing asked whether the proposed rule would allow the Principal Financial Officer or Principal Operations Officer to delegate the day-to-day duties to other principals at the firm, such as a General Securities Principal or a Financial and Operations Principal. A member may designate multiple Principal Operations Officers, provided that the member precisely defines and documents the areas of primary responsibility and makes specific provision for which of the officers has primary responsibility in areas that can reasonably be expected to overlap. A member, however, may not designate multiple Principal Financial Officers, given the importance of having one principal who is responsible for the financial statements as a whole. The Principal Financial Officer and Principal Operations Officer may delegate the day-to-day duties to other principals at the firm with the understanding that ultimate responsibility for the function rests with the Principal Financial Officer and Principal Operations Officer.

CAI stated that the Principal Operations Officer requirement should be limited to persons who are responsible for handling or processing customer funds or securities. CAI also stated that an officer responsible only for administrative and technical matters

should not be subject to the requirement. FINRA believes that the proposed rule clearly articulates the functions that must be assigned to a Principal Operations Officer.

T. Rowe stated that a firm's Principal Operations Officer should register as a General Securities Principal. FINRA continues to believe that the Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal, as applicable, is the more appropriate registration for a person designated as a Principal Operations Officer. FINRA notes that a Principal Financial Officer and a Principal Operations Officer would also be subject to the Operations Professional registration requirement.

IMS requested that the proposed rule exempt non-custodial clearing firms operating pursuant to SEA Rule 15a-6 from the requirement that clearing and self-clearing firms designate separate persons to function as Principal Financial Officer and Principal Operations Officer. The proposed rule provides that a clearing or self-clearing firm that is limited in size and resources may request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer. Consistent with the proposed rule, FINRA believes that it is more appropriate to consider waiver requests by firms on a case-by-case basis, rather than including a blanket exception in the proposed rule.

6. Elimination of Foreign Associate Registration Category (Proposed FINRA Rule 1220.06)

ARM and Konig stated that the Foreign Associate registration category should be retained. FINRA had originally proposed to eliminate this registration category and to require that persons registered as Foreign Associates in the CRD system qualify and register in an appropriate registration category, such as the General Securities

Representative category, within one year of the effective date of the proposed rule change. FINRA continues to believe that the category should be eliminated and that such persons should demonstrate the same level of competence and knowledge required of their counterparts in the United States. However, as described above, FINRA has revised the proposal to permit Foreign Associates registered with FINRA on the effective date of the proposed rule change to maintain their registrations with FINRA. FINRA believes that the revised proposal reduces the impact on current Foreign Associates. As an alternative, Konig requested that examinations be made available in foreign languages. Konig also incorrectly stated that Foreign Associates are exempt from the requirements of U.S. securities laws and should continue to be exempt from such requirements. As explained above, a Foreign Associate is considered a registered representative and subject to all the requirements to which registered representatives are subject, with the exception of the requirement to pass a qualification examination and comply with the Regulatory Element of the CE requirements. In addition, FINRA does not believe that it is practical to develop examinations in foreign languages. However, consistent with current policy, an examination candidate for whom English is a second language may request up to 60 minutes of additional examination time depending on the time allotted for taking the examination.

7. Associated Persons Exempt from Registration (Proposed FINRA Rules 1230 and 1230.01)

The original proposal in Regulatory Notice 09-70 provided that the function of accepting customer orders is not considered a clerical or ministerial function and that associated persons who accept customer orders under any circumstances are required to be appropriately registered. This is a rescission of the guidance provided in NTM 87-47.

NSCP stated that the existing guidance should remain intact. ACI believes that rescinding the guidance could cause significant disruption to firms' operations and that it requires further consideration. FINRA continues to believe that associated persons who accept customer orders under any circumstances should be appropriately registered and continues to propose the rescission of the guidance provided in NTM 87-47. However, FINRA has revised the proposal to clarify that an unregistered administrative person is not accepting a customer order where occasionally, when an appropriately registered person is unavailable, the administrative person transcribes the order details and the registered person contacts the customer to confirm the order details before entering the order.

8. Miscellaneous Comments

Dresdner stated that the proposal should allow a member to maintain registrations of associated persons specifically required by an exchange even after the member has terminated its exchange membership. The proposed rule change would allow such members to maintain those registrations that are also recognized by FINRA as acceptable registrations (e.g., General Securities Sales Supervisor). FINRA is not in a position to opine on the status of registrations that are not recognized by FINRA upon a member's termination of its exchange membership.

IMS requested that there be examination reciprocity between the SROs. Some examinations (e.g., the General Securities Sales Supervisor examinations) are recognized by most SROs. FINRA believes that it is more appropriate to evaluate examinations that are specific to an exchange on a case-by-case basis through the waiver process.

IMS also suggested that FINRA consider alternatives to the current lapse of registration period. For instance, IMS recommended that the two-year period be extended by a year for each three years that a person is registered. IMS further recommended that the two-year period should be replaced with a CE requirement similar to other professions (e.g., attorneys and certified public accountants). As described above, FINRA is proposing that a passing result on the SIE be valid for four years, while the representative- and principal-level registrations would continue to be subject to a two-year expiration period. However, FINRA is considering the possibility of extending the two-year expiration period through the use of more frequent CE.

ARM was concerned that some NYSE supervisory registrations, such as the Compliance Official registration, held by individuals associated with a member that is not a dual member of FINRA and the NYSE may not be recognized by the CRD system for grandfathering purposes. As discussed above, FINRA prefers to evaluate the status of a person who would not be recognized for grandfathering purposes on a case-by-case basis through the waiver process. ARM also asked whether the waiver guidelines for the analytical portion of the Research Analyst qualification examination (Series 86) would continue to be applicable. FINRA is not proposing any changes to the current provisions for obtaining a waiver from the analytical portion of the Research Analyst qualification examination.

T. Rowe. asked whether its officers who have the authority to execute agreements with its clearing firm, including margin arrangements, and who also have the authority to allow specified securities lending and borrowing activities would be subject to the proposed registration requirements for Securities Lending Representatives and Securities

Lending Supervisors. As noted above, FINRA is no longer proposing to adopt these registration categories. However, the individuals identified by T. Rowe may be required to register as Operations Professionals if they are functioning as Operations Professionals as set forth in proposed FINRA Rule 1220(b)(3).

The proposed rule change codifies existing guidance in NTM 99-49 regarding active management of a member's business. NSCP noted that the NTM included other relevant guidance and asked whether the other guidance would remain in effect. FINRA emphasizes that existing guidance and interpretations regarding registration requirements would continue to apply to the extent that they are not inconsistent with the proposed rules.

Further, NSCP asked that the proposal provide minimum requirements for personnel background investigations. In 2015, FINRA adopted FINRA Rule 3110(e), which sets forth the minimum requirements for background checks. NSCP also asked whether the proposal would impact referral fees. An associated person must be appropriately registered to be eligible to receive transaction-based compensation. Moreover, proposed FINRA Rule 1220.06 would expressly prohibit the payment of specific transaction-based compensation to Order Processing Assistant Representatives. In addition, NSCP requested further guidance regarding the supervision of unregistered persons. Unregistered persons engaged in a member's investment banking or securities business are considered associated persons. FINRA rules and Notices provide extensive guidance regarding supervisory requirements, including the supervision of associated persons that are not registered.

Comments Relating to Examination Restructuring

In May 2015, FINRA published Regulatory Notice 15-20, seeking comment on a proposal to restructure the representative-level qualification examinations. FINRA received 20 comment letters in response to the Notice, which are discussed below. A copy of the Notice is attached as Exhibit 2d. A list of the comment letters received in response to the Notice is attached as Exhibit 2e.[96] Copies of the comment letters received in response to the Notice are attached as Exhibit 2f.

A. Requirement and Eligibility to Take the SIE and Specialized Knowledge Examinations

The majority of commenters supported creating the SIE and specialized knowledge examinations and streamlining the registration categories and associated qualification examinations as specified in the proposal.[97] SUI similarly supported the proposal, but it questioned the elimination of the Options Representative and Canadian Securities Representative registration categories as well as the associated examinations. Eder was likewise supportive of the proposal, but suggested that FINRA also eliminate the Direct Participation Programs Representative, Securities Trader, Investment Banking Representative, Private Securities Offerings Representative, Research Analyst and Operations Professional registration categories as well as the associated examinations, and instead require individuals performing these functions to register as General Securities Representatives by taking the specialized Series 7 examination.

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96 All references to commenters are to the comment letters as listed in Exhibit 2e.

97 Monahan & Roth, Tessera, Arrow Investments, SIFMA, XT Capital, ICI, CFA, Edward Jones, FSI, PFS, Wells Fargo and ARM. Tessera, Arrow Investments and XT Capital also supported the other comments made by Monahan & Roth. Further, Wells Fargo and ARM supported the other comments made by SIFMA.

Lincoln Financial and CAI supported the overall goals of the proposal, including eliminating the registration categories and qualification examinations specified in the proposal, but they questioned whether requiring individuals registering with FINRA as new representatives to take the SIE and a specialized knowledge examination would be the most efficient way of achieving the proposal's goals. Lincoln Financial noted that FINRA may be able to achieve its goals by revising only the current limited representative-level examinations, such as the Series 55, Series 79, Series 86 and Series 87, and Series 99, rather than revising all the current representative-level examinations. Lincoln Financial suggested that, as an alternative, individuals who take more limited examinations today, such as the current Series 6 or Series 99 examination, should not be required to take the SIE. CAI is concerned that requiring a General Securities Representative or an Investment Company and Variable Contracts Products Representative to take the SIE and a specialized knowledge examination could impose additional burdens that may not necessarily achieve the regulatory objectives of the proposal.

FINRA considered a variety of models for restructuring the examinations and found the proposed approach to be the most effective method in achieving the main goals of the proposal, which are to eliminate duplicative testing of general securities knowledge on examinations, provide prospective securities industry professionals the ability to demonstrate fundamental securities knowledge and to do so in an equitable and uniform manner. For instance, if FINRA were to exclude the General Securities Representative registration category from the scope of the proposal, an individual who registers in a limited registration category, by passing the SIE and a specialized knowledge

examination, would be subject to duplicative testing of general securities knowledge if he or she later decides to register as a General Securities Representative. Similarly, if FINRA were to remove the limited registration categories from the scope of the proposal, an individual who registers in a limited category and later decides to register as a General Securities Representative would be subject to duplicative testing of general securities knowledge by having to pass the SIE and the specialized Series 7 examination.

In addition, the majority of commenters were generally supportive of allowing associated persons who will not be performing a registered representative job function as well as individuals who are not associated persons of firms to take the SIE.[98] ICI stated that FINRA should take steps to ensure that individuals who are permitted, but not required, to take the SIE do not make any misstatements to the public regarding their qualifications based on passing the SIE. ICI added that FINRA should clarify, either through an affirmation on the examination application or a new rule, that individuals who are not associated persons of firms are prohibited from holding themselves out to the public as having passed the SIE. In this regard, ICI also suggested that FINRA determine how to address any potential misconduct by individuals who are not associated persons of firms. FSI and Lincoln Financial similarly requested that FINRA address the potential risks of allowing individuals who are not associated persons of firms to take the SIE.

Monahan & Roth opposed allowing individuals who are not associated persons of firms to take the SIE because the proposed SIE Rules of Conduct do not address restrictions on the manner in which an individual who has passed the examination might hold himself or herself out to the public and because there is no supervisory system to

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98 Eder, SIFMA, ICI, CFA, Edward Jones, FSI, Lincoln Financial, DCI, CAI, PFS, Wells Fargo, SUI and ARM.

monitor non-compliance by such individuals. Monahan & Roth also stated that allowing such individuals to take the SIE may result in investor confusion and potential misrepresentations to the public. Monahan & Roth requested that FINRA address whether the status of such individuals would be reflected in BrokerCheck and specify the restrictions on the availability of information on them.

FINRA believes that allowing individuals who are not associated persons of firms to take the SIE will enhance the pool of prospective securities industry professionals by, among other things, familiarizing them with securities regulation and appropriate conduct at an early stage of career development. The SIE Rules of Conduct would require individuals, including non-associated persons, to attest that they are not qualified to engage in the investment banking or securities business based on passing the SIE and that they will not make any misrepresentations to the public as to their qualifications. Further, FINRA will engage in a communications campaign to ensure that the public, including retail investors, are well-informed of the SIE and its limitations. In addition, if FINRA determines that non-associated persons cheated on the SIE or that they misrepresented their qualifications to the public subsequent to passing the SIE, they may forfeit their SIE results and may be prohibited from retaking the SIE. Also, if FINRA discovers that non-associated persons who have passed the SIE have subsequently engaged in other types of misconduct, FINRA will refer the matter to the appropriate authorities or regulators.

BrokerCheck would not publicly reflect the status of individuals who have only taken the SIE, including individuals who are not associated persons, because passing the SIE alone does not qualify them for registration with FINRA via the CRD system. With respect to the availability of information on individuals who have only taken the SIE,

access to this information would be limited. A firm would be able to view the passing status of an associated person who is not registering as a representative and an individual seeking to associate with the firm using an interface within the CRD system. A firm would also be able to obtain SIE results for an individual if the firm submits a Form U4 and requests a registration for that individual. In addition, FINRA and other SROs that recognize the SIE would be able to obtain an individual's SIE results.

IMS agreed that individuals should not have to be associated with a FINRA member to take the SIE, but it disagreed with the rest of the proposal. IMS stated that professional proficiency can be maintained through the use of mandatory CE requirements and that an individual's qualification status should not expire so long as the individual completes his or her CE, regardless of whether the individual remains in the industry.

FINRA is considering the possibility of whether more frequent CE could be used to ensure that individuals who leave the industry for a limited period maintain specified levels of competence and knowledge to carry out their job functions upon returning to the industry.

N.I.S. opposed the proposal altogether. It stated, among other things, that its representatives are currently required to pass the Uniform State Law Examination (Series 63) and Series 6 examination, which provide them with the necessary knowledge to perform their functions, and that requiring its new representatives to also take the SIE would be time consuming and costly.

B. Scope and Content of the SIE and Specialized Knowledge Examinations

Monahan & Roth suggested that FINRA add the following topics to the SIE outline: (1) overview of other financial industry participants, such as advisers and portfolio managers; (2) requirements relating to communications with the public, including categories of communications and electronic communications; (3) discussion of confidentiality and privacy; and (4) restrictions relating to borrowing from or lending to customers. In addition, Monahan & Roth stated that content on the SIE outline related to customer accounts, such as account types, should be moved to a specialized knowledge examination relating to general sales because many firms do not open customer accounts.

The purpose of the SIE is to establish that an individual has fundamental securities-related knowledge, including knowledge of the applicable laws, rules and regulations. Further, the SIE would likely be limited to 75 scored questions established through the use of testing industry standards in consultation with a committee of industry and SRO representatives. While knowledge of other financial industry participants has general educational value, FINRA does not believe that testing such knowledge is relevant to the purpose and scope of the SIE. FINRA expects that the SIE would cover the topic of communications with the public, confidentiality and privacy of consumer information and restrictions on borrowing from or lending to customers. FINRA does not believe that SIE content relating to customer accounts should be removed. The content relating to customer accounts is essential to understanding the different types of customers in the securities industry, such as retail and institutional customers, and a firm's related obligations.

SIFMA considered the content of the SIE outline to cover fundamental securities industry knowledge. However, SIFMA noted that an individual taking the SIE should

not be expected to have detailed knowledge of the rules listed in the outline, such as the SEC's net capital rule (SEA Rule 15c3-1), but rather be expected to have a general awareness of such rules. FSI and ARM had similar comments. Eder was concerned that the listing of broad rules and rule sets in the SIE outline, such as SEA Rule 15c3-1 and the MSRB rules, would be confusing to individuals preparing for the SIE and stated that FINRA should provide more direction on the scope of the covered topics. CFA considered the content of the SIE outline to be common knowledge. However, it recommended that FINRA add content on quantitative concepts (such as time value of money), how best to serve client investment needs, and risk management.

In general, SIE content relating to professional conduct, characteristics of products and economic factors would be tested in more detail, whereas other content, such as the net capital rule, would be tested at a high level. FINRA believes that an understanding of quantitative concepts is more appropriate for individuals taking a specialized knowledge examination, such as the specialized Series 79 or specialized Series 86 examination. With respect to knowledge of client investment needs, the SIE would cover suitability requirements at a high level. In addition, FINRA believes that the concept of risk management is better suited for a representative- or principal-level examination.

Lincoln Financial did not consider many of the topics covered in the SIE outline to be common knowledge to some representatives, including representatives that do not work at a full-service broker-dealer. It asked that FINRA develop an outline that focuses on higher level topics common to all broker-dealers. DCI was concerned that the SIE covers complex content, such as options and municipal securities, that most

representatives need not master today. SUI noted that the SIE outline does not cover Exchange-Traded Notes or derivatives in general (other than options). SIFMA and ARM asked that FINRA solicit comment on the content of the proposed specialized knowledge examinations through a Regulatory Notice. PFS noted that the number of questions on the SIE should be reduced and determined by testing industry standards.

FINRA is developing the SIE with input from a committee that includes representatives from a broad spectrum of small, mid-sized and large firms. Based on the committee's feedback as well as the comments received from the other commenters, FINRA believes that the SIE content, including general coverage of options and municipal securities, represents broad-based knowledge of the securities industry. The SIE content would cover Exchange-Traded Notes. However, the content on derivatives would be limited to a general knowledge of options, which is the most common derivative. Consistent with testing industry standards, the specialized knowledge examinations would be developed with input from committees of industry representatives who have expertise on the covered subject matters based on their day-to-day roles, responsibilities and job functions. Further, consistent with FINRA's practice regarding examination-related filings, the specialized knowledge examinations would be filed with the SEC for immediate effectiveness. FINRA determined the number of questions on the SIE, which likely will be 75 questions, based on testing industry standards for establishing test reliability.

C. Expiration Period of the SIE and Specialized Knowledge Examinations

Eder and CFA agreed with the proposed four-year expiration period for the SIE. CAI stated that a four-year or longer period may be appropriate if the SIE will test

fundamental concepts, but if the content of the SIE is more likely to change or be updated a shorter period, such as three years, may be appropriate. SUI stated that four years is a reasonable length of time and that five years should be the absolute maximum period. SIFMA and Wells Fargo suggested that the SIE period be extended to five years. They also requested that the expiration period for the specialized knowledge examinations, which is two years as proposed, be aligned with the SIE and extended to five years. SIFMA noted that if FINRA extends the time period to five years, individuals who are not associated with a member during the five-year period could satisfy a CE requirement to maintain their proficiency. ARM requested that FINRA consider a six-year period for the SIE and a five-year period for the specialized knowledge examinations.

Based on the content covered on the SIE, FINRA continues to believe that a passing result on the SIE should be valid for four years. In addition, FINRA believes that the specialized knowledge examinations should be subject to a two-year expiration period similar to the current examinations. However, as noted above, FINRA is considering the possibility of extending the two-year expiration period through the use of more frequent CE.

D. Elimination of Registration Categories and Associated Examinations

SUI recommended that FINRA maintain the Options Representative registration category and develop a specialized knowledge examination for individuals advising the public on options trading, similar to the Canadian model. SUI also stated that FINRA should retain the Canadian Securities Representative registration categories and the associated examinations so that individuals have an understanding of the different legal frameworks in which they operate. Alternatively, SUI asked that if FINRA grandfathers

existing Canadian Securities Representatives, FINRA should allow individuals who terminate their registrations a period of four or five years to re-register as Canadian Securities Representatives. Further, DCI stated that its business is limited to activities in which a Corporate Securities Representative may engage, and it is concerned that the proposed elimination of the Corporate Securities Representative registration category and associated Series 62 examination might dissuade prospective representatives from joining the firm if they have to take a more comprehensive examination, such as the specialized Series 7 examination.

The overall utility of the Options Representative and Corporate Securities Representative registration categories has diminished over the years, which is why FINRA is proposing to eliminate them. For instance, fewer than five individuals registered as Options Representatives in 2014. FINRA believes that the Canadian Securities Representative registration categories should be eliminated and replaced with an alternative qualification process. Under the proposed rule change, an individual qualified in Canada would be exempt from taking the SIE and would be able to register in any registration category by taking and passing only the applicable specialized knowledge examination(s). FINRA believes that this alternative approach would provide individuals qualified in Canada more flexibility to obtain a FINRA representative-level registration. Further, as noted above, FINRA is considering the possibility of extending the current two-year expiration period for registrations.

Eder suggested that FINRA only retain the Investment Company and Variable Contracts Products Representative and General Securities Representative registration categories. FINRA disagrees and notes that the limited registration categories that

FINRA is proposing to retain continue to have a regulatory purpose. For instance, the Equity Trader registration category, the predecessor to the Securities Trader category, was created for individuals engaged in securities trading activities over-the-counter or on Nasdaq with the view that better training and qualification of such individuals was necessary. The Research Analyst registration category was created for associated persons engaged in research activities in conjunction with FINRA's research analyst rule, FINRA Rule 2241, addressing conflicts of interest.

E. Principal-Level Examinations and Other Qualification Examinations

Several commenters asked that FINRA consider similar changes to the principal-level examinations.[99] Tessera further asked that FINRA and the MSRB consider any duplicative content that may exist on a principal-level examination for supervisors of Municipal Advisors and on the current Series 24 examination.

Monahan & Roth suggested that FINRA also adopt a similar structure (that is, general knowledge and specialized knowledge examinations) for the proposed Compliance Officer registration category. In addition, Monahan & Roth requested that FINRA work with the MSRB to: (1) add the Municipal Advisor (Series 50) qualification examination to the list of proposed specialized knowledge examinations;[100] (2) grandfather General Securities Representatives and Municipal Securities Principals from the requirement to take a specialized Series 50 examination; and (3) avoid redundancies in developing the content outline of a specialized Series 50 examination. SIFMA asked

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99 Tessera, SIFMA, Edward Jones, FSI, Wells Fargo and ARM.

100 Tessera made the same comment.

that FINRA and the MSRB align their examination structures consistent with the proposal.

Tessera noted that the current Series 50 examination contains significant overlap with the current Series 7 examination and Municipal Advisors that have passed the Series 7 examination should not be retested on duplicative content that appears on the Series 50 examination.

Edward Jones encouraged FINRA and NASAA to consider whether the Uniform Investment Adviser Law Examination (Series 65) could be updated in conjunction with the specialized Series 7 examination so that individuals working for registered investment advisers could demonstrate the necessary knowledge required to work as a registered representative.

FINRA is currently evaluating whether the principal-level examinations could be restructured in a similar manner. FINRA has also discussed with MSRB staff the possibility of their adoption of the SIE as a concurrent requirement for the MSRB representative-level examination, the Municipal Securities Representative (Series 52) examination, as part of the restructuring, and MSRB staff participate on the SIE committee. However, FINRA notes that the restructuring is limited to the representative-level examinations, and it does not extend to advisory-related examinations, such as the Series 50 or Series 65 examination.

F. Implementation and Administration

SIFMA requested that FINRA set a fixed, maximum amount of seat time for candidates to complete the SIE plus specialized knowledge examinations. Each of the proposed examinations, including the SIE, will include a time limit, which will correlate

to the number of questions on each examination. While the SIE will have a fixed time limit, the time limit on each specialized knowledge examination will vary because the number of questions on each will vary.

PFS urged that FINRA continue the practice of allowing candidates to schedule and take multiple examinations on the same day. SIFMA and ARM asked that FINRA clarify whether an individual who fails the SIE would be permitted to take a specialized knowledge examination and the applicable fees in such situations. Further, with respect to individuals who schedule the SIE and a specialized knowledge examination for the same day, FSI suggested that FINRA allow them to withdraw from taking the specialized knowledge examination without incurring a fee for the withdrawal.

An individual who fails the SIE would be allowed to take a specialized knowledge examination. This would include an individual who schedules the examinations for the same day. However, such individual's registration would not be approved in the CRD system until he or she takes and passes the examinations required for that registration category. Moreover, if such individual determines not to take a scheduled specialized knowledge examination, the individual would be charged a fee for registering to take it.[101] This process is similar to the current process for registration categories that allow for concurrent qualifications, such as the Research Analyst registration category.

CFA requested that FINRA consider granting waivers to individuals who are in the process of completing an appropriate professional qualification, such as the CFA Program. In addition, CFA suggested that FINRA determine whether foreign qualifications would exempt an individual from taking a specialized knowledge

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101 See also FINRA Rescheduling and Cancellation Policy, http://www.finra.org/industry/reschedule-or-cancel-your-appointment.

examination and stated that its programs have considerable recognition in the United Kingdom and Canada. CFA also asked that FINRA consider dividing the SIE content into investment-related content and content that covers the applicable laws, rules and regulations, and it suggested that FINRA consider offering a waiver of the investment-related content to individuals who have passed a college level investments course or have made sufficient progress towards earning an appropriate professional qualification. CFA further stated that FINRA may want to consider outsourcing the development and testing of the laws, rules and regulations content on the SIE for economic reasons. Moreover, it asked that FINRA recognize the CFA's programs in granting exemptions from the restructured representative-level examinations.

Section 15A(g)(3) of the Act authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. FINRA believes that FINRA's current process for developing examinations, which includes input from committees of industry and SRO subject matter experts, is an effective means of developing the content of FINRA examinations and consistent with FINRA's regulatory authority. Under the proposed rule change, FINRA would continue to accept requests for waivers of the applicable qualification examinations and accept, where appropriate, other standards as evidence of an applicant's qualifications for registration.[102]

PFS suggested that FINRA shorten the waiting periods for retaking a failed examination and allow an individual who fails an examination to retest after seven days and allow an individual who has three successive examination failures to retest after three

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[102] For instance, as noted above, candidates are eligible for a waiver of the current Series 86 examination if they have passed Levels I and II of the CFA examination and meet other eligibility criteria. Moreover, future candidates would be eligible for similar waivers for the specialized Series 86 examination.

months. In addition, PFS asked that FINRA post and periodically update pass rate information for each examination, including the first time pass rate, overall pass rate and the success ratio. PFS also asked that FINRA delay the implementation date of the proposed rule change until the third quarter of 2017 to provide the industry adequate preparation time.

Similar to the current waiting periods for failed examinations, an individual who fails the SIE or a specialized knowledge examination would have to wait 30 calendar days before retaking that particular examination. Further, pursuant to proposed FINRA Rule 1210.06, if an individual fails the SIE or a specialized knowledge examination in three successive attempts within a two-year period, the individual would have to wait 180 days before retaking that particular examination. These waiting periods are for test security purposes and to ensure an examination's effectiveness as a measure of ability. A firm would be able to obtain a report of examination results for its associated persons and for individuals seeking to associate with the firm.

FINRA had originally proposed to implement the revised structure in two phases. The first phase would have included the SIE and the specialized knowledge examinations for the Investment Company and Variable Contracts Products Representative, the General Securities Representative and the Investment Banking Representative registration categories, which represent the highest volume representative-level examinations. The second phase would have included the remaining specialized knowledge examinations. As originally proposed, the first phase would have occurred in the fourth quarter of 2016, and the second phase during the first half of 2017. Rather than a phased implementation, FINRA intends to implement the entire revised structure

in March 2018. FINRA believes that a single launch date in 2018 will provide greater uniformity to the implementation process and provide firms and examination applicants additional preparation time. In addition, FINRA will continue to seek industry feedback on the implementation process, and will consider extending the launch date to address any operational issues raised by the industry.

ARM requested that FINRA clarify the application process, including the applicable form(s), for individuals taking the SIE and whether they would be subject to the type of disclosures required on the Form U4 and the process by which FINRA would validate any such information. ARM further requested that FINRA publish basic guidelines or high-level requirements so that firms can better manage the expectations of associated persons seeking waivers.

Individuals taking the SIE, including associated persons of firms who are not registering as representatives, would be able to enroll for the SIE without the need to submit a Form U4, and they would not be subject to the type of disclosures required on the Form U4. FINRA is proposing to create an enrollment system that provides access through an interface in the CRD system to allow individuals who are not associated persons of a firm, including members of the general public, to enroll and pay the SIE examination fee. This system would also be available to associated persons of firms who are not required to register with FINRA. With respect to the waiver process, FINRA has published guidelines to assist firms and individuals with this process. Moreover, FINRA will consider reaching out to the industry on the need for additional guidelines.

G. Examination Fees and Other Costs

ICI recommended that, to the extent practicable, the fees for the proposed examinations not exceed the fees for the current examinations. FSI noted that a high SIE fee may act as a potential barrier to entry into the securities industry. CAI also stated that the cost of the SIE cannot be prohibitive. PFS stated that candidates should not be required to pay more for examinations simply because the content will be split into separate examinations. FINRA is undertaking a pricing analysis to determine a reasonable fee for the SIE and the specialized knowledge examinations. The total examination fees for individuals registering in each representative-level category may vary depending on the fee for the SIE.

Lincoln Financial asked that FINRA evaluate the costs of additional study materials and courses resulting from having to take two examinations as well as technological changes to track the additional examination requirements. While FINRA does not have data on the costs of preparing for both the SIE and a specialized knowledge examination, FINRA believes that the proposed structure has the potential of lowering the examination preparation costs or keeping the costs the same as today, because examination applicants will be able to leverage their existing educational courses in preparing for the SIE and the specialized knowledge examinations will be shorter in length or the same length. The cost of developing and maintaining a management system to track SIE results would primarily fall upon FINRA. Further, a firm would be able to use the CRD system to track SIE results for its associated persons and for individuals seeking to associate with the firm.

FINRA specifically requested comment on the restructuring proposal's impact on the allocation of examination fees between members and examination applicants.

SIFMA noted that currently some firms pay for all of their employees' examination fees and that firms that have independent contractors generally require the independent contractor to cover such fees. SIFMA added that, at this stage of the proposal, many firms do not anticipate an impact on how they allocate examination fees. CFA observed that allowing individuals who are not associated persons of firms to take the SIE would likely result in some increase in the percentage of individuals paying their own fees compared to individuals whose employers are paying their fees. N.I.S. stated that its newly-hired representatives pay the current examination fees and that the proposal would increase the cost to those representatives.

H. Other Comments

IMS suggested that BrokerCheck should display information on an individual's grandfathered registrations and waived examinations, and it should display the individual's professional degrees and designations on an optional basis. IMS also suggested that all regulators and auditors of FINRA members should be required to take and pass qualification examinations within a short period after they are hired, and that regulators should be allowed to hold such examinations permanently. FINRA considers these comments to be outside the scope of the proposed rule change.

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

Within 45 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 or disapprove 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-2017-007 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2017-007. 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 website (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 website viewing and printing 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-2017-007 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.[103]

Robert W. Errett
Deputy Secretary

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103 17 CFR 200.30-3(a)(12).

Regulatory Notice 09-70

Registration and Qualification Requirements

FINRA Requests Comment on Proposed Consolidated FINRA Rules Governing Registration and Qualification Requirements

Comment Period Expires: February 1, 2010

Executive Summary

As part of the process of developing a new consolidated rulebook (the Consolidated FINRA Rulebook),[1] FINRA is requesting comment on a proposal to streamline and amend the FINRA registration and qualification rules.

The text of the proposed rules is available as Attachment B on our Web site at *www.finra.org/notices/09-70*.

Questions regarding this *Notice* should be directed to:

- Afshin Atabaki, Assistant General Counsel, Office of General Counsel, at (202) 728-8902; or
- Joe McDonald, Director, Testing and Continuing Education Department, at (240) 386-5065.

December 2009

Notice Type

- Request for Comment
- Consolidated FINRA Rulebook

Suggested Routing

- Compliance
- Legal
- Operations
- Registration
- Senior Management

Key Topic(s)

- Examination
- Principal
- Qualification
- Registration
- Representative

Referenced Rules & Notices

- Information Notice 3/12/08
- NASD IM-1000-2 and IM-1000-3
- NASD Rules 1021 and 1022
- NASD IM-1022-1 and IM-1022-2
- NASD Rules 1031 and 1032
- NASD Rules 1041, 1042 and 1043
- NASD Rules 1050, 1060(a), 1070 and 1080
- NASD Rule 1100
- NASD Rule 3010(e)
- NTMs 87-47, 89-78, 95-37, 99-49, 00-50, 01-51, 03-37, 04-81 and 07-04
- NYSE Rule 10 and Its Interpretation
- NYSE Rule Interpretations 311(b)(5)/01, /02, /03 and (g)/01
- NYSE Rule 321.15
- NYSE Rule 344 and Its Interpretation
- NYSE Rule 345 and Its Interpretation
- Regulatory Notices 07-55, 08-24, 09-41 and 09-55

FINRA
Financial Industry Regulatory Authority

Action Requested

FINRA encourages all interested parties to comment on the proposed rules. Comments must be received by February 1, 2010.

Members and other interested parties can submit their comments using the following methods:

- Emailing comments to *pubcom@finra.org*; or
- Mailing comments in hard copy to:

  Marcia E. Asquith
  Office of the Corporate Secretary
  FINRA
  1735 K Street, NW
  Washington, DC 20006-1506

To help FINRA process and review comments more efficiently, persons should only use one method to comment on the proposal.

Important Notes: The only comments that FINRA will consider are those submitted pursuant to the methods described above. All comments received in response to this *Notice* will be made available to the public on the FINRA Web site. Generally, FINRA will post comments on its site one week after the end of the comment period.[2]

Before becoming effective, a proposed rule change must be authorized for filing with the Securities and Exchange Commission (SEC) by the FINRA Board of Governors, and then must be approved by the SEC, following publication for comment in the *Federal Register*.[3]

Background

The Exchange Act requires FINRA to prescribe standards of training, experience and competence for persons associated with FINRA members. Accordingly, FINRA has adopted registration and qualification requirements (registration rules) to ensure that persons associated with FINRA members attain and maintain specified levels of competence and knowledge. The current FINRA registration rules include both NASD Rules and certain NYSE Rules,[4] some of which pertain specifically to persons engaged in NYSE floor activities. (The similarities and differences between the current NASD Rules and NYSE Rules are described in greater detail in Attachment A.)

In general, the registration rules: (1) require that associated persons engaged in a member's investment banking or securities business be registered in an appropriate registration category and pass prescribed qualification examinations or obtain a waiver; (2) exempt certain associated persons from the registration requirement; and (3) provide for permissive registration of certain persons.

Proposal

FINRA proposes to transfer the NASD Rules into the Consolidated FINRA Rulebook with certain changes that take into account requirements under the NYSE Rules. The most significant proposed changes are described generally below. However, FINRA urges member firms to carefully review the entire proposed rule text (in Attachment B at *www.finra.org/notices/09-70*) to understand the full extent of the proposed changes. (All provisions discussed below will be transferred to the registration and qualification section in the Consolidated FINRA Rulebook unless stated otherwise.)

A. Registration Requirements (Proposed FINRA Rule 1210)

Among other things, proposed FINRA Rule 1210 will expressly differentiate between an "active" and "inactive" registration status and will integrate the provisions regarding required and permissive registrations into a single rule.

1. Required Active Registration of Persons Engaged in the Investment Banking or Securities Business of a Member (Proposed FINRA Rule 1210(a))

FINRA proposes to consolidate and streamline the provisions in current NASD Rules 1021(a) and 1031(a) that require associated persons engaged in the investment banking or securities business of a member to register in a principal or representative category appropriate to their assigned functions. FINRA will presume that such registrations are "active" unless it is otherwise notified that they are "inactive" as described below.[5]

FINRA also proposes to consolidate in this rule the provisions in the various registration categories that prohibit persons from functioning in any registered capacity other than that for which they are registered. FINRA further proposes to delete NASD IM-1000-3 (potential disciplinary implications of failing to register a representative) as superfluous, since the failure to register a representative as required under current NASD Rule 1031(a) is in fact a violation.

2. Permissive Inactive Registration of Persons Engaged in a Bona Fide Business Purpose of a Member (Proposed FINRA Rule 1210(b))

Currently, NASD Rules 1021(a) and 1031(a) provide for permissive registration as a principal or representative of a person who performs legal, compliance, internal audit, back-office operations or similar responsibilities for a member (and permit a member to maintain the registration of such person).

FINRA proposes to expand this provision by permitting a member to register as a principal or representative any associated person (or maintain the registration of such person), provided that such person is engaged in a bona fide business purpose of the member.

Under the proposal, a person registered *solely* pursuant to this permissive registration category (*i.e.,* not otherwise required to be registered based on his or her functions) is deemed to have an "inactive" registration upon notification to FINRA of such registration status. Also, the member must notify FINRA when the inactive registration status has been terminated. Such person will be an associated person for all purposes, but will be considered a registered person only for purposes of the following provisions:[6]

- FINRA By-Laws and Schedule A to the By-Laws (fees and charges);
- Forms U4 and U5;
- The FINRA consolidated registration rules;
- Current NASD Rule 1120 (applicable continuing education requirements);
- Current NASD Rule 3010(a)(5) (which requires the assignment of each registered person to an appropriately registered supervisor);[7]
- Current NASD Rule 3010(a)(7) (which requires participation in an annual compliance meeting); and
- Current NASD Rule 3010(e) (which addresses personnel background investigations).

Among other purposes, these provisions ensure that such person maintains an appropriate level of competence and knowledge and is subject to a level of supervision commensurate with his or her status.

The proposed rule will supersede the existing permissive registration provisions. Therefore, those persons currently registered based solely on performing legal, compliance, internal audit, back-office operations or similar responsibilities who seek to maintain such permissive registrations will have to become appropriately registered in accordance with the proposed rule.

Additionally, the proposed rule permits a person who is required to be registered as a principal or representative based on his or her assigned functions to register, or maintain registrations, in non-required principal or representative categories by virtue of being engaged in a bona fide business purpose of the member. For instance, a person who is registered as a General Securities Representative and General Securities Principal, but whose functions only require him to be registered as a General Securities Representative, could maintain his registration as a General Securities Principal. However, all of such person's registrations will be deemed "active" registrations, subjecting such person to all FINRA Rules applicable to a registered person. Notwithstanding the status of such person's registrations as active, the proposed rule also requires that such person be appropriately supervised to ensure that he or she is not acting outside the scope of his or her assigned functions. For instance, if the person in the example above is assigned to function *only* as a General Securities Representative, he may not perform any of the functions of a General Securities Principal.

The proposed rule further provides that a person whose sole registration is a permissive registration as a Compliance Officer (this category is described in greater detail below) by virtue of being engaged in a bona fide business purpose of the member (*i.e.,* not required to register as a Compliance Officer or in any other category of registration) may have an active or inactive registration with respect to such registration; however, the person must be engaged in compliance activities at the member to have an active registration. If a member elects to designate such person as having an active registration, such person will be subject to the same requirements as any other person with an active registration.

In 2007, FINRA filed with the SEC a similar proposal that was never published for comment in the *Federal Register*.[8] FINRA intends to withdraw that proposal in conjunction with filing these consolidated rules. The reasons to allow permissive registration for those engaged in a bona fide business purpose of the member remain largely the same.

First, a member may have a foreseeable need to move an associated person whose principal or representative registration has lapsed for more than two years back into a position that will require or permit such person to be registered. Currently, such persons are required to re-register and re-test (or obtain a waiver of the applicable qualification examinations). Second, the proposed rule allows members to develop a depth of associated persons with registrations in the event of unanticipated personnel changes and also encourages greater regulatory literacy. Finally, the proposed rule eliminates an inconsistency in the rules, which permit certain persons to obtain permissive registrations, but not others who equally are engaged in other bona fide business purposes of the member.

Members will need to distinguish between functions that require an active registration and functions that permit a bona fide business purpose inactive registration and require notification to FINRA. Members should register an associated person as "inactive" only if they reasonably believe that such person will not be performing functions that require registration.

3. Permissive Inactive Registration of Persons Engaged in the Business of a Financial Services Industry Affiliate of a Member (Proposed FINRA Rule 1210(c))

NASD Rules 1021(a) and 1031(a) also permit a member to register as a principal or representative a person who is engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member (or maintain the registration of such person).

The proposed rule expands these provisions by permitting a member to register as a principal or representative any individual (or maintain the registration of such person) who is engaged in the business of a financial services industry affiliate of the member that controls, is controlled by or is under common control with the member.[9] Such person will be designated as a Retained Associate and his or her registration deemed an "inactive" registration upon notification to FINRA of such registration status. Also, the member will be required to notify FINRA when such inactive registration status has been terminated.

The "financial services industry," for purposes of the proposed rule, is defined as any industry regulated by the SEC, Commodity Futures Trading Commission, state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities.

The proposed rule permits a person to be designated as a Retained Associate with one or more members for ten consecutive years (commencing on the date the person is initially designated as a Retained Associate), subject to the following:

- First, to mitigate the risk of customer confusion that might be caused by frequent switching between a person's Retained Associate status and active or other inactive statuses, a Retained Associate who subsequently enters an active registration or a bona fide business purpose inactive registration must remain in such registration(s) for at least a consecutive 12-month period to be eligible for any years that may be remaining on his or her Retained Associate period. This 12-month period may be split between different members. However, a person's active registration or bona fide business purpose inactive registration cannot run concurrently with the person's Retained Associate inactive registration.
- Second, FINRA will toll a Retained Associate's inactive registration period day-for-day for each day that such person is in active registration, provided that the person is in active registration for at least a consecutive 12-month period and FINRA is properly notified of such person's period of active registration.
- Third, a person will forfeit any remaining Retained Associate period if such person subsequently engages in other business activities instead of those that require an active registration or permit a bona fide business purpose or Retained Associate inactive registration.
- Fourth, to facilitate such person's transition from one member to another, the proposed rule provides such person up to 30 days following the submission of a Form U5 to enter active registration or a bona fide business purpose or Retained Associate inactive registration with another member. Such person will forfeit any remaining Retained Associate period if he or she does not enter active registration or a bona fide business purpose or Retained Associate inactive registration with another member within 30 days following the submission of a Form U5.

The following scenarios illustrate the application of the proposed rule:

Scenario (After an Initial Period as a Retained Associate With the Financial Services Industry Affiliate of Member A)	**Remaining Retained Associate Period**
Person A enters a Retained Associate inactive registration with the financial services industry affiliate of Member B within 30 days following the submission of his Form U5.	Not forfeited; not tolled
Person A enters an active registration or a bona fide business purpose inactive registration with Member A for a consecutive 7-month period and then returns to work at the financial services industry affiliate of Member A.	Forfeited
Person A enters an active registration with Member A for a consecutive 12-month period.	Tolled (for each day of active registration)
Person A enters an active registration with Member A for a consecutive 7-month period and within 30 days following the submission of his Form U5 he enters an active registration with Member B for a consecutive 5-month period.	Tolled (for each day of active registration)
Person A enters a bona fide business purpose inactive registration with Member A for a consecutive 12-month period.	Not forfeited; not tolled
Person A enters a bona fide business purpose inactive registration with Member A for a consecutive 7-month period and within 30 days following the submission of his Form U5 he enters a bona fide business purpose inactive registration with Member B for a consecutive 5-month period.	Not forfeited; not tolled
Person A enters an active registration or a bona fide business purpose inactive registration with Member B 60 days following the submission of his Form U5 by Member A.	Forfeited
Person A engages in other business activities instead of entering an active registration or a bona fide business purpose or Retained Associate inactive registration.	Forfeited

While a Retained Associate generally will not be considered a registered person (or an associated person), such person will be subject to the following provisions:[10]

- FINRA By-Laws and Schedule A to the By-Laws;
- Forms U4 and U5;
- The FINRA consolidated registration rules;
- Current NASD Rule 1120;
- Current NASD Rule 3010(a)(5);[11]
- Current NASD Rule 3010(a)(7);
- Current NASD Rule 3010(e);
- Current NASD Rule 3050 (which addresses personal securities transactions through other members or financial institutions);
- Current NASD Rule 3070 (relating to reporting requirements);
- FINRA Rule 5130 (the New Issue Rule); and
- FINRA Rule 8000 and 9000 Series (relating to investigations, sanctions and disciplinary procedures).

Similar to the provisions in the bona fide business purpose category, these provisions (among other purposes) are designed to ensure that Retained Associates maintain an appropriate level of competence and knowledge and are subject to a level of supervision commensurate with their status.

A person subject to a statutory disqualification will not be eligible to be placed on, or remain in, a Retained Associate status. Among other reasons, this is because a member cannot ensure adequate supervision of all activities engaged in by such person, as ordinarily is required of a member who seeks to associate with a disqualified person.

FINRA believes that an expansion of the permissive registration categories to include Retained Associates is appropriate for reasons similar to those underlying the permissive registration of persons engaged in a bona fide business purpose of a member (*e.g.*, foreseeable need to move such persons back into a position that will require registration, developing a depth of persons with registrations in the event of unanticipated personnel changes, encouraging greater regulatory literacy through registration).[12] FINRA further believes the time and manner limitations are appropriate to guard against abuse of the privilege.

4. Notification Requirements for Persons Serving in the Armed Forces of the United States (Proposed FINRA Rule 1210(d))

To enhance the efficiency of the notification process for registered persons serving in the Armed Forces (current NASD IM-1000-2), FINRA proposes to amend the provision to require that the member with which such person is registered promptly notify FINRA of such person's return to active employment with the member and that, in the case of a sole proprietor, the sole proprietor promptly notify FINRA of his or her return to active participation in the investment banking or securities business.

5. Two-Principal Requirement (Proposed FINRA Rule 1210(e))

FINRA proposes to amend the two-principal requirement (current NASD Rule 1021(e)(1)) to clarify that a member is required to have a minimum of two General Securities Principals who have satisfied the General Securities Representative, United Kingdom Securities Representative or Canada Securities Representative prerequisite. Alternatively, if the member's business is limited to investment company and variable contracts products or direct participation programs, the member may opt to have two Investment Company and Variable Contracts Products Principals or Direct Participation Programs Principals, respectively.

Currently, a sole proprietor member (without any other associated persons) is not subject to the two-principal requirement since such member is operating as a one-person firm. Given that one-person firms may be organized in legal forms other than a sole proprietorship (such as a single-person limited liability company), FINRA proposes to modify the exception to clarify that any member with only one associated person is excluded from the two-principal requirement.

In addition, the proposed rule clarifies that existing members as well as new applicants may request a waiver of the two-principal requirement (current NASD Rule 1021(e)(2)). The proposed rule similarly clarifies that the provision requiring additional principals for members with certain types of operations (current NASD Rule 1021(e)(3)) applies to existing members as well as new applicants.

The proposed rule further clarifies that all members are required to have an appropriately registered Chief Compliance Officer (current NASD Rule 1022(a)(1)) and Financial and Operations Principal (or Introducing Broker-Dealer Financial and Operations Principal, as applicable) (current NASD Rules 1022(b) and (c)) and provides that all members are required to have an appropriately registered Principal Financial Officer and Principal Operations Officer (as discussed further below). Additionally, the proposed rule clarifies that a member engaged in certain investment banking activities must have a General Securities Principal who has also satisfied the Investment Banking Representative prerequisite requirement (current NASD Rules 1022(a)(1) and 1032(i)) and that a member engaged in certain research activities must have a Research Principal (current NASD Rule 1022(a)(5)).

6. Personnel Background Investigations (Proposed FINRA Rule 1210(f))

FINRA proposes to transfer into the proposed rule with non-substantive changes the provision regarding background investigations (current NASD Rule 3010(e)).

7. Impermissible Registrations (Proposed FINRA Rule 1210(g))

Consistent with the proposed changes to the registration requirements discussed above, FINRA proposes to replace the provisions prohibiting the "parking" of registrations (current NASD Rules 1021(a) and 1031(a)) with provisions prohibiting a member from registering or maintaining the registration of a person unless it is an active registration or a bona fide business purpose or Retained Associate inactive registration. The proposed rule also permits a member to maintain the inactive registration of a registered person serving in the Armed Forces of the United States, which is consistent with the current registration requirements.

B. Qualification Examination Requirements and Waiver of Requirements (Proposed FINRA Rule 1220)

Among other things, proposed FINRA Rule 1220 integrates the qualification examination requirements and waiver of requirements into a single rule.

1. Qualification Examinations (Paragraphs (a), (b) and (d) through (g) of Proposed FINRA Rule 1220)

The proposed rule consolidates for simplification the general provisions requiring a person to pass an appropriate qualification examination (including any applicable prerequisite) before such person's registration can become effective (current NASD Rules 1021(a) and 1031(a)). The proposed rule clarifies that a person is not subject to this requirement if such person obtains a waiver of the applicable examination(s) or is registering solely as a Securities Lending Representative, Securities Lending Supervisor or Proctor (which, as noted below, do not require an examination).

The proposed rule streamlines the general provisions regarding the examination process (current NASD Rules 1070(a), (b) and (c)). FINRA proposes to transfer into the proposed rule with non-substantive changes the provision regarding waiting periods for retaking failed examinations (current NASD Rule 1070(e)).

The proposed rule also consolidates for simplification the provisions requiring that a person re-test if his or her registration has lapsed for more than two years (current NASD Rules 1021(c), 1031(c) and 1041(c)). The proposed rule clarifies that a person is not subject to this requirement if he or she obtains a waiver of the applicable examination(s) or is registering solely as a Securities Lending Representative, Securities Lending Supervisor or Proctor.

Further, FINRA proposes to amend the provision permitting a member to designate any representative to function as a principal for a limited period (current NASD Rule 1021(d)) to require the designation of a representative who has been registered as a representative in active registration for at least 18 months within the five-year period immediately preceding such designation. This change is intended to ensure that such persons have an appropriate level of registered representative experience. The proposed rule clarifies that such person must fulfill all applicable prerequisite registration, fee and examination requirements prior to his or her designation as a principal. The proposed rule also extends the time period that such person may function as a principal prior to passing the applicable principal examination from 90 calendar days to 120 calendar days (since the current window in CRD for passing an examination is 120 calendar days). A person registered as an Order Processing Assistant Representative or registered solely as a Securities Lending Representative, Securities Lending Supervisor or Proctor will be prohibited from functioning as a principal under this provision because of the very limited scope of his or her registered representative activities. Finally, the proposed rule clarifies that members that lose their sole Registered Options Principal are subject to separate requirements (current NASD IM-1022-1).

2. Waivers (Proposed FINRA Rule 1220(c))

FINRA proposes to transfer into the proposed rule with non-substantive changes the provision regarding waiver of examination requirements (current NASD Rule 1070(d)).

C. Registration Categories (Proposed FINRA Rule 1230)

Among other things, proposed FINRA Rule 1230 integrates the following registration categories into a single rule: principal, representative, Order Processing Assistant Representative, Proctor and Research Analyst.

1. Definition of Principal (Proposed FINRA Rule 1230(a)(1))

The proposed rule streamlines the definition of the term "principal" (current NASD Rule 1021(b)) and clarifies that a member's chief executive officer and chief financial officer (or equivalent officers) are considered principals based solely on their status. The proposed rule also clarifies that the term "principal" includes any other associated person who is performing functions or carrying out responsibilities that are required to be performed or carried out by a principal under FINRA Rules. Further, the proposed rule codifies existing guidance regarding the term "actively engaged in the management of the member's investment banking or securities business."[13]

2. General Securities Principal (Proposed FINRA Rule 1230(a)(2))

FINRA proposes to eliminate the grandfathering provision for persons who were registered as principals prior to the adoption of the General Securities Principal registration category (current NASD Rule 1022(a)(1)) since it is outdated. As discussed below, FINRA also proposes to move the provision regarding the registration of Chief Compliance Officers to a new stand-alone registration category for Compliance Officers and create a stand-alone registration category for Research Principals. Additionally, the proposed rule clarifies that:

- A person registered solely as a General Securities Principal is not qualified to function as a Research Principal, Principal Financial Officer or Principal Operations Officer;
- Registration as a United Kingdom Securities Representative or Canada Securities Representative is an acceptable alternative prerequisite to the General Securities Representative prerequisite;[14] and
- Registration as a Corporate Securities Representative or Private Securities Offerings Representative will satisfy the prerequisite registration requirement, provided that such persons have limited supervisory responsibilities (consistent with their representative category).

3. Research Principal (Proposed FINRA Rule 1230(a)(3))

The proposed rule creates a stand-alone registration category for Research Principals (current NASD Rule 1022(a)(5)) and modifies the examination requirements for those persons. By way of background, the Analysis (Series 86) portion of the Research Analyst examination tests knowledge of fundamental analysis and valuation of equity securities and the Regulatory Administration and Best Practices (Series 87) portion of the Research Analyst examination tests knowledge of applicable rules and regulations pertaining to research. The Supervisory Analyst (Series 16) examination tests both knowledge of applicable rules and regulations and fundamental analysis and valuation. Currently, a Research Principal is required to be registered as a General Securities Principal and pass either the Series 87 or the Series 16 examination. FINRA believes that a Research Principal will be able to carry out his or her supervisory responsibilities more effectively by having an appropriate level of knowledge of fundamental analysis and valuation. Therefore, the proposed rule requires that a Research Principal pass the General Securities Principal examination[15] and (1) the Series 86 and Series 87 examinations or (2) the Series 16 examination.

A person registered as a Research Principal immediately prior to the effective date of the proposed rule will be grandfathered. The proposed rule also codifies existing guidance regarding exceptions from the Research Principal requirement for principals responsible for reviewing and approving third-party research reports, principals assigned to supervise for compliance with only the disclosure provisions of NASD Rule 2711 and Supervisory Analysts who are permitted pursuant to FINRA Rules to approve research reports.[16]

4. Compliance Officer (Proposed FINRA Rule 1230(a)(4))

FINRA proposes to establish a new stand-alone registration category for Compliance Officers, which will also contain the Chief Compliance Officer registration requirement (current NASD Rule 1022(a)(1)). The proposed rule revises and redesignates as the Compliance Officer examination the current Compliance Official examination—an NYSE requirement[17] applicable to persons responsible for day-to-day compliance activities and other persons directly supervising ten or more compliance personnel. FINRA believes that the role of the Chief Compliance Officer has critical importance and that a Compliance Officer examination tailored to the functions performed by a Chief Compliance Officer is the most appropriate examination for those individuals. The General Securities Representative, United Kingdom Securities Representative or Canada Securities Representative examination will be the prerequisite to the Compliance Officer examination.

The proposed rule will require all persons designated as Chief Compliance Officers on Schedule A of Form BD to register as Compliance Officers and pass the Compliance Officer examination before their registrations can become effective, subject to the following provisions intended to facilitate the transition to the new examination.

- A person designated as a Chief Compliance Officer on Schedule A of Form BD, or registered as a Compliance Official, immediately prior to the effective date of the proposed rule will be qualified to register as a Compliance Officer without having to pass the Compliance Officer examination.
- A person designated as a Chief Compliance Officer on Schedule A of Form BD after the effective date of the proposed rule, but before the introduction of the Compliance Officer examination, will be required to pass the General Securities Principal examination (and the General Securities Representative, United Kingdom Securities Representative or Canada Securities Representative prerequisite) to qualify to register as a Compliance Officer. This requirement will apply to all members. Such persons will not be required to pass the Compliance Officer examination after its introduction.

- A person designated as a Chief Compliance Officer on Schedule A of Form BD after the effective date of the proposed rule and the introduction of the Compliance Officer examination will be required to pass the Compliance Officer examination to qualify to register as a Compliance Officer, unless such person has earned the FINRA Institute at Wharton Certified Regulatory and Compliance Professional™ (CRCP™) designation.

FINRA believes that the General Securities Principal qualification examination in combination with the CRCP designation, which provides an in-depth understanding of the foundation, theory and practical application of securities laws and regulation, is appropriately tailored to the functions performed by a Chief Compliance Officer. Therefore, the proposed rule provides that a person who has passed the General Securities Principal qualification examination (and the General Securities Representative, United Kingdom Securities Representative or Canada Securities Representative prerequisite) and has earned the CRCP designation will be qualified to register as a Compliance Officer without having to pass the Compliance Officer examination.

5. Financial and Operations Principal, Introducing Broker-Dealer Financial and Operations Principal, Principal Financial Officer and Principal Operations Officer (Proposed FINRA Rule 1230(a)(5))

The proposed rule maintains the requirement that a member have a Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal, as applicable, but merges these registration categories (current NASD Rules 1022(b) and (c)) for simplification.

Additionally, the proposed rule modifies the NASD and NYSE requirements that members designate and register Chief Financial Officers (current NASD Rules 1022(b) and (c)) and Chief Financial Officers and Chief Operations Officers (current NYSE Rule Interpretations 311(b)(5)/02 and /03), respectively. FINRA does not believe it necessary for an officer to have the title of Chief Financial Officer or Chief Operations Officer for purposes of these provisions so long as the designated person performs the same functions.

More specifically, the proposed rule requires members to designate: (1) a Principal Financial Officer with primary responsibility for financial filings and the related books and records; and (2) a Principal Operations Officer with primary responsibility for the day-to-day operations of the business, including overseeing the receipt and delivery of securities and funds, safeguarding customer and firm assets, calculation and collection of margin from customers and processing dividend receivables and payables and reorganization redemptions and those books and records related to such activities.

Consistent with the current examination requirements, the proposed rule requires that a member's Principal Financial Officer and Principal Operations Officer register as Financial and Operations Principals (or Introducing Broker-Dealer Financial and Operations Principals, as applicable).

Since the financial and operational activities of members that neither self clear nor provide clearing services are limited, such members may designate the same person as the Principal Financial Officer, Principal Operations Officer and Financial and Operations Principal (or Introducing Broker-Dealer Financial and Operations Principal) (*i.e.,* such members are not required to designate different persons to function in these capacities).

Given the level of financial and operational responsibility at clearing and self-clearing members, FINRA believes that it is necessary for such members to designate separate persons to function as Principal Financial Officer and Principal Operations Officer. Such persons may also carry out the other responsibilities of a Financial and Operations Principal (*e.g.,* supervision of individuals engaged in financial and operational activities). The proposed rule also provides that a clearing or self-clearing member that is limited in size and resources may, pursuant to the FINRA Rule 9600 Series, request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer.

6. Registered Options Principal (Paragraph (a)(6) and Supplementary Material .02 and .03 of Proposed FINRA Rule 1230)

FINRA proposes to convert into supplementary material the provision in the Registered Options Principal category (current NASD Rule 1022(f)) regarding security futures activities, together with similar provisions in the General Securities Sales Supervisor (current NASD Rule 1022(g)) and General Securities Representative (current NASD Rule 1032(a)) categories. Consistent with FINRA Rule 2360 (Options), which allows a General Securities Sales Supervisor (in addition to a Registered Options Principal) to also approve the opening of an options account, the proposed rule provides that a General Securities Sales Supervisor may supervise options activities pursuant to FINRA Rule 2360.

As discussed below, FINRA is proposing to eliminate the Options Representative category (current NASD Rule 1032(d)). Therefore, the proposed rule eliminates from the Registered Options Principal category the Options Representative prerequisite. The proposed rule also removes the Corporate Securities Representative co-prerequisite since it is tied to the Options Representative prerequisite. Consequently, a person registering as a Registered Options Principal after the effective date of the proposed rule must satisfy one of the remaining prerequisites—the General Securities Representative, United Kingdom Securities Representative or Canada Securities Representative prerequisite. A person registered as a Registered Options Principal immediately prior to the effective date of the proposed rule will be grandfathered from the new prerequisite requirement.

In addition, the provision regarding members that lose their sole Registered Options Principal (current NASD IM-1022-1) will be transferred with non-substantive changes into supplementary material.

7. Government Securities Principal (Proposed FINRA Rule 1230(a)(7))

The proposed rule eliminates the grandfathering provision for persons who were registered as principals prior to the 1988 adoption of the Government Securities Principal category since the provision is outdated.

Further, the proposed rule clarifies that: (1) a person registering as a Government Securities Principal is required to satisfy the General Securities Representative, United Kingdom Securities Representative, Canada Securities Representative or Government Securities Representative (current NASD Rule 1032(g)) prerequisite; and (2) a General Securities Principal who has satisfied the General Securities Representative, United Kingdom Securities Representative or Canada Securities Representative prerequisite (or who is also registered as a Government Securities Representative) is qualified to function as a Government Securities Principal without having to register separately as such.

8. Investment Company and Variable Contracts Products Principal and Direct Participation Programs Principal (Paragraphs (a)(8) and (a)(9) of Proposed FINRA Rule 1230)

The proposed rule clarifies that a General Securities Principal who has satisfied the General Securities Representative, United Kingdom Securities Representative or Canada Securities Representative prerequisite is qualified to function as an Investment Company and Variable Contracts Products Principal (current NASD Rule 1022(d)) or as a Direct Participation Programs Principal (current NASD Rule 1022(e)) without having to register separately in such categories.

9. General Securities Sales Supervisor (Paragraph (a)(10) and Supplementary Material .04 of Proposed FINRA Rule 1230)

Consistent with FINRA Rule 2360 (Options), FINRA proposes to add "approval of customer accounts" to the list of permissible supervisory activities of a General Securities Sales Supervisor.

Currently, for purposes of compliance with NASD Rule 2210 (Communications with the Public), a General Securities Sales Supervisor is permitted to approve most sales literature, but is not permitted to provide final approval of advertisements. However, as detailed in *Regulatory Notice 09-55*, FINRA is proposing to amend the communications rules, including NASD Rule 2210, to combine the definitions of advertisement, sales literature and independently prepared reprint into a single category—retail communications. Since FINRA is proposing to remove the distinction between

advertisements and sales literature as part of the communications rules, FINRA also proposes to amend the General Securities Sales Supervisor registration category to remove the restriction from providing final approval of advertisements. Thus, the proposed rule permits a General Securities Sales Supervisor to approve retail communications to the same extent a General Securities Sales Supervisor may currently approve sales literature.

Further, the provision explaining the General Securities Sales Supervisor category (current NASD IM-1022-2) will be transferred into supplementary material with changes consistent with the proposed changes to the General Securities Sales Supervisor registration category.

10. Supervisory Analyst (Proposed FINRA Rule 1230(a)(11))

NYSE Rules require that an individual who is responsible for approving research reports be registered and qualified as a Supervisory Analyst. Pursuant to NASD Rules (current NASD Rules 1050(f)(3)(A), 2210(b)(1)(B) and 2711(h)(13)(C) and existing guidance[18]), a Supervisory Analyst may approve research reports in lieu of a Research Principal. If a member elects to have a Supervisory Analyst approve research, then a Research Principal must supervise the overall conduct of the Supervisory Analyst and Research Analyst.

Consistent with NASD Rules and existing guidance, FINRA proposes to adopt a stand-alone permissive registration category for Supervisory Analysts. A person may register as a Supervisory Analyst, provided his or her activities are limited to approving research reports pursuant to the applicable rules and the person passes the Supervisory Analyst examination. Unlike the current NYSE requirement, the proposed rule does not require evidence of appropriate experience. Rather than passing the entire Supervisory Analyst examination, a person may obtain a waiver from the securities analysis portion (Part II) of the Supervisory Analyst qualification examination upon verification that the person has passed Level I of the Chartered Financial Analyst examination, which is consistent with the current NYSE provision. The proposed rule further clarifies that a Supervisory Analyst must be supervised by a Research Principal.

11. General Securities Representative (Proposed FINRA Rule 1230(b)(2))

The proposed rule deletes references to the Japan Module of the General Securities Representative examination. Current NASD Rule 1032(a)(2)(D) permits a person registered and in good standing as a representative with the Japanese securities regulators to become qualified as a General Securities Representative by passing the Japan Module of the General Securities Representative examination. The Japan Module, however, was never implemented.

12. Securities Lending Representative and Securities Lending Supervisor (Proposed FINRA Rule 1230(b)(6))

NASD Rules currently do not have a specific registration category for associated persons engaged in securities lending activities and in the direct supervision of such activities. Whether such persons are required to be registered depends on whether they are functioning as "representatives" or "principals" under current NASD Rules. Given the scope of such activities and for tracking and FINRA examination purposes, FINRA believes that it is appropriate to have a specific registration category for such persons similar to the NYSE registration requirements.

The proposed rule generally adopts the NYSE registration requirements for Securities Lending Representatives and Securities Lending Supervisors. The proposed rule requires an associated person who has discretion to commit a member to any contract or agreement (written or oral) involving securities lending or borrowing activities with any other person, and the direct supervisor of the associated person to register as a Securities Lending Representative and Securities Lending Supervisor, respectively. While they will not be subject to a qualification examination at this time, they will be required to register as such for tracking and FINRA examination purposes, regardless of their registrations in other categories.

Unlike the NYSE requirement, the proposed rule does not require such persons to sign an agreement (representing a form of code of ethics), pursuant to which they agree to abide by all policies and procedures established by their employers as well as all applicable federal and state securities laws and NYSE rules. FINRA has determined not to adopt this agreement in its current form at this time in light of the status of such persons as registered persons.

13. Order Processing Assistant Representative (Proposed FINRA Rule 1230(b)(7))

The proposed rule streamlines and consolidates the Order Processing Assistant Representative category (current NASD Rules 1041 and 1042) and clarifies that a person whose sole function is to accept unsolicited customer orders is not required to register as an Order Processing Assistant Representative if he or she chooses to register in another appropriate representative category. However, if the person registers in another appropriate representative category, the person will be precluded from registering as an Order Processing Assistant Representative.

The proposed rule further codifies an existing restriction that prohibits an Order Processing Assistant Representative from accepting customer orders for municipal securities and direct participation programs.[19] The proposed rule also clarifies that Order Processing Assistant Representatives will not be precluded from registering in another registration category, but upon such registration they will lose their Order Processing Assistant Representative registration.

14. Proctor (Proposed FINRA Rule 1230(b)(8))

The proposed rule amends the Proctor category to clarify that persons registered solely as Proctors (current NASD Rule 1043) based on the scope of their activities are subject to the same compensation restrictions as persons registered solely as Order Processing Assistant Representatives; *i.e.*, they may only be compensated through an hourly wage, a salary, or bonuses or other compensation based on a member's profit sharing plan or similar arrangement.

15. Investment Company and Variable Contracts Products Representative (Proposed FINRA Rule 1230(b)(9))

Consistent with the registration provisions of MSRB Rule G-3(a)(ii)(C), the proposed rule amends the Investment Company and Variable Contracts Products Representative category (current NASD Rule 1032(b)) to clarify that such persons are also permitted to engage in the solicitation, purchase or sale of municipal fund securities as defined under MSRB Rule D-12.

16. Representatives Engaged in Options Activities (Proposed FINRA Rule 1230.01)

FINRA believes that there is diminishing utility in the Options Representative category. Therefore, FINRA proposes to eliminate this category and instead require that a representative engaged in options activities register as a General Securities Representative, United Kingdom Securities Representative or Canada Securities Representative, which is consistent with the current NYSE requirements. A person registered as an Options Representative immediately prior to the effective date of the proposed rule will be grandfathered from this requirement.

17. Qualification Examination Requirements for Foreign Associates (Proposed FINRA Rule 1230.05)[20]

Pursuant to current NASD Rule 1100, a Foreign Associate may function as a registered representative, including acting as a trader or the registered person responsible for servicing the accounts of a foreign national. However, Foreign Associates are exempt from the requirement to pass a qualification examination and are not subject to continuing education requirements.

Considering the type of interaction that Foreign Associates may have with customers, FINRA believes there is no reason such persons should not demonstrate the same level of competence and knowledge required of their counterparts in the United States. The proposed rule therefore eliminates the Foreign Associate category and requires that a person registered as a Foreign Associate immediately prior to the effective date of the proposed rule register in an appropriate registration category (and pass any applicable examination) within one year of the effective date of the proposed rule.

18. Other Provisions Transferring With Non-Substantive Changes (Paragraphs (a)(2)(B), (b)(1), (b)(3) through (b)(5) and (b)(10) through (b)(13) of Proposed FINRA Rule 1230))

FINRA proposes to transfer into the proposed rule with non-substantive changes the following registration categories and provisions:

- General Securities Principal responsible for supervising investment banking activities (current NASD Rule 1022(a)(1));[21]
- Definition of the term "Representative" (current NASD Rule 1031(b));
- Direct Participation Programs Representative (current NASD Rule 1032(c));
- Corporate Securities Representative (current NASD Rule 1032(e));
- Equity Trader (current NASD Rule 1032(f));
- Government Securities Representative (current NASD Rule 1032(g));
- Private Securities Offerings Representative (current NASD Rule 1032(h));
- Investment Banking Representative (current NASD Rule 1032(i));[22] and
- Research Analyst (current NASD Rule 1050).

D. Associated Persons Exempt from Registration (Proposed FINRA Rule 1240)[23]

1. Active Versus Inactive

Current NASD Rule 1060(a)(2) exempts from registration those associated persons who are not actively engaged in the investment banking or securities business. This exemption relates to the current provisions prohibiting the "parking" of registrations, which, among other things, prohibit a member from maintaining a registration for any person who is no longer active in the member's investment banking or securities business. The proposed changes to the registration requirements render the exemption obsolete; therefore, FINRA proposes to delete the exemption.

2. Codification of Guidance Regarding Contact with Prospective Customers (Proposed FINRA Rule 1240.01)

FINRA proposes to codify existing guidance permitting unregistered persons to have limited contact with prospective customers (subject to certain restrictions).[24]

3. Rescission of Guidance Regarding Unregistered Persons Who Occasionally Receive Unsolicited Customer Orders (Paragraph (a) and Supplementary Material .02 of Proposed FINRA Rule 1240)

FINRA proposes to rescind existing guidance permitting unregistered administrative personnel to occasionally receive an unsolicited customer order at a time when appropriately qualified representatives or principals are unavailable.[25] FINRA believes that to accept customer orders a person must be appropriately registered. The proposed rule clarifies that the function of accepting customer orders is not considered a clerical or ministerial function (current NASD Rule 1060(a)(1)) and that associated persons who accept customer orders under any circumstances are required to be appropriately registered and qualified.

4. Other Exemptions from Registration (Paragraphs (b) and (c) of Proposed FINRA Rule 1240)

Current NASD Rule 1060(a)(4)(A) exempts from registration associated persons whose functions are related solely and exclusively to effecting transactions on the floor of a national securities exchange, provided they are registered as floor members with such exchange. Since exchanges have registration categories other than the floor member category, FINRA proposes to amend this provision to clarify that the exemption applies to associated persons solely and exclusively effecting transactions on the floor of a national securities exchange, provided they are appropriately registered with such exchange.

FINRA proposes to transfer into the proposed rule with non-substantive changes the remaining exemptions from registration (current NASD Rules 1060(a)(3) and (a)(4)(B) through (D)).

E. NYSE Provisions Proposed for Deletion[26]

FINRA proposes to delete the following NYSE provisions as they are substantially similar to the proposed consolidated registration rules, otherwise incorporated as described above, rendered obsolete by the proposed approach reflected in the registration rules, or addressed by other rules:

- NYSE Rule 10 (definition of "registered representative");[27]
- NYSE Rule Interpretations 10/01 and 345(a)/01 (clerical and ministerial exemption from registration);
- NYSE Rule Interpretation 311(b)(5)/01 (qualification requirements for principal executives);
- NYSE Rule Interpretations 311(b)(5)/02 and /03 (relating to the designation and registration of a Chief Financial Officer and a Chief Operations Officer);
- NYSE Rule Interpretation 311(g)/01 (requirement that certain members have at least two general partners);
- NYSE Rule 321.15 (registration of certain employees of a foreign subsidiary);
- NYSE Rule 344 and its Interpretation (Research Analyst and Supervisory Analyst categories);
- NYSE Rules 345(a), 345.10, 345.15(2) through 345.15(4) and NYSE Rule Interpretation 345.15/02 (representative categories);[28]
- NYSE Rules 345.11(a) and (b) and NYSE Rule Interpretation 345.11/01 (personnel background investigations);
- NYSE Rule 345.11(c) and NYSE Rule Interpretation 345.11/02 (Form U4 recordkeeping obligations);
- NYSE Rules 345.12, 345.13, 345.17 and 345.18 and NYSE Rule Interpretations 345.12/01 and 345.18/01 (Forms U4 and U5 filing requirements);
- NYSE Rule 345.15(1)(a) (examination requirement);
- NYSE Rule 345.15(1)(b) and NYSE Rule Interpretation 345.15/01 (examination waivers);
- NYSE Rule Interpretation 345(a)/02 (independent contractor status);
- NYSE Rule Interpretation 345(a)/03) (status of persons serving in the Armed Forces);
- NYSE Rule Interpretation 345(b) (provisions regarding officers);[29] and
- NYSE Rule 345.16 (requirement to provide information regarding employees).

Endnotes

1 The current FINRA rulebook consists of: (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (Incorporated NYSE Rules) (together, the NASD Rules and Incorporated NYSE Rules are referred to as the Transitional Rulebook). While the NASD Rules generally apply to all FINRA member firms, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (Dual Members). The FINRA Rules apply to all FINRA member firms, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice 03/12/08* (Rulebook Consolidation Process).

2 FINRA will not edit personal identifying information, such as names or email addresses, from submissions. Persons should submit only information that they wish to make publicly available. *See Notice to Members (NTM) 03-73* (November 2003) (NASD Announces Online Availability of Comments) for more information.

3 Section 19 of the Securities Exchange Act of 1934 (Exchange Act or SEA) permits certain limited types of proposed rule changes to take effect upon filing with the SEC. The SEC has the authority to summarily abrogate these types of rule changes within 60 days of filing. *See* Exchange Act Section 19 and rules thereunder.

4 For convenience, the Incorporated NYSE Rules are referred to as the NYSE Rules.

5 The proposal contains several provisions that require notification to FINRA. FINRA will advise members through a *Regulatory Notice* of the manner of the required notifications.

6 Some of these provisions are subject to pending proposals related to the rulebook consolidation process.

7 For purposes of the proposed rule, the assigned registered supervisor will only be responsible for supervising such person's activities to ensure that such person is not engaged in any activities that will require registration and is complying with the provisions applicable to such person based on his or her status as a (permissively) registered person.

8 *See* SR-FINRA-2007-004.

9 Persons who are currently registered pursuant to this permissive category, to the extent that they seek to maintain such registrations, will have to be appropriately registered in accordance with the proposed rule. Additionally, FINRA is proposing to delete NYSE Rule 321.15 (which requires the registration of certain employees of a foreign subsidiary). Thus, persons who are currently registered pursuant to NYSE Rule 321.15, to the extent that they seek to maintain such registrations, will also have to be appropriately registered in accordance with the proposed rule.

10 *See supra* note 6.

11 For purposes of the proposed rule, the assigned registered supervisor will only be responsible for supervising such person's activities to ensure that such person is: (1) in fact engaged in the business of the member's financial services industry affiliate; (2) not engaged in any activities that will require registration or make such person eligible for inactive registration by engaging in a bona fide business purpose of the member; and (3) complying with the provisions applicable to such person based on his or her status as a Retained Associate.

Endnotes continued

12 In 2005, the NYSE filed a proposal, SR-NYSE-2005-59, with the SEC to permit a member to maintain the registration (as a retained associate) of a person employed by a financial services industry affiliate of the member. The NYSE proposal has not been published for comment in the *Federal Register*.

13 *See NTM 99-49* (June 1999).

14 The proposed consolidated registration rules provide similar clarifications regarding these prerequisite categories in the context of other registration categories (with the exception of the General Securities Sales Supervisor category, which requires the General Securities Representative prerequisite).

15 A person may qualify to function as principal or representative based on a combination of registrations and examinations. For instance, a person who is registered as a General Securities Sales Supervisor and passes the General Securities Principal Sales Supervisor Module (Series 23) examination also satisfies the General Securities Principal examination requirement. *See NTM 03-37* (July 2003).

16 *See NTMs 04-81* (November 2004) and *07-04* (January 2007).

17 The NYSE Compliance Official requirement (NYSE Rule 342.13(b) and NYSE Rule Interpretation 342(a)(b)/02) is proposed to be deleted as part of the proposed changes to the supervision rules. *See Regulatory Notice 08-24* (May 2008).

18 *See NTM 04-81*.

19 *See NTM 89-78* (December 1989).

20 FINRA will address NASD Rule 1090 (Foreign Members), which relates to members that do not maintain an office in the United States responsible for preparing and keeping financial and other required reports, as part of a separate phase of the rulebook consolidation.

21 *See Regulatory Notice 09-41* (July 2009).

22 *See id.*

23 FINRA will address the foreign finder provision (current NASD Rule 1060(b)), the corresponding NYSE provision (NYSE Rule Interpretation 345(a)(i)/03) and NYSE Rule Interpretations 345(a)(i)/01 and /02 (relating to compensation paid to non-registered persons and compensation paid for advisory solicitations) as part of a separate phase of the rulebook consolidation. *See Regulatory Notice 09-69* (December 2009).

24 *See NTM 00-50* (August 2000).

25 *See NTM 87-47* (July 1987).

26 The NYSE registration requirements for certain supervisors (NYSE Rules 342(d) and .13(a) and NYSE Rule Interpretation 342.13/01) are proposed to be deleted as part of the proposed changes to the supervision rules. *See Regulatory Notice 08-24*. Supervisors registered as General Securities Principals or General Securities Sales Supervisors will not lose these registrations since these categories will be maintained as part of the FINRA registration rules. Supervisors registered solely by having passed the General Module (Series 10) of the General Securities Sales Supervisor examination (or the historical equivalent to the Series 10) will lose these stand-alone registrations. However, FINRA will consider upon request the Series 10 registration, among other considerations, in determining whether to grant such persons a waiver of a principal examination.

Endnotes continued

27 FINRA believes that the definition of the term "representative" in current NASD Rule 1031(b) is more consistent with the functions customarily performed by a registered representative.

28 FINRA also is proposing to delete the NYSE registration requirements relating to commodities solicitors (NYSE Rule 345.15(5)) and floor members and floor clerks (NYSE Rule Interpretation 345.15/02) as these activities are not within the scope of the proposed registration rules.

29 This is a conforming change. The corresponding NYSE Rule, NYSE Rule 345(b), was deleted as part of a prior rule change. *See* Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (Order Approving SR-FINRA-2008-036).

Attachment A

Comparison of Current Rules Regarding Registration and Qualification Requirements

The table below explains the similarities and differences between current NASD and NYSE rules regarding registration and qualification requirements. FINRA proposes to transfer the NASD rules into the Consolidated FINRA Rulebook with certain changes that take into account requirements under the NYSE rules. FINRA urges member firms to carefully review the entire proposed rule text in Attachment B at *www.finra.org/notices/09-70* to understand the full extent of the proposed changes.

Similar Requirements	
Description	**Applicable FINRA/NASD/NYSE Provisions**
General Registration/Qualification Requirements	
FINRA By-Laws and NASD and NYSE Rules require that members file Forms U4 and U5, including any amendments, and that such filings be made through the Central Registration Depository.	Article V, Sections 2 and 3, of the FINRA By-Laws FINRA Rule 1010 NYSE Rule 345.12, .13, .17 and .18 NYSE Rule Interpretation 345.12/01 and .18/01
NASD and NYSE Rules remind members of their Form U4 recordkeeping obligations under the Exchange Act.	FINRA Rule 1010 NYSE Rule 345.11(c) NYSE Rule Interpretation 345.11/02
NASD and NYSE Rules require members to investigate the background of prospective personnel.	NASD Rule 3010(e) *Regulatory Notice 07-55* NYSE Rule 345.11(a) NYSE Rule Interpretation 345.11/01
NASD and NYSE Rules require an applicant for registration to provide, upon a member's request, a copy of his or her Form U5.	NASD Rule 3010(f)[1] NYSE Rule 345.11(b)
NASD and NYSE Rules set forth provisions regarding the status of registered persons serving in the Armed Forces of the United States.	NASD IM-1000-2(a) and (b) NYSE Rule Interpretation 345(a)/03
NASD and NYSE Rules set forth a general requirement that persons pass an appropriate qualification examination (including any applicable prerequisites) before their registration can become effective.	NASD Rules 1021(a) and 1031(a) NYSE Rule 345.15(1)(a)
NASD and NYSE Rules provide that if a person does not register with a member within two years of his or her last registration, his or her qualification will lapse and the person must then re-test as applicable to function in a registered category.	NASD Rules 1021(c), 1031(c) and 1041(c) NYSE Rule Interpretation 345A(a)/04

Similar Requirements	
Description	**Applicable FINRA/NASD/NYSE Provisions**
NASD and NYSE Rules provide an exemption from registration for associated persons whose functions are solely and exclusively clerical or ministerial.	NASD Rule 1060(A)(1) *NTM 87-47* NYSE Rule Interpretations 10/01 and 345(a)/01
NASD and NYSE Rules set forth provisions regarding waiver of the applicable qualification examinations.	NASD Rule 1070(d) NYSE Rules 342.13 and 345.15(1)(b) NYSE Rule Interpretations 344/01 and 345.15/01
NASD and NYSE Rules set forth waiting periods for retaking failed examinations.	NASD Rule 1070(e) *Information Memorandum 04-16*
NASD and NYSE Rules require that examinations be kept confidential.	NASD Rule 1080 *Information Memorandum 88-37*
FINRA and NYSE Rules require members to provide information regarding their employees.	FINRA Rule 8210 NYSE Rule 345.16
Requirements Applicable to Principals/Supervisors/Representatives	
NASD and NYSE Rules require that certain supervisory personnel have at least one year of direct experience or two years of related experience in the subject area that they supervise.	NASD Rule 1014(a)(10)(D) NYSE Rule 342.13(a)
NASD and NYSE Rules require that members engaged in options transactions with the public have an associated person registered and qualified as a Registered Options Principal.	NASD Rules 1021(e)(3) and 1022(f) NYSE Rule 720[2]
NASD and NYSE Rules set forth specific registration and qualification requirements for associated persons engaged in security futures activities.	NASD Rules 1022(f)(5), 1022(g)(3), 1032(a)(2)(A) and 1032(d)(4) NYSE Rule Interpretation 345A(b)(2)(i)/02 *Information Memorandum 03-43*
NASD and NYSE Rules require that a representative register and qualify as a General Securities Representative. Alternatively, if the representative does not engage in municipal securities activities, NASD and NYSE Rules permit the representative to register and qualify as a United Kingdom Limited Securities Representative or Canada Limited Securities Representative.	NASD Rules 1031(a) and 1032(a) NYSE Rule 345.10 and .15(2) NYSE Rule Interpretation 345.15/02 *Information Memoranda 91-09* and *96-06*

Similar Requirements	
Description	**Applicable FINRA/NASD/NYSE Provisions**
NASD and NYSE Rules provide that a representative is not required to register as a General Securities Representative if the person's activities are so limited as to qualify such person for one or more of the limited categories of representative registration, including an Investment Company and Variable Contracts Products Representative or a Direct Participation Programs Representative.	NASD Rule 1032(a)(1), (b) and (c) NYSE Rule 345.15(3) NYSE Rule Interpretation 345.15/02
NASD and NYSE Rules require that an associated person who is primarily responsible for the preparation of the substance of a research report or whose name appears on a research report be registered and qualified as a Research Analyst.	NASD Rule 1050 NYSE Rule 344, .10 and .12 NYSE Rule Interpretation 344/01 and /02
NASD and NYSE Rules require that an associated person designated as a Proctor for the purposes of in-firm delivery of the Regulatory Element be registered as a Proctor. Proctors are not subject to a qualification examination. Associated persons who are registered in other registration categories may be designated as Proctors without having to register as such.	NASD Rules 1120(a)(6)(E) and 1043 NYSE Rule Interpretation 345A(a)/03E *Information Memorandum 02-49*

Differing Requirements	
Description	**Applicable FINRA/NASD/NYSE Provisions**
General Registration/Qualification Requirements	
NASD Rules set forth provisions regarding the deferment of the lapse of registration requirements in NASD Rules 1021(c), 1031(c), and 1041(c) for formerly registered persons serving in the Armed Forces of the United States.	NASD IM-1000-2(c)
NASD Rules include a provision regarding the disciplinary implications of failing to register a representative.	NASD IM-1000-3

Differing Requirements	
Description	**Applicable FINRA/ NASD/NYSE Provisions**
NASD Rules prohibit a member from maintaining a principal or representative registration with FINRA for any person who is no longer active in the member's investment banking or securities business, who is no longer functioning as a principal or representative as defined under the rules, or where the sole purpose is to avoid the re-testing requirement applicable to persons whose registration in such categories has lapsed for more than two years. These rules also prohibit a member from making application for the registration of a person as principal or representative where the member does not intend to employ the person in its investment banking or securities business. However, the rules permit a member to maintain, or make application for, the registration as a principal or representative of a person who performs legal, compliance, internal audit, back-office operations (*e.g.,* cashiering, accounting, settling, and the record keeping of customers' cash or margin accounts) or similar responsibilities for the member. In addition, the rules permit a member to maintain, or make application for, the registration as a principal or representative of a person who is engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.	NASD Rules 1021(a) and 1031(a)
NYSE Rules require that certain persons apply to the NYSE for Approved Person status.[3] Natural persons applying for Approved Person status are required to submit a Form U4 and register as an Approved Person. Approved Persons are not subject to a qualification examination.	NYSE Rules 2(c) and 304(e)[4] *Information Memorandum 00-21*
NYSE Rules provide that an independent contractor is deemed an employee of a member for purposes of the NYSE Rules and require that the member comply with certain requirements when entering into an arrangement with any person asserting independent contractor status, including a requirement that the independent contractor execute a "consent to jurisdiction" form.[5]	NYSE Rule Interpretation 345(a)/02
NASD Rules provide that the following associated persons are not required to be registered: (1) associated persons who are not actively engaged in the investment banking or securities business; (2) associated persons whose functions are related solely and exclusively to the member's need for nominal corporate officers or for capital participation; and (3) associated persons whose functions are related solely and exclusively to: effecting transactions on the floor of a national securities exchange and who are registered as floor members with such exchange, transactions in municipal securities, transactions in commodities or transactions in security futures (provided that any such person is registered with a registered futures association).	NASD Rule 1060(a)
NASD Rules provide general information relating to the examination process.	NASD Rule 1070(a), (b) and (c)

Differing Requirements	
Description	**Applicable FINRA/ NASD/NYSE Provisions**
Requirements Applicable to Principals/Supervisors/Representatives	
NYSE Rules require that an employee of a non-U.S. registered foreign subsidiary whose duties (involving the purchase or sale of U.S. securities) correspond to those of a registered representative file a Form U4 and be approved by the NYSE as a registered representative of the parent member.	NYSE Rule 321.15 *Information Memorandum 93-54*
NASD Rules require that a principal register and qualify as a General Securities Principal.[6] The term "principal" includes sole proprietors, officers, partners, managers of offices of supervisory jurisdiction and directors who are actively engaged in the management of the member's investment banking or securities business, such as supervision, solicitation, conduct of business or the training of persons associated with a member for any of these functions. An associated person registered solely as a General Securities Principal is not qualified to function as a Financial and Operations Principal; Introducing Broker-Dealer Financial and Operations Principal; Registered Options Principal; General Securities Sales Supervisor; Municipal Securities Principal; or Municipal Fund Securities Limited Principal, unless the General Securities Principal is also registered and qualified in these other categories.	NASD Rules 1021(a), 1021(b) and 1022(a) *NTM 99-49*
NASD Rules provide that a principal is not required to register as a General Securities Principal if the person's activities are so limited as to qualify such person for one or more of the limited categories of principal registration, including a Financial and Operations Principal, an Introducing Broker-Dealer Financial and Operations Principal, a Registered Options Principal, an Investment Company and Variable Contracts Products Principal, a Direct Participation Programs Principal, General Securities Sales Supervisor or Government Securities Principal.	NASD Rule 1022(a) through (h) NASD IM-1022-2
NYSE Rules require that persons designated by a member to be in charge of any office of the member, any regional or other group of offices, or any sales department or activity pass the General Securities Sales Supervisor examination. The General Securities Principal examination and the General Module (Series 10) of the General Securities Sales Supervisor examination are acceptable alternative examinations to the General Securities Sales Supervisor examination. However, persons that pass these alternative examinations cannot supervise options or municipal securities activities.	NYSE Rule 342(d) and .13(a) NYSE Rule Interpretation 342.13/01
NYSE Rules require that "principal executives" be appropriately qualified to perform their assigned functions.	NYSE Rule 311.17 NYSE Rule Interpretation 311(b)(5)/01

Differing Requirements	
Description	**Applicable FINRA/ NASD/NYSE Provisions**
NASD Rules require that a member's Chief Compliance Officer (CCO) designated on Schedule A of the member's Form BD be registered as a General Securities Principal. If the member's activities are limited to investment company and variable contracts products, direct participation programs or government securities, the member's CCO may instead be registered as an Investment Company and Variable Contracts Principal, Direct Participation Programs Principal or Government Securities Principal, respectively. In addition, for purposes of the CCO requirement for Dual Members, FINRA recognizes the Compliance Official examination as an acceptable alternative to the principal examination requirements for General Securities Principal, Investment Company and Variable Contracts Principal and Direct Participation Programs Principal, as applicable. The NASD Rules also include a grandfathering provision for certain CCOs.	NASD Rule 1022(a)(1) FINRA Rule 3130(a) *NTM 01-51*
NYSE Rules require that Compliance Officials, the person (or persons) designated by a member to direct day-to-day compliance activity (such as the CCO) and each other person designated by the member to directly supervise ten or more persons engaged in compliance activity, pass the Compliance Official qualification examination. If a member's commissions and other fees from its public business (retail and institutional) are under $500,000 in the preceding calendar year and it introduces to another broker-dealer, the member's Compliance Officials are exempt from the Compliance Official qualification examination requirement. Compliance Officials that supervise ten or more persons whose compliance responsibilities are limited to the registration of individuals with regulatory bodies are also exempt from the Compliance Official qualification examination requirement. If a member is conducting a specialist business in addition to a public business, the member's Compliance Officials are also required to pass the Compliance Official for Specialist Firm qualification examination. However, if a member's activities are limited to the execution of orders on the NYSE floor and it does not conduct any public business, the member's Compliance Officials are subject only to the Compliance Official for Specialist Firm qualification examination requirement.	NYSE Rule 342.13(b) NYSE Rule Interpretation 342(a)(b)/02
NASD Rules require that a General Securities Principal who is responsible for supervising investment banking activities as described in NASD Rule 1032(i) also be registered as an Investment Banking Representative.	NASD Rule 1022(a)(1)

Differing Requirements	
Description	**Applicable FINRA/ NASD/NYSE Provisions**
NASD Rules require that a member's Research Principal, a principal who is responsible for supervising the overall conduct of a Research Analyst or Supervisory Analyst or who is responsible for approving research reports (other than a principal responsible for reviewing and approving third-party research reports, a principal assigned to supervise for compliance with only the disclosure provisions of NASD Rule 2711 or a Supervisory Analyst who is permitted to approve research reports), be registered as either a General Securities Principal and pass the Regulatory Administration and Best Practices (Series 87) portion of the Research Analyst examination or a General Securities Principal and pass the Supervisory Analyst examination.	NASD Rule 1022(a)(5) *NTMs 04-81* and *07-04*
NASD Rules permit a Supervisory Analyst to approve research reports. If a member elects to have a Supervisory Analyst approve research, then a Research Principal must supervise the overall conduct of the Supervisory Analyst and Research Analyst.	NASD Rules 1050(f)(3)(A), 2210(b)(1)(B) and 2711(h)(13)(C) *NTM 04-81*
NYSE Rules require that an individual who is responsible for approving research reports be registered and qualified as a Supervisory Analyst. Such person is required to present evidence of appropriate experience (which means having at least three years prior experience within the immediately preceding six years involving securities or financial analysis) and pass the Supervisory Analyst qualification examination. Rather than passing the entire Supervisory Analyst qualification examination, such person may obtain a waiver from the securities analysis portion (Part II) of the Supervisory Analyst qualification examination upon verification that the person has passed Level I of the Chartered Financial Analyst examination.	NYSE Rules 344, 344.11 and 472(a)(2) NYSE Rule Interpretation 344/03 and /04
NASD Rules require that a principal who is responsible for the financial and operational management of a member that has a minimum net capital requirement of $250,000 under SEA Rules 15c3-1(a)(1)(ii) and 15c3-1(a)(2)(i), or a member that has a minimum net capital requirement of $150,000 under SEA Rule 15c3-1(a)(8), be designated, registered and qualified as a Financial and Operations Principal. Such members also are required to designate a Chief Financial Officer (CFO) who is required to be registered and qualified as a Financial and Operations Principal. In addition, NASD Rules require that a principal who is responsible for the financial and operational management of a member that is subject to the net capital requirements of SEA Rule 15c3-1, other than a member that is subject to the net capital requirements of SEA Rules 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), be designated, registered and qualified as a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal. Such members also are required to designate a CFO who is required to be registered and qualified as a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal.	NASD Rules 1021(e)(3), 1022(b) and (c)

Differing Requirements	
Description	**Applicable FINRA/ NASD/NYSE Provisions**
NYSE Rules require that members designate a CFO and a Chief Operations Officers (COO) and that the CFO and the COO be registered and qualified as a Financial and Operations Principal if the member is a clearing firm or as either a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal if the member is an introducing firm. If the member is an introducing firm, the same person may be designated as both the CFO and COO.	NYSE Rule Interpretation 311(b)(5)/02 and /03
NASD Rules require that a principal engaged in government securities activities be registered as a Government Securities Principal. Such persons are not subject to a principal qualification examination. The rules include a grandfathering provision for certain principals.	NASD Rule 1022(h)
NASD Rules provide that a person who is currently registered with a member as a representative and whose duties are changed by the member so as to require registration as a principal may function as a principal for up to 90 calendar days before he or she is required to pass the appropriate qualification examination for principal. In addition, NASD Rules provide that a person who is not registered with a member as a representative and who is required to register as a principal may function as a principal for up to 90 calendar days after first satisfying all applicable prerequisite requirements before he or she is required to pass the appropriate qualification examination for principal.	NASD Rule 1021(d)
NASD Rules require that a member, except a sole proprietorship, have a minimum of two registered principals with respect to each aspect of the member's investment banking and securities business. In situations that indicate conclusively that only one registered principal should be required, FINRA may waive the two-principal requirement pursuant to the Rule 9600 Series and permit such member to have only one registered principal.	NASD Rule 1021(e)(1) and (2)
NYSE Rules require that a member carrying customer accounts have at least two general partners who are natural persons actively engaged in the member's business.[7]	NYSE Rule Interpretation 311(g)/01
NASD Rules require that members that have one Registered Options Principal promptly notify FINRA and agree to certain conditions if such person is terminated, resigns, becomes incapacitated or is otherwise unable to perform his or her duties.	NASD IM-1022-1

Differing Requirements	
Description	**Applicable FINRA/ NASD/NYSE Provisions**
NASD Rules define the term "representative" as an associated person, including assistant officer other than a principal, who is engaged in the investment banking or securities business for the member, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions.	NASD Rule 1031(b)
NYSE Rules define the term "registered representative" as an employee engaged in the solicitation or handling of accounts or orders for the purchase or sale of securities, or other similar instruments for the accounts of customers of his or her employer or in the solicitation or handling of business in connection with investment advisory or investment management services furnished on a fee basis by his or her employer.	NYSE Rule 10
NASD Rules provide that a representative is not required to register as a General Securities Representative if the person's activities are so limited as to qualify such person for one or more of the limited categories of representative registration, including an Options Representative, a Corporate Securities Representative, Government Securities Representative or Private Securities Offerings Representative.	NASD Rule 1032(a)(1), (d), (e), (g) and (h)
Subject to certain exceptions, NASD Rules require that each representative who, with respect to transactions in equity, preferred or convertible debt securities effected otherwise than on a securities exchange, is engaged in proprietary trading, the execution of transactions on an agency basis or the direct supervision of such activities be registered as an Equity Trader.	NASD Rule 1032(f)
NASD Rules provide that associated persons engaged in investment banking activities are required to be registered as Investment Banking Representatives.	NASD Rule 1032(i)
NASD Rules provide that a person associated with a member is not required to register as a General Securities Representative or in one or more of the limited categories of representative registration if the person's activities are so limited as to qualify such person for registration as an Order Processing Assistant Representative. An Order Processing Assistant Representative is an associated person whose only function is to accept unsolicited customer orders (other than orders for municipal securities and direct participation programs) for submission for execution by the member. Order Processing Assistant Representatives are subject to certain restrictions regarding their activities and compensation and are subject to certain supervisory requirements. In addition, they may not be registered concurrently in any other capacity.	NASD Rules 1041 and 1042 *NTM 89-78*

Differing Requirements	
Description	**Applicable FINRA/ NASD/NYSE Provisions**
NASD Rules provide that associated persons (who are to function as representatives for the member) that meet the "Foreign Associate" criteria are exempt from the requirement to pass a qualification examination. To qualify for the Foreign Associate registration category, an associated person must meet the following criteria: (1) cannot be a citizen, national, or resident of the U.S. or any of its territories or possessions; (2) must conduct all of his or her securities activities in areas outside the jurisdiction of the U.S.; and (3) cannot engage in any securities activities with or for any citizen, national or resident of the U.S. A Foreign Associate may act in any registered representative capacity on behalf of the member, including acting as a trader or the registered person responsible for servicing the accounts of a foreign national. To designate an associated person as a Foreign Associate, a member must: (1) file a Form U4 with FINRA and certify that the person meets the criteria for a Foreign Associate; (2) attest that the person is not disqualified from registration; and (3) certify that service of process for any proceeding by FINRA for such person may be sent to an address designated by the member. If the Foreign Associate is terminated, the member must notify FINRA immediately (by filing a Form U5). Foreign Associates are not subject to continuing education requirements.	NASD Rule 1100 *NTM 95-37*
NYSE rules require that a securities lending representative (any person who has discretion to commit his or her employer member to any contract or agreement (written or oral) involving securities lending or borrowing activities with any other person) and the direct supervisor of a securities lending representative be registered by filing a Form U4 and sign an agreement (representing a form of code of ethics) as an addendum to the Form U4. The rules also require that such persons complete the regulatory element of the continuing education requirements. However, such persons are not required to pass a qualification examination.	NYSE Rule 345(a) and .10 NYSE Rule Interpretations 345.15/02 and 345A(a)/02
NYSE Rules require that a "Registered Options Representative," a representative who transacts business with the public in option contracts, pass the General Securities Representative qualification examination.	NYSE Rules 345.10, 345.15(4) and 700(b)(49)[8] NYSE Rule Interpretation 345.15/02
NYSE Rules require that commodities solicitors, individuals who are engaged in the solicitation or handling of business in, or the sale of, commodities futures contracts, satisfy a solicitor's examination requirement (acceptable to the NYSE) of a national commodities exchange.	NYSE Rule 345.15(5)

Differing Requirements	
Description	**Applicable FINRA/ NASD/NYSE Provisions**
NYSE Rules permit floor members and floor clerks who conduct a public business limited to accepting orders directly from "professional customers" for execution on the NYSE floor to pass the Series 7A qualification examination instead of the General Securities Representative qualification examination. The Floor Member qualification examination and the Trading Assistant qualification examination are prerequisites for the Series 7A qualification examination for such floor members and floor clerks, respectively.	NYSE Rule Interpretation 345.15/02
NYSE Rules require that: (1) individuals who work as Front Line Specialist Clerks on the NYSE floor pass the Front Line Specialist Clerk qualification examination; (2) individuals who effect transactions on the NYSE floor pass the Floor Member qualification examination; (3) individuals who work as Trading Assistants on the NYSE floor pass the Trading Assistant qualification examination; and (4) other individuals who work as Floor Employees register as such (however, they are not subject to a qualification examination). Such persons also are subject to certain training requirements. NYSE Rules require that associated persons who conduct a public business (with other than "professional customers" on the NYSE floor) also pass the General Securities Representative qualification examination.	NYSE Rules 35 and 304A(a) NYSE Rule Interpretation 35[9] *Information Memorandum 06-36*

Endnotes – Attachment A

1. NASD Rule 3010(f) is proposed to be deleted as part of the proposed changes to the supervision rules. *See Regulatory Notice 08-24* (May 2008).

2. NYSE Rule 720 was deleted as part of the changes to the FINRA options rules, which took effect on February 17, 2009. *See* Exchange Act Release No. 58932 (November 12, 2008), 73 FR 69696 (November 19, 2008) (Order Approving SR-FINRA-2008-032).

3. An Approved Person is a person who either controls a member or is engaged in a securities or kindred business and is controlled by or under common control with a member.

4. NYSE Rule 304(e) was not incorporated into the FINRA rulebook.

5. The status of independent contractors as associated persons of a member under FINRA and NASD Rules is well settled. *See, e.g.*, Letter from Douglas Scarff, Director, Division of Market Regulation, SEC, to Gordon S. Macklin, President, NASD (June 18, 1992).

6. A person may qualify to function as principal or representative based on a combination of registrations and examinations. For instance, a person who is registered as a General Securities Sales Supervisor and passes the General Securities Principal Sales Supervisor Module (Series 23) examination also satisfies the General Securities Principal examination requirement. *See NTM 03-37* (July 2003).

7. NYSE Rule 311(h), which included a similar provision, was deleted as part of a prior rule change. *See* Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (Order Approving SR-FINRA-2008-036).

8. NYSE Rule 700(b)(49) was deleted as part of the changes to the FINRA options rules, which took effect on February 17, 2009. *See* Exchange Act Release No. 58932 (November 12, 2008), 73 FR 69696 (November 19, 2008) (Order Approving SR-FINRA-2008-032).

9. NYSE Rules 35 and 304A(a) and NYSE Rule Interpretation 35 were not incorporated into the FINRA rulebook.

EXHIBIT 2b

Alphabetical List of Written Comments
Regulatory Notice 09-70

1. Amal Aly, Securities Industry and Financial Markets Association ("SIFMA") (March 1, 2010)

2. Eric Arnold and Clifford Kirsch, Sutherland Asbill & Brennan, LLP, for the Committee of Annuity Insurers ("CAI") (March 1, 2010)

3. Dale E. Brown, Financial Services Institute, Inc. ("FSI") (February 26, 2010)

4. Daniel Bruk, Dresdner Kleinwort Securities LLC ("Dresdner") (January 6, 2010)

5. Beverly A. Byrne, GWFS Equities, Inc. ("GWFS Equities") (January 29, 2010)

6. Marian H. Desilets, Association of Registration Management, Inc. ("ARM") (February 26, 2010)

7. Trina L. Glass, Pershing LLC ("Pershing") (March 1, 2010)

8. Christopher Haines, Edward Jones (February 26, 2010)

9. Joan Hinchman, National Society of Compliance Professionals, Inc. ("NSCP") (March 1, 2010)

10. William A. Jacobson and Mian R. Wang, Cornell Securities Law Clinic, Cornell Law School ("Cornell") (March 1, 2010)

11. Marcos Konig ("Konig") (February 27, 2010)

12. Christine LaBastille, Integrated Management Solutions USA, Inc. ("IMS") (March 1, 2010)

13. Christopher P. Laia, United Services Automobile Association ("USAA") (February 26, 2010)

14. Melanie Senter Lubin, North American Securities Administrators Association, Inc. ("NASAA") (March 1, 2010)

15. Sarah McCafferty, T. Rowe Price Investment Services, Inc. ("T. Rowe") (February 24, 2010)

16. Susan Mesereau, American Equity Capital, Inc. ("AEC") (February 4, 2010)

17. Susan Mesereau, American Equity Capital, Inc. ("AEC") (February 4, 2010)

18. Sarah A. Miller, American Bankers Association ("ABA") (March 1, 2010)

19. Daniel C. Rome, Accounting & Compliance International ("ACI") (March 1, 2010)

20. Tamara K. Salmon, Investment Company Institute ("ICI") (February 24, 2010)

21. Howard Spindel, Integrated Management Solutions USA, Inc. ("IMS") (February 5, 2010)

22. Robert L. Tuch, Nationwide Financial Services, Inc. ("Nationwide") (February 26, 2010)

SIFMA
Securities Industry and Financial Markets Association

March 1, 2010,

BY EMAIL TO: pubcom@finra.org

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1509

RE: FINRA Regulatory Notice 09-70 -- Registration and Qualification Requirements

Dear Ms. Asquith,

The Securities Industry and Financial Markets Association ("SIFMA")[1] appreciates the opportunity to comment on FINRA Regulatory Notice 09-70 ("Notice"), which proposes to create new FINRA Rules that replace and revise the existing rules governing registration and qualification requirements. Among other things, the rule proposal would significantly broaden the current "permissive" registration categories to allow member firms to register (or maintain the registration of) certain persons employed by the member firm or its financial services affiliates. FINRA also proposes several other amendments to the qualification and examination requirements, which would introduce several new stand-alone registration categories.

I. Background and Summary

As a threshold matter, SIFMA thanks the FINRA staff for undertaking to streamline and modernize the registration rules so that financial services professionals may now have the opportunity to become registered and retain their registrations regardless of job function or where they are employed within global financial services organizations. Currently, FINRA registration rules are fairly prescriptive in nature, significantly limiting who may obtain and retain a U.S. securities license. With very few exceptions, the existing rules restrict registration to those individuals engaged in certain enumerated functions on behalf

[1] SIFMA brings together the shared interests of hundreds of securities firms, banks, and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association ("GFMA"). For more information, visit www.sifma.org.

of the U.S. broker-dealer and require registered persons to relinquish their license(s) upon change of responsibilities or transfer to non-registered affiliated entities within financial service organizations.[2] Consequently, strict application of the rules can sometimes impede the changing business needs of member firms and their affiliates, as well as the career development of many financial services professionals.

Proposed new FINRA Rule 1210 provides much-needed regulatory flexibility by expanding the existing registration categories to introduce three new registration statuses: (i) *Active* registration for those individuals engaged in the member firm's investment banking or securities business; (ii) *Inactive* registration for any person engaged in the bona fide business purpose of the member; and (iii) *Retained Associate* registration for persons engaged in the business of a financial services industry affiliate of the member firm.[3] Notably, while there are no time limitations for Active or Inactive registration, individuals with Retained Associate status would only be permitted to maintain their license(s) for a period of ten years, subject to certain tolling and forfeiture provisions.

As noted by FINRA, broadening the universe of individuals that may become registered will enable firms to cultivate more depth of qualified staff within their overall organizations from which to draw in the event of changes in personnel or business requirements. Further, and more fundamentally, the proposed changes engender greater knowledge of U.S. securities laws, markets and financial products among financial services professionals within the global organization that ultimately contributes to the overall culture of compliance at member firms, and the financial services industry at large.

SIFMA therefore welcomes and supports the expansion of permissive registration as proposed in FINRA Rule 1210 as meaningful and useful reforms to the overall registration framework. We believe, however, that several aspects of this proposed rule are highly problematic and require further modification in order to ease the administrative burdens and practical difficulties associated with the current proposal. Among these are the proposed forfeiture and tolling measures contained in Rule 1210 (c), which SIFMA strongly recommends be eliminated and instead replaced with a more straightforward ten-year license retention period for all Retained Associates, regardless of movement in and out of the broker-dealer. Specifically, we request that any person designated as a Retained Associate be afforded the benefit of this ten-year period, except that any such person who subsequently becomes associated with the broker-dealer for at least three years in either an

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[2] NASD Rules 1021 and 1031 require associated persons engaged in the investment banking business or securities business of the broker-dealer to be registered as a representative or principal. These rules also allow (but do not require) "permissive" registration of persons who perform legal, compliance, internal audit, back-office operations or similar responsibilities of the member firm, or who are engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

[3] Proposed new Rule 1210(c)(6) defines the term "financial services industry" to mean any industry regulated by the SEC, CFTC, state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities.

Active or Inactive capacity would be entitled to a new ten-year retention period upon return to a financial service affiliate (i.e., a new Retained Associate designation date). This requested modification and alternative approach are explained more fully in Part IIB of this letter.

Moreover, and as detailed in Part III herein, SIFMA also requests that FINRA modify or clarify various terms and requirements within Proposed Rules 1210 and 1230 to more accurately define the scope and application of these new rules.

Clearly, regulatory flexibility that fosters awareness of the securities laws and markets among financial services professionals benefits investors, member firms and regulators alike, and therefore should be encouraged. Those benefits could be diminished or even lost, however, if the new requirements result in costs or complexity that ultimately deter member firms from sponsoring or maintaining the registrations of otherwise qualified individuals. We therefore urge FINRA to consider the modifications and requests for clarifications described herein, which we believe will produce a more efficient registration framework that promotes the core objectives of the proposed expansions while addressing potentially burdensome attributes of the proposed rules.

II. Retained Associate Status – Proposed Rule 1210(c)

Under proposed new Rule 1210(c), Retained Associates engaged in the business of the member's financial services industry affiliate may maintain their registrations for a period of ten years, subject to certain strict time and job function conditions, including complicated tolling and forfeiture measures. Proposed Rule 1210 would permit Retained Associates that transfer from a financial services affiliate to an Active registration role in the broker-dealer to toll (i.e. extend) the ten-year license retention period, provided Active registration status is maintained for at least 12 months. By contrast, Retained Associates that enter Inactive status at the broker-dealer for same period of time would only be entitled to a ten-year retention period, inclusive of the time spent at the broker-dealer. If, however, the Retained Associate moves to the broker-dealer in *either* an Active registration or Inactive registration role for *less* than 12 months, the Retained Associate *forfeits* any remaining time on the ten-year period, and therefore would have to relinquish all securities licenses.

Fundamentally, SIFMA believes that licensed securities professionals should be viewed and afforded similar treatment as other licensed professionals that are able to retain their licenses, provided they satisfy continuing education requirements and do not hold themselves out as registered representatives. In that regard, SIMFA notes there is no specific rationale given for the license retention period of ten years proposed by FINRA for financial services professionals who work for affiliated entities of the broker-dealer (i.e., Retained Associates). We understand, however, that both the FINRA and SEC staffs have expressed concerns with an indefinite license retention period. SIFMA is prepared to support the ten-year time limit, subject to adoption of the recommended modifications

described herein, including the elimination of the complicated tolling and forfeiture provisions in favor of a more uniform, streamlined approach.

A. Tolling and Forfeiture Provisions under Proposed Rule 1210(c) Are Overly Complicated, Impractical and Could Undermine the Utility of the Registration Reforms

Due to the complexity of the proposed tolling and forfeiture provisions, implementation will be both costly and extremely difficult for member firms. Specifically, member firms will need to develop elaborate control systems to track and administer the multiple iterations of the tolling and forfeiture provisions in order to take advantage of the Retained Associate registration status. While some member firms may undertake to develop such systems, for others implementation could be cost-prohibitive. Consequently, firms that would otherwise avail themselves of the expanded registration rules may decline to sponsor or maintain the registrations of financial services professionals employed by their related affiliates. Not only would such an outcome disserve the core policy objectives of enhanced regulatory literacy, in some cases it could have serious competitive and business ramifications.

Indeed, because the forfeiture provision penalizes Retained Associates that subsequently transfer to a broker-dealer for a short period of time, we believe the current formulation could in fact discourage registration and movement of individuals employed at the affiliated entity. As proposed, the Rule requires a sponsoring broker-dealer to "terminate" the license(s) of any Retained Associate that becomes employed by the broker-dealer in either an Active or Inactive registration role for less than 12 months and cannot find new employment with another broker-dealer within 30 days. Consequently, unlike the Retained Associates that remain exclusively with affiliated non-member firms (and have the full benefit of the ten-year retention period), licensed securities professionals that transfer between the affiliate and the broker could lose their licenses altogether if they fail to meet the 12-month threshold at the broker-dealer. [4]

Similarly, Retained Associates that move to the broker-dealer in Inactive status for extended periods of time are also disadvantaged because their ten-year registration clock continues to run during their period of employment at the broker-dealer. Consider the following example: A person obtains a Series 7 license while employed at the non-member affiliate and transfers to the member firm one year later in an Inactive registration role. The Retained Associate (now an associated person of the firm) remains in the Inactive

[4] In this regard, SIFMA requests clarification regarding the interaction between the proposed forfeiture provision and existing two year registration reinstatement period for individuals that become "inactive." Specifically, under existing FINRA rules, registered persons that leave the industry become "inactive" for a period of up to two years, after which registration status will be administratively "terminated," thus requiring the previously registered person to re-qualify by examination. If however the former associated person returns to the broker-dealer within the two-year period, the registrations are reinstated without need for re-qualification.

registration role for seven years and thereafter transfers to an affiliated entity. Under this scenario, the Retained Associate would be entitled to retain the licenses for another two years only, after which re-qualification would be required. By contrast, an associated person who obtains the Series 7 in Inactive status while employed at the broker-dealer can retain that license indefinitely at the broker-dealer and would be entitled to a new ten-year retention period upon transfer to a non-member affiliate. Thus, financial services professionals performing similar jobs and subject to the same continuing education and annual meeting requirements could be entitled to different retention periods, depending on where they initially qualified for the "inactive" license. Particularly for individuals that intend to move to the broker-dealer shortly after obtaining the Retained Associate status, these disparate time limitations could be significant.

Notably, FINRA indicates that the 12-month threshold for retention and tolling of Retained Associated status is intended to mitigate concerns about potential customer confusion that may result from frequent switching of the registration status of Retained Associates. While SIFMA appreciates these legitimate concerns, SIFMA believes the proposed threshold is too low and inconsistent with the regulatory justification proffered for this aspect of the proposal. Member firms currently face and already address similar risks today with respect to unregistered or permissively registered staff who potentially could misrepresent their registration status or unlawfully conduct securities business with the public. In SIFMA's view, the potential risk of investor confusion is not heightened by movement of Retained Associates between the U.S. broker-dealer and its own affiliates. We therefore question whether the 12-month retention period will mitigate investor confusion in a meaningful way. Indeed, as a general matter, the risk of persons holding themselves out as registered representatives is greatly diminished if there is no financial incentive (e.g., no compensation based on transactions with or for the member firm), and such persons are not ultimately paid by the U.S. registered broker-dealer.

B. SIFMA's Proposed Alternative Approach

In light of the foregoing, SIFMA urges FINRA to amend Proposed Rule 1210(c) to eliminate the tolling and forfeiture measures in their entirety and instead adopt a more simplified ten-year license retention period for *all* Retained Associates as follows.

First, we respectfully request that the new Rule permit Retained Associates to retain their licenses for ten consecutive years, irrespective of a subsequent change in registration status (Active or Inactive) or length of time spent in the broker-dealer in either of those registration statuses. Therefore, even if a Retained Associate, during the ten-year period, moves to an affiliated broker-dealer and changes registration status to Active or Inactive, the ten-year retention period would continue to run without tolling or forfeiture.

Second, any Retained Associates who become associated with the member firm and complete at least three consecutive years at the broker-dealer in *either* an Active or Inactive status would be entitled to restart the ten-year Retained Associate period upon transfer to an affiliate. As such, any registered associated person of the member firm that

subsequently becomes "Retained" at an affiliated entity would be assigned a new Retained Associate designation date and therefore have the benefit of the ten-year time period, provided the associated person remained registered with a member for at least three consecutive years. In our view, this modification preserves the need for uniform time limitations while recognizing that individuals who spend a significant period of time engaged in the business of a broker-dealer should be entitled to the full benefit of the new provisions.[5]

Additionally, to address concerns about possible investor confusion that may arise with the respect to a Retained Associate's (or Inactive registrant's) ability to conduct business with the public, we also recommend that FINRA modify the Central Registration Depository ("CRD") and BrokerCheck systems to accommodate, disclose and explain the registration designations for *all* persons registered with the broker-dealer. We note that enhancements to CRD and BrokerCheck to include designations of Active, Inactive and Retained Associate status will provide greater transparency, as well as assist firms in monitoring and supervising the different types of licenses. Furthermore, FINRA could require firms to implement specific policies and procedures as part of a control framework reasonably designed to reinforce role limitations. As noted above, many member firms already have policies and procedures in place that are reasonably designed to prevent unregistered or permissive registrants from holding themselves out to the public or conducting business on behalf of the U.S. broker-dealer. Such policies and procedures could be enhanced as needed to satisfy the requirement of the Rule.

III. Additional Comments and Requests for Modifications

In addition to the foregoing modifications, SIFMA also requests further modification and clarification with respect to several provisions within the proposed new Rules as follows.

A. Concepts of Active, Inactive and Retained Associate Registration Status Should be Clearly Defined in the New Rule

With the introduction of the new registration statuses, it is important that the concepts of "active registration," "inactive registration" and "Retained Associate" be clearly defined and utilized in a consistent manner within the proposed new Rules. We find certain provisions of Proposed Rule 1210 unclear in this regard. SIFMA therefore urges FINRA to review and define these terms within the Rule's text to more clearly differentiate between the new registration statuses and their attendant obligations.

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[5] This requested modification is intended to apply the same policy considerations underlying the proposed tolling provision in a more uniform and equitable manner by affording all registered associated persons (Active, Inactive, or previously Retained) that spend at least three years at the broker-dealer the same benefits under the rule.

In that regard, we respectfully request that FINRA reconsider use of such terms like "deemed active," which we find to be confusing, particularly as it pertains to member firm reporting and supervisory obligations. For example, Proposed Rule 1210(a) states that "a person registered pursuant to paragraph (a) shall be presumed to have an active registration with respect to such registration, unless FINRA is otherwise notified in a manner specified under paragraphs (b), (c) or (d) of this Rule that such registration is inactive." Proposed (b)(3) further states:

> A person registered pursuant to both paragraphs (a) and (b) of this Rule shall be *deemed to have active registrations with respect to all such registrations* for purposes of paragraph (a) . . . . Such person shall be appropriately supervised by a member to ensure that such *person is not acting outside the scope of his or her assigned function.*

Thus, where an Active registrant obtains another registration in Inactive status, the otherwise Inactive registrations would be *"deemed active"* for purposes of the Rule. While SIFMA appreciates FINRA's willingness to permit associated persons to hold multiple registrations in different registration categories, the proposed Rule language is confusing and creates uncertainty as to the member firms' responsibilities under the proposed new registration regime.

Another example of where proposed rule language could benefit from further clarification is Proposed Rule 1210 (b)(4), which deals with associated persons who elect (but are not otherwise required) to register as Compliance Officers in Inactive status. That paragraph states:

> Notwithstanding paragraph (b)(2) of this Rule, a person registered as a Compliance Officer as set forth in Rule 1230(a)(4) solely pursuant to this paragraph (b) *(i.e., a person who is not required to register as a Compliance Officer) and who is not otherwise required to register* in any other category of registration pursuant to Rule 1230 may have an active or inactive registration with respect to such registration, provided, however, that such person shall be engaged in compliance activities at the member to be eligible to have an active registration.

Here too the rule language conflates notions of "active" and "inactive" registration status. As written, associated persons "not required to register" in any category under proposed Rule 1230 -- including the Compliance Officer registration under 1230(a)(4) -- could be eligible for "active" registration by virtue of their "inactive" Compliance Officer registration status. SIFMA finds this entire paragraph extremely difficult to understand and respectfully requests that FINRA amend the language to more clearly explain what is intended by the reference to "active" registration in this context.

Similar to the comments above, SIFMA believes that the term "Retained Associate" should be modified because it incorrectly implies that persons holding such registration status are associated persons of the member firm. While Active and Inactive registrants are

associated persons of the member firm, Retained Associates of non-member affiliated entities are not, *unless* such persons subsequently become actively or inactively registered with the member. [6] In SIFMA's view, a more accurate term is "Retained Person" or Retained Registrant, since either term would more clearly differentiate individuals holding that status from associated persons of the member firm.

B. Supervision of Retained Associates

Proposed Rule 1210(c) requires that each Retained Associate comply with certain specified rules. SIFMA greatly appreciates the clarity regarding which of FINRA's employee conduct rules would apply to Retained Associates, but we are concerned that assigning each Retained Associate to be "supervised" by a registered principal on an individual basis will not be practical or effective in all cases.[7] In most cases, there will not be a registered principal with the member firm in an operational position to "supervise" the direct activities of the Retained Associate at the member firm's affiliate. Retained Associates often will be geographically and organizationally separate from the broker-dealer and subject to their own hierarchy of supervision. Thus, in some instances attempting to "map" each Retained Associate to registered principals in the broker-dealer could result in supervisory arrangements of more form than substance. In addition, managers within financial services affiliates who would not otherwise be required to register with FINRA may do so solely to satisfy this requirement.

SIFMA nevertheless recognizes the clear need for oversight of the activities of Retained Associates. Rather than assigning a registered principal to "supervise" each Retained Associate, we respectfully request that member firms should be required to assign a registered principal(s) responsible for implementing a system of policies, procedures and controls reasonably designed to ensure that Retained Associates do not engage in activity that would require "active" registration with the member firm. We also suggest that the assignment of each Retained Associate to a registered principal as recommended herein is one method of supervision but not the only acceptable alternative. Another effective approach would be to expressly require that Retained Associates be subject to the broker-dealer's overall system of supervision, including written procedures designed to address compliance with the core set of rules applicable to Retained Associates and the requirement to act within the limits of their registration status. Allowing alternative approaches would recognize the diversity among FINRA's member firms in terms of size, corporate structure, and geographic dispersion.

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[6] The Notice states that Retained Associates generally will not be considered associated persons.

[7] For purposes of the proposed Rule, the assigned registered principal would only be responsible for "supervising" the Retained Associate's activities to ensure that the Retained Associate is: (1) in fact engaged in the business of the member's financial services industry affiliate; (2) not engaged in any activities that will require registration or make such person eligible for inactive registration by engaging in a bona fide business purpose of the member; and (3) complying with the provisions applicable to such person based on his or her status as a Retained Associate. *Notice* at footnote 11.

C. Grandfathering of Retained Associates Within The Two-Year Registration Reinstatement Period

Under existing NASD Rule 1031(c), a member firm has two years to reinstate the registrations of a formerly registered person that became "inactive" due to change in responsibility or non-association with a member firm. SIFMA respectfully request that, in adopting the new rules, FINRA permit individuals currently within the two-year inactive period to reinstate their registrations either in Inactive or Retained Associate status provided all other conditions of the rule are met.

D. Waiver Process under Proposed Rule 1220(c)

Proposed Rule 1220 adopts the current provisions regarding waiver of examination requirements (current NASD Rule 1070) without substantive change. Consequently, as with the current Rule, the proposed Rule does not articulate the clear standards or criteria for granting of examination waivers. Given the increase in proposed specialized registration categories, we respectfully request that FINRA consider providing clear guidelines and administrative procedures for waivers, so as to avoid much of the uncertainty and inherent delays associated with the current process.

E. Compliance Officer Registration –Proposed Rule 1230(a)(4)

SIFMA also seeks confirmation that an associated person who supervises ten or more compliance personnel is not required to register as a Compliance Officer under Proposed Rule 1230(a)(4), unless such person is designated as a Chief Compliance Officer (CCO) on firm's Form BD. There is some confusion as to the scope of the proposed new Compliance Officer registration category due to language in the exception clause in paragraph (a)(4)(C). That provision states that individuals designated as CCO on Schedule A of the Form BD, *or* registered as a Compliance Official, immediately prior to the effective date of the Rule would be exempt from the new qualification examination requirement. Because the term Compliance *Official* typically describes individuals that qualify for NYSE Series 14 registration under current NYSE Rule 342.13(b), application of the new stand-alone registration and examination requirement with regard to these individuals is not entirely clear. We therefore request FINRA amend the Rule language to clarify that persons qualified to hold a NYSE Series 14 license pursuant to NYSE Rule 342.13(b) are not required to register as Compliance Officer unless designated as a Chief Compliance Officer on Form BD.

F. ***Supervisory Analyst - Proposed FINRA Rule 1230(a)(11)***

Proposed Rule 1230(11) also introduces a new a stand-alone permissive registration category for Supervisory Analysts. Under this category, a registered principal whose activity is limited to approving research reports may register as a Supervisor, provided he or she passes a Supervisory Analyst qualification examination. SIFMA supports Rule 1230 (11) as proposed and further requests that FINRA continue to exclude from the branch

office definition locations where member firms solely conduct final approval of research reports.

G. Retained Associates Ability to Engage in Activities Permitted by and Receive Referral Fee Compensation Pursuant to Networking Arrangements under GLBA and Regulation R

SIFMA also seeks confirmation that Retained Associates employed at bank affiliated entities may participate in, and make referrals pursuant to, networking arrangements with a broker, as well as receive compensation for such referrals, as permitted by both the Exchange Act and Regulation R promulgated thereunder to the same extent as bank employees who do not have Retained Associate status. Specifically, Section 3(a)(4) of the Exchange Act, permits bank employees to receive "a nominal one-time cash fee of a fixed dollar amount" for referring bank customers to the broker, provided the bank employee is not an "associated person of a broker or dealer" and the bank and bank employees comply with the other requirements of Section 3(a)(4).

Similarly, Rule 701 of Regulation R exempts from broker registration those banks that pay, under a networking arrangement, more than the statutory required nominal referral fee to "bank employees" in connection with their referral of high net worth individual or institutional bank customers to a broker and the bank and bank employees comply with the other requirements of Rule 701. Rule 701 defines a "bank employee" as one that is "*not registered"* in accordance with the qualification standards established by the rules of any self-regulatory organization.

We believe that once an associated person becomes an employee of a bank affiliated with a broker and attains Retained Associate status under the proposed Rule, that employee should no longer be treated as an associated person or registered person for purposes of Section 3(a)(4) of GLBA and Regulation R, but rather should be treated as a bank employee for all purposes under those provisions, including all other applicable exemptions (e.g., receiving compensation for selling money market mutual funds as sweep vehicles). We believe that our view is consistent with the Notice which states that a Retained Associate "generally will not be considered a registered person (or an associated person)." However, because of the importance of this issue to our members and their affiliated banks, we believe that the requested clarification would be extremely helpful to avoid any unintentional ambiguity.

IV. Conclusion

A global workforce that has a fundamental understanding of the U.S. securities laws and markets would serve to enhance the effective functioning of our global capital markets, enable U.S. financial services firms to compete in that marketplace, and promote an industry-wide culture of compliance. SIFMA generally supports the proposed amendments, which we believe will better align the FINRA registration rules to the global marketplace, enable firms to cultivate a greater depth of qualified personnel, and give firms

greater flexibility in making personnel decisions to meet client and market demands. We urge FINRA to modify the proposed amendments as we have suggested, in order to facilitate efficient implementation, and maximize the realization of the intended regulatory benefits. We thank you for your consideration and look forward to further discussions on this matter. If you have any questions or require further information, please contact me at 212 313 1268.

Respectfully submitted,

Amal Aly
SIFMA
Managing Director and
Associate General Counsel

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March 1, 2010

VIA ELECTRONIC MAIL

Marcia E. Asquith
Senior Vice President and Corporate Secretary
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 09-70: Registration and Qualification Requirements: FINRA Requests Comment on Proposed Consolidated FINRA Rules Governing Registration and Qualification Requirements

Dear Ms. Asquith:

We are submitting this letter on behalf of our client, the Committee of Annuity Insurers (the "Committee"),[1] in response to Regulatory Notice 09-70, "Registration and Qualification Requirements: FINRA Requests Comment on Proposed Consolidated FINRA Rules Governing Registration and Qualification Requirements" (the "Notice"). The Notice proposes new FINRA rules and supplementary material to amend the FINRA registration and qualification rules (the "Proposal").

The Committee commends FINRA for undertaking, as part of the FINRA Rulebook Consolidation, to consolidate FINRA's current registration and qualification rules. The Committee believes that the Proposal is a significant step in the right direction because of the flexibility of the registration requirements with respect to individuals who are part of large financial services complexes, such as those including insurance companies.

This letter provides comments with respect to certain provisions of two of the rules covered by the Proposal – proposed FINRA Rule 1210 ("Proposed Rule 1210"), and proposed FINRA Rule 1230 ("Proposed Rule 1230"). In particular, this letter provides comments on: Proposed Rule 1210's provisions concerning the 10-year tolling period for the Retained

[1] The Committee of Annuity Insurers is a coalition of 31 life insurance companies that issue fixed and variable annuities. The Committee was formed in 1981 to participate in the development of federal securities law regulation and federal tax policy affecting annuities. The member companies of the Committee represent over two-thirds of the annuity business in the United States. A list of the Committee's member companies is attached as Appendix A.

Associate registration category; Proposed Rule 1210's provisions concerning oversight of Retained Associates; Proposed Rule 1230's provisions concerning the functions requiring registration as a Principal Operations Officer; and Proposed Rule 1230's provisions concerning grandfathering of previously registered Chief Compliance Officer and the qualification requirements for a Chief Compliance Officer of a firm with a limited business model (*e.g.*, only the sale of variable annuities).

The Committee then provides comments on two issues not addressed by the Proposal: updating FINRA's Central Registration Depository ("CRD") system such that it provides for indication of any registered representative who is Inactive or a Retained Associate; and limiting the applicability of FINRA's exam and investigation powers with respect to Retained Associates.

PROPOSED 10-YEAR LIMIT ON REGISTRATION AS A RETAINED ASSOCIATE

10-Year Limit on Registration as a Retained Associate. Proposed Rule 1210 calls for two new categories of non-active registration – Inactive[2] and Retained Associate. These categories of registration are "permissive," *i.e.* they allow for registration, but do not require registration.

An individual who is not engaged in a member's securities or investment banking business, but is instead engaged in a "bona fide business purpose of the member,"[3] may register as Inactive. On the other hand, an individual who is "engaged in the business of a financial services industry[4] affiliate of a member that controls, is controlled by or is under common control with the member" may register as a Retained Associate. This aspect of the Proposal is designed to allow the registration of individuals who operate through a legally distinct affiliate of the broker-dealer but within the same financial services enterprise.

The Notice explains that Proposed Rule 1210 permits a person to be designated as a Retained Associate for ten consecutive years, but that under certain circumstances, the ten year period may be tolled. The Proposal includes complex rules to calculate the tolling for the ten year period.

The Notice also explains that a Retained Associate would be subject to substantially less FINRA regulation and member firm oversight than active registrants. However, a Retained Associate would be subject to, among other things, continuing education requirements, annual compliance meeting attendance, certain supervision requirements, and background investigations.

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[2] For ease of reference, we refer herein to those registered persons who are inactive and "engaged in a bona fide business purpose" as "Inactive."

[3] The Proposal does not define the phrase "bona fide business purpose of a member."

[4] Proposed Rule 1210(c)(6) defines "financial services industry" to be "any industry regulated by the SEC, CFTC, state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities."

Comment. The Committee recommends that the 10-year limit on registration as a Retained Associate should be eliminated from Proposed Rule 1210. The Committee believes that the process of determining eligibility for tolling is too complex, and compliance with the provision could be overly burdensome for member firms. Moreover, given that there are articulated supervisory requirements with respect to Retained Associates, and particular requirements to remain "current" with respect to securities-related issues (e.g., through meeting continuing education requirements and annual compliance meeting attendance), there appears to be no policy rationale for the 10-year limit on registration as a Retained Associate.

PROPOSED OVERSIGHT OF INACTIVE AND RETAINED ASSOCIATES

Oversight of Inactive and Retained Associates. As mentioned above, pursuant to Proposed Rule 1210, a Retained Associate would be subject to requirements concerning continuing education, attendance of annual compliance meetings, supervision, and personnel background investigation. Inactive registrants would be subject to the same requirements, and also any requirements that are applicable to an associated person. In addition to the requirements listed above, under Proposed Rule 1210 Retained Associates and Inactive registrants would be subject to oversight, such as FINRA fees and charges, Forms U4/U5 filings, and registration. Proposed Rule 1210 also indicates that both Inactive registrants and Retained Associates are subject to NASD Conduct Rule 3010(a)(5) which mandates that the individual be assigned to a supervisor who is responsible for supervising the activities of such individual. Proposed Rule 1210 further provides the following guidance with respect to these supervision obligations:

> **Inactive Registrants:** oversight to ensure the that individual is not required to be an active registrant and compliance with the particular rules applicable to an Inactive registrant.
>
> **Retained Associates:** oversight to ensure the that individual is not required to be an active registrant, or an Inactive registrant, and compliance with the particular rules applicable to Retained Associates.

Comment. With both Inactive registrants, and Retained Associates, it is very likely that such individuals will have significant activities that do not relate to the securities activities of the member firm. While the Committee recognizes the need for FINRA oversight of Retained Associates and Inactive registrants, it requests that FINRA clarify Proposed Rule 1210 to indicate that such oversight is limited to activities that directly involve the securities activities of a member firm or that are otherwise covered by Proposed Rule 1210.[5]

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[5] Given that individuals in the "Retained Associate" category would not be associated persons of the broker-dealer, it may avoid confusion to designate another title which does not include the term "associate." For example, it would appear that "Retained Person" may avoid confusion it this regard.

PROPOSED FUNCTIONS REQUIRING REGISTRATION AS A PRINCIPAL OPERATIONS OFFICER

Functions Requiring Registration as a Principal Operations Officer. Proposed Rule 1230 requires member firms to designate a Principal Operations Officer. The Principal Operations Officer would be defined as the person primarily responsible for the day-to-day operation of the business, including receipt and delivery of funds and securities. More specifically, Proposed Rule 1230 delineates that a Principal Operations Officer would be responsible for: (i) final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body; (ii) final preparation of such reports; (iii) supervision of individuals who assist in the preparation of such reports; (iv) supervision of and responsibility for individuals who are involved in the actual maintenance of the member's books and records from which such reports are derived; (v) supervision and performance of the member's responsibilities under all financial responsibility rules promulgated pursuant to the Exchange Act; (vi) overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the member's back office operations; or (vii) any other matter involving the financial and operational management of the member.

Comment. The Committee believes that FINRA has taken a step in the right direction with respect to its delineation of activities for which a Principal Operations Officer would be responsible. However, the Committee recommends that FINRA clarify the activities that constitute "operations." More specifically, the rules should be clarified so that an individual should register as a Principal Operations Officer only when the individual is in some manner responsible for handling or processing customer funds or securities. Stated alternatively, the Committee believes that the activities described above should not be designed to cover the typical duties handled by an administrative officer who handles administrative and technical matters for a member firm but does not have responsibilities related to the handling or processing of customer funds or securities.

PROPOSED QUALIFICATION REQUIREMENTS FOR CHIEF COMPLIANCE OFFICERS

Qualification Requirements for Chief Compliance Officers. Proposed Rule 1230 would create a stand-alone registration category for compliance officers, including Chief Compliance Officers. All Chief Compliance Officers designated as such on a member firm's Form BD would be required to pass a Compliance Officer exam and register as a Compliance Officer. Registration as a General Securities Representative would be a prerequisite to Compliance Officer registration, meaning that an individual would be required to hold a Series 7 qualification in order to register as a Compliance Officer. However, a person who, prior to the effective date of Proposed Rule 1230, has been designated as a Chief Compliance Officer on Schedule A of Form BD or has registered as a Compliance Official would be qualified to register as a Compliance Officer without being required to pass the Compliance Officer qualification examination.

Comment. The Committee believes that registration as (and appropriate qualification through examination for) a Compliance Officer is appropriate for such Compliance Officers at

member firms with a limited business model (e.g., only the sale of variable products or mutual funds). The Committee contemplates that such qualification and examination will focus on those issues and topics that are relevant to any Compliance Officer, regardless of the business model of the member firm. However, the Committee suggests that to register as a Compliance Officer for a member firm with such a limited business model (i.e., only the sale of variable products), a person should only need to hold the Series 6, and not the currently proposed Series 7 license as a prerequisite. The Committee urges FINRA to amend the provisions of Proposed Rule 1230 pertaining to prerequisites to Compliance Officer registration accordingly.

The Committee also requests that FINRA confirm that the grandfathering provision of Proposed Rule 1230 applies to a situation in which a Chief Compliance Officer, who previously qualified for registration pursuant to Proposed Rule 1230, transfers to a new member firm. In other words the ability of a Chief Compliance Officer to be grandfathered should not terminate upon his or her affiliation with a new firm.

UPDATING CRD SYSTEM TO ACCOUNT FOR NON-ACTIVE REGISTRATION CATEGORIES

At the moment, the Proposal does not state whether FINRA's CRD system will provide for indication of any registered representative who is an Inactive registrant or a Retained Associate. The Committee recommends that FINRA's CRD system should be updated to indicate those individuals who are Inactive registrants or Retained Associates. Such enhancements would assist firms in their efforts to comply with the new rule.

FINRA'S EXAM AND INVESTIGATION POWERS APPLICABLE TO RETAINED ASSOCIATES

The Committee believes that subjecting Retained Associates to the full panoply of FINRA's exam and investigation powers under the FINRA Rule 8000 and 9000 series, with no limitations, is inappropriate. Given the tangential relationship that such Retained Associates will have to the member firm's business, the Committee believes that FINRA should only have such authority over Retained Associates in limited circumstances. For example, the Committee believes that exam and investigation powers should only apply to Retained Associates when such individuals have direct knowledge of the particular aspect of the member firm's business being reviewed, and should not be used to collect information about affiliated entities, or the business of such entities, that does not relate in a material way to the member firm's securities conduct being reviewed.

IMPLEMENTATION ISSUES

The Committee notes that member firms would need to undertake a significant review and modification of current business practices, policies and procedures, and training programs to comply with the Proposal, if all the proposed rule changes are adopted substantially as proposed. This undertaking would likely require an extended period of time. In light of these considerations, the Committee recommends that FINRA provide a lengthy implementation period for the Proposal, if it is eventually adopted.

CONCLUSION

The Committee appreciates the opportunity to comment on the Proposal. We would look forward to a meeting with FINRA staff in order to provide more specific input on the issues raised in this letter and answer any questions the staff may have regarding our comments.

Please do not hesitate to e-mail or call Eric Arnold (eric.arnold@sutherland.com, or 202.382.0741) if you have any questions on the issues addressed in this letter or Clifford Kirsch (clifford.kirsch@sutherland.com, or 212.389.5055).

Respectfully submitted,

SUTHERLAND ASBILL & BRENNAN LLP

BY: Eric Arnold IJH

BY: Clifford Kirsch IJH

FOR THE COMMITTEE OF ANNUITY INSURERS

Appendix A

THE COMMITTEE OF ANNUITY INSURERS

AEGON Group of Companies
Allstate Financial
AVIVA USA Corporation
AXA Equitable Life Insurance Company
Commonwealth Annuity and Life Insurance Company
Conseco, Inc.
Fidelity Investments Life Insurance Company
Genworth Financial
Great American Life Insurance Co.
Guardian Insurance & Annuity Co., Inc.
Hartford Life Insurance Company
ING North America Insurance Corporation
Jackson National Life Insurance Company
John Hancock Life Insurance Company
Life Insurance Company of the Southwest
Lincoln Financial Group
Massachusetts Mutual Life Insurance Company
Metropolitan Life Insurance Company
Nationwide Life Insurance Companies
New York Life Insurance Company
Northwestern Mutual Life Insurance Company
Ohio National Financial Services
Pacific Life Insurance Company
Protective Life Insurance Company
Prudential Insurance Company of America
RiverSource Life Insurance Company
(an Ameriprise Financial company)
Sun Life Financial
Symetra Financial
TIAA-CREF
USAA Life Insurance Company

VOICE OF INDEPENDENT BROKER-DEALERS
AND INDEPENDENT FINANCIAL ADVISORS

www.financialservices.org

February 26, 2010

Marcia E. Asquith
Senior Vice President and Corporate Secretary
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1500

RE: Regulatory Notice 09-70, Registration and Qualification Requirements

Dear Ms. Asquith,

On December 3, 2009, the Financial Industry Regulatory Authority (FINRA) published Regulatory Notice 09-70 seeking comments on its proposal regarding registration and qualification requirements (Proposed Rules)[1]. The Proposed Rules seek comments on three new rules that replace and substantially revise the existing rules regarding principal and representative registration. The Proposed Rules mark a significant change in FINRA's views on registration and recognizes the benefit of having more individuals registered. The Proposed Rules also reorganizes and consolidates materials that were previously presented in several different NASD and NYSE rules.

The Financial Services Institute[2] (FSI) generally supports the Proposed Rules as an improvement to the existing rules given the much broader range of individuals who may hold registrations and the elimination of the prohibition on "parking" registrations. However, the Proposed Rules present a complicated and expensive system in which compliance is costly and difficult. More specifically, we would like to comment on the complexity of the Retained Associate's ten-year clock, the circumstances under which an individual may act as a principal before passing the required registration exams, the Chief Compliance Officer examination, proposed language related to retaking failed examinations, and adding a provision related to grandfathering certain individuals who have lapsed registrations. These concerns are discussed more fully below.

Comments on the Proposed Rules

As stated above, FSI generally supports FINRA's Proposed Rules as a helpful improvement to the current rules. However, we are concerned that the Proposed Rules replace an overly restrictive registration system with an overly complicated one. FSI's specific comments are outlined below.

1. **Complicated and Expensive Compliance Burdens** – We are concerned that the unnecessary complexity of the Proposed Rules may actually limit, rather than enable, firms to register affiliated employees with the broker-dealer. It appears that broker-dealers would have to evaluate and designate a registration status for each employee. Moreover, we are concerned with the increased compliance burdens related to:

[1] See FINRA Regulatory Notice 09-70, available at http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p120490.pdf

[2] The Financial Services Institute, Voice of Independent Broker-Dealers and Independent Financial Advisors, was formed on January 1, 2004. Our members are broker-dealers, often dually registered as federal investment advisers, and their independent contractor registered representatives. FSI has 119 Broker-Dealer member firms that have more than 178,000 affiliated registered representatives serving more than 15 million American households. FSI also has more than 13,700 Financial Advisor members.

- Tracking the 12 month requirements for individuals that move in between registration status;
- Tracking the 10 year period for Retained Associates; and
- Tracking training and continuing education credits of active, inactive and retained associates.

Additionally, with the expansion of active, inactive and retained associate categories, it appears that there will be a substantial increase in the core infrastructure obligations in the areas of supervision, oversight, training/education, tracking, systems, and overall licensing costs. The Proposed Rules have significant implications for individuals and firms that fail to follow the Proposed Rules and thus create liability exposure for firms and the individuals that work for these firms. We raise this issue and suggest that FINRA reconsider the onerous and expensive compliance obligations that are created in the Proposed Rules and request that FINRA create a simpler system with cost and efficiency in mind.

2. **Retained Associate's Ten-Year Clock is Complicated and Unfair** – Proposed FINRA Rule 1210 (a) - (c) provide three different types of registrations for individuals who work with or for FINRA member firms. These three types of individual registrations include:

   - Active registration;
   - Inactive registration (persons engaged in a bona fide business purpose of a member); and
   - Retained associate (persons engaged in the business of a financial services industry affiliate of a member).

   Proposed FINRA Rule 1210 (c) provides that a person may be designated as a retained associate with one or more members for a period not to exceed ten consecutive years commencing on the date the person is initially designated as a retained associate. The Proposed Rule then sets out four sub-sections that impact the timing of the retained associate's ten-year period. These four sub-sections provide the following:

   > "(A) If such person subsequently registers pursuant to paragraphs (a) or (b) of this Rule, such person shall be required to remain in such registration(s) for at least a consecutive twelve-month period to be eligible for any years that may be remaining on the ten-year period set forth in this subparagraph (2). This twelve-month period may be divided among members subject to the requirements of subparagraph (2)(D);
   > (B) FINRA shall toll the ten-year period set forth in this subparagraph (2) for each day that such person is in active registration pursuant to paragraph (a) of this Rule, provided that the person is in active registration for at least a consecutive twelve-month period and FINRA is properly notified of such person's period of active registration. This twelve-month period may be divided among members subject to the requirements of subparagraph (2)(D);
   > (C) If such person subsequently engages in any other business activities instead of those that require registration pursuant to paragraph (a) of this Rule or permit registration pursuant to

> paragraph (b) of this Rule or this paragraph (c), such person shall forfeit any years that may be remaining on the ten-year period set forth in this subparagraph (2); and
> (D) Such person shall have no more than thirty days following the submission of a Form U5 to register with another member pursuant to this paragraph (c), or paragraphs (a) or (b) of this Rule, to be eligible for any years that may be remaining on the ten-year period set forth in this subparagraph (2)."

FSI is pleased to see that FINRA has taken the organizational structure of larger financial institutions into consideration in drafting the Proposed Rules. The Proposed Rules will provide firms greater flexibility in managing staff within a broker-dealer and between a broker-dealer and positions at other affiliated financial services businesses. However, the cost of this new flexibility is an extremely complicated system of time periods and tolling provisions that contain forfeiture penalties for failure to follow the new rules.

We believe the Proposed Rules are unreasonable in not tolling the retained associate ten-year clock if the individual transitions into inactive registration status. Even if the period spent as a retained associate is short, the ten year retained associate clock starts and then continues to run throughout the time the individual holds an inactive registration. Additionally, we believe the forfeiture provisions are, at times, punitive in nature. For example, if an individual is laid off by a member firm and cannot find appropriate new employment within 30 days, they would lose their ten-year retained associate window and forfeit their registration status. For an individual who triggers the forfeiture provisions, there is no clear way offered by the Proposed Rules to restart the ten-year clock. We suggest that the Proposed Rules should address this easily anticipated scenario and provide guidance on how an individual can re-start of the retained associate ten-year clock if their registration is forfeited.

3. **Principal Registration For a Limited Period** - The Proposed Rules change the circumstance under which an individual who is either not registered with the member or is registered solely as a securities representative may act as a principal before passing the necessary registration exams. Under the current rule[3], these individuals can act as a principal for up to 90 days while they satisfy the examination requirements. Under the Proposed Rules, a person who wishes to act as a principal prior to passing the requisite exams must have held an active registration for at least 18 months at any time during five years before he or she is designated to serve as a principal.[4]

   We applaud FINRA on expanding the window of time to act as a principal without taking an examination from 90 days to 120.[5] However, the changes requiring an individual to have an active registration for at least 18 months at any time during five years before he or she is designated to serve as a principal is extremely restrictive and could pose a challenge to smaller broker-dealers that have limited size and/or resources. As a result, we suggest that the Proposed Rules incorporate an exception to this requirement for firms of limited size and resources, so these firms can take advantage of the limited principal registration.

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[3] NASD Rule 1021(d)
[4] FINRA Rule 1220(g)
[5] *Id.*

4. **Chief Compliance Officer Examination** – The Proposed Rules will require all persons designated as Chief Compliance Officer (CCO) on Schedule A of Form BD to register as Compliance Officers and pass the Compliance Officer examination before their registrations can become effective[6]. FINRA provides three scenarios where the CCO examination would not be required and these include the following:

   A. A person designated as a CCO on Schedule A of Form BD, or registered as a Compliance Official, immediately prior to the effective date of the proposed rule will be qualified to register as a Compliance Officer without having to pass the Compliance Officer examination.

   B. A person designated as a CCO on Schedule A of Form BD after the effective date of the proposed rule, but before the introduction of the Compliance Officer examination, will be required to pass the General Securities Principal examination (and the General Securities Representative, United Kingdom Securities Representative or Canada Securities Representative prerequisite) to qualify to register as a Compliance Officer. This requirement will apply to all members. Such persons will not be required to pass the Compliance Officer examination after its introduction.

   C. A person designated as a CCO on Schedule A of Form BD after the effective date of the proposed rule and the introduction of the Compliance Officer examination will be required to pass the Compliance Officer examination to qualify to register as a Compliance Officer, unless such person has earned the FINRA Institute at Wharton Certified Regulatory and Compliance Professional™ (CRCP™) designation.

   While we acknowledge that testing and examinations could play a role in ensuring competency in a CCO, we believe broker-dealer firms are sufficiently motivated to hire appropriate individuals to serve as their CCO. In addition, we are concerned that the Proposed Rules do not take into consideration an individual's experience and tenure prior to their appointment as CCO. We believe this requirement could make it difficult for firms to recruit and/or pursue qualified and competent CCO candidates. We suggest that FINRA reevaluate the requirements related to the CCO examination and provide an exemption based on experience and tenure in the industry.

5. **Chief Compliance Officer Transition to Other Areas** – The language on FINRA Rule 1210(b)(4) provides that a person "may have an active or inactive registration with respect to such [Compliance Officer] registration, provided, however, that such person shall be engaged in compliance activities at the member to be eligible to have an active registration."

   We seek clarification on the situation where an individual who is registered as a Compliance Officer and has an active registration, but subsequently leaves the compliance department to work in a different department within the firm. It is unclear if this person would have to relinquish his Compliance Officer registration and potentially let it lapse, or if he can retain this registration and have an active registration with the firm although he is not "engaged in compliance activities at the member". We request that FINRA clarify the outcome of this situation.

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[6] FINRA Rule 1230(a)(4)(A)

6. **Retaking Failed Examinations** – FINRA Rule 1220(d) provides that, "[a]ny person who fails to pass a qualification examination prescribed by FINRA shall be permitted to take the examination again after a period of 30 calendar days has elapsed from the date of the prior examination, except that any person who fails to pass an examination three or more times in succession shall be prohibited from again taking such examination until a period of 180 calendar days has elapsed from the date of such person's last attempt to pass the examination."

   We seek clarification of the term "in succession" as used above. An example will better demonstrate our request: An individual takes and fails an examination on day 1, takes and fails an examination on day 31 and takes and takes and fails an examination on day 365. Arguably, the Proposed Rules would require this individual to wait an additional 180 calendar days from his last attempt to retake the examination, even though more that 180 calendar days have passed since his second attempt. We believe that this potential penalty/issue would be resolved if the term "in succession" is better defined in the Proposed Rules.

   We suggest that at the end of FINRA Rule 1220(d) the following new language be added to the Proposed Rules:

   "For the purposes of this sub-section only, the term 'in succession' means one after another within a 30 day period."

7. **Grandfather Provision for Lapsed Registrations** – Proposed FINRA Rule 1220(d) provides the following:

   > "Pursuant to the Rule 9600 Series, FINRA may, in exceptional cases and where good cause is shown, waive the applicable qualification examination and accept other standards as evidence of an applicant's qualifications for registration. Age or disability will not individually of themselves constitute sufficient grounds to waive a qualification examination. Experience in fields ancillary to the investment banking or securities business may constitute sufficient grounds to waive a qualification examination."

   Many individuals at FINRA member firms, including independent broker-dealers, have allowed their current registrations to lapse pursuant to the "parking rules" contained in NASD Conduct Rule 1031. Many of these individuals may be able to have inactive registration status or retained associate registration status under the Proposed Rules. It is anticipated that these individuals will seek a waiver from FINRA pursuant to the NASD 9600 Rule Series, in an effort to avoid retaking qualification examinations. We expect that the result will be a significant volume of waiver requests. Instead of creating this demand for a waiver, we recommend a grandfathering provision. Specifically, we suggest that FINRA allow individuals who have had their license lapse within the past five (5) years from the effective date of the Proposed Rules be allowed to re-register with a member firm using their expired Central Registration Depository Number, contingent upon the person completing specified Continuing Education requirements in lieu of the waiver process (if they would now qualify to have an inactive registration status or retained associate registration status). We believe that this accommodation would be equitable to those former registered representatives who can now, under the Proposed

Rules, be properly registered as inactive or retained associates, and would now have to apply for a waiver pursuant to the NASD 9600 Rule Series.

Background on FSI Members

The independent broker-dealer (IBD) community has been an important and active part of the lives of American investors for more than 30 years. The IBD business model focuses on comprehensive financial planning services and unbiased investment advice. IBD firms also share a number of other similar business characteristics. They generally clear their securities business on a fully disclosed basis; primarily engage in the sale of packaged products, such as mutual funds and variable insurance products; take a comprehensive approach to their clients' financial goals and objectives; and provide investment advisory services through either affiliated registered investment adviser firms or such firms owned by their registered representatives. Due to their unique business model, IBDs and their affiliated financial advisors are especially well positioned to provide middle-class Americans with the financial advice, products, and services necessary to achieve their financial goals and objectives.

In the U.S., approximately 180,000 financial advisors – or approximately 61.7% percent of all practicing registered representatives – operate as self-employed independent contractors, rather than employees, of their affiliated broker-dealer firm.[7] These financial advisors are self-employed independent contractors, rather than employees of the IBD firms. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans with financial education, planning, implementation, and investment monitoring. Clients of independent financial advisors are typically "main street America" – it is, in fact, almost part of the "charter" of the independent channel. The core market of advisors affiliated with IBDs is clients who have tens and hundreds of thousands as opposed to millions of dollars to invest. Independent financial advisors are entrepreneurial business owners who typically have strong ties, visibility, and individual name recognition within their communities and client base. Most of their new clients come through referrals from existing clients or other centers of influence.[8] Independent financial advisors get to know their clients personally and provide them investment advice in face-to-face meetings. Due to their close ties to the communities in which they operate their small businesses, we believe these financial advisors have a strong incentive to make the achievement of their clients' investment objectives their primary goal.

FSI is the advocacy organization for IBDs and independent financial advisors. Member firms formed FSI to improve their compliance efforts and promote the IBD business model. FSI is committed to preserving the valuable role that IBDs and independent advisors play in helping Americans plan for and achieve their financial goals. FSI's mission is to ensure our members operate in a regulatory environment that is fair and balanced. FSI's advocacy efforts on behalf of our members include industry surveys, research, and outreach to legislators, regulators, and policymakers. FSI also provides our members with an appropriate forum to share best practices in an effort to improve their compliance, operations, and marketing efforts.

Conclusion

We are committed to constructive engagement in the regulatory process and, therefore, welcome the opportunity to work with you to enhance investor protection and broker-dealer compliance efforts.

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[7] Cerulli Associates at http://www.cerulli.com/.

[8] These "centers of influence" may include lawyers, accountants, human resources managers, or other trusted advisors.

Thank you for your consideration of our comments. Should you have any questions, please contact me at 202 379-0943.

Respectfully submitted,

Dale E. Brown, CAE
President & CEO

Dear Marcia E. Asquith:

Please accept this comment on NTM 09-70.

The inactive registration provision in the proposed rules should provide for a member to maintain the registrations of an individual that were acquired for a specific exchange membership, even if that exchange membership has been terminated.

For example, our CEO was required to take the Series 9 and 10 when we where NYSE registered and those registrations have since been termed since we terminated our NYSE membership. We should be allowed to carry those registrations in an inactive status, and reactivate in the event that we become NYSE registered again.

Regards,
Dan

Daniel Bruk
Compliance

Dresdner Kleinwort Securities LLC
2 World Financial Center, 31st Floor
New York, NY 10281
Ph. 212-266-7503
Fx. 212-429-4832

GWFS Equities, Inc.
A Great-West Company

8515 East Orchard Road
Greenwood Village, Colorado 80111
303-737-3000

January 29, 2010

Via Email
Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 09-70

Dear Ms. Asquith:

GWFS Equities, Inc. ("GWFS"), a limited broker/dealer that distributes mutual funds and variable insurance products principally to defined contribution plans ("DC Plans"), appreciates the opportunity to provide its comments with respect to Proposed FINRA Rules 1210, 1220 and 1230. It is part of the Great-West Family of Companies, which includes, but is not limited to, Great-West Life & Annuity Insurance Company, Advised Assets Group, LLC, Orchard Trust Company, LLC and FASCore, LLC.

While FINRA's flexibility for allowing registrations to be maintained in an Inactive status while either (a) supporting the firm in a bona fide business role that does not require registration; or (b) working for a financial services control affiliate (Retained Associate) is appreciated, there are a number of infrastructure and additional compliance costs and resources that would be required. For example, the firm would need to:

- Modify existing licensing database systems to track status of various registrants as either Active, Inactive/bona fide business role, or Inactive/Retained Associate (and the transfers to/from these statuses)
- Develop reporting and reconciliation procedures to ensure that the firm has notified FINRA of all status changes timely, and is accurately maintaining its supervisory organization charts (per Rule 3010) and List of Associated Persons rosters
- Revise the firm's Written Supervisory Procedures (WSP), Registered Rep Manual, Disciplinary Action Policy, Firm Element and Annual Compliance Meeting materials to more clearly distinguish which governing rules apply to the various categories of registrants.

The additional costs associated with systems upgrades and additional staff to properly administer the proposed rule seems burdensome and unnecessary in comparison to any advantages gained. The existing rule already allows a firm to maintain registrations for persons in a legal, compliance, internal audit or back office supporting role, if management deems that such qualification enhances performance of their job duties. The fact that they are required to abide by all FINRA rule provisions (rather than just a few, as the rule proposal would allow) is not a concern to GWFS.

Maintaining registration for Retained Associates of control affiliates could also present potential conflicts between investment adviser and broker/dealer activities for firms that are not dually registered.

Requiring a Principal to have maintained an "Active" status (as defined in the rule) for at least 18 months within the 5-yr period immediately preceding such registration could limit the firm's recruiting of knowledgeable, financial services industry-experienced persons into the compliance department, for example, an internal employee seeking a career path in the Compliance Department.

Finally, the requirement for the Chief Compliance Officer (CCO) to have to qualify by taking the General Securities S24 exam, if the firm is registered as a limited mutual fund/variable firm seems unwarranted; however, an S26 exam requirement would be completely appropriate and ensure that the CCO understands the laws, rules and regulations applicable to his/her firm.

Thank you for your consideration of our firm's concerns.

Sincerely,

Beverly A. Byrne

Beverly A. Byrne
Chief Compliance Officer

Association
Of Registration
Management, Inc.
Post Office Box 133, Bowling Green Station, New York, NY 10274

February 26, 2010

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1509

Re: FINRA Regulatory Notice 09-70

Dear Ms. Asquith,

The Association of Registration Management, Inc. ("ARM") appreciates the opportunity to comment on FINRA Regulatory Notice 09-70 ("Notice") which proposes to create new FINRA rules that replace and revise the existing rules governing registration and qualification requirements. The rule proposal would significantly broaden the current "permissive" registration categories to allow member firms to register (or maintain the registrations of) certain persons employed by the member firm or its financial services affiliates. FINRA has also proposed several other amendments to the qualification and examination requirements.

ARM is grateful that FINRA is undertaking to streamline and modernize existing rules regarding registration so that financial services professionals might now be registered and able to retain their registrations regardless of job function or where they may be employed within their global organizations. This allows greater flexibility for US registered broker dealers who may move global employees within their organizations for training and coverage purposes.

A. ARM supports the Rule proposal as follows:

- Proposal to extend the time period that such person may function as a principal prior to passing applicable exam to 120 days
- Proposal to maintain existing waiver provisions
- Proposal to require Research Principals to pass the General Securities Principal exam and the Series 86 & 87 or the Series 16 exam
- Proposal to require all Chief Compliance Officers on Schedule A of Form BD to register as Compliance Officers and pass the Compliance officer exam including grandfathering
- Proposal to require firms to designate a Principal Financial Officer and Principal Operations Officer who qualify by exam
- Proposal to permit a General Securities Sales Supervisor to supervise Options activities
- Proposal to eliminate the Options Representative category
- Proposal to permit a General Securities Sales Supervisor to approve Options accounts
- Proposal to permit a General Securities Sales Supervisor to approve retail communications and sales literature
- Proposal to eliminate experience acceptability requirement for Supervisory Analyst registration
- Elimination of Securities Lending Representative Agreement

B. ARM comments on other provisions of the Rule proposal

Proposed new FINRA Rule 1210 presents regulatory flexibility by expanding the existing registration categories to introduce three new statuses, namely "Active," "Inactive" and "Retained Associate". ARM takes the position that the intent of the rule can be accomplished with less complexity. ARM proposes that only two categories: "Active" and "Permissive" would fulfill the same intent of the proposed rule change. Any associated person who performs a function requiring registration for a broker-dealer should be considered “Active”. Others, whether associated with a member firm or associated with financial services affiliate of the member firm, should be considered “Permissive”. ARM strongly feels that using the terminology of Inactive to classify any registered individual could be confused with CE inactive status.

ARM further recommends the elimination of the 10-year limitation for Retained associates. The proposed ten-year duration for Retained associate to maintain registration is both an administrative burden and seems unfair. We suggest that you eliminate this expiration period. If registered associates continue to be in good standing with firms (i.e. current with Regulatory element and Firm Element Continuing Education requirements) their registration should not lapse. This is consistent with how inactive registrations or licenses are handled with many other professionals requiring licenses, for example those in the legal or accounting professions.

ARM proposes elimination of the forfeiture requirement if the retained associate obtains an Active or Inactive status for less than 12 months. FINRA suggests that the reason for this requirement is “to mitigate the risk of customer confusion.” ARM would argue that no such confusion exists Properly designating the registration status eliminates confusion; not a complex set of rules and requirements that will cause undue hardship, burdens, costs and confusion to member firms and investors.

ARM further recommends the elimination of the 30-day requirement for Retained associates to register with another firm after the submission of a full termination Form U5. We strongly believe that in the current economic environment the proposed 30- day requirement to become associated with another firm is not practical. It is not uncommon for an individual to be out of work for several months or up to a year. The two-year re-registration period that has been in effect for more than 50 years should continue.

Should the rule as proposed pass, we encourage FINRA to develop a method to accommodate the tracking process which the rule will require, i.e. adding fields to the Form U4 and CRD to indicate type of registration and effective date fields. The reconfiguring of internal data systems and procedures to adequately track the timing of “classification” of registration will take a significant amount of time and resources for our members. This must be taken into consideration.

ARM respectfully recommends no change to FINRA's current Rule 1100, regarding foreign associates. ARM does not agree that individuals who are foreign nationals dealing solely with foreign national clients need to pass a US qualification examination. As a branch of the US broker dealer the registered foreign associate would certainly be required to meet firm element CE training and thus remain up to date on regulatory changes and practices. We certainly agree that a foreign national working from a US registered branch office should become registered by passing an appropriate qualification examination if they are servicing US clients. Likewise we agree that a US citizen working in a foreign branch of the US broker dealer should pass an appropriate qualification examination.

C. ARM requests clarification

In addition to the foregoing, ARM also respectfully requests FINRA provide additional clarification and guidance with regard to several provisions in proposed Rule 1230:

- With regard to the Compliance Officer registration, both Notice 09-70 and the proposed rule have caused some confusion in interpretation amongst member firms. There is a need for clarification as to the proposed new compliance exam and grandfathering provisions particularly for those not listed as Chief Compliance Officer on Form BD as well as definition of "compliance official". Further, it is not clear as to what will happen with the Series 14 currently held by compliance officials.

- NASD Rule 1031(c) requires persons whose registrations have expired without reactivation for a period of two or more years to retake the appropriate representative and/or principal qualifying examinations in order to reinstate their licenses. As it relates to NYSE principal examinations (Series 14, Series14A, Series 16), the NYSE does not have a two-year time period for principal examinations to be reactivated. With that said, if this proposal is approved, we believe that the WebCRD system will be incapable of recognizing individuals who are associated with a broker/dealer that is a FINRA member firm only and not a dual member with NYSE and an approval of registration will not be issued.

- Further clarification is also requested with regard to Research Principals. Will guidelines for the S86 waiver to satisfy "qualified" status still be accepted for waiver consideration? This is not clearly addressed.

- With regard to the proposal to require a representative to have an active registration for 18 months within the previous five years prior to being designated a principal, we assume the 18 month rule does not apply to principal exams that do not have a prerequisite. Please clarify. Further, does the 18-month experience requirement apply to being designated as a principal or only apply to the ability to function as a principal for 120 days prior to passing the qualifying exam?

D. Summary

ARM supports and commends FINRA for many of the positive changes being proposed. However, we believe FINRA can accommodate the expansion of permissive registration in a more simplified fashion. We do not believe that three categories of registration are necessary and will create more confusion for the investing public than is intented. Nor do we believe that the complex set of rules, requirements, tolling and forfeiture, as proposed, are required. We believe that the goal of expanding permissive registrations can be achieved by providing for two categories of registration (Active and Permissive) by allowing the broader population within financial services organization to maintain registrations; by requiring them to be current with CE and other requirements as included in the rule proposal and by requiring supervision as proposed in the rule proposal. We do not believe the approach being suggested by ARM creates any additional risk nor does it create any investor confusion. In fact we think our suggestions make things more clear. We also do not believe that the time and manner limitations being proposed for the Retained Associate "guard against abuse of the privilege" as FINRA suggests. They simply create a confusing and overly burdensome framework to allowing permissive registrations.

We thank you for your consideration of these comments and welcome further discussion.

Respectfully submitted,

On behalf of Association of Registration Management, Inc.'s Executive Committee:

Marian H. Desilets

Marian H. Desilets, President

Pershing®

AN AFFILIATE OF THE BANK OF NEW YORK MELLON

March 1, 2010

VIA ELECTRONIC SUBMISSION

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1509

RE: FINRA Regulatory Notice 09-70 – Registration and Qualification Requirements

Dear Ms. Asquith,

Pershing LLC ("Pershing") appreciates the opportunity to comment on FINRA Regulatory Notice 09-70 ("Notice") which proposes to create new FINRA Rules that replace and revise the existing rules governing and applying to the *Registration and Qualification Requirements*. We agree the rule proposal would significantly broaden the current "permissive" registration categories to allow member firms to register (or maintain the registration of) certain persons employed by the member firm or its financial services affiliates. FINRA also proposes several other amendments to the qualification and examination requirements, which would introduce several new stand-alone registration categories. We believe, however, that the proposed new FINRA rules, as discussed in the Notice, are not clear with respect to the application of the Compliance Officer category (FINRA Rule 1230(a)(4)), the scope of proposed FINRA Rule 1230(a)(5), and the application and impact of NASD Rule 3010(a)(2) on the proposed FINRA rules.

Accordingly, we respectfully urge FINRA to consider the points raised below and to offer additional guidance to the industry that will provide more clarity and better achieve FINRA's intent to streamline the rules governing the Registration and Qualification Requirements.

Pershing LLC

Pershing (member FINRA/NYSE/SIPC) is a leading global provider of financial business solutions to more than 1,150 institutional and retail financial organizations and independent registered investment advisers who collectively service approximately five million active investors with assets of over $715 billion. Located in 20 offices worldwide, Pershing and its affiliates are committed to delivering dependable operational support, including clearing and custody services, trading services, flexible technology, investment solutions and practice management support. Pershing is a member of every major U.S. securities exchange and its international affiliates are members of the Deutsche Borse, the Irish Stock Exchange and the London Stock Exchange. Pershing is a subsidiary of The Bank of New York Mellon Corporation

and a broker-dealer affiliate of (and clearing firm for) Pershing Advisor Solutions LLC ("PAS") which provides services to unaffiliated investment advisers. Pershing also provides clearing and custodial services for two registered investment adviser affiliates, Lockwood Capital Management, Inc. and Lockwood Advisors, Inc., which provide services to Pershing's introducing brokers and PAS' investment adviser customers.

As a leading provider of securities clearing and custody services to more than *1,150* introducing brokers and investment advisers, Pershing can provide a unique perspective on the issues raised in the Proposing Release. Our affiliate, The Bank of New York Mellon, also has taken the opportunity to share with FINRA its perspectives on some of the issues raised by the Notice for those firms that have a complex supervisory structure.

The Proposed New Rules and Regulatory Notice 09-70

As a threshold matter, Pershing thanks the FINRA staff for undertaking the task to streamline and modernize the existing registration and qualification rules so that financial services professionals may now have the opportunity to become registered and retain their registrations regardless of job function or where they are employed within global financial services organizations.

In addition to the modifications discussed in the Notice, Pershing also requests additional modifications and clarification with respect to several provisions within the proposed new Rules as discussed further below.

Compliance Officer Registration –Proposed Rule 1230(a)(4)

Pershing seeks further clarification as to the application of the Compliance Officer category. Among the changes contained within Proposed Rule 1230 is the introduction of a new stand-alone registration category for Compliance Officers. The Notice clearly states that this new registration category and qualification exam is required only for Chief Compliance Officers who are designated as such on Schedule A of Form BD; however, there is no indication that compliance professionals who would otherwise be required to qualify as NYSE Compliance Officials (e.g. Compliance professionals that supervise ten or more compliance personnel) would also need to be qualified as Compliance Officers.

To avoid any undue confusion, we request FINRA amend the rule language to clarify whether an individual who is required to be registered as a NYSE Series 14 Compliance Official under current NYSE Rule 342.13(b) will not be required to register as Compliance Officer under the proposed Rule 1230(a)(4) unless designated as a Chief Compliance Officer on Form BD. Specifically, please clarify (1) whether persons designated to direct day-to-day compliance activities **and** other persons directly supervising ten or more compliance personnel must also register as Compliance Officers and (2) if this registration is no longer required for the persons described above, whether those individuals will be permitted to retain the Series 14, as active registrants, specifically, if they are still responsible for supervising compliance activities or compliance personnel. Lastly, please clarify whether NYSE Rule 342.13 will still be applicable to NYSE member firms, regardless of their membership with FINRA.

Financial and Operations Principal, Introducing Broker-Dealer Financial and Operations Principal, Principal Financial Officer and Principal Operations Officer - Proposed FINRA Rule 1230(a)(5)

Proposed FINRA Rule 1230(a)(5) will require clearing members to designate separate persons to function as Principal Financial Officer ("PFO") and Principal Operations Officer ("POO") and that those persons may carry out other responsibilities of a Financial and Operations Principal, including supervision of individuals engaged in financial and operational activities. The Rule is not clear as to whether a firm, depending on its size, structure, and nature of activities, may have more than one person actively registered as a PFO or more than one person actively registered as a POO, even if such persons are not listed on Form BD. For example, a firm that has many operational and financial functions may presently have registered persons performing oversight of financial or operational functions in support of those persons designated on the Form BD. We seek to clarify that such persons may continue to maintain an active registration if the new rules are adopted. We believe that firms should be permitted to use discretion to appoint multiple actively registered Principals in support of its supervisory and control systems, if appropriate for the size and complexity of a firm.

Supervisory Designations under NASD Rule 3010(a)(2)

Under the current requirements of Rule 3010(a)(2), a firm must designate an appropriately registered Principal with authority to carry out the **supervisory responsibilities** of the member firm for each type of business in which it engages and for which registration as a broker-dealer is required. Under the proposed FINRA Rule 1210, it is unclear whether member firms will retain the ability to designate this supervisory responsibility to an associate who would be held out as an "active registrant" with the member firm. We believe that it is imperative to allow a firm the ability to designate the supervisory responsibility for each of its business areas, as currently exists under Rule 3010(a)(2) and for the registrant's registration to remain active.

Under the current rules, the Head of Operations who is qualified as a General Securities Principal (Series 24) and Financial and Operations Principal (Series 27) has the ability to designate the day-to-day supervision of various functions to other qualified Supervisory Principals. For illustrative purposes, please consider a Margin Department. Although a person in the Margin Department does not presently require registration in support of its supervisory system, a firm may opt to register a person (or persons) to serve as a Supervisory Principal primarily responsible for (i) supervision and control over the Margin Department and (ii) compliance with the rules associated with the functions the Margin Department performs (e.g. Regulation T, NYSE Rule 431). Under the proposed Rule 1210, it is unclear whether member firms will retain the ability to designate this supervisory responsibility to a supervisor who would be held out as an "active registrant" with the member firm. We believe that it is imperative to allow a firm the ability to designate the supervisory responsibility for each business unit, as currently exists under Rule 3010(a)(2) and that the person's registration status is recognized as "active". This will allow for the expansion or delegation of the firm's supervisory structure to the appropriate Principal responsible for functions, depending on a firm's size, complexity, nature of activities and design of its supervisory system. By designating one PFO and one POO, it limits a firm's

ability to ensure there is a qualified supervisory principal in every area of its business to achieve the firm's supervisory obligations as prescribed in NASD Rule 3010(a).

Accordingly, we believe that firms should maintain their ability to designate supervisory principals (e.g., Series 24 or Series 27) below the PFO and POO and that the supervisory Principal designee should be able to maintain their registration in an "active" status. This will enable firms to maintain robust supervisory systems tailored to the size and complexity of the firm and the activities it performs.

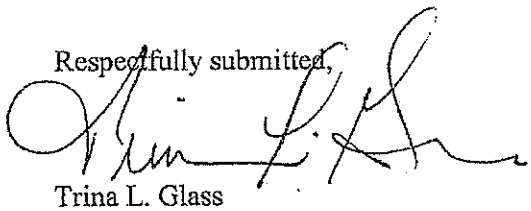
Conclusion

Pershing understands and agrees, in principle, with FINRA's desire to enhance the rules concerning the Registration and Qualification Requirements. However, we encourage FINRA to examine more closely the unintended consequences and burdens of its proposal on the regulated entities. Pershing respectfully requests clarification on a few points that may directly impact Pershing and similar firms.

We appreciate the opportunity to present our views on this very important topic and would appreciate the opportunity to meet with FINRA to discuss how the comments we describe could serve to enhance investor protection while providing a balanced approach to regulation.

If you have any questions concerning these comments, please contact Claire Santaniello, Managing Director and Chief Compliance Officer, at (201) 413-2741 or the undersigned at (201) 413-4259. Thank you in advance for your time and consideration.

Respectfully submitted,



Trina L. Glass
Vice President, Compliance Department
Pershing LLC, a subsidiary of The Bank of New York Mellon Corporation

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Edward Jones®

February 26, 2010

BY EMAIL TO: pubcom@finra.org

Ms. Marcia E. Asquith
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1735 K Street, NW
Washington, D.C. 20006-1506

Re: Regulatory Notice 09-70 – Registration and Qualification Requirements

Dear Ms. Asquith:

Edward Jones appreciates the opportunity to submit comments on the Financial Industry Regulatory Authority's (FINRA) proposed consolidation of the existing rules governing industry registration and qualification requirements. The firm supports the spirit of the proposed measures and would like to extend our thanks to the FINRA staff for encouraging the registration of a broader scope of professionals within the financial services industry. We believe allowing broader registration of individuals and the retention of existing registrations by those working at affiliates will achieve the desired goals of a better educated and informed pool of associates and a heightened awareness of compliance with industry rules.

The firm wishes to note our support of the comment letter submitted by the Securities Industry and Financial Markets Association (SIFMA) concerning the proposed rule modifications. Edward Jones joins SIFMA in their request that the rule providing a two year window for reinstatement of a non-active registration be extended to include individuals deemed Inactive registrants or Retained Associates. We further request FINRA consider implementing an automatic waiver provision that would allow Retained Associates who gave up their registration to work at an affiliate more than two years ago but less than four years ago to re-register without testing.

In addition, the firm requests clarification regarding the proposed amendment to the rule creating the "Active" and "Inactive" registration categories. The firm seeks to ensure the creation of this distinction will not result in an undue administrative or financial burden and not discourage member firms from exercising the broadened registration authority being proposed. As the proposed rule is currently drafted, there does not appear to be any difference from a regulatory standpoint between being registered in an Active versus Inactive status. FINRA does not provide an explanation as to why the distinction is being created and such an explanation is not readily evident based on a plain reading of the proposed rule. FINRA makes it clear in the body of the proposed rule that associated persons holding an Inactive registration are subject to the same fees to acquire and maintain the registration, the same reporting and disclosure requirements, as well as the same continuing education requirements, supervision requirements and annual compliance requirements as Active registrants. As associated persons, regardless of registration status, they are also subject to FINRA's jurisdiction for examination and inquiry, including the potential for disciplinary action. It is not apparent how an individual with an Inactive registration would differ in the eyes of FINRA or any other regulator from an individual with an Active registration.

Edward Jones joins FINRA in its belief that allowing more associated persons to become registered will greatly enhance our associates' knowledge and expertise in U.S. securities laws and regulations. This opportunity will be cultivated by the firm to develop a depth of qualified associates at every level of our organization which can only enhance our compliance

efforts. The firm is concerned, however, that requiring members to notify FINRA of registration status will have unintended consequences. In the proposed rule, FINRA is asking members to identify registered associates whose registrations are considered Inactive and then notify FINRA of the Inactive status. Further, FINRA wants to be notified if an associate's registration status changes due to a change in function performed by the associate. FINRA does not provide guidance on how this notification will be made or how often it will be required. Edward Jones believes this aspect of the proposed regulation could create an undue administrative burden on the firm to identify and monitor the business activities of all registrants solely for the purpose of notifying FINRA of a change in registration status should the associate start or stop performing a function requiring registration. This will require the coordination of the firm's Registration Department, Human Resources Department and supervisors at every level to ensure the proper reporting of any registered associate who moves into or out of a position requiring registration, takes on additional responsibilities requiring registration, or relinquishes responsibilities requiring registration. We believe the requirement to distinguish between Active and Inactive registrations coupled with a reporting requirement could actually discourage expanding the ranks of permissively registered associates and possibly even result in the firm limiting the registrations and concurrently the continuing education of those associates whose registrations are presently considered permissive in an effort to keep down the administrative burden and cost of complying with this provision.

Edward Jones respectfully requests FINRA reconsider its proposal to create the categories of Active and Inactive registration. Short of this request; please consider permitting firms to maintain this information subject to inspection from FINRA staff and eliminate the requirement to notify FINRA of a registered associate considered to be in an Inactive status. If FINRA believes a distinction between Active and Inactive registrations is necessary, then we further request FINRA modify CRD to allow for the identification and tracking of an individuals' status of registration (Active, Inactive, or Retained) through the Central Registration Depository.

Edward Jones genuinely appreciates the opportunity to comment on this rule proposal. If you have any questions regarding the firm's comments and recommendations please contact me at (314) 515-0375.

Sincerely,

Christopher Haines
Compliance Counsel
Office of Regulatory Counsel

March 1, 2010

Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street NW
Washington, DC 20006-1506

Re: Proposed Consolidated FINRA Rules Governing Registration and Qualification Requirements
FINRA Regulatory Notice 09-70

Dear Ms. Asquith:

I write this letter on behalf of the National Society of Compliance Professionals ("NSCP"). NSCP is the largest organization in the securities industry serving compliance professionals exclusively through education, certification,[1] publications, consultation forums, and regulatory advocacy. Since its founding in 1987, NSCP membership has grown to over 1700 members including compliance professionals at broker-dealers, investment advisers, banks, insurance companies, hedge funds and independent consultants and attorneys.

The NSCP appreciates the opportunity to comment on Proposed Rules 1210, 1220, 1230 and 1240 ("Proposed Rules"). Our comments are intended to offer constructive observations and simplified alternatives. We applaud FINRA's efforts to update, consolidate and streamline the rules governing qualification and registration of personnel which has over time become complicated, and in some areas, needlessly complex, especially for dual members of FINRA and the NYSE. Overall, we are pleased that FINRA staff has taken so much time to develop a thoughtful, useful new construct for registered representative registration. Expanding the universe of persons who will be permitted to maintain

[1] NSCP offers training and qualification testing for industry professionals committed to demonstrating expertise in both broker-dealer and investment adviser compliance best practices, rules, regulations and industry standards. NSCP's Certification Program enables professionals to earn the Certified Securities Compliance Professional® (CSCP®) credential. For a detailed description of the program, *see* the NSCP website at http://www.cscp.org.

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registrations will more easily enable member firms to handle their responsibilities on a day-to-day basis and manage unexpected events. Our principal recommendation with respect to the proposed rules is that they be further simplified, thus enabling FINRA to achieve its regulatory objective at less cost both to itself and to member firms. In this regard, we suggest in our comments below that the three proposed new registration categories (*Active*, *Inactive*, and *Retained Associate*) be reduced to two. For the reasons we explain, we believe there would be no regulatory downside to having two, as opposed to three, registration categories, and both FINRA and the industry would have a more efficient means for tracking the status of registered persons.

We understand that in addition to taking NYSE Rules into account, FINRA is proposing some significant changes. We shall focus our comments on proposed changes about which we are concerned. This letter first addresses the purpose of the Proposed Rule modifications, followed by a discussion regarding selected subject areas set forth in Regulatory Notice 09-70.

Purpose of Proposed FINRA Rules 1210, 1220, 1230 and 1240.

A. **Registration Requirements (Proposed FINRA Rule 1210)**.

1. Required Active Registration (Proposed Rule 1210(a).

We believe that proposed Rule 1210(b) permitting persons engaged in a 'bona fide' business purpose to be qualified as *Inactive Registrants* is excellent in concept but overly complex. Associated persons of a member firm should be able to continue to be registered while serving a member or member affiliate in any capacity whether or not registration is required. This approach enables firms to best deploy their HR assets at all times.

In today's financial services environment, many member firms engage in a broad range of businesses. The ability to utilize individual skills with maximum flexibility allows often broadly arrayed services to be managed effectively. Skill sets of individuals can be applied where the greatest opportunity or need exists. Further, having as deep a "bench strength" as possible allows individuals to assume the responsibilities of managers who have vacated those responsibilities, either permanently or temporarily. It would be up to the

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firm to keep track of when a person, who is not the primary licensee for that function, is acting in that capacity. [2]

Properly registered and qualified individuals can step in quickly to substitute for persons temporarily or permanently unavailable. We believe the ability to redeploy staff as needed should be as unfettered as possible. But certain aspects of the Proposed Rules are overly complex and confusing.

Presumption of *Active* Registration; CRD Facility. We understand a person's registration status will be presumed to be *Active* unless FINRA is otherwise notified. If FINRA proceeds with the cumbersome approach of establishing status time periods *[Active, Inactive, Tolled* or *Forfeited]* under different scenarios, then only a very robust CRD system could be expected to accurately identify and track each person's statuses. We are not confident that the CRD system, as currently configured could take on this workload. We do not believe a quadruple status system is realistic. We envision a major challenge to member firms' resources to be able to accommodate such unnecessary complexity. [3]

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[2] Proposed FINRA Rule 1210(a) would require member firms to keep internal records of *Active* and *Inactive* status for each associated person, and notify FINRA of the commencement and termination of any associated person's *Inactive* status. Notice 09-70 states that FINRA will tell member firms in the future how they will be required to communicate these notifications to FINRA. We suggest that a determination regarding how such communications are to be made must be factored into an evaluation of the rule as a whole. In other words, the recordkeeping requirement cannot fairly be evaluated by member firms without knowing the cost and efficiencies of the communication method proposed to be used. As FINRA is aware, the creation and maintenance of every internal broker-dealer record has a cost associated with it, and there is a further cost associated with notifying FINRA of changes in each record. To date, the regulatory benefit of these costs has outweighed the burden to member firms. This may also be true with respect to the new *Active, Inactive, Retained Associate* records that FINRA has proposed, but it is difficult to perform a cost/benefit analysis without knowing in advance what exactly will be expected of member firms. Accordingly, we recommend that before FINRA submits the rule text for Rule 1210 to the SEC, it decide upon the methodology of required communications to FINRA.

[3] If this approach is ultimately adopted and approved by the SEC, we strongly recommend that a robust CRD facility be employed to allow all notices of any changes to be conveyed to FINRA. Further, we strongly recommend that the CRD facility be employed to track the various time periods prescribed for each registrant's tenure as *Active*, *Inactive*, *Tolled*, or *Forfeited*.

The CRD would seem to be the appropriate facility to track the various time periods prescribed for each registrant's tenure, *e.g.*, *Active*, *Inactive*, *Tolled*, *Forfeited*, etc., but we would like some assurance that FINRA does intend to use its systems to track this information and that those systems are capable of this

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How will an individual be able to comprehend her/his remaining *Retained Associate* period status, *e.g., Tolled*, *Not Tolled*, or *Forfeited*? The financial services industry is constantly changing. Given the highly mobile nature of industry employees, it is common for individuals to move back and forth between firms and within large financial services firms' complexes. During the last three years, many thousands of registered individuals have changed firms more than three times. In many cases, given the voluntary and involuntary consolidation of broker-dealers and related companies, many such individuals changed their status while continuing to sit in the same chair.

Today's supervisory principal could be tomorrow's supervised representative, and her/his status could change again in a few weeks. For that person to accurately recall and restate their status for any particular time period would be daunting and likely inaccurate. The volatility of securities industry changes can be expected to continue. Without FINRA tracking each person's history, it is unlikely that there will be any consistently reliable, accurate records showing the required information. Since firms with which individuals were previously registered may have disappeared, an accurate determination of one's status may be impossible to determine from a previous firm's records.

2. Permissive *Inactive Registration* of Persons Engaged in a Bona Fide Business Purpose of a Member: (Proposed FINRA Rule 1210(b).

We believe the expansion of permissive registration to include any person, so long as that person is engaged in a bona fide business purpose of the member, will benefit both members and the industry. Enlarging the number of regulatorily qualified and registered persons serves to broaden available resources, and enhance flexibility for firms and individuals. Firms can redeploy qualified individuals quickly for temporary or permanent assignments more efficiently. Often such moves have been delayed or hampered by requalifying exams and application approvals. Currently, we know that firms unwilling to risk a "parking"

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workload. Whatever recordkeeping system FINRA uses must be capable of tracking every associated person's current and historical status.

Accordingly, the proposed rule change needs to describe with specificity how FINRA views its own capability to store and record all the status information required by the rules and make that information readily available to member firms.

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allegation have elected not to permit registered persons to remain registered when they are not currently performing a role requiring their specific type of registration. Getting persons qualified and registered have posed significant challenges for firms to effectively manage their businesses. A properly qualified and registered person should be able to "hit the ground running," in situations requiring immediate attention.

[We note that persons categorized *Inactive* pursuant to Proposed Rules 1210(b) will be considered registered persons only for the purposes of the seven provisions identified on page 4 of Release No. 09-70.][4] We recommend that there be two categories: *Active* and *Inactive.* We believe current permissive registrants are presumably covered by all provisions of FINRA/NASD Rules and Bylaws and therefore whether they are operating under a specific license or not, they should be *Active* registrants adding flexibility to firms' work distribution. We are uncertain of which licensing regime currently registered legal, compliance, internal audit, back-office or similar responsibilities would be subject to under the proposed rules. As a practical matter, which FINRA/NASD/NYSE rules that currently apply to such persons would no longer apply?

Further, since we do not believe there is currently an *Inactive* registration status for such persons, we wonder why those persons should be moved into an *Inactive* status, if that is the intended outcome of the proposed changes. We believe that many firms currently deploy such persons in roles requiring registration status, *e.g.*, taking orders from customers during very active trading days especially where technical trading system problems have arisen or in a Hurricane Katrina environment where a firm's offices and personnel are unable to serve clients' needs, or perform some other function. This "bench strength" could be another aspect of a firm's Business Continuity Plan.

We also know where firms have deployed such persons to stand in for absent RRs or branch managers on a temporary basis. Firms can rely on competent individuals to step in and conduct a firm's business. The availability of these qualified registered persons to take on temporary operating or supervisory tasks has proved beneficial to both firms and the individuals involved. We are concerned that a cumbersome

[4] Intended to assure maintenance of competence and supervision levels, those bulleted items include: FINRA By-Laws including Schedule A; Forms U4 and U5; FINRA consolidated registration rules; current NASD Rule 1120 (continuing education requirements); current NASD Rule 3010(a)(5) (assignment to appropriately registered supervisor); current NASD Rule 3010(a)(7) (annual compliance meeting); current NASD Rule 3010(e) (personnel background investigations.)

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"change of status" protocol could impair firms' ability to manage their businesses through crises and transition smoothly. The new process should facilitate minimum disruption for clients and employees.

Those who are currently registered via the permissive provisions of NASD Rule 1021(a) and 1031(a) might well object to the requirement that their *Active* status must be sustained for at least 12 months. We believe such persons should be able to say: "My work is done here. I can now return to my regular day job." And again, firms would be responsible for notifying FINRA that someone is acting in a different capacity for the time indicated. We are not convinced that there is "risk of customer confusion" by switching between *Active* and *Inactive* registration status for time periods of less than 12 months. In most instances, these switches would be made behind the scenes and could be completely transparent to clients. On occasion it may be necessary to change the roles of persons interfacing with clients. In those instances, it is customary to communicate these changes to the client as quickly as possible as would continue to be the case in the future.

We also note that the proposed rule would "supersede existing permissive registration provisions." Legal, compliance, internal audit, back-office operations personnel "will have to become appropriately registered in accordance with the proposed rule." We are puzzled by this aspect of the proposal. What does "appropriately registered" entail and what status will it denote?

We understand that persons deemed *Active* registrants shall be able to perform their assigned functions, and also continue to maintain registrations in non-required principal or representative categories by virtue of being engaged in a bona fide business purpose of the member. Such a person would be "appropriately supervised to ensure that he or she is not acting outside the scope of his or her assigned function." The Release uses an example: a General Securities Representative ("GSR") may not perform any functions of a General Securities Principal ("GSP"). First, how does a supervisor prove a negative? Further, daily business conduct may call on persons to perform many different tasks.

Our business is conducted by well-intended individuals who hope to remain compliant with all regulatory requirements. We believe efforts to draw subtle regulatory lines between various activities may be counterproductive. The ability to be registered in a certain capacity should empower individuals to effect

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necessary actions as circumstances dictate. We are concerned that if adopted in their current shape, the rules will engender uncertainty and delay vital decision-making. Would a GSR then categorized as an *Inactive GSP* be prevented from backing up a GSP when the GSP is unavailable for a short or lengthy period of time? Why should a person willing and able to assume certain GSP duties for a short time, be required to be "on duty" for 12 months? How can such a rigid and complex regulatory approach be effectively explained, implemented or managed?

Compliance Officer Category. We understand that Proposed Rule 1230(a)(4) is intended to establish a Principal Registration Category of Compliance Officer. Apparently, a Compliance Officer need not be a registered principal, but is required only to be a General Securities Representative [See Proposed Rules 1230(a)(4)(B) and 1230(b)(2)]. However, per FINRA Rule 3130(a) and Proposed Rule 1230(a)(4), a Chief Compliance Officer ("CCO") must be a principal and have passed either the Compliance Officer qualification exam (when extant) or the GSP qualification exam (until there is a Compliance Officer Exam). Chief Compliance Officers who have been qualified and designated CCOs before the effective date of Proposed Rule 1230(a)(4) will be grandfathered provided they have completed GSR and GSP requirements. Apparently, there is no concise definition of "Compliance Officer," other than that a CCO must be qualified as a Compliance Officer.

NYSE Rules 342.13b and NYSE Rule Interpretation 342(a)(b)/02 required that a qualified Compliance Officer responsible for day-to-day compliance activities and supervising 10 or more compliance personnel be qualified by passing the appropriate qualification exam and be designated a Compliance Officer. We are unclear as to when a person must or may become a Compliance Officer. We are unable to find a clear definition of Compliance Officer in the proposed rules.

Further, we note that certain persons who have earned a FINRA Wharton Institute certification may be qualified without having to pass the Compliance Officer exam. A person seeking to become a Compliance Officer (not CCO), apparently need only complete GSR qualification exam requirements and the new Compliance Officer exam when that exam becomes available. Those persons need not pass the GSP exam. Do we have an accurate understanding?

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We believe that certifications provided by other organizations should be acceptable, in addition to FINRA's Wharton certification. There is certainly precedent for FINRA to accept non-FINRA-sponsored certifications. Currently, persons who have satisfactorily completed CFA levels I and II are not required to take the Research Analyst exam. We observe that NSCP has developed an excellent testing process for persons to demonstrate their proficiency and earn the NSCP credential, the Certified Securities Compliance Professional ("CSCP®). We urge FINRA to provide similar qualification status as Compliance Officer for persons meeting NSCP or other similar certification requirements.

General Comment: Permissive Registration. We endorse the reasons cited by FINRA on page 5 of Release 09-70 for allowing registration for those engaged in a *bona fide business purpose* of the member. Members often need to move an associated person back into positions requiring registration. While those persons may have been actively performing in the financial services market place, their location within a member or with an affiliated entity may not have required registration. The passage of time should not necessarily impede their transfer to duties requiring registration status.

We strongly agree that firms should be enabled and encouraged to develop "bench strength" to assure long-term growth in capacity. With that capacity, they can both effectively manage their current business and address gaps caused by temporary or permanent departures of staff members. We also appreciate a continued need to sustain consistent rules for all engaged in the same or similar businesses.

Qualified individuals should be encouraged to move between affiliated businesses without fear of being disadvantaged when returning to a FINRA-regulated part of an affiliated company's business. The passage of time should not impede their transfer to or from duties requiring *Active* registration status.

3. Permissive *Inactive Registration* of Persons Engaged in the Business of a Financial Services Industry Affiliate of a Member (Proposed FINRA Rule 1210(c)).

We believe the proposed expansion of provisions permitting registration of persons engaged in the business of a financial services industry affiliate of a member is a very good proposal. Firms and individuals will be able to achieve greater flexibility while continuing to be mindful of regulatory requirements and responsibilities. The definition of "financial services industry" appears to be broad enough to encompass the

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range of activities in which financial service providers are engaged. We observe that the definition appears to be flexible as to foreign regulatory authorities. We suggest the definition be broadened to facilitate including other regulatory bodies such as a Consumer Financial Protection Agency (now being considered in Congress); perhaps this could be achieved by FINRA having authority to recognize a particular entity or type of entity or being "in the financial services industry," without needing to propose a rule change to the SEC just for that purpose.

The identification of a person currently located at an affiliate of a member as a *Retained Associate*, appears to be positive and workable. (We suggest that such persons be designated *Inactive* for simplicity's sake.) We believe the permissive status expressed in proposed Rule 1210(c) is clear. The requirements for notification are that a person not concurrently registered pursuant to 1210(a) or (b) and 1210(c) are reasonable.

We disagree, however, that there is a need for a person leaving *Retained Associate* status (or as recommended *Inactive* status) to remain in an active registration or *bona fide business* purpose for at least 12 consecutive months. Given the nature of the financial services business, we know that it can be important to have capable, qualified persons able to step in for different temporary assignments, such as persons replacing a temporarily absent staff member, or providing service in a Hurricane Katrina situation.

Why would a customer be confused by frequent or infrequent switches? A customer could identify a registrant's status/record by accessing the BrokerCheck® facility. The crucial information about an individual's current status would be readily accessible. Better yet, if there were only two categories (*Active* or *Inactive*), the process would be easier and clearer.

Most importantly, would a customer really care about a registered person's status? Isn't the headline that an individual is registered and subject to FINRA jurisdiction sufficient?

The concept of *Tolling* a *Retained Associate's Inactive Registration* period day-for-day for each day that person is active is also confusing. Why should *Retained Associate* (or *Inactive* as recommended) status be limited to a 10-year time period limit? So long as a person is subject to the provisions enumerated in

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1210(c)(3),[5] we perceive no reason for establishing such an arbitrary time limit. *Retained Associates* [*Inactive*] must be supervised and participate in compliance-related meetings and keep their continuing education status current, much the same as regulatory requirements for any other properly registered individual.[6]

We believe the examples provided clearly demonstrate how such a Byzantine system of technical requirements could quickly become incomprehensible. Candidly, the drafters of this letter could not understand how any person would be able to decipher the variety of requirements. Several of those drafters have practiced securities law or been responsible for member firm compliance for as many as 38 years. They foresee challenges for registrants in attempting to navigate through the thicket of proposed requirements.

More importantly, we do not perceive any benefits that might be achieved by setting up a system derived from the time a person has served in any particular category. Further, if we accurately understand the proposals, a person might forfeit her/his eligible *Retained Associate* status by working seven months as an *Active Registrant* or *Bona Fide Business Purpose Inactive* registrant and then returning to an affiliate to work. Would a qualified, experienced person lose their registration because of an overly complex and arbitrary system? We question the benefit of a process intended to facilitate flexibility for member firms and associated persons that permits only single-event mobility.

We believe that the proposed outcomes based on a person's changing registration status make little sense. As experienced compliance professionals, we are uncertain as to how the proposed new rules will work. We are certain, however, that they are extraordinarily complex and would present major unnecessary challenges for firms and individuals.

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[5] FINRA By-laws and Schedule A, Forms U4 and U5, Rule 1200 Series (Arbitration), Rule 5130 (IPO purchase restrictions); Rule 8000 Series (Investigations and Sanctions); Rule 9000 Series (Code of Procedure); NASD Rule 1120 (Continuing Education Requirements); 3010(a)(5) Appropriately Supervised; 3010(a)(7) (Annual Compliance Meeting); 3050 (Associated Persons Transactions); and 3070 (Reporting Requirements).

[6] The proposed *tolling*, *forfeiture* and other similar points of analysis seem to stem from the overall time a person is permitted to have *Retained Associate* status. This approach seems likely to engender greater confusion and uncertainty. Is it really necessary?

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B. **Qualification Examination Requirements and Waiver of Requirements (Proposed FINRA Rule 1220)**.

1. Qualification Examinations (Proposed FINRA Rule 1220(a), (b) and (d) — (g).

We believe the proposed changes to Rule 1220 are appropriate and clear except for the requirement that a General Securities Principal (GSP) have 18 months experience as a General Sales Representative (GSR).

If our initial interpretation is correct, FINRA is proposing that a member may not designate a GSR to be a GSP until the GSR-qualified person has worked 18 months as a GSR. Why would FINRA propose an arbitrary number of months for a person to have served as a GSR?

If it is a correct interpretation, given the vast experience of some persons as both supervisors and as active participants in similar businesses, regulated or not, we believe members should be permitted to request a waiver of the 18 month time-served as a GSR. For example, persons who have served as regulators or worked for many years as securities lawyers counseling member firms on legal and compliance matters should be able to secure a waiver by FINRA of this 18-month requirement. This appears to be contemplated in Proposed Rule 1220(c).[7]

We presume that a member firm will continue to be able to hire persons for jobs requiring GSP licensure, who have not necessarily been registered as GSRs for 18 months in their previous incarnations. For example, we expect that a member could hire a mutual fund portfolio manager with 20 years experience, and that person, upon completing qualification requirements, exams (or waiver of exams per Proposed Rule 1220(c)), background checks, etc., could immediately assume a Research Principal's responsibilities.

[7] Upon reading the description at page 11 of Release 09-70 more carefully, we suspect that the purpose of the 18 month time period in 1220(g) is to permit experienced GSRs to act as a principal for a period of 120 days within which she/he must successfully pass the applicable principal qualification exam. Are we correct in concluding that the 18-month "experience as a GSR requirement" is not a precondition for all persons to become registered as principals, but rather, serves as a mechanism to permit a GSR to act as principal prior to successful completion of an appropriate principal exam?

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2. Waivers (Proposed FINRA Rule 1220(c)).

We understand that Proposed Rule 1220(c) reflects an intent to continue the current process, which permits meritorious examination waivers for qualified individuals.

We are unclear about FINRA's intent that it "proposes to amend the provision permitting a member to designate any representative *to function as a principal for a limited period* (emphasis added).[8]

C. **Registration Categories (Proposed FINRA Rule 1230)**.

1. Definition of Principal (Proposed FINRA Rule 1230(a)(1)).

Proposed Rule 1230(a)(1) effectively streamlines the definition of the term *principal*. We presume that all the interpretations published in NASD Notice to Members 99-49 will continue to be effective.

2. General Securities Principal (Proposed FINRA Rule 1230(a)(2).

We believe Proposed Rule 1230(a)(2)'s reorganization of current NASD Rule 1022(a) helps to clarify the process for identifying qualification standards for becoming a General Securities Principal. Establishing stand-alone categories for Research Principals and Compliance Officers makes sense. We are unclear as to whether all Compliance Officers must become Principals, or only Chief Compliance Officers must be Principals. It is clear that one can currently become a Compliance Officer by completing the General Securities Principal qualification exam and earning a FINRA Wharton Institute CRCP designation.[9] We reiterate our request that other qualification certifications be recognized. Since the Compliance Officer category is included in 1230(a), we ask if all Compliance Officers are deemed to be principals. Does FINRA plan to develop a definition of Compliance Officer and to identify circumstances where a person's duties require her/him to be registered as a Compliance Officer?

[8] *See* discussion at top of page 11, Release 09-70.

[9] *See* discussion at page 7 of this letter.

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3. Research Principal (Proposed FINRA Rule 1230(a)(3)).

We understand that Research Principals will be required to pass the GSP exam and the Series 86 and 87 exams. Alternatively, a Research Principal must have passed the GSP and Series 16 Examinations. Proposed Rule 1230(a)(3) appears to efficiently encompass current requirements. The additional examination requirements will only apply to persons seeking to be Research Principals after the new Rule 1230(a)(3) becomes effective.

4. Compliance Officer (Proposed FINRA Rule 1230(a)(4)).

We understand that Proposed Rule 1230(a)(4) establishes a new stand-alone registration category for Compliance Officers. The discussion in Release 09-70 appears to focus primarily on Chief Compliance Officers. We presume that member firms may designate any number of persons to serve as Compliance Officers, albeit members shall generally only have one Chief Compliance Officer, depending on how their business lines are organized.

We reiterate that we believe persons wishing to become Compliance Officers should be able to do so by successfully completing the GSP exam and an approved satisfactory Compliance Officer certification program provided by more than just the FINRA / Wharton Institute, *e.g.*, persons who have successfully completed the NSCP's compliance officer certification program should qualify for the FINRA Compliance Officer status, without being required to take FINRA's Compliance Officer examination.

We believe proposed FINRA Rule 1230(a)(4) should be consistent with Rule 1230(a).[10] Proposed Rule 1230(a)(2) lists acceptable alternatives to the GSR as a prerequisite for GSP registration as follows:

(a) Registration as a United Kingdom Securities Representative;
(b) Registration as a Canada Securities Representative; and

[10] 1230(a)(2) is consistent with current NASD Rule 1022(a)(1)(A).

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(c) Registration as a Corporate Securities Representative (Series 62) or Private Securities Representative, provided that such persons have limited supervisory responsibilities (consistent with their registration category) *e.g.,* does not engage in municipal securities activities.

We suggest that FINRA add items (a), (b) and (c) above to their list of acceptable prerequisites for the GSP and Compliance Officer designations in Rule 1230(a)(4).

5. Financial and Operations Principal, Introducing Broker-Dealer Financial Principal Officer and Principal Operations Officer (Proposed FINRA Rule 1230(a)(5)).

We believe merging the registration categories currently contained in NASD Rules 1022(b) and (c) is appropriate.

We also believe that members who neither self-clear nor provide clearing services should be able to designate the same persons as the Principal Financial Officer, Principal Operations Officer and Financial and Operations Principal or Introducing Broker-Dealer Financial and Operations Principal.

We further agree that clearing and self-clearing firms should designate separate persons to function as Principal Financial Officer and Principal Operations Officer. The ability for firms with limited size and resources to request a waiver of this requirement seems appropriate, and we would expect FINRA to liberally supply such waivers, in a manner consistent with assuring adequate controls and safeguards, *i.e.,* other firms and customers would not be at risk.

6. General Securities Sales Supervisor (Paragraph (a)(10) and Supplementary Material .04 of Proposed FINRA Rule 1230).

We support adding "approval of customer accounts" to the list of permissible supervisory activities of a General Securities Sales Supervisor. We believe the General Securities Sales Supervisor registration should permit a qualified individual to supervise sales of Municipal and Municipal Fund Securities.

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Further, we believe FINRA's proposal to amend the communications rules by combining the definitions of advertisement, sales literature and independently prepared reprints into the single category – retail communication, is a good change. Removing the final advertisement approval restriction from General Securities Sales Supervisory category is appropriate since it will facilitate a more efficient process for reviewing and approving retail communications. We recommend that this change be highlighted in the Notice to Members announcing adoption of the new rules. Some members may wish to change their WSPs concerning who may approve retail communications. Some firms may choose to be more restrictive.

D. **Associated Persons Exempt from Registration (Proposed FINRA Rule 1240)**.

1. Active Versus *Inactive*.

NSCP supports FINRA's approach that registration "parking" is problematic in today's regulatory regime. Nevertheless, we believe that the provision, as proposed, is too restrictive. We believe that many firms maintain registrations for personnel for legitimate reasons, such as maintaining a Series 24 registration to act as a backup or delegate for certain supervisory functions. In these circumstances, while the person is not engaged full-time in the activity, the registration is necessary for valid reasons.[11]

2. Codification of Guidance Regarding Contact With Prospective Customers (Proposed FINRA Rule 1240.01).

FINRA proposes to codify existing guidance permitting unregistered persons to have limited contact with prospective customers (subject to certain restrictions). While NSCP believes that restricting

[11] FINRA may wish to consider whether it may be appropriate for FINRA to allow registered associated persons to hold one of two registration statuses: *Active* or *Inactive*. In many professions, such as for attorneys, the individual can obtain a license, and maintain that license on an *Inactive* status. The attorney cannot practice law in the jurisdiction where she/he is inactive, however, they must pay annual dues and meet certain requirements prior to being allowed to convert to *Active* status. In the securities milieu, a firm may determine that it will be responsible for the activities of any inactive person, as well as be responsible that the individual comply with all requirements prior to becoming *Active*. The firm will bear the cost of paying the annual renewal fees as well. Thus, FINRA will collect the fees, while the firm makes the decision that it will ensure that the representative not engage in any securities-related activities while on *Inactive* status.

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unregistered personnel to certain activities is appropriate, the Interpretive Materials, as drafted, appears too restrictive, as noted below.

The proposed provisions of 1240.01(b)(1) specify what an unregistered person may not do. We agree that that person may not solicit orders, as this activity clearly requires registration. We do not, however, believe that the remaining restrictions are appropriate. Specifically, the provision states that "Unregistered persons may not discuss general or specific investment products or service offered by the member." We can envision many scenarios where an unregistered person may have a conversation with a prospect and the prospect needs to know what services are offered or what general product categories a firm offers. The unregistered person should have the ability to state, in general terms, that the firm offers, for example, mutual funds, stocks and so forth.

Regarding the proposal to require firms to conduct training regarding obligations and restrictions applying to unregistered persons, NSCP believes that this is a reasonable approach.

3. Rescission of Guidance Regarding Unregistered Persons Who Occasionally Receive Unsolicited Customer Orders (Paragraph (a) and Supplementary Material .02 of Proposed FINRA Rule 1240).

We are concerned about FINRA's proposal to rescind existing guidance permitting unregistered administrative personnel to occasionally receive unsolicited customer orders at a time when appropriately qualified representatives or principals are unavailable. We believe the long-standing NASD policy and rule interpretations of other self-regulatory organizations should continue in place. While situations calling for unregistered personnel to take on unsolicited orders are rare, we believe the safeguards imbedded in the policy are a valid way of serving customer's interests. In keeping with long-standing NASD policy and rule interpretations of other self-regulatory organizations, the "ministerial" exemption would continue to apply to administrative personnel who occasionally receive communications from the public at a time when appropriately qualified representatives or principals are unavailable. In these circumstances, unregistered administrative personnel may record and transmit unsolicited customer orders to the firm's normal order-

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processing channels, provided such orders are subsequently reviewed by a registered principal of the firm and the unregistered personnel do not routinely accept customer orders as part of their normal duties.[12]

We do not believe customers should be exposed to the risk of rapidly moving markets without a way to get an order to the appropriate registered person at a member firm. We are unaware of any substantial problems in relation to the occasional emergency situations when unregistered persons have taken orders. We do not believe a customer's access to a trading market should be denied. We believe this valuable guidance has helped firms and clients avoid substantial problems in emergency situations. Rather than rescind a long time interpretation, we recommend developing a set of examples where it is allowable to take unsolicited orders from customers and transmit them to a registered person for execution. Directions from customers may arrive in an office by email, fax or text order. Administrative personnel clearly should be allowed, and expected, to convey them to the correct location for execution. Where a client needs to give updated information about her/his account and calls in, administrators should be able to take that call and assist the client to get information correctly entered.

4. Other Exemptions from Registration (Paragraphs (b) and (c) of Proposed FINRA Rule 1240).

In the proposal, specific categories are identified as not requiring registration. We ask that FINRA consider specifying what activities require registration/qualification. Regarding the proposal to require firms to conduct training regarding obligations/restrictions for unregistered persons, NSCP believes that this is a reasonable approach.

For background checks, NSCP believes that a pre-hire background check is appropriate. NSCP suggests, however, that FINRA provide some guidance on the minimum information that a firm should acquire for all persons. The goal being that a uniform standard can be achieved and the public better protected.

Regarding referral fees, we believe that the language in the proposal is unclear as to whether a *de minimus* referral fee is going to continue to be appropriate under the proposed rule. Does the current draft of the proposal in some way restrict these types of referral fees?

[12] NASD NTM 87-47.

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Regarding the proposal related to firm procedures in place for unregistered persons, NSCP requests guidance on minimum standards for supervision. Does FINRA distinguish between home office employees and administrative staff in field offices?

NSCP appreciates the opportunity to provide comments on FINRA's proposed consolidated rule; Governing Registration and Qualification Requirements (FINRA Regulatory Notice 09-70.) We look forward to discussing the issues we have addressed in this letter with FINRA staff members, if that would be helpful. Please feel free to contact the undersigned at 860.672.0843 if you have any questions or require further information regarding our comments.

Thank you in advance for considering our comments.

Sincerely,

Joan Hinchman
Executive Director, President and CEO

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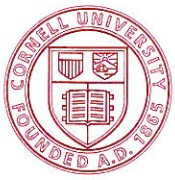

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March 1, 2010

Via Electronic Filing

Marcia E. Asquith
Senior Vice President and Corporate Secretary
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1500

RE: Regulatory Notice 09-70 (Registration and Qualification Requirements)

Dear Ms. Asquith:

The Cornell Securities Law Clinic (the "Clinic") welcomes the opportunity to comment on the proposal to incorporate the National Association of Securities Dealers ("NASD") rules on registration and qualifications into the consolidated FINRA rulebook with certain changes pursuant to Regulatory Notice 09-70 (the "Rule Proposal"). The Clinic is a Cornell Law School curricular offering, in which law students provide representation to public investors and public education on investment fraud in the largely rural "Southern Tier" region of upstate New York. For more information, please see http://securities.lawschool.cornell.edu.

The Rule Proposal simplifies and streamlines NASD Rules 1021 and 1031, which govern registration requirements of representatives and principals. Under current rules, FINRA member firms must register individuals who engage in broker-dealer or investment banking business. FINRA member firms also may register individuals who engage in legal, compliance, internal audit, back-office operations, or similar responsibilities. The proposed revisions: (1) introduce the concept of "active" and "inactive" registration; and (2) expand the group of individuals permitted to register if they engage in "bona fide business purposes" of member firms. The revisions will relax the prohibition on the "parking" of registrations.

As set forth below, the Clinic does not oppose the Rule Proposal, but the Clinic believes the phrase "bona fide business purpose" as a requirement for inactive

registration is vague, and the Rule Proposal should address how FINRA and member firms will disclose the registration statuses of associated persons.

1. FINRA Should Clarify the Definition of "Bone Fide Business Purpose"

FINRA should offer guidance on the kinds of "bona fide business purposes" that will qualify for inactive registration. The phrase expands the group of individuals permitted to register. The Rule Proposal justifies the change for two reasons. First, FINRA members will be better prepared for unanticipated personnel changes. Second, the Rule Proposal resolves inconsistent rules that permit some but not all who engage in business purposes of the member to register.

While the Rule Proposal gives members more flexibility in defining registration requirements for business positions, the Clinic believes the phrase, "bona fide business purposes," is vague. For example, different firms may require different registration statuses for the same business position. The lack of uniformity makes it difficult for a third-party to anticipate which employees hold inactive registrations and which do not.

Moreover, the Rule Proposal creates a loophole. Members may avoid limitations on customers' interaction with non-registered persons by designating certain positions, which previously would not have required registration, as having "a bona fide business purpose." In this manner, the customer contact restrictions currently applicable to non-registered person would not apply to inactive registrants. See NTM 00-50 (August 2000). By giving members sole discretion as to what constitutes a "bona fide business purpose," FINRA is permitting members to bypass the limited contact restriction through inactive registration. Accordingly, the Clinic suggests that FINRA clarify which types of business roles serve "bone fide business purposes."

2. FINRA Should Address the Method to Disclose "Active" and "Inactive" Registration Statuses

FINRA should provide guidelines on disclosing registration statuses. The Rule Proposal is silent on how FINRA and its members will disclose the different registration statuses to the public. Without disclosure, a third-party is inadequately informed of an employee's business role in the member firm. For example, under the current scheme, FINRA BrokerCheck will inform a third-party whether a principal or a representative is registered, but it is unclear whether BrokerCheck will distinguish between active and inactive registrations should the Rule Proposal take effect.

FINRA should provide clear and explicit guidelines on how FINRA and its member firms will disclose registration statuses to the public. FINRA should further address the specific content of the disclosed information.

3. The Clinic Supports Codifying Guidance on Contact with Prospective Customers

The Clinic supports codifying existing guidance on restricting unregistered persons' contact with customers, but suggests that FINRA consider whether these limitations also should apply to persons with inactive registration. (See discussion above.)

Conclusion

The Clinic greatly appreciates the opportunity to comment on this Rule Proposal. The Clinic suggests that the Rule Proposal be amended to address the ambiguity of the term "bona fide business purpose" and to specify requirements on notifying the public as to the type and meaning of different registration statuses.

Respectfully submitted,

William A. Jacobson, Esq.
Associate Clinical Professor of Law
Director, Cornell Securities Law Clinic

Mian R. Wang
Cornell Law School '11

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Notice to Member 09-70, Item 17: **Qualification Examination Requirements for Foreign Associates (Proposed FINRA Rule 1230.05)**

I have read with great care and attention the proposed rule that will require the Foreign Associate that serves the investment needs of Foreign Nationals, exclusively, to show the same level of proficiency as their US counter parts.

I believe this is an onerous requirement and although I believe that investment professionals who are entrusted with the assets of any investor should be "professionals", it should not be up to our regulators to impose such hurdles or completion requirements. If those requirements should be imposed, then the testing material should be made available in the native language of the Foreign Associate, a very costly proposition. FINRA, with this proposal is not only requiring the candidate to be proficient with US rules and regulations, but also to be proficient in a foreign language.

What I propose is that the Foreign Associate be exempt from the requirements of US Securities Laws, as it has been for so many years, but that they must show proof of a current certification issued by their country's supervising and regulating entities.

In the same manner as we require documentation for purposes of (KYC) know your customer, we should require documentation for (KYIP) know your investment professional.

Kind regards,

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Aventura, Florida 33180
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March 1, 2010

Integrated Management Solutions USA Inc. ("IMS") is pleased to have the opportunity to comment further on FINRA's proposed Rule 1210 (the "Rule"). In a previous letter we commented on some of the broad aspects of the Rule, focusing in general on the expiration of associated persons' registrations if the persons are beyond two years from the last time that they were registered.

With this letter, we are commenting on more specific aspects of the proposed Rule.

By way of background, IMS is one of the largest providers of financial accounting and compliance consultants to the securities industry. In our frequent role as compliance consultant, we assist our clients in meeting various FINRA filing deadlines and registration obligations. IMS provides these compliance services as well as accounting services for about 100 small-firm FINRA members. Based on this broad sample, IMS is in an advantageous position to comment on FINRA's proposals.

We have the following specific comments:

"Active" and "Inactive" Registration

We believe that FINRA desires to improve the current situation that results in associated persons having to re-qualify by examination after a mere two years away from the business. As stated in our previous letter, our belief is that the registration status of associated persons should not be lost upon departure from a securities firm. Provisions requiring the updating and refreshing of professional competence should be all that is necessary to retain one's ability to work within the regulated securities industry.

We think that FINRA recognizes the unnecessarily onerous aspects of the two-year standard and is moving little by little to remedy the situation. We would like to see this situation fixed now, but only if it is fixed completely.

In our previous letter, we stated our belief that FINRA should move towards requirements of other professions, which require the maintenance of proficiency but do not assume that a person needs to actively practice the profession to maintain his or her proficiency. Given that such a drastic shift in FINRA's position is unlikely over the near term, we are-- rather reluctantly -- in favor of the significantly narrower provisions in the proposed Rule. These would allow registrations to be maintained beyond a two-year period if the registrations were labeled "inactive" and the associated persons were engaged in bona fide business activities. We were pleased to see FINRA recognize that "the proposed rule allows members to develop a depth of associated persons with registrations in the event of unanticipated personnel changes and also encourage greater regulatory literacy." To us, these words represent a tremendous shift in FINRA's previous stance regarding individual registrations.

But….what is the practical change involved here? For example, current Rule 1021 allows firms to register persons under various principal categories:

> A member may, however, maintain or make application for the registration as a principal of a person who performs legal, compliance, internal audit, back-office operations, or similar responsibilities for the member or a person engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member.

This has been working, so why change it?

Retained Associate

We are also in favor of the proposed provisions that would allow firms to maintain the registration of a person who is engaged in the investment banking or securities business of an affiliate or subsidiary of the member. We have seen numerous cases of persons leaving a FINRA member to work in, say, an affiliated firm's investment advisory business, most of the time conducting virtually the same activities as when working for the member. Why should registrations be lost after two years at the new employment? We therefore welcome the establishment of the new category of Retained Associate.

And yet….the proposed category of Retained Associate only pertains to employment at affiliates. Why should it be limited in that way? Under the proposed Rule, a trader engaged in trading Goldman Sachs' proprietary funds could retain his registration if he moved to Goldman's London-based affiliate and conducted a similar activity. But if he went to work for UBS in London, transacting the very same type of business, he would lose his ability after two years to reregister without requalifying by examination.. Does this seem fair? In fact, it is downright anti-competitive because it creates a tremendous disincentive for leaving the current employing firm.

Too Complicated!

Unfortunately, as much as we are in favor in principle of the Active, Inactive and Retained Associate proposals contained in proposed Rule 1210, the baggage that comes along with the adoption of these proposals would, in our opinion, negate the related positive aspects.

For example, an associated person currently not engaged in an activity requiring Principal registration would be allowed to maintain his Series 24 registration if his Series 7 registration was active. The General Securities Principal registration would be considered active as well, even though the person would not be conducting activities requiring that registration. And the firm would have the responsibility to "appropriately supervise to ensure that the person was not acting outside the scope of his assigned functions." What is wrong with the current system that allows the firm to simply maintain the person's Series 24 registration?

In regard to the complex requirements surrounding the proposed category of Retained Associate, all we can say is "Who thought this up?" It would take a lawyer with years of training (and billable hours) to be able to calculate a person's Retained Associate eligible period. The convoluted provisions that FINRA has proposed add up to a plan doomed to failure at the outset. We do not know of any firm that will be willing to keep track of a Retained Associate's status once the status becomes active and a 12-month consecutive period is required in order that the 10-year overall period of Retained Associate eligibility remains intact. And don't forget that the 10-year period must be docked for every day of activity while in a registered capacity.

In short, the various notifications and calculations required are unnecessarily complicated and, in our opinion, can only lead to confusion. Firms will forget to notify FINRA of an associate's transformation from inactive status to active. They are likely to miscalculate the 12-month period during which a previously inactive registration must be maintained actively. Certainly over a ten-year span of time there will be mistakes made in the reporting of outside business activities. All of this could result in associated persons thinking that their registrations are intact, when during a review by FINRA examiners it is discovered that the registrations in fact expired. Worse yet, the contingent liability for selling securities without being licensed could be very threatening to the net worth and career of a person who inadvertently was not registered.

Conclusions

IMS is strongly in favor of allowing registered persons to maintain registration even if those persons are not currently performing the functions associated with those registrations – as long as there is periodic updating and refreshing of the professionals' knowledge base and skills.

We think that the ideal changes in this regard would not only move the registration process towards the standards embraced by most other professions, but would do so in a way that creates clarity and simplification. Proposed Rule 1210 is a half-way measure that could end up creating more problems than progress.

We strongly encourage FINRA to keep moving along the lines of registration eligibility retention, but to reformulate proposed Rule 1210 so that it is a more practical regulation.

Thank you for the opportunity to comment on this matter.

Sincerely,

Christine LaBastille

Christine LaBastille
Managing Director

Christopher P. Laia
Vice-President
FASG
General Counsel
(210) 498-4103

February 26, 2010

VIA Email

Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 09-70 - Proposed Consolidated FINRA Rules Governing Registration and Qualification Requirements

Dear Ms. Asquith,

United Services Automobile Association (USAA) appreciates the opportunity to provide its comments to Regulatory Notice 09-70 Proposed Consolidated FINRA Rules Governing Registration and Qualification Requirements (the Proposal).

USAA is a member-owned association that seeks to facilitate the financial security of its members and their families by providing a full range of highly competitive financial products and services, including insurance, banking and investment products. USAA members are part of the American military community, and include present and former commissioned and noncommissioned officers, enlisted personnel, and their families. USAA Investment Management Company (IMCO), an indirect wholly owned subsidiary of USAA, is a FINRA member, a registered broker-dealer and serves as the registered investment adviser and distributor of the USAA family of no-load mutual funds. USAA mutual funds are sold primarily through USAA Financial Advisors, Inc. (FAI), also an indirect wholly owned subsidiary of USAA and a FINRA member. FAI's Member Advice and Solutions Group is an organization of approximately 450 registered representatives operating in a call center environment whose goal is to provide free financial advice on a wide range of topics and products to help secure our member's financial security.

USAA supports expanding NASD Rules 1021(a) and 1031(a) to permit a member firm to register (or maintain the registration) of any individual who is engaged in the business of a financial services industry affiliate of the member that controls, is controlled by, or is under common control with, the member. Such person would be designated as a Retained Associate and his or her registration deemed "inactive" upon notification to FINRA of such registration status. A Retained Associate could continue with inactive status for a maximum of 10 years, while currently there is a 2 year limitation for an individual to maintain an inactive status.

FAI believes that employees of its financial affiliates, registered as Retained Associates, could be used in its call center to handle "surges" in call volumes related to certain events or in contingency planning situations. For example, FAI could activate Retained Associates and use them to handle surges in call volumes during relatively short periods, such as during tax season, to implement contingency plans for emergencies, or address significant disruptions in the market. Each of the contingencies identified is likely to be for a limited duration shorter than a year.

The Proposal provides that in order to mitigate the risk of customer confusion that might be caused by frequent switching between a Retained Associate's active and inactive statuses, a Retained Associate who enters into an active registration must remain in such status for at least a consecutive 12-month period to preserve any years that may be remaining on his or her Retained Associate period. The risk that FINRA is attempting to mitigate appears to be present in a brokerage business model where a client has a one-on-one relationship with a registered person. In this context, a customer might experience confusion if the Retained Associate frequently switches between an active and inactive status.

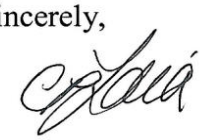
By comparison, with respect to the call center in USAA's Member Advice and Solutions Group, members do not have a one-on-one relationship with a registered representative. Instead, like in most call centers, each time a member calls into the call center the member speaks with a different registered person. As a result, there is virtually no likelihood of a member being confused as to the status of employee caused by a Retained Associate's registration being activated or deactivated.

USAA is concerned that the requirement that a Retained Associate must remain in an active status for a 12 month period would unnecessarily limit its ability to use employees of its financial affiliates to meet the short term demands of its members, when the likelihood of customer confusion is low to non-existent.

Therefore, USAA suggests that FINRA consider exempting Retained Associates activated in call centers, such that a Retained Associate who subsequently enters an active status would not be subject to the 12 months period set forth in the proposal. By adopting such a standard, USAA would be able to use the employees of its affiliates, who know and understand our mission and our members, to assist in the call center during periods of unusually high call volumes. This exemption should apply to any call center operated by member firms where there is no ongoing relationship between the customer and a registered representative, *including, but not limited to,* call centers operated by mutual fund underwriters or by broker-dealers that are affiliates of mutual fund underwriters.

Please feel free to contact the undersigned if you have any questions or require further information regarding our comments.

Sincerely,



Christopher P. Laia
Vice-President and General Counsel
Financial Advice and Solutions Group

2134648

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

NASAA

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March 1, 2010

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, D.C. 20006-1560

Via email to: pubcom@finra.org

Re: Regulatory Notice 09-70 – Registration and Qualification Requirements

Dear Ms. Asquith:

The North American Securities Administrators Association, Inc. (NASAA) submits the following comments in response to Regulatory Notice 09-70 – Registration and Qualification Requirements ("Notice") The Notice requests comment on proposed changes to FINRA rules governing registration and qualification requirements. Under current rules, associated persons of a FINRA member firm who are engaged in a FINRA member's investment banking or securities business must be registered in an appropriate registration category and pass the qualification examination(s) prescribed for such registration category. Provisions for a waiver of the required qualification examinations are also contained in current FINRA rules. The current registration and qualification regimen also provides for permissive registration of certain persons, including those who perform legal, compliance, external audit, back office operations and/or similar responsibilities. FINRA rules also require that a person who ceases to act in a registered capacity for more than two years must re-register and re-qualify: a process that generally entails passing the appropriate prescribed examination(s).

The Notice suggests radical changes to the rules governing registration. As we understand it, the proposed revisions would, among other things, create the following three registration categories:

1) Active Registration – This status would be required for persons engaged in the investment banking or securities business of a FINRA member firm.
2) Permissive Inactive Registration – This status would be permissive and would be permitted for any person who is engaged in a "bona fide business purpose" of a FINRA member. The term "bona fide business purpose" is not defined in the proposal thereby leaving it to the firm's sole discretion to determine what qualifies as such a purpose.
3) Retained Associate – This status would be permissive and thus part of the proposed inactive registration category. FINRA members would be permitted to

> designate as a Retained Associate those engaged in the business of a financial services industry affiliate of a FINRA firm that controls, is controlled by, or is under common control of the member.

Individuals who are in the permissive inactive registration categories and were presumably actively registered at one point would be permitted to unilaterally change to an active registration status if their new role within the firm requires registration. The shift from inactive to active status would be permitted without any requirement that demonstrates that an individual remains qualified to carry out the responsibilities of the position. As we understand the Notice, a person could work for years in a capacity determined by the firm to constitute a bona fide business purpose and then transition to an investment banking or securities function without demonstrating that he or she remains qualified for the position. While there is a ten year limit on the ability of a Retained Associate to return to active registration status without the benefit of reexamination, no such time limit applies to the permissive inactive registration category.

In the Notice, FINRA explains that a transfer from permissive inactive status to active status without any requalification examination is justified in part because, "a member may have a foreseeable need to move an associated person whose principal or representative registration has lapsed for more than two years back into a position that will require or permit such person to be registered. Currently such persons are required to re-register and re-test (or obtain a waiver of the applicable qualification examination)." While FINRA has detailed a "business" reason for this approach, it has failed to articulate a sound regulatory reason for this rather significant departure from the organization's current registration requirements.

NASAA understands the need for FINRA to consider the business practices of its members when drafting proposals. However, simply changing the rules in order to allow an associated person to move easily from one job to another without the need for retesting is not sufficient to justify this change especially since no regulatory benefit is achieved. In fact, the new registration and qualification examination regime reduces current testing provisions. For example, an individual could qualify as an inactive General Securities Principal, move to another business purpose of the firm wholly unrelated to the duties of a general securities principal and then return to her position as a principal twelve years later without the need to re-qualify. This practice seems contrary to the provisions of the Exchange Act requiring FINRA to prescribe standards of training, experience and competence for individuals engaged in the investment banking or securities business.

The Notice also explains that individuals registered in the permissive inactive registration category would be required to adhere to some provisions of FINRA rules including continuing education requirements. Compliance with these requirements will, according to FINRA, "ensure that such persons (permissive registrants) maintain an appropriate level of competence and knowledge." NASAA disagrees with the conclusion that continuing education can be judged to meet the level of competence and knowledge required by a qualification examination program. Historically, continuing education has served as a supplement to the qualification examination program. Under this proposal, continuing education becomes a replacement for, not a supplement to, FINRA's qualification examination program. This is a major change in regulatory emphasis and one that will not benefit public investors. In light of what appears to be

the elevation of the continuing education component of assessing a person's skills to carry out his or her duties it seems prudent, at the very least, to also propose enhancements to the continuing education requirements.

The firm element of the continuing education requirement also should bear some relationship to the associated person's business activities. The Notice offers no guidance on the appropriate substance of the inactive person's education. If someone is in an inactive status, the continuing education undertaken by that person during the period of inactivity may bear absolutely no relation to the type of activity the person may eventually move into after the period of inactivity, further demonstrating the inadequacy of continuing education as a substitute for a competency examination.

NASAA does recognize that circumstances may arise in which an individual's required registration may lapse because of an assignment to a non-registered job function with his/her FINRA member firm or a control affiliate of such firm. If FINRA is considering options that would benefit these individuals, NASAA would suggest that the same result could be achieved for these people by continued use of FINRA's qualification examination waiver process. In fact, continued use of the waiver process would be a much simpler administrative process for a FINRA member than compliance with the reporting and tolling requirements detailed in the proposed rule changes.

FINRA (and previously NASD) rules have for years prohibited the practice of maintaining a registration but not performing the investment banking or securities activities associated with that registration. This practice is commonly referred to as "parking a registration." NASAA is concerned that the implementation of the rule amendments proposed in Regulatory Notice 09-70 would eliminate any prohibition against parking a registration in favor of the expanded permissive registration plan. NASD rules 1021(a) and 1031(a) prohibit the parking of registrations and would both be replaced under the proposed rule changes. NASAA believes that rules 1021(a) and 1031(a) exist for a specific regulatory purpose and serve to prohibit individuals from maintaining securities industry qualifications without in fact being engaged in those activities.

For the reasons stated herein, NASAA believes that FINRA should abandon this proposal which appears to be structured more for the convenience of its members than the protection of investors.

Sincerely,

Melanie Senter Lubin,
Maryland Securities Commissioner and
Chair, NASAA CRD Steering Committee

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February 24, 2010

Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 2006-1506

Re: FINRA Regulatory Notice 09-70

Dear Ms. Asquith:

T. Rowe Price Investment Services, Inc. ("**T. Rowe Price**") appreciates the opportunity to comment on the proposed consolidated FINRA Rules governing registration and qualification requirements.

T. Rowe Price is a registered broker/dealer under the Securities Exchange Act of 1934 and a FINRA member firm. It acts as principal distributor of the T. Rowe Price family of funds ("**Price Funds**"). The Price Funds are offered directly to retail investors as well as through financial intermediaries such as broker/dealers, insurance companies, banks and plan recordkeepers. As of December 31, 2009, the Price Funds held assets of $232.7 billion. T. Rowe Price also provides brokerage services to Price Fund shareholders and other retail customers as an introducing broker through its Brokerage Division and provides certain services to customers who hold T. Rowe Price's two proprietary no-load variable annuity products. It also serves as the distributor for Section 529 College Savings Plans issued by two states.

We generally support FINRA's proposals. However, we believe that the rules as proposed present several issues that must be considered further before the rules are adopted in final form.

Registration Requirements. Proposed rule 1210, even if revised as proposed below, will require T. Rowe Price's registration staff to expend a great deal of additional effort, especially in connection with personnel tracking, to ensure compliance with FINRA registration requirements. Nevertheless, T. Rowe Price supports the theory behind the new statuses in the proposed rule. We agree with FINRA that this approach will provide a firm that has a foreseeable need to move an associated person among positions that do and do not require registration, as the firm's business changes, with much-needed flexibility. A firm would no longer have to be concerned that an associated person, after two years in a non-registered position, would have to re-register and re-test or obtain a waiver to assume a registered position. In addition, member firms would be able to react

more quickly in the event of unanticipated personnel changes and the approach will encourage greater regulatory literacy.

Permissive Registrations. Although we support the general concept behind proposed rule 1210, we are concerned about the complexity involved in determining each Retained Associate's permissible term under it. Specifically, we believe that the suggested tolling calculations are so complicated that, at least in larger firms where the operations of affiliated financial services entities are very closely related, errors are almost inevitable. In addition, we do not understand the rationale for limiting use of the Retained Associate category to ten consecutive years. As a result, T. Rowe Price strongly urges that the inactive registered personnel of a member firm and the registered personnel of the firm's financial services industry affiliates be treated in the same manner and that the two categories be combined under the same name.

We suggest that each representative be classified in one of two ways. The first classification, of "Active" representatives, would be associated persons of the broker/dealer who are engaged in activities that require registration. The second classification would cover all other individuals who would fall into the proposed categories of "inactive" and "Retained Associate" of rule 1210 as currently proposed. Because the term "inactive" is currently used for representatives who are inactive for Regulatory Element purposes, we believe that for purposes of this rule it makes sense to call all individuals in this second classification by another term, such as "Retained," to avoid confusion.

If this approach is adopted, we think it is reasonable to deem any person with this status as an associated person and to subject each of them to the provisions listed in the proposed rule as applicable to Retained Associates. Personnel of member firms who are currently registered under the permissive registration provisions (*e.g.*, legal, compliance, back- office operations) are already subject to these provisions. We would ask, however, that the list of applicable rules be revised to make it clear that these individuals are subject only to FINRA's NASD Rule 1120(a) and not to the entire rule. As inactive personnel, they should not be performing activities that would make them "Covered Persons" subject to the Firm Element requirements of FINRA's NASD Rule 1120(b).

Non-Required Principal and Representative Registrations. We also strongly support FINRA's proposal to allow a person required to be registered based upon his or her current job function to register or maintain registrations in non-required principal or representative categories. We urge FINRA to extend this flexibility to any person who is registered, even if a registration is not required for his or her current position. If FINRA decides to maintain the distinction between inactive and Retained Associate categories, we believe that this flexibility should be accorded to individuals in either category and not only to individuals with a required active registration as described in the proposed rule.

Notifications to FINRA. In order to gauge more precisely how these proposals, if adopted in any form, will affect the workload of those responsible for registration at our firm, T. Rowe Price requests that FINRA provide information as soon as possible about how and when it expects a firm to give it notification of changes in status. We suggest that these changes be handled as routine amendments to a representative's Form U4 are handled, with notice required within 30 days of status change through the CRD.

Qualification Examination Requirements and Waiver of Requirements. If adopted as proposed, new rule 1220 would impose major changes in the area of principal designation. We support the expansion of the designation period from 90 to 120 calendar days to match the current CRD window for passing an examination. We also agree that designation should not be available for a person registered as an Order Processing Assistant Representative or solely as a Proctor, Securities Lending Representative or Securities Lending Supervisor. However, we are concerned about other aspects of the proposal.

Under current NASD Rule 1021(d) (1), a person can be designated to act in "any principal classification" for a specified number of days (currently 90 calendar days) if he or she is currently associated with the member firm as a registered representative. The current rule does not appear to limit the type of representative registration the designee may hold and has no requirement regarding how long he or she has held that registration. The designated person may not function as a Principal beyond the initial 90 calendar day period following the change in his or her duties without having successfully passed the appropriate principal qualification examination.

The proposed rule appears to make two changes. The first is that the representative being designated must have fulfilled, *inter alia*, all applicable prerequisite examination requirements before being designated. This language could be read to require the representative to hold the registration or registrations required as prerequisites to taking the principal's examination before being designated (*e.g.*, if the person is being designated as a General Securities Principal, he or she must have already passed the General Securities Representative examination). If this is the intent behind this language, FINRA has not presented any argument either that the current system has caused any abuses or that specifically outlines the need for this change. It is, for example, possible for a Series 6 representative to take and pass the Series 7 and Series 24 examinations within 120 (or 90) days of designation. We do not believe that this change, if intended, is warranted.

Of greater concern is the proposal that only a person who has been registered as a representative (in all but a few limited representative classifications) for at least 18 months within the five-year period immediately preceding the designation is eligible for designation at all. In effect, FINRA would be imposing for the first time an apprenticeship requirement.

T. Rowe Price shares FINRA's belief that prior experience is an important consideration when deciding to designate an individual as a principal. However, we do not believe that registration is necessarily a reliable proxy for experience. We believe that experience in this or a related industry should be acceptable in lieu of registration. For example, experience gained three years ago as an insurance agent, registered with a Series 6 to permit that agent to sell variable annuities, may provide no relevant experience for a person being promoted into a sales management position at a mutual fund complex. In contrast, in-depth managerial experience at a transfer agent two years ago might provide the ideal background for a person who has been registered as a representative at a mutual fund complex for one year and has been identified for promotion into a supervisory position. If the rule is adopted as proposed, a firm will not be able to designate the registered representative in the second situation to fill a position requiring principal registration, even though she may be very well suited by previous experience for that job.

It is the member's responsibility to place only qualified persons in supervisory positions and we believe that the member should be able to exercise its judgment in this area by designating as a principal someone who has passed a registered representative's examination, without regard to how long the person has held a registered representative position.

Registration Categories. T. Rowe Price generally supports FINRA's proposed rule 1230. We do have concerns about some of the rule's specific provisions, however, as described below.

Designation and Registration of Principal Operations Officer. FINRA has proposed to add to its rules the NYSE requirement that a firm designate an individual to act as Chief Operations Officer, a requirement that would be new to former NASD-only members. We believe that the broad definition of Principal Operations Officer in the proposed FINRA rule reflects the business of many NYSE legacy firms, but does not reflect the business of most former NASD members, many of which perform very few, if any, of the functions described for the Principal Operations Officer.

For example, T. Rowe Price's primary business is as distributor of the Price Funds. It also acts as an introducing broker in connection with its Brokerage Division. T. Rowe Price accepts checks and other evidences of indebtedness made payable to itself and is therefore subject to the same $250,000 minimum net capital requirement of the Securities Exchange Act as a broker/dealer that carries customer accounts. However, T. Rowe Price promptly forwards all securities to its clearing broker. Its clearing broker carries the accounts of Brokerage Division customers. T. Rowe Price does not have custody of client funds and securities, does not calculate margin for its customers, and does not process dividend receivables and payables and reorganization redemptions.

Although T. Rowe Price does not object *per se* to this new designation requirement, we believe that the General Securities Principal qualification would be sufficient for this limited role. If FINRA decides the General Securities Principal qualification is not

sufficient, we would urge that the Principal Operations Officers of firms with operations like T. Rowe Price be permitted to qualify for this role by passing either the Limited Principal-Introducing Broker/Dealer Financial and Operations Principal examination or the Financial and Operations Principal examination.

Securities Lending Representative and Securities Lending Supervisor. T. Rowe Price is requesting clarification of the scope of activities that would fall under these proposed requirements, which we understand are based upon NYSE registration requirements. The customers in T. Rowe Price's Brokerage Division are permitted to have margin accounts, which are carried at the clearing broker. As part of margin account activities, the clearing broker may lend securities to and borrow securities from T. Rowe Price Brokerage margin customers. Securities lending and borrowing are not permitted in cash accounts.

Certain officers of T. Rowe Price are authorized to execute agreements with the clearing broker, which may cover margin arrangements. These officers would also have the authority to permit cash accounts to engage in securities lending and borrowing if the firm were to make the business decision to pursue this. We believe that it is not FINRA's intent to include these officers under these requirements, but would like confirmation of this. If this is the intent, we would request more information about why FINRA believes that subjecting personnel of firms whose only current activities that touch upon securities borrowing and lending involve agreements with their clearing brokers about margin accounts is appropriate. We also would like to confirm that, if these individuals are covered, a currently registered representative or principal would have to register separately in one of these categories.

If you have any questions about T. Rowe Price's comments, please do not hesitate to contact me.

Very truly yours,

Sarah McCafferty

cc: Ms. C. Berkenkemper
J. Gilner, Esq.
Mr. J. Gounaris
D. Oestreicher, Esq.
Ms. T. Reynolds

I would like to see the inactive and retained status of individuals not count against the approved number of reps for firms until they are brought in as active again.

Susan Mersereau
CEO and President
American Equity Capital, Inc.
6000 Westown Pkwy, 2nd floor
West Des Moines, IA 50266
515-273-3632
877-542-8843

You may want to address a time limit on the inactive registration of individuals. I dkd not see any.

Susan Mersereau
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March 1, 2010

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Registration and Qualification Requirements, Regulatory Notice 09-70

Dear Ms. Asquith:

The American Bankers Association (ABA)[1] and its affiliate, the ABA Securities Association (ABASA),[2] appreciate the opportunity to offer comments on proposed changes to FINRA's registration and qualification requirements. While we strongly support the proposal to establish a "Retained Associate" registration category, we do have some questions regarding the interplay among the proposed retained associate registration category, Title II of the Gramm-Leach-Bliley Act (GLBA),[3] and Regulation R, promulgated jointly by the Securities and Exchange Commission (SEC) and the Board of Governors of the Federal Reserve System (FRB). In addition, we would urge FINRA to consider expanding the proposal to allow community banks and their third-party broker-dealer partners to take advantage of the benefits offered by the proposal.

Proposed FINRA Rule 1210(c) would permit a member to register any individual, holding a principal or representative license and meeting certain other requirements, as a retained associate. The individual must be engaged in the business of a financial services affiliate of the member that controls, is controlled by, or is under common control with the member. Once designated as a retained associate, the

[1] The American Bankers Association brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than $125 million in assets – represent over 95 percent of the industry's more than $13 trillion in assets and employ over 2 million men and women.

[2] ABASA is a separately chartered trade association representing those holding company members of the American Bankers Association (ABA) actively engaged in capital markets, investment banking, and broker-dealer activities.

[3] Pub. L. No. 106-102, 113 Stat. 1338 (1999).

individual's registration will be deemed to be inactive. An inactive registration status requires the individual to comply with a limited number of FINRA and NASD rules in order to ensure that the individual maintains an appropriate level of competence and knowledge and is subject to a level of supervision commensurate with his or her inactive status.

DISCUSSION

ABA and ABASA strongly support the proposal to allow member firms to designate individuals, holding principal or representative qualifications, as retained associates. Many financial services holding companies move their employees from positions in the broker-dealer affiliate to investment and other positions in the bank not requiring registration, e.g., trust and wealth management and safekeeping and custody. Employees are often reluctant to accept these new positions for fear of losing their qualification status after the two year grace period has lapsed and, thereafter, being required to re-take the necessary licensing exams. Permitting individuals to maintain their licenses as retained associates while employed by the bank or some other non-broker-dealer holding company affiliate will allow these individuals to assume, at a later time, new responsibilities in the brokerage affiliate as appropriate and allow banks to manage their employee resources more efficiently. We believe this rule change will also have the additional benefit of reducing the number of waiver requests currently filed by our members under Rule 1070.

Retained Associate Designation

ABA and ABASA seek confirmation that associated persons who become employees of banks and obtain retained associate status will be able to maintain that status when they engage in activities permitted for bank employees under Section 3(a)(4) of the Securities Exchange Act of 1934 (Exchange Act), as amended by Title II of GLBA, and Regulation R. Section 3(a)(4) of the Exchange Act permits bank employees to receive a "nominal one-time cash fee of a fixed dollar amount" for referring bank customers to the broker-dealer and excepts banks from broker-dealer registration provided the "bank employees are not *associated persons of a broker or dealer who are qualified pursuant to the rules of a self-regulatory organization"* and, further, " perform only clerical or ministerial functions in connection with brokerage transactions…. except that bank employees may forward customer funds or securities and may describe in general terms the types of investment vehicles available from the bank and the broker-dealer… (Emphasis added)."[4]

Similarly, Rule 701 of Regulation R exempts from broker-dealer registration those banks that pay more than the statutorily required nominal referral fee to their employees in connection with referring high net worth or institutional customers to a broker. Rule 701 defines a bank employee as one that is "[n]ot registered or approved, or otherwise required to be registered or approved, in accordance with the qualification standards established by the rules of any self-regulatory organization."

Because GLBA and Regulation R use the term "associated persons of a broker or dealer" and refer to bank employees as not being "registered" while proposed Rule 1210(c) uses the new

[4] The de minimis exception from broker registration under Section 3(a)(4)(xi) of the Securities Exchange Act is also conditioned on the bank employee not being considered an employee of the broker-dealer.

term "retained associate," it is unclear whether the bank employee who holds a retained associate designation may engage in the same activities permitted to a bank employee who does not hold a similar designation under GLBA and Regulation R. Nor is it clear whether the employee with the retained associate designation would be able to receive compensation similar to that paid to bank employees, e.g., referral fee compensation.

We believe that once an associated person becomes an employee of the bank and registers as a retained associate, that person should not be treated as an associated person or a registered person for purposes of Section 3(a)(4) and Regulation R. We believe that our view is consistent with Notice 09-70, which states that a retained associate "generally will not be considered a registered person (or an associated person)." Without this needed clarification, however, bank employees will be unable to avail themselves of the retained associate designation, as no bank will permit its employees to take any action that puts at risk its Exchange Act exemption from broker-dealer registration.

Supervision of Retained Associate

Under the proposal, a retained associate also must comply with several FINRA and NASD rules, including NASD rules 3010(a)(5) and 3010(a)(7). These rules generally require the retained associate to be supervised by a registered person and to be subject to an annual compliance review. Previously, FINRA had proposed to except from member firm supervisory oversight those bank securities activities that are exempt, by statute or regulation, from broker-dealer registration and regulation. Specifically, Regulatory Notice 08-24 proposed to eliminate Rule 3040 and, instead, replace it with new streamlined provisions in proposed Rule 3110(b) (3) that would exempt from securities regulation and FINRA member oversight those bank securities activities that are exempt under either GLBA or Regulation R. In so doing, FINRA recognized that bank securities activities conducted by dual bank-broker-dealer employees are appropriately regulated by the banking organization and its functional regulators.

In our comment letter filed in response to Regulatory Notice 08-24, ABA and ABASA expressed our support for the need for coordinated supervision to ensure that dual employees' conduct of securities activities in two legal entities does not result in inadequate supervision that would increase the risk of violations of the anti-fraud provisions of the federal securities laws. We also encouraged FINRA to adopt a flexible approach in achieving the necessary coordinated supervision to allow our members to tailor their individual compliance programs in a manner that best works for their particular organizations.

Obviously, there is an inconsistency between the coordinated bank/broker-dealer supervisory oversight approach proposed by FINRA in proposed Rule 3110(b) (3) and the supervisory oversight approach proposed by FINRA in Rule 1210(c). We urge FINRA to resolve this inconsistency by incorporating into proposed Rule 1210(c) the supervisory oversight approach contained in proposed Rule 3110(b)(3) and allow banks to assume responsibility for the coordinated supervision of employees with retained associate designations.

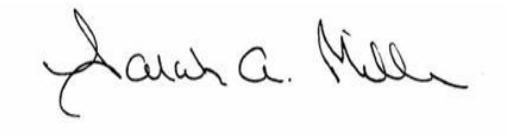
Expand the Proposals Benefits to Community Banks

In this connection, we would urge FINRA to consider expanding the proposal to allow registered representatives of member firms to assume the retained associate designation upon the assumption of a new position at an unaffiliated bank with which a member firm has contractually entered into a networking arrangement. Many community banks enter into networking arrangements, as permitted under GLBA and Regulation R with third-party broker-dealer firms that are regulated by FINRA. Because the bank and the third-party broker-dealer firm do not control each other nor are they under common control, the proposal is of limited utility to that sector of our membership. Any real or perceived gaps in supervision can be addressed through proposed Rule 3110(b) (3).

CONCLUSION

In conclusion, the Associations are pleased that FINRA has proposed to permit a retained associate licensing designation. We believe this action will be most welcomed by our members. We do, however, have concerns regarding how the proposal will impact the broker exceptions under the Exchange Act and the exemptions under Regulation R and request that FINRA clarify the situation by confirming that retained associates, when employed by a bank, can engage in the same activities permitted to bank employees under GLBA and Regulation R. In addition, we do not support giving the broker-dealer firm supervisory responsibilities over the retained associate when he or she is performing bank employee responsibilities only, and we request that the supervisory oversight approach contained in proposed Rule 3110(b)(3) be incorporated into proposed Rule 1210(c). Finally, we request that the proposal be expanded to allow community banks to employ individuals with retained associate designations.

Sincerely yours,



Sarah A. Miller

March 1, 2010

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington DC 20006-1506

In re: Proposed Consolidated FINRA Rules Governing Registration and Qualification Requirements

Dear Ms. Asquith:

Accounting & Compliance International, hereby known as "ACI" appreciates the opportunity to comment on the following proposed FINRA Rules pursuant to Regulatory Notice 09-70:

- Proposed FINRA Rule 1210 – Registration Requirements;
- Proposed FINRA Rule 1220 – Qualification Examination Requirements and Waiver;
- Proposed FINRA Rule 1230 – Registration Categories; and,
- Proposed FINRA Rule 1240 – Associated Persons Exempt from Registration.

In general, ACI strongly advocates the efforts to streamline and add clarity to the new consolidated rulebook. Such efforts should result in more uniform policies, procedures and compliance controls.

Proposed FINRA Rule 1210 – Registrations Requirements

ACI is in favor of the intentions of this rule; particularly, the expansion to include those engaged in a bona fide business purpose of the member. However, there does seem to be some potential for the misapplication of the term "bona fide business purpose" and a non-consistent industry standard may evolve. This may also be the case as member firms determine which associated persons should be registered as active and permissive inactive resulting in confusion when such a person transitions from one firm to another. ACI requests that the staff be cognizant of this potential when considering enforcement actions.

Proposed FINRA Rule 1220 – Qualification Examination Requirements and Waiver

ACI supports the effort to simplify the examination process. For example, extending the time period that a representative may function as a principal prior to passing the applicable exam from

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90 calendar days to 120 calendar days (consistent with the current CRD window) helps prevent potential confusion.

Proposed FINRA Rule 1230 – Registration Categories

The integration of the different registration categories into a single rule and the elimination of outdated grandfathering provisions seem to add a level of clarity that ACI believes will benefit the industry. However, the provision of Rule 1230(a)(4) that requires a person designated as the Chief Compliance Officer, after the effective date of the proposed rule, to pass a new exam may place an unnecessary employment obstacle for currently unemployed compliance officers that despite the current economic conditions would otherwise be able to avail themselves of the grandfathering provision.

Proposed FINRA Rule 1240 – Associated Persons Exempt from Registration

ACI generally supports the intention of this proposal. However, the specific proposal to rescind existing guidance permitting unregistered administrative personnel to occasionally receive unsolicited customer orders when appropriately qualified representatives or principals are unavailable could cause significant disruption to the operations of certain member firms. Furthermore, such a rescission could be a disservice to the investing public and it does not seem to promote investor protection since the order is unsolicited. ACI requests the staff to seriously consider the practical impact of this proposal and suggests that a separate Regulatory Notice be issued to allow member firms to fully consider this aspect of proposed Rule 1240.

Accounting & Compliance International is a premier provider of cost-effective financial industry consulting services and is based in the heart of Wall Street. ACI constantly strives to strike a balance between customer protection and market efficiency and is a proponent of rule proposals that streamline, simplify, and clarify the compliance obligations of a member firm.

Please feel free to contact me at (212) 668-8799 Ext. 43 or a drome@acisecure.com if you have any questions or would like to further discuss this proposed rule change. Thank you again for the opportunity to comment.

Sincerely,

Daniel C. Rome
Executive Consultant

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February 24, 2010

Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Proposed Registration and Qualification Requirements; FINRA Regulatory Notice 09-70

Dear Ms. Asquith:

As part of its rule consolidation process, FINRA has proposed revisions to its registration and qualification requirements that would enable members' associated persons to be registered with FINRA in either an active, inactive, or Retained Associate capacity.[1] The Investment Company Institute[2] is writing to support this proposal as it will provide FINRA's members greater flexibility in maintaining their associated persons' registrations and licenses. We believe this enhanced flexibility will better serve FINRA's members and the investing public by enabling members to better plan for and respond to emergencies or unexpected situations impacting their staffing needs.

If adopted, the amendments will enable persons employed by or associated with a member firm to maintain their FINRA registration or license, even though these persons may not be functioning at all times in a capacity related to such registration or license. This is a significant change to FINRA's current rules, which prohibit a member from maintaining the registration or license of any person if

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[1] *See FINRA Request Comment on Proposed Consolidated FINRA Rules Governing Registration and Qualification Requirements,* Notice 09-70 (December 2009).

[2] The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of $11.62 trillion and serve almost 90 million shareholders.

such registration or license is not necessary to the function the person performs for the member. This limitation hinders members' ability to establish effective and efficient redundant staffing plans or to move persons between registered and unregistered positions. Importantly, the newly proposed Retained Associate status will also enable FINRA members to maintain licenses that will facilitate their movement of associated persons from one affiliated firm to another without delay.

We are pleased that the proposed consolidated rules will alleviate the unnecessary rigidity of the current rules. The added flexibility that will be provided by the revised and consolidated rules will better enable FINRA's members to respond to those emergencies or unexpected situations requiring employees to act in registered capacities or to move among affiliated firms to address staffing needs quickly. Moreover, this added flexibility may promote financial education within the broker-dealer industry by providing greater incentives to members and their associated persons to study for and pass qualifying examinations.

RECOMMENDED REVISION FOR MUTUAL FUND UNDERWRITERS

Notwithstanding our support for the proposal, we recommend one revision to the Retained Associate portion of the proposal to accommodate mutual fund underwriters. This revision is necessary due to the uniqueness of the mutual fund industry. As proposed, "a Retained Associate who subsequently enters an active registration or a bona fide business purpose inactive registration *must remain in such registration(s) for at least a consecutive 12-month period* to be eligible for any years that may be remaining on his or her Retained Associate period." (Emphasis added.) According to FINRA's Notice, this requirement is intended "to mitigate the risk of customer confusion that might be caused by frequent switching between a Retained Associate status and active or inactive statuses."

Unlike FINRA's members that are full-service broker-dealers, it is not uncommon for FINRA's members that are mutual fund underwriters to utilize call centers to service customer accounts. With such arrangements, shareholders contacting the call center are handled by the next available account representative and do not have an ongoing relationship with any one particular account representative. The number of calls coming into these call centers may increase substantially during certain times – such as during tax season, following a natural disaster when shareholders need immediate access to their funds, or during times of market stress or uncertainty. When the number of incoming calls the call center handles experiences ones of these peaks, it is not uncommon for mutual fund underwriters to draw registered representatives from other parts of the business in order to handle the increased call volume.

As currently proposed, FINRA members that are mutual fund underwriters would not be able to utilize representatives who are associated with the FINRA member's affiliate in a Retained Associate status to respond to the increased call volume *unless* the member is willing to have the Retained Associate remain in an active status for *at least* a 12-month period. We believe that, for mutual fund

underwriters, this requirement is not necessary to allay customer confusion because the customer has no ongoing relationship with the representative. Moreover, the 12-month commitment imposes an unnecessary burden on the FINRA member, its affiliate, and the Retained Associate, which will diminish the ability to make temporary staffing changes to respond to investors. To avoid this, we recommend that FINRA reconsider this 12-month requirement for call centers operated by mutual fund underwriters. Importantly, providing the flexibility we request will benefit investors by making sure that, during periods of increased call volumes, when investors may be more anxious about their accounts, mutual fund underwriters have sufficient personnel to respond to investors' calls in a timely fashion.

Accordingly, while the Institute supports adoption of FINRA's proposed consolidated rules governing registration and qualification requirements, we recommend that the Retained Associate provisions be revised to accommodate mutual fund underwriters. If you have any questions concerning our comments or would like additional information about our recommended revision, please contact the undersigned by phone (202-326-5825) or email (tamara@ici.org).

Sincerely,

Tamara K. Salmon
Senior Associate Counsel

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February 5, 2010

Financial Industry Regulatory Authority

VIA E-Mail pubcom@finra.org
Re: Regulatory Notice 09-70

I am writing this letter to comment, as encouraged by FINRA, on proposals that are contained in FINRA Regulatory Notice 09-70. Before doing so, I must indicate that the views expressed herein are mine personally and, with the exception of Integrated Management Solutions USA LLC, are not necessarily the same as the views of any other organization with which I have any affiliation.

I began to study the proposals by parsing the 37-page Notice and the 55-page attachment that accompanied it. I soon realized that the drafters of the proposals expended much effort patching up obvious inconsistencies and inappropriate sections in the existing rules, and ignored -- perhaps purposely-- the real predicate upon which the registration rules are based.

In my view, a principal purpose of the registration rules is to ensure that industry professionals are properly knowledgeable about the products and services in which they engage and the rules, regulations and laws that are applicable to those products and services. Many of the rules have illogical and onerous provisions, and it appears that these provisions are being dragged into the proposed rules instead of being repealed altogether and having more sensible processes substitute.

Use it, or lose it

Under current rules, a person with a gap of over two years from the last time that person was registered may not be registered again without retaking examinations. The reason for that is a regulatory concern that a person who is away from the subject matter for more than two years may not have kept up with important changes that have gone on in the securities industry. In fact, however, there are many examples of persons who leave a FINRA member and subsequently utilize almost the exact same skill sets they used while they were with the member firm -- yet these people are penalized because they are no longer registered with a FINRA member.

Here are some examples:

- An institutional sales-trader leaves a FINRA member and joins the investment adviser of a mutual fund where she buys and sells securities using the same computer platforms she used when she was at the member firm. After four

years, she wishes to return to work at the FINRA member but is required to requalify by exam. While the FINRA member may apply for an examination waiver on behalf of the sales-trader, there is no guarantee that it would be granted.

- A Financial and Operations Principal wishes to accept a position with an industry regulator, such as FINRA or SEC, or a PCAOB-registered CPA firm where his skills can be enhanced further. Once two years go by, should he wish to come back to a FINRA member, the person would need to requalify by examination or seek a waiver.

- A retail customer service representative who is registered with a Series 7 license takes a 20-month leave from her firm so that she can give birth and take care of her child. During this period, she attends the firm's annual compliance meetings by phone and participates in the annual Firm Element Continuing Education. Alas, she decides to continue her motherly duties for an additional six months, which takes her beyond the two-year window. She therefore loses her ability to re-register.

- A member's compliance officer leaves the firm and becomes a consultant, spending the next three years in an unregistered capacity assisting his clients with various regulatory compliance issues. His registrations are lost after two years.

It is logical for FINRA to suspect that people get a bit rusty if they don't regularly use the skills that underlie qualifying examinations, but the two-year window is far too arbitrary. There are better alternatives! One such alternative would be to extend the permissible non-registered period to be equal to a percentage of the period of time that a person was registered. For example, assume that everyone is given a two-year safe harbor -- PLUS one year for every three that the person was actually registered. A person who was registered in the industry for 30 years would thus have a 12-year safe harbor instead of only two years. The 30 years' of experience would then have a recognized value.

But perhaps the best way to vet people is to make sure that they are continually educated.

Education, education and more education

Long after the two-year "use it or lose it" concept was embodied in NASD rules, the entire securities industry adopted the current continuing education rules, which require all industry-registered personnel to maintain their professional proficiency by maintaining their knowledge. Instead of requiring people who have passed examinations to retake them when they are out of the industry for over two years, why not require those individuals to subject themselves to remediation through the use of computerized routines currently available to the people who are registered? Better yet, the computerized routines should be a bit more comprehensive than the sessions given

for people who maintained their registrations. Thus, there would be quick restoration of any proficiency lost due to non-involvement with a broker-dealer.

Who should qualify to take continuing education courses?

Anyone, of course! It shouldn't matter if the person is registered or not. Learning is a wonderful experience. What a good way for FINRA to get a financial return for all of its efforts in developing courseware. FINRA already does this with respect to various subjects, and I know of no reason why this can't be extended to the mandatory continuing education courses that are administered by Pearson and Prometric. This is important, because a person who has left a broker dealer by the time the continuing education window pops up cannot sit for CE until he or she is registered again. Thus, when rejoining a broker-dealer, that person cannot work in a capacity requiring registration until there is enough room at the exam center for the person to sit and participate.

Who should be qualified to take registration examinations?

Anyone, of course, and I really mean that. Anyone who wishes to work in any capacity within or even tangentially-related to the securities or investment banking industry should be allowed to take industry examinations. And the rules should be changed so that instead of "use it or lose it" there is a protocol whereby men or women who took the examinations but were not registered for a few years after passing the examinations would only need to be remediated with courseware to demonstrate their continued proficiency.

Do other professions have similar procedures to what I have proposed?

Yes! An example is in order. We know a person who is New York State Certified Public Accountant No. 28473. Were he to abandon New York and not practice accountancy for a period, he could later on return to New York and practice again, simply by taking some continuing education courses. This would hold true even if he hadn't practiced for many years. We also know a person who is Central Registration Depository No. 708042. Under current rules, if that person did not have FINRA registration for over two years and then chose to return to the securities industry, he would be faced with the challenge of retaking examinations, which could be quite daunting even with his years of experience and practical knowledge but no recent experience with objective computer-based examinations. To emphasize how seasoned these licensees are, I should tell you that New York State has already issued licenses with six digits and CRD has issued numbers way beyond number 5,000,000.

For that matter, FINRA itself has in its employ many attorneys, CPAs and other professionals who could easily rejoin those professions without needing to requalify by examination. Why are securities industry professionals treated worse than other professionals, such as those attorneys and CPAs?

More importantly, if FINRA's rules allowed people to take qualifying examinations without being registered, many people could take the examinations as a rite of passage.

I would like to see some or all of the following industry professionals or persons who deal with industry matters take and pass the standard examinations:

- Regulatory examiners and coordinators
- Independent auditors
- Trade processing vendor personnel
- Internal auditors
- Attorneys who deal with securities industry matters

Reciprocation

By way of rule or policy, there should be full reciprocation between all of the self-regulatory organizations that register professionals. Actually, many registrants of the other self-regulators qualify by passing FINRA-created or approved examinations anyway. There must be thousands of industry professionals who are not FINRA-registered but are registered with CBOE, CBSX, NASDAQ OMX PHLX, etc. (For the sake of full disclosure, one happens to be my son.) They shouldn't be treated as second-class citizens who require exams or waivers when they join a FINRA member.

Separation of Principal Financial Officers and Principal Operations Officers of clearing firms

I am pleased that many clearing firms may be granted waivers from the requirement to have separate individuals render these functions. I assume that such waivers will be granted to many, if not most, so-called 15a-6 firms that never handle customer cash or securities but are technically clearing firms. Better yet, why not exempt non-custodial firms automatically, or at least grandfather them. Many of these firms have fewer than ten employees and have clearing operations handled offshore by a related party, and they are managing quite well.

Functions of Financial and Operations Principals (FINOP)

Over many years we have found instances where NASD took issue with Financial and Operations Principals, such as myself and many others whom I know, who executed the oath or affirmation attached to annual financial statements that were submitted to NASD, SEC or other regulators. Not only is a FINOP the only person authorized by current FINRA rules to give final approval to such reports and to supervise how members comply with such rules, but suggesting instead that some other officer of a member is an appropriate person flies in the face of the text of current NASD Rule 1022(b) and proposed FINRA Rule 1230(a)(5). We realize that there's a bit of a disconnect with SEC Rule 17a-5, which is extremely weak on this subject. For example, that rule defines an appropriate signatory to be a "duly authorized officer with respect to corporations and a general partner with respect to partnerships." Unfortunately, that rule is way out of touch with the twenty-first century. Many partnerships have sole general partners that are non-natural persons obviously incapable of signing, and most broker-dealers today are organized as limited liability companies, a type of organization not covered by the rule at all.

I implore FINRA to do two things even **before** the proposed FINRA rules are adopted:

- Require the signatory on an annual audit filing to be a FINOP, unless there are extenuating circumstances that argue against that happening.

- Discuss with SEC staff the possibility of issuing a no-action or interpretive letter that expresses a strong preference for having a report signatory who actually has the acumen to understand the report being filed.

In this post-Enron world, publicly held companies must have accounting and finance experts on their boards of directors, and SEC has not seen fit to extend the exemption from the requirement that broker-dealers have an audit conducted by a PCAOB-member auditor. I am utterly amazed that SEC has not mandated that the signatories on the very reports involved with these audits be duly licensed FINOPs. Since SEC has chosen not to do that, I assume that SEC staff would be delighted to have FINRA step in and implement that notion immediately. You can do it right now with a simple regulatory notice distributed on a timely basis. I know that most of the Rule 17a-5-based audited financial reports are due on March 1st.

I have chosen not to delve into the nitty-gritty of the entire proposal at this time. I and others at my firm are quite busy during January and February. Now that the comment period has been extended, we may choose to supplement this letter at a later date.

Should anyone at FINRA or anywhere else desire to discuss my thoughts with me, I can be contacted at 212-897-1688 or, for those preferring email, at hspindel@intman.com.

Very truly yours,

Howard Spindel
Senior Managing Director

HS:ab
Comment letter to FINRA Regulatory Notice 09-70.docx

February 26, 2010

Via E-Mail
Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 09-70 – Registration and Qualification Requirements

Dear Ms. Asquith:

Nationwide Financial Services, Inc. (the "Company")[1] appreciates the opportunity to submit its comments concerning the proposed consolidated FINRA rules that are addressed in Regulatory Notice 09-70 (the "Notice"). Specifically, FINRA is proposing to streamline and amend the registration and qualification rules, as part of the process of developing its new consolidated rulebook.

The Company appreciates and supports FINRA's efforts in connection with its development of a consolidated rulebook that seeks to harmonize and streamline existing rules. Moreover, the Company strongly supports the expansion of inactive registration categories for the following reasons, which are articulated in the Notice:

- With respect to associates whose registrations have lapsed for more than two years, if a member has a need to move any of these people back into positions requiring registration, this can be accomplished without the associates having to re-register and re-test.
- Members can develop a depth of associated persons with registrations in the event of unanticipated personnel changes. This also encourages greater regulatory literacy.
- This would permit all persons who are serving a bona fide business purpose to have the same registration opportunities.

The Company believes, however, that certain provisions require further consideration and, accordingly, offers the comments set forth below.

[1] The Company is submitting this comment letter on behalf of its broker-dealer affiliates, each of which is a FINRA member firm.

Proposed Rule 1210(b) – Inactive Registrants Serving a Bona Fide Business Purpose

Proposed Rule 1210(b) would permit members to register associates (or maintain the registration of such persons), provided that they are engaged in a bona fide business purpose of the member. Proposed Rule 1210(b) indicates that persons registered pursuant to this section shall be associated persons for all purposes, but shall be considered registered persons only for purposes of compliance with certain enumerated FINRA provisions. Included among those provisions is NASD Rule 3010(a)(5) (which requires the assignment of each registered person to an appropriately registered supervisor). Proposed Rule 1210(b) further indicates that, for purposes of compliance with NASD Rule 3010(a)(5), an inactive registrant's activities shall be appropriately supervised to ensure that such person is not engaged in any activities that would require registration and is complying with the provisions applicable to such person based on his or her status as an inactive registrant.

Comment. We support the proposed criteria for this registration category but would recommend that the rule language be modified to refer to "any associate, provided that such person is engaged in an activity that serves a bona fide business purpose of the member, as determined by the member." In addition, we believe that the FINRA staff should make it clear that, for purposes of satisfying this supervision requirement, members will be permitted to exercise discretion in establishing risk-based supervisory policies and procedures that are reasonably designed to ensure compliance. For instance, a member may determine that the use of periodic certifications and/or questionnaires would be adequate to meet its supervisory obligations here.

The FINRA staff should also make it clear that, with respect to the supervision of inactive registrants under this section of the proposed rule, member firms will not be required to adhere to any FINRA or NASD rules that are applicable to the supervision of associates who hold active registrations (e.g., e-mail reviews). Thus, the staff should verify that, except for the supervision referenced above, no other form of supervision of such inactive registrants would be required of members.

We also believe that the FINRA staff should make it clear that, since persons registered under this section shall be deemed to be associated persons for all purposes, all FINRA provisions that are applicable to associated persons (including but not limited to current NASD Rule 3050, current NASD Rule 3070 and the FINRA Rules referenced in Proposed Rule 1210(c)(3)) will apply to persons registered pursuant to this section.

Finally, we also believe that the FINRA staff should make it clear that FINRA oversight of "bona fide business purpose" registrants would be limited to those aspects of their activities that involve the securities business of the member firm.

Proposed Rule 1210(c) – Registration of Retained Associates

Proposed Rule 1210(c) would permit members to register any individual (or maintain the registration of such person) who is engaged in the business of a financial services industry affiliate of the member that controls, is controlled by, or is under common control with, the member. Such person would be designated as a Retained Associate and would be deemed to hold an inactive registration. This category of inactive registration is permitted, subject to various conditions, which include (i) a ten-year limit, (ii) tolling provisions, (iii) forfeiture provisions and (iv) notification requirements.

Proposed Rule 1210(c)(3) provides that Retained Associates shall only be subject to certain FINRA provisions. Included among those provisions is NASD Rule 3010(a)(5), which is discussed above. Proposed Rule 1210(c)(3) further provides that, for purposes of compliance with NASD Rule 3010(a)(5), each Retained Associate shall be appropriately supervised to ensure that such person is (i) in fact engaged in the business of the member's financial services industry affiliate, (ii) not engaged in any activities that would require registration or make such person eligible for inactive registration by engaging in a bona fide business purpose of the member, and (iii) complying with the provisions applicable to such person based on his or her status as a Retained Associate.

Comment. We are concerned about the feasibility of permitting the registration of large numbers of Retained Associates, given the challenges and potential administrative burdens associated with tracking the status of such registrants and complying with all of the above-referenced conditions. Our fear is that, while many members may applaud FINRA's efforts in permitting this type of inactive registration status, many of those same members may ultimately adopt policies that do not allow for the registration of Retained Associates. In light of these concerns, we would pose the following questions for the staff's consideration:

- Should the staff consider the allowance of Retained Associate status for an indefinite period of time?
- Has the staff considered any enhancements to its Central Registration Depository to better enable members to track the status of Retained Associates?
- Does the staff expect to assert jurisdiction for purposes of examining the activities of Retained Associates?

With the foregoing in mind, the Company currently has reservations concerning the plausibility of maintaining registrations for Retained Associates. Thus, while we generally support the idea, we may not find it feasible to maintain these registrations, given the costs and resources that may have to be dedicated to meeting the conditions and requirements referenced above.

As suggested above, we believe that, for purposes of compliance with NASD Rule 3010(a)(5), members should be permitted to exercise discretion in establishing risk-based supervisory policies and procedures that are reasonably designed to ensure compliance and recommend that Proposed Rule 1210(c)(3) be modified to reflect this. In addition, we request that the staff verify that (i) other than the supervision referenced above, no

other form of supervision of Retained Associates would be required of members, and (ii) FINRA oversight of Retained Associates would be limited to those aspects of their activities (e.g., complying with NASD and FINRA Rules applicable to Retained Associates) that involve the securities business of the member firm.

We appreciate the opportunity to provide our comments. Please let us know if we can provide any further assistance. If you have any question, please contact me at (614) 249-3184.

Very truly yours,

Robert L. Tuch
AVP, Associate General Counsel
Nationwide Office of General Counsel

Regulatory Notice 15-20

Qualification Examinations Restructuring

FINRA Requests Comment on a Concept Proposal to Restructure the Representative-Level Qualification Examination Program

Comment Period Expires: July 27, 2015

Executive Summary

FINRA is requesting comment on a concept proposal to restructure the current representative-level qualification examination program into a format whereby all potential representative-level registrants would take a general knowledge examination and an appropriate specialized knowledge examination to reflect their particular registered role. For purposes of this proposal, the general knowledge examination will be called the Securities Industry Essentials Examination (SIE). SIE content would include knowledge fundamental to working in the securities industry, such as basic product knowledge; structure and functioning of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices. Individuals taking the SIE would not need to be associated with a FINRA member firm and a passing result on the SIE would be valid for four years. Each specialized knowledge examination would correlate to a current representative examination and registration position (*e.g.,* Series 7 and General Securities Representative) and would test content specific to that registration category or job function. In addition, several of the current registration categories would be retired. This *Notice* seeks comment on the proposal from the industry and other interested persons.

The draft SIE Content Outline is attached as Appendix A.

Questions concerning this *Notice* should be directed to:

- Afshin Atabaki, Associate General Counsel, Office of General Counsel, at (202) 728-8902;
- Joe McDonald, Senior Director, Testing and Continuing Education Department, at (240) 386-5065; or
- Alexandra Toton, Qualifications Manager, Testing and Continuing Education Department, at (240) 386-4677.

May 2015

Notice Type
- Request for Comment

Suggested Routing
- Compliance
- Legal
- Operations
- Registration
- Senior Management
- Training

Key Topics
- Central Registration Depository (CRD®)
- Content Outline
- Examination Restructuring
- General Knowledge Examination
- Qualification Examinations
- Registered Representatives
- Registration Rules
- Securities Industry Essentials Examination™ (SIE™)
- Series 6, 7, 11, 17, 22, 37, 38, 42, 55, 62, 72, 79, 82, 86, 87 and 99
- Specialized Knowledge Examinations

Referenced Rules & Notices
- FINRA Rule 8310
- NASD Rule 1031
- NASD Rule 1032
- NASD Rule 1070

Action Requested

FINRA encourages all interested parties to comment on the proposal. Comments must be received by July 27, 2015.

Comments must be submitted through one of the following methods:

- Emailing comments to *pubcom@finra.org*; or
- Mailing comments in hard copy to:

  Marcia E. Asquith
  Office of the Corporate Secretary
  FINRA
  1735 K Street, NW
  Washington, DC 20006-1506

To help FINRA process comments more efficiently, persons should use only one method to comment on the proposal.

Important Notes: All comments received in response to this *Notice* will be made available to the public on the FINRA website. In general, FINRA will post comments as they are received.[1]

Before becoming effective, a proposed rule change must be authorized for filing with the Securities and Exchange Commission (SEC) by the FINRA Board of Governors, and then must be filed with the SEC pursuant to Section 19(b) of the Securities Exchange Act of 1934 (SEA or Exchange Act).[2]

Background and Discussion

FINRA administers qualification examinations that are designed to establish that persons associated with FINRA-regulated firms have attained specified levels of competence and knowledge pertinent to their function.

The first of these examinations was the NASD Registered Representative Examination (Series 1) established in 1956.[3] Over time, the examination program has increased in complexity to address the introduction of new products and functions, and related regulatory concerns and requirements.

As a result, today, there are a large number of examinations, considerable content overlap across the representative-level examinations and requirements for individuals in various segments of the industry to pass multiple examinations.

To address these issues, FINRA is seeking comment on a concept proposal to restructure the current representative-level qualification examination program into a more efficient format whereby all potential representative-level registrants would take a general knowledge examination and a tailored, specialized knowledge examination for their particular registered role. The proposed format would eliminate duplicative testing of general securities knowledge on examinations. As discussed below, FINRA is also evaluating the structure of the principal-level examinations and may propose to streamline this examination structure at a later time.

A. Current Structure

The current FINRA representative-level examination program consists of 16 examinations, including 10 that have been introduced during the past 20 years. There are 11 FINRA representative-level examinations that qualify individuals to engage in sales activities with investors. These are the:

- Investment Company and Variable Contracts Products Representative Examination (Series 6);
- General Securities Representative Examination (Series 7);
- Order Processing Assistant Representative Examination (Series 11);
- United Kingdom (U.K.) Securities Representative Examination (Series 17);
- Direct Participation Programs Representative Examination (Series 22);
- Canadian Securities Representative Examinations (Series 37 and Series 38);
- Options Representative Examination (Series 42);
- Corporate Securities Representative Examination (Series 62);
- Government Securities Representative Examination (Series 72); and
- Private Securities Offerings Representative Examination (Series 82).

Each of these examinations focuses on testing a different set of products and was created in response to a federal law requirement, an identified regulatory need or an industry request.

Six of these examinations—the Series 6, Series 22, Series 42, Series 62, Series 72 and Series 82—are associated with limited representative registrations. The Series 17, Series 37 and Series 38 are limited versions of the Series 7 for individuals who are in good standing as a representative of either the Financial Conduct Authority in the U.K., or with a Canadian stock exchange or securities regulator. Passing these examinations satisfies the examination requirements to obtain the U.K. Securities Representative or Canadian Securities Representative registration. If a representative does not engage in municipal securities activities, registration and qualification as a U.K. Securities Representative or Canadian Securities Representative is equivalent to registration and qualification as a General Securities Representative.

The Order Processing Assistant Representative registration and associated Series 11 examination were created in 1990 for individuals whose sole function is to accept unsolicited orders (other than orders for municipal securities and direct participation programs) from existing customers. These individuals are not permitted to engage in any other activities requiring registration or to receive commissions. In addition, this is a stand-alone registration category in that an individual registered as an Order Processing Assistant Representative cannot be registered in any other registration category. Therefore, if an individual who is registered as an Order Processing Assistant Representative wants to move into another registered category, he or she must terminate his or her Order Processing Assistant Representative registration to obtain that new registration.

The remaining five representative-level examinations are not related to sales activities. These are the:

- Equity Trader Examination (Series 55);
- Investment Banking Representative Examination (Series 79);
- Research Analyst Examinations (Series 86 and Series 87); and
- Operations Professional Examination (Series 99).

B. Proposed Examination Structure

Over the past year, FINRA conducted a review of the representative-level qualification examination program to identify alternative approaches to assessing the knowledge and competence of applicants for the various registration positions. In conducting the review, FINRA considered the following objectives:

- Reducing redundancy of subject matter content across examinations
- Identifying opportunities to simplify the qualification examination requirements
- Limiting the impact of any alternative structure on the registration rules
- Identifying and eliminating outdated registrations or registrations that now have limited utility and the qualifying examinations associated with these registrations

In addition, the staff consulted with a number of outside groups, FINRA advisory committees and other self-regulatory organizations (SROs) to gather feedback on an alternative examination structure that would achieve the objectives noted above.

As a result of this review and consultation process, FINRA is proposing to change its representative-level qualification examination program by creating a new structure consisting of a general knowledge examination called the Securities Industry Essentials Examination, or SIE, and a set of specialized knowledge examinations. Under this new structure, all individuals interested in pursuing employment as representative-level registrants would take the SIE. Individuals would not have to be associated with a FINRA

member firm to be eligible to take the SIE. However, passing the SIE alone would not qualify an individual for registration with FINRA. An individual who has passed the SIE would also need to pass the appropriate specialized knowledge examination associated with the registration category pertaining to his or her job function to be eligible for registration with FINRA. If following an individual's registration with a firm, the job functions for which the individual is registered change at that firm and he or she needs to become registered in an additional or alternative representative-level position, he or she would not need to pass the SIE again. Rather, the registered individual would need to pass only the appropriate specialized knowledge examination for the additional or alternative representative-level position.

Securities Industry Essentials Examination (SIE)

The securities industry has become increasingly complex and sophisticated over the past 30 years. It is increasingly important for industry professionals to have a broad knowledge of the fundamental concepts and rules of the securities industry. The proposed SIE would bring together this subject matter into a single examination.

The SIE would assess basic product knowledge; the structure and function of the securities industry markets, regulatory agencies and their functions; and regulated and prohibited practices. FINRA has prepared a draft SIE content outline for the purpose of gathering comment. The draft outline contains four proposed major topic areas. The first, "Knowledge of Capital Markets," focuses on topics such as types of markets and offerings, broker-dealers and depositories, and economic cycles. The second, "Understanding Products and Their Risks," covers securities products at a high level as well as associated investment risks. The third, "Understanding Trading, Customer Accounts and Prohibited Activities," focuses on accounts, orders, settlement and prohibited activities. The final section, "Overview of the Regulatory Framework," encompasses topics such as SROs, registration requirements and specified conduct rules. The draft SIE Content Outline is attached as Appendix A.

FINRA anticipates that the SIE would include between 75 and 100 questions. FINRA intends for the questions to cover a broad range of industry content areas reflecting the diversity of regulatory agencies, securities products and regulated practices. The SIE content, examination length and passing score would be determined through the use of testing industry standards used to develop examinations and would include advice from a committee of individuals active in the securities industry.

Eligibility to Take the SIE

FINRA is proposing to permit individuals who are not associated with firms, including members of the general public, to take the SIE. Currently, only individuals associated with FINRA member firms are eligible to take FINRA qualification examinations. FINRA has received feedback that employment with a member firm would be more accessible if individuals were able to pass an introductory knowledge examination prior to becoming an

associated person. FINRA believes that expanding who is eligible to take an examination will enable prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to a job application. In addition, FINRA believes this approach would allow for more flexibility and career mobility within the securities industry.

As is the case today, associated persons taking the SIE and any specialized knowledge examination would be subject to the Rules of Conduct[4] and the current waiting periods for retaking a failed exam.[5] Further, individuals taking the SIE who are not associated persons would have to agree to be subject to the same Rules of Conduct and waiting periods for retaking a failed exam.

Expiration of SIE Results

FINRA believes the knowledge covered by the SIE would be less likely to change than the content covered by the specialized knowledge examinations. For example, the definition of a stock or the purpose of an SRO is content that is not likely to change in the short term. Consequently, FINRA is proposing that a passing result on the SIE would be valid for four years.

The following examples illustrate the application of the four-year period to different individuals:

- An individual who passes the SIE and is not associated with a FINRA member firm at the time would have up to four years to become associated with a member firm and pass a specialized knowledge examination to register with FINRA without having to retake the SIE.
- An individual who passes the SIE and is associated with a FINRA member firm at the time would have up to four years to pass a specialized knowledge examination to register with FINRA without having to retake the SIE.
- An individual holding a representative-level registration who leaves the industry would have up to four years to re-associate with a member firm without having to retake the SIE. However, if more than two years passes between the date an individual was last registered with FINRA as a representative and the date he or she reregisters as a representative, the individual would be required to take and pass an appropriate specialized knowledge examination to reregister with FINRA.

The following examples further illustrate the interplay between the SIE and the specialized knowledge examinations with respect to a registered representative who leaves the securities industry:

- If a registered individual leaves the securities industry and then returns three years later, he or she would not have to retake the SIE, but he or she would need to pass an appropriate specialized knowledge examination to regain registration.
- If a registered individual leaves the securities industry and then returns five years later, he or she would have to pass the SIE and an appropriate specialized knowledge examination to regain registration.

Specialized Knowledge Examinations

To register as a new representative with FINRA, an associated person of a member firm would need to take and pass the SIE and a specialized knowledge examination appropriate to the desired registration. As noted above, an individual does not have to be associated with a member firm to take the SIE, but the individual must have passed the SIE within four years prior to passing the specialized knowledge examination. Individuals must be associated with a member firm to be eligible to take a specialized knowledge examination. Subject to the exceptions described below, each specialized knowledge examination would correspond to an existing representative-level examination, such as the current Series 7 examination, and would test knowledge of concepts and rules specific to the associated registration category. FINRA would consult with committees of subject matter experts from the industry to update the content outlines and develop specialized knowledge examinations excluding the content covered on the SIE.

FINRA is proposing to develop specialized knowledge examinations for the following representative categories:

- Investment Company and Variable Contracts Products Representative
- General Securities Representative
- Direct Participation Programs Representative
- Equity Trader
- Investment Banking Representative
- Private Securities Offerings Representative
- Research Analyst
- Operations Professional

FINRA anticipates that each specialized knowledge examination would be shorter than the current qualification examination that it would replace. For example, the specialized Series 7 examination for General Securities Representatives would likely include 100 to 150 questions instead of the 250 questions on the current Series 7 examination and the specialized Series 6 examination for Investment Company and Variable Contracts Products Representatives would likely include 50-75 questions instead of the 100 questions on the current Series 6 examination.[6] However, the total number of questions on the SIE plus the applicable specialized knowledge examination could be greater than the current examinations.

In addition, under the new structure, individuals seeking registration as an Equity Trader or Research Analyst would no longer be required to first register and qualify as a General Securities Representative or Corporate Securities Representative as currently applicable. Instead, such individuals would need to pass the SIE and corresponding specialized knowledge examination for Equity Trader or Research Analyst. Also, individuals seeking registration in two or more representative-level registrations would experience a net decrease in the total number of questions because the SIE content would be tested only once. For example, an individual who seeks registration as a General Securities Representative and an Investment Banking Representative today would take two examinations, the Series 7 and Series 79, totaling 425 questions. Under the proposed structure, an individual who seeks registration in the same categories would take the SIE, the specialized Series 7 examination and the specialized Series 79 examination, totaling between 300 – 350 questions.

Examination Retirement

As part of the restructuring, FINRA is proposing to retire the current registration categories of Options Representative, Corporate Securities Representative and Government Securities Representative as well as the associated examinations, the Series 42, Series 62 and Series 72, respectively. Each of these registrations currently allow an individual to sell a subset of the products (*e.g.*, options, common stocks and corporate bonds, government securities) permitted to be sold by a General Securities Representative. In recent years, however, the utility of these registrations has diminished as a result of technological, regulatory and business practice changes. This is evidenced by the low annual volume for each of these examinations and the relatively low number of individuals who currently hold these registrations. Under the proposal, an individual who wants to engage in activities represented by these registration categories would register as a General Securities Representative.

However, an individual registered in any of these categories at the time of the effective date of the proposal would be able to maintain his or her registration, provided that if the individual then terminates that registration and the registration remains terminated for more than two years, he or she would not be able to reregister in that category.

Foreign Examinations

FINRA is considering retiring the U.K. Securities Representative registration and associated Series 17 examination and the Canadian Securities Representative registrations and associated Series 37 and Series 38 examinations. However, FINRA is conducting an analysis of the relevant U.K. and Canadian registration and qualification requirements to determine whether there is sufficient overlap between the SIE and these registration and qualification requirements, so as to permit them to act as exemptions to the SIE. If FINRA determines that such exemptions are appropriate based on its review, individuals with the applicable U.K. or Canadian registrations and qualifications would need to pass only an appropriate specialized knowledge examination to register with FINRA for the function in which they intend to engage. FINRA believes that this approach would provide individuals who are associated with member firms and hold foreign registrations with more flexibility to obtain any FINRA representative-level registration.

If FINRA were to adopt this approach, an individual registered as a U.K. Securities Representative or Canadian Securities Representative at the time of the effective date of the proposal would be able to maintain his or her registration. However, if the individual then terminates that registration for more than two years, he or she would not be able to reregister in that category. If such individual wishes to reregister with FINRA, the individual would be required to register as a General Securities Representative and pass the SIE and the specialized Series 7 examination. As described above, FINRA may determine that an individual's U.K. or Canadian registrations and qualifications qualify as an alternative to the SIE, in which case the individual in the example above would only have to pass the specialized Series 7 examination.

Order Processing Assistant Representative Examination

The Series 11 examination qualifies an individual to function as an Order Processing Assistant Representative. In recent years, the utility of this registration category has diminished as technological advances and changes in industry practice have reduced the need for Order Processing Assistant Representatives. As a result, the volume of candidates taking the Series 11 has diminished and today less than 200 member firms employ one or more Order Processing Assistant Representatives. Therefore, FINRA is proposing to retire the Order Processing Assistant Representative registration category and associated Series 11 examination.

If FINRA were to retire the Order Processing Assistant Representative registration category and Series 11 examination, an individual registered in this category at the time of the effective date of the proposal would be able to maintain his or her registration. However, if the individual then terminates that registration and the registration remains terminated for more than two years, the individual would not be able to reregister in that category.

Proposed Examination Structure at a Glance

The following table illustrates the proposed changes to the representative-level examinations for those representative categories that FINRA is proposing to retain.

Current Registration Category (and CRD Designation)	Scope of Activities	Current Examination(s)	Proposed Examination(s)
Investment Company and Variable Contracts Products Representative (IR)	No change	Series 6	SIE +Specialized Series 6
General Securities Representative (GS)	No change	Series 7	SIE + Specialized Series 7
Direct Participation Programs Representative (DR)	No change	Series 22	SIE + Specialized Series 22
Equity Trader (ET)	No change	Series 7 or Series 62 + Series 55	SIE + Specialized Series 55
Investment Banking Representative (IB)	No change	Series 79	SIE + Specialized Series 79
Private Securities Offerings Representative (PR)	No change	Series 82	SIE + Specialized Series 82
Research Analyst (RS)	No change	Series 7 + Series 86 (Part I: Analysis) + Series 87 (Part II: Regulatory Administration and Best Practices)	SIE + Specialized Series 86 (Part I: Analysis) + Specialized Series 87 (Part II: Regulatory Administration and Best Practices)
Operations Professional (OS)	No change	Series 99	SIE + Specialized Series 99

The chart above does not include those registration categories that FINRA is considering retiring.

Current Representative Registrants

Under the proposal, representative-level registrants who are registered, or had been registered within the past two years, prior to the effective date of the proposal would be eligible to maintain those registrations without being subject to any additional requirements.[7] Further, such individuals, with the exception of an Order Processing Assistant Representative, would be considered to have passed the SIE in the CRD system, and thus if they wish to register in any additional representative category after the effective date of the proposal, they could do so by taking only the appropriate specialized knowledge examination.[8] However, with respect to an individual who is not registered on the effective date of the proposal but was registered within the past two years prior to the effective date of the proposal, FINRA will administratively terminate the individual's SIE status in the CRD system if such individual does not register with FINRA within four years from the date of the individual's last registration.

In addition, an individual who had been registered as a representative within the past four years prior to the effective date of the proposal but whose registration lapsed for more than two years,[9] with the exception of an Order Processing Assistant Representative, would also be considered to have passed the SIE and designated as such in the CRD system. Therefore, if such individual reregisters with a firm after the effective date of the proposal and within four years of having been previously registered, the individual would only need to pass the specialized knowledge examination associated with that registration position. Similarly, if such individual does not register with FINRA within four years from the date of the individual's last registration, FINRA will administratively terminate the individual's SIE status in the CRD system.

Individuals currently registered as principals would not be impacted by this proposal and would have no additional requirements to maintain their principal registrations.

The table below provides examples for the individuals described above who are registered as representatives at the time of the effective date of the proposal or who were previously registered as representatives prior to the effective date of the proposal.

Examples	Required Examination(s)	Conditions
An individual who is registered as an Investment Company and Variable Contracts Products Representative at the time the proposal becomes effective and who wishes to maintain that registration.	None	None
An individual who is registered as an Investment Company and Variable Contracts Products Representative at the time the proposal becomes effective subsequently terminates that registration and one year after that termination date reregisters with another member firm in that same registration category.	None	The individual must reregister with a member firm *within* two years of his or her last registration to avoid having to take any examinations.
An individual who is registered as an Investment Company and Variable Contracts Products Representative at the time the proposal becomes effective subsequently terminates that registration and three years after that termination date reregisters with another member firm in that same registration category.	Specialized Series 6	The individual must reregister with a member firm *within* four years of his or her last registration to avoid having to take the SIE.
An individual who is registered as an Investment Company and Variable Contracts Products Representative at the time the proposal becomes effective subsequently terminates that registration and three years after that termination date reregisters with another member firm as a Direct Participation Programs Representative.	Specialized Series 22	The individual must reregister with a member firm *within* four years of his or her last registration to avoid having to take the SIE.
An individual who is registered as an Investment Company and Variable Contracts Products Representative at the time the proposal becomes effective subsequently terminates that registration and five years after that termination date reregisters with another member firm in that same registration category.	SIE and Specialized Series 6	None

Examples	Required Examination(s)	Conditions
An individual who is registered as an Investment Company and Variable Contracts Products Representative at the time the proposal becomes effective remains registered in that category, but also wishes to register as a General Securities Representative.	Specialized Series 7	None
An individual who was last registered as an Investment Company and Variable Contracts Products Representative a year prior to the effective date of the proposal wishes to register in that same category after the effective date of the proposal.	None	The individual must reregister with a member firm *within* one year of the effective date of the proposal to avoid having to take any examinations.
An individual who was last registered as an Investment Company and Variable Contracts Products Representative three years prior to the effective date of the proposal wishes to register in that same category after the effective date of the proposal.	Specialized Series 6	The individual must reregister with a member firm *within* one year of the effective date of the proposal to avoid having to take the SIE.
An individual who was last registered as an Investment Company and Variable Contracts Products Representative three years prior to the effective date of the proposal wishes to register as a General Securities Representative after the effective date of the proposal.	Specialized Series 7	The individual must reregister with a member firm *within* one year of the effective date of the proposal to avoid having to take the SIE.
An individual who was last registered as an Investment Company and Variable Contracts Products Representative five years prior to the effective date of the proposal wishes to register in that same registration category after the effective date of the proposal.	SIE and Specialized Series 6	None

Examination Enrollment and Administration

Under the proposal, member firms would continue to use the CRD system to request registrations for associated persons. Individuals would be able to schedule both the SIE and specialized knowledge examinations for the same day, provided the individual is able to reserve space at one of FINRA's designated testing centers.

To enable individuals who are not associated with a member firm to take the SIE, FINRA is proposing to create an enrollment system that would allow such individuals to enroll and pay the SIE examination fee. This system would also be available to associated persons of member firms who are not required to be registered as representatives, but are asked by their firms to take the SIE.

The enrollment system would provide individuals who are not associated persons with documentation (either in paper or electronic format) of a passing or failing result. In addition, firms would be able to view in the CRD system the passing status of individuals prior to their hiring an individual using the pre-registration functionality in the CRD system. Further, the CRD system would automatically obtain an individual's SIE passing result once a firm submits a Form U4 (Uniform Application for Securities Industry Registration or Transfer) and requests a registration for that individual.

Examination Fees

FINRA will conduct a pricing analysis to determine a fair and reasonable cost for the SIE. Examination fees for the specialized knowledge examinations would be based on a number of factors, including the length of each specialized knowledge examination. FINRA believes that the fee for the specialized knowledge examinations will be lower than that of their current corresponding examinations because the specialized knowledge examinations will be shorter in length. For example, FINRA anticipates that the fee for the specialized Series 7 examination will be less than the fee for the current Series 7 examination.

C. Phased Implementation Approach

FINRA is proposing to roll out the revised structure in two phases. The first phase would include the SIE and the specialized knowledge examinations for the Investment Company and Variable Contracts Products Representative, the General Securities Representative and the Investment Banking Representative registration categories, which represent the highest volume representative-level examinations. Assuming all necessary approvals, FINRA would like to roll out the first phase in the fourth quarter of 2016. FINRA would then roll out the second phase, which would include the remaining specialized knowledge examinations, during the first half of 2017.

D. Principal-Level Registration Structure

FINRA is currently evaluating the structure of the principal-level examinations and may propose to streamline this examination structure at a later time. The current proposal would not impact the principal-level registration categories. However, if the proposal is approved and once implemented, an unregistered individual who intends to register as a principal in a registration category that has a prerequisite representative-level examination requirement would have to take and pass the SIE, the appropriate specialized knowledge examination and the appropriate principal examination.

E. Continuing Education

The proposed examination structure does not affect the current continuing education requirements. Individuals who have passed the SIE but not a specialized knowledge examination and do not hold a registered position would not be subject to the continuing education requirements.

F. Qualification Examination Waivers

NASD Rule 1070 permits FINRA, in exceptional cases and where good cause is shown, to waive the applicable qualification examination and accept other standards as evidence of an applicant's qualifications for registration. Under the proposed examination structure, FINRA would consider examination waivers by a member firm for individuals associated with the firm who are seeking registration in a representative-level registration category. In this regard, FINRA would consider waivers of the SIE or both the SIE and specialized knowledge examination(s) for these individuals.

G. Economic Impact Assessment

As discussed above, the current qualification examination program structure has become overly complex, and the industry has raised concerns over what it sees as a proliferation of qualification examination requirements. FINRA believes that it has an opportunity to introduce some efficiency to the program. The proposal aims to reduce redundancy of subject matter content across examinations, simplify the qualification examination requirements, limit the impact of the alternative structure on the registration rules, and eliminate outdated registrations or registrations that now have limited utility and the qualifying examinations associated with these registrations. The proposal is also likely to expand the pool of potential employee candidates for FINRA member firms. Currently, only individuals associated with member firms are eligible to take FINRA qualification examinations. The new examination structure would permit the general public to take the SIE, enabling prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to a job application.

FINRA understands that the costs associated with this proposal would primarily fall upon FINRA itself to develop and implement the new examination structure. Further, FINRA has historically sought to establish its examination fees at a level that aligns with FINRA's financial objectives. Should FINRA adopt the examination structure proposed here, FINRA will conduct a pricing analysis to determine the examination fees for the SIE and specialized knowledge examinations and assess the potential impacts on member firms and individuals. The pricing analysis would be included in a rule filing with the SEC to set the examination fees for the SIE and the specialized knowledge examinations.

Request for Comments

FINRA seeks comments on the concept proposal. In addition to generally requesting comments, FINRA specifically requests comments on the questions below. FINRA requests data and quantified comments where possible.

1. FINRA is proposing to move to a general knowledge examination and specialized knowledge examinations for the representative-level qualification examinations. Does moving to this type of structure make sense? Would it help member firms better manage and develop individuals?
2. FINRA is proposing to create the SIE covering fundamental securities industry knowledge. Do you consider the content listed in the sample content outline to be common knowledge? Is there other knowledge not listed that you believe should be included on the SIE? What is an appropriate level of depth?
3. FINRA is proposing to allow any individual, including an individual who is not associated with a member firm, to take the SIE. Further, a passing result on the SIE would be valid for four years. Does this approach make sense? Is four years a reasonable length of time for a passing result on the SIE examination to be valid?
4. FINRA is proposing retiring the Options Representative, the Corporate Securities Representative and the Government Securities Representative registration categories and the associated Series 42, Series 62 and Series 72 examinations. Do you believe that FINRA should retain any of these examinations? If so, why? Should FINRA consider retiring any other representative-level registration categories that it is considering retaining under the proposal?

5. FINRA is considering retiring the U.K. Securities Representative and the Canadian Securities Representative registration categories and the associated Series 17, Series 37 and Series 38 examinations and instead determine foreign qualifications that would exempt an individual from taking the SIE. Do you believe that this approach makes sense or should FINRA create specialized knowledge examinations for the Series 17, Series 37 and Series 38 similar to the other specialized knowledge examinations described in the proposal?
6. FINRA is considering retiring the Order Processing Assistant Representative registration category and the associated Series 11 examination. Do you believe that there is utility in continuing to maintain this registration category and examination?
7. Are there any other potential economic impacts of the proposal that need to be identified?
8. Are there more effective ways to achieve the proposal's goals?
9. How much of the fees for representative-level examinations are currently paid by member firms versus individuals? Would the proposal change the payment responsibilities? If so, how?

Endnotes

1. FINRA will not edit personal identifying information, such as names or email addresses, from submissions. Persons should submit only information that they wish to make publicly available. *See Notice to Members 03-73* (November 2003) (Online Availability of Comments) for more information.

2. *See* SEA Section 19 and rules thereunder. After a proposed rule change is filed with the SEC, the proposed rule change generally is published for public comment in the Federal Register. Certain limited types of proposed rule changes, however, take effect upon filing with the SEC. *See* SEA Section 19(b)(3) and SEA Rule 19b-4.

3. The Series 1 examination is now the General Securities Representative Examination (Series 7).

4. Before taking an examination, FINRA requires each candidate to agree to the Rules of Conduct for taking a qualification examination. Among other things, the Rules of Conduct require each candidate to attest that he or she is in fact the person who is taking the examination. The Rules of Conduct also requires that each candidate agree that the examination content is the intellectual property of FINRA and that the content cannot be copied or redistributed by any means. If FINRA discovers that a candidate has violated the Rules of Conduct, the candidate will forfeit the results of the examination and may be subject to disciplinary action by FINRA.

5. Pursuant to NASD Rule 1070 (Qualification Examinations and Waiver of Requirements), an individual who fails to pass an examination must wait 30 calendar days before retesting. Further, a 180-day waiting period is triggered upon three successive examination failures within a two-year period.

6. The length of each specialized knowledge examination would be determined through the use of testing industry standards used to develop examinations and, in part, by the length of the SIE.

7. Pursuant to NASD Rule 1031(c) (Requirement for Examination on Lapse of Registration), any person whose registration has been revoked pursuant to FINRA Rule 8310 (Sanctions for Violation of the Rules) or whose most recent registration as a representative or principal has been terminated for a period of two or more years immediately preceding the date of receipt by FINRA of a new application is required to pass a qualification examination for representatives appropriate to the category of registration as specified in NASD Rule 1032 (Categories of Representative Registration).

8. Because the principal-level registration structure is still being reviewed, only individuals who have passed an appropriate representative-level examination would be considered to have passed the SIE. Registered principals who do not hold an appropriate representative-level registration would not be considered to have passed the SIE. For example, an individual who is registered solely as a FINOP (Series 27) today would have to take the Series 7 to become registered as a General Securities Representative. Under this proposal, in the future this individual would have to pass the SIE and the specialized General Securities Representative examination to obtain registration as a General Securities Representative.

9. *See supra* note 7.

Appendix A

Draft
Securities Industry Essentials Examination (SIE)
Content Outline

Section 1: Knowledge of Capital Markets

Market Structure

- Types of markets (*e.g.*, securities, currency, electronic, secondary)
- Offerings:
  - Public securities offering
  - Private securities offering
  - Initial public offering
  - Secondary offering
  - Types of tombstones
  - Shelf registration
  - Prospectus delivery requirements
- Types of broker-dealers
- Depositories and clearing facilities

Factors That Affect the Securities Market

- Business and economic cycles (*e.g.*, depression, recession, inflation)
- Bankruptcy
- The Federal Reserve Board's impact on business activity and market stability
  - Monetary vs. fiscal policy
  - Open market activities and impact on economy
  - Different rates: interest rate, discount rate, federal funds rate
- International and economic factors

Associated Rules

- FINRA Rule 4311—Carrying Agreements
- Securities Exchange Act of 1934 (SEA) Rule 15c3-1—Net Capital Requirements for Brokers or Dealers
- Securities Act of 1933, Section 7—Information Required in a Registration Statement

- Securities Act of 1933, Section 8—Taking Effect of Registration Statements and Amendments Thereto
- Securities Act of 1933, Section 10—Information Required in Prospectus
- Securities Act of 1933, Schedule A—Schedule of Information Required in Registration Statement
- Securities Act of 1933, Schedule B—Schedule of Information Required in Registration Statement
- Securities Act of 1933, Regulation D—Rules Governing the Limited Offer and Sale of Securities Without Registration Under the Securities Act of 1933
- Securities Act of 1933, Rule 144—Persons Deemed Not to Be Engaged in a Distribution and Therefore Not Underwriters
- Securities Act of 1933, Rule 144A—Private Resales of Securities to Institutions
- Securities Act of 1933, Rule 145—Reclassification of Securities, Mergers, Consolidations and Acquisitions of Assets
- Securities Act of 1933, Rule 147—"Part of an Issue," "Person Resident," and "Doing Business Within" for Purposes of Section 3(a)(11)
- Securities Act of 1933, Rule 164—Post-Filing Free Writing Prospectuses in Connection with Certain Registered Offerings

Section 2: Understanding Products and Their Risks

Products

- Equities
  - Common stock
  - Preferred stock
  - Control and restricted securities (SEC Rule 144)
  - IPOs
  - Penny Stocks
- Debt Securities
  - Corporate bonds
  - Treasuries
  - Municipal bonds
  - Characteristics (*e.g.*, maturities, coupons, yields, callable features)

- Options
  - Basic strategies (*e.g.*, calls, puts)
  - In-the-money, out-of-the-money
  - Characteristics (*e.g.*, expiration date, strike price, premium)
  - Basic calculations (*e.g.*, premiums, breakeven)
  - Risks, approvals and disclosures
- Money Market Instruments
  - Characteristics (*e.g.*, maturity, net asset value (NAV), liquidity)
- Hedge Funds
  - Basic structure and characteristics
- Direct Participation Programs (DPPs)
- Limited Partnerships
- Real Estate Investment Trusts (REITs)
- Exchange Traded Funds (ETFs)
- Investment Companies
  - Types (*e.g.*, closed-end, mutual funds, unit investment trusts (UITs), variable annuities)
  - Characteristics (no load)
  - Share classes
  - Market timing
  - Net asset value (NAV)
  - Disclosures
  - Costs and fees
  - Non-U.S. Market Securities
  - 529 College Savings Plans

Investment Risks

- Definition and identification of risk types (*e.g.*, call, capital, currency, inflation, liquidity, political, reinvestment)

Associated Rules

- FINRA Rule 2213—Requirements for the Use of Bond Mutual Fund Volatility Ratings
- FINRA Rule 2260—Disclosures
- FINRA Rule 2330—Members' Responsibilities Regarding Deferred Variable Annuities
- FINRA Rule 2342—"Breakpoint" Sales
- FINRA Rule 2360—Options
- MSRB Constitution and Rules, Rules G-1 through G-41 and Rules D-8 through D-12
- Investment Company Act of 1940 Rule 12b-1—Distribution of Shares by Registered Open-End Management Investment Company
- Investment Company Act of 1940, Section 3(a)—Definitions: "Investment Company"
- Investment Company Act of 1940, Section 4—Classification of Investment Companies
- Investment Company Act of 1940, Section 5—Subclassification of Management Companies
- SEA Rule 3a11-1—Definition of the Term "Equity Security"
- SEA Rule 10b-18—Purchases of Certain Equity Securities by the Issuer and Others
- SEC, Regulation M
- SEC, Regulation NMS

Section 3: Understanding Trading, Customer Accounts and Prohibited Activities

Trading, Settlement and Corporate Actions

- Trading orders and strategies: bid-ask, long and short, buy and sell, naked and covered, bearish and bullish
- Investment returns (*e.g.*, dividends, interest, ordinary income, return of capital)
- Same day versus regular way settlement
- Standard settlement time frames for various products
- Dividends
- Stock splits and reverse stock splits
- Making adjustments for securities subject to corporate actions
- Processing customer instructions and special situations related to corporate actions
- Delivery of notices
- Corporate action deadlines
- Proxies and proxy voting

Customer Accounts and Compliance Considerations

- Account Types (*e.g.*, cash, margin)
  - Margin:
    - Margin, hypothecation and re-hypothecation
    - Types of accounts that are permitted to trade on margin
    - Account approvals
    - Eligible/ineligible securities
    - Required disclosures
    - Federal and FINRA margin requirements, margin calls
- Types of customer account registrations
  - Individual
  - Joint
  - Corporate
  - Trust
  - Custodial
  - Individual retirement accounts (IRAs), 403b and other qualified plans
- "Know Your Customer" (KYC)
- Customer Identification Program (CIP) requirements
- Securities Investor Protection Corporation (SIPC)
- Federal Deposit Insurance Corporation (FDIC)
- Anti-Money Laundering (AML) compliance
- Structuring, layering and other money laundering activities
  - Office of Foreign Asset Control (OFAC) and the Specially Designated Nationals and Blocked Persons (SDNs) list
  - Financial Crimes Enforcement Network (FinCEN)
  - Suspicious activity reports (SARs)

Account Statements, Confirmations and Settlement

- Types of information that appear on an account statement
- Updating customer account records
- Time frame for providing statements
- Types of information that appear on a confirmation
- Confirmation delivery requirements, including electronic confirmations
- Non-trade confirmations/third party activity notices

Prohibited Activities

- Market manipulation (*e.g.*, marking the close, wash sales, matched orders)
- Insider trading
- Prohibited breakpoint sales
- Restrictions for associated persons purchasing IPOs
- Use of manipulative, deceptive or other fraudulent devices
- Improper use of customers' securities or funds and prohibitions against guarantees and sharing in customer accounts
- Prohibition against paying commissions to unregistered persons
- Falsifying or withholding documents
- Prohibited activities related to maintenance of books and records (e.g., falsifying records and improper maintenance/retention of records)

Associated Rules

- FINRA Rule 2010—Standards of Commercial Honor and Principles of Trade
- FINRA Rule 2020—Use of Manipulative, Deceptive or Other Fraudulent Devices
- FINRA Rule 2040—Payments to Unregistered Persons
- FINRA Rule 2090—Know Your Customer
- FINRA Rule 2150—Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts
- FINRA Rule 2210—Communications with the Public
- FINRA Rule 3220—Influencing or Rewarding the Employees of Others
- FINRA Rule 3240—Borrowing From or Lending To Customers
- FINRA Rule 3310—Anti-Money Laundering Compliance Program
- FINRA Rule 4200 Series—Margin
- FINRA Rule 4512—Customer Account Information
- FINRA Rule 5130—Restrictions on the Purchase and Sale of Initial Equity Public Offerings
- FINRA Rule 5210—Publication of Transactions and Quotations
- FINRA Rule 5220—Offers at Stated Prices
- FINRA Rule 5230—Payments Involving Publications that Influence the Market Price of a Security
- FINRA Rule 5250—Payments for Market Making

- FINRA Rule 5270—Front Running of Block Transactions
- FINRA Rule 5280—Trading Ahead of Research Reports
- FINRA Rule 5290—Order Entry and Execution Practices
- FINRA Rule 5310—Best Execution and Interpositioning
- FINRA Rule 5320—Prohibition Against Trading Ahead of Customer Orders
- FINRA Rule 6438—Displaying Priced Quotations in Multiple Quotation Mediums
- NASD Rule 2510—Discretionary Accounts
- NASD Rule 3040—Private Securities Transactions of an Associated Person
- NASD Rule 3050—Transactions for or by Associated Persons
- NYSE Rule 407—Transactions: Employees of Members, Member Organizations and the Exchange
- USA PATRIOT Act, Section 326—Verification of Identification
- Federal Reserve Board Regulation T
- SEA Rule 8c-1—Hypothecation of Customers' Securities
- SEA Section 11(d)—Trading by Exchange Members, Brokers and Dealers: "Prohibition on Extension of Credit by Broker-Dealer"
- SEA Rule 10b-5—Employment of Manipulative and Deceptive Devices
- SEA Rule 10b5-1—Trading on Material Nonpublic Information in Insider Trading Cases

Section 4: Overview of the Regulatory Framework

Regulatory Entities

- The Securities and Exchange Commission (SEC)
- Self-Regulatory Organizations (SROs)

SRO Regulatory Requirements for Associated Persons

- Registration and Continuing Education
  - SRO and state registration requirements (*e.g.*, Blue Sky)
  - FINRA registration requirements
  - Failing to register an associated person
  - Continuing education requirement (*e.g.*, firm element, regulatory element)

- Employee Conduct and Reportable Events
  - Reporting of certain events on the Form U4 and Form U5
  - Outside business activities
  - Private securities transactions
  - Reporting of political contributions and consequences for exceeding dollar contribution thresholds
  - Dollar/value limits for gifts and gratuities and noncash compensation
  - Business entertainment in relation to other FINRA members firms
  - Consequences of filing misleading information or omitting information
    - Customer complaints
    - Potential red flag

Associated Rules

- FINRA By-Laws Article IV Section 6—Retention of Jurisdiction
- FINRA Rule 1000 Series—Member Application and Associated Person Registration
- FINRA Rule 1122—Filing of Misleading Information as to Membership or Registration
- FINRA Rule 2060—Use of Information Obtained in Fiduciary Capacity
- FINRA 2150—Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts
- FINRA 2266—SIPC Information
- FINRA Rule 3270—Outside Business Activities of Registered Persons
- FINRA Rule 4513—Written Customer Complaints
- FINRA Rule 4330—Customer Protection: Permissible Use of Customers' Securities
- FINRA Rule 4530—Reporting Requirements
- FINRA Rule 5240—Anti-Intimidation/Coordination
- NASD Rule 1000 Series—Membership, Registration and Qualification Requirements
- NYSE Rule 401A—Customer Complaints
- MSRB Rule G-37—Political Contributions and Prohibitions on Municipal Securities

Business

- SEC Regulation S-P—Privacy of Consumer Financial Information and Safeguarding Personal Information
- Securities Investor Protection Act of 1970

EXHIBIT 2e

Alphabetical List of Written Comments
Regulatory Notice 15-20

1. Eric Arnold and Clifford Kirsch, Sutherland Asbill & Brennan, LLP, for the Committee of Annuity Insurers ("CAI") (July 27, 2015)

2. David T. Bellaire, Financial Services Institute, Inc. ("FSI") (July 27, 2015)

3. Iñigo Bengoechea and Daniel J. Larocco, CFA Institute ("CFA") (July 22, 2015)

4. Carrie L. Chelko, Lincoln Financial Group ("Lincoln Financial") (July 27, 2015)

5. Laurie M. Clark, Smarten Up Institute, Inc. ("SUI") (July 27, 2015)

6. Donna B. DiMaria, Tessera Capital Partners, LLC ("Tessera") (July 14, 2015)

7. Roberto A. Eder ("Eder") (July 13, 2015)

8. Roberto A. Eder ("Eder") (July 27, 2015)

9. Jesse Hill, Edward Jones (July 24, 2015)

10. Jordan A. Horvath, Development Corporation for Israel ("DCI") (July 27, 2015)

11. Michael Lesutis, PFS Investments, Inc. ("PFS") (July 27, 2015)

12. Robert J. McCarthy, Wells Fargo Advisors, LLC ("Wells Fargo") (July 27, 2015)

13. Frank P. L. Minard, XT Capital Partners, LLC ("XT Capital") (July 20, 2015)

14. Lisa Roth, Monahan & Roth, LLC ("Monahan & Roth") (July 10, 2015)

15. Steven Rubenstein, Arrow Investments, Inc. ("Arrow Investments") (July 14, 2015)

16. Tamara K. Salmon, Investment Company Institute ("ICI") (July 21, 2015)

17. Michelle Salyer, N.I.S. Financial Services, Inc. ("N.I.S.") (July 21, 2015)

18. Howard Spindel and Cassondra E. Joseph, Integrated Management Solutions USA, LLC ("IMS") (July 27, 2015)

19. Michele Van Tassel, Association of Registration Management, Inc. ("ARM") (July 29, 2015)

20. Kevin Zambrowicz and Stephen Vogt, Securities Industry and Financial Markets Association ("SIFMA") (July 17, 2015)

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July 27, 2015

VIA ELECTRONIC MAIL

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: FINRA Regulatory Notice 15-20
Qualification Examinations Restructuring: FINRA Requests Comment on a Concept Proposal to Restructure the Representative-Level Qualification Examination Program

Dear Ms. Asquith:

We are submitting this letter on behalf of the Committee of Annuity Insurers (the "Committee"),[1] in response to Regulatory Notice 15-20, *Qualification Examinations Restructuring: FINRA Requests Comment on a Concept Proposal to Restructure the Representative-Level Qualification Examination Program* (the "Notice"), issued by the Financial Industry Regulatory Authority, Inc. ("FINRA") on May 27, 2015.[2]

The Notice requests comment on a concept proposal to restructure the current representative-level qualification examination program into a more efficient format under which all potential representative-level registrants would take a general knowledge examination and also a specialized knowledge examination for their particular registered role. More specifically, the examination structure proposed by FINRA in the Notice would allow individuals who are not associated with member firms, including members of the general public, to take the general

[1] The Committee was formed in 1982 to address legislative and regulatory issues relevant to the annuity industry and to participate in the development of securities, banking, and tax policies regarding annuities. For three decades, the Committee has played a prominent role in shaping government and regulatory policies with respect to annuities, working with and advocating before the SEC, CFTC, FINRA, IRS, Treasury, Department of Labor, as well as the NAIC and relevant Congressional committees. Today the Committee is a coalition of many of the largest and most prominent issuers of annuity contracts. The Committee's member companies represent more than 80% of the annuity business in the United States. A list of the Committee's member companies is attached as Appendix A.

[2] FINRA Regulatory Notice 15-20, available at https://www.finra.org/sites/default/files/notice_doc_file_ref/Notice_Regulatory_15-20.pdf.

knowledge examination, the Securities Industry Essentials Examination ("SIE"). In addition, the concept proposal would, among other things, permit an individual to rely on a passing result on the SIE for four years without re-taking the examination, and sets forth a series of rules transitioning to the new registration qualification structure for registered representatives who may become re-registered after the effective date of the new rules. Under the concept proposal, certain registration categories as well as their associated qualification examinations will be eliminated, such as the Order Processing Assistant Representative Examination (Series 11), Options Representative Examination (Series 42), and Corporate Securities Representative Examination (Series 62). The concept proposal would allow for registered representatives that currently hold those registration categories to continue to be so-registered after the effective date.

The Committee supports FINRA's consideration of possible ways to reduce redundancy of subject matter content across examinations, simplify the qualification examination requirements, expand the pool of potential employee candidates for FINRA member firms, and eliminate outdated registration categories and their accompanying qualification examinations. At the same time, we ask FINRA to further evaluate whether, practically speaking, the proposal could result in additional costs and inefficiencies. In particular, the Committee is concerned that creating a requirement for a Series 6 or 7 representative to take two exams could impose additional burdens and costs that may not necessarily achieve the desired regulatory purpose.

COMMITTEE COMMENTS

The Committee appreciates the opportunity to submit its comments in response to the Notice. The paragraphs below offer the Committee's specific comments in connection with the Notice's concept proposal to restructure the current representative-level qualification examination program.

Qualification Examinations as Training Tools. The Committee supports FINRA's efforts to streamline and simplify the qualification examinations by separating the general knowledge SIE from the specialized knowledge examinations. One benefit of doing so will be to allow member firms to use the SIE as a training tool with non-registered personnel. By leveraging the use of these exams as training tools, FINRA would allow member firms to educate personnel about the securities industry, but in order to do so, it is imperative that the cost of the SIE not be prohibitive.

Expiration of SIE Results. The Notice proposes that a passing result on the SIE would expire after four years if the individual does not associate with a FINRA member firm and pass a specialized knowledge examination, or terminates an association with a member firm after the effective date of the rules. As this proposal advances, the Committee requests FINRA to provide further opportunity for comment on the appropriate period after which the SIE expires. If the SIE tests fundamental concepts we believe that four years or perhaps even longer may be appropriate. On the other hand, if the subject matter of the SIE is more likely to change or be updated, perhaps a shorter period such as three years may be more appropriate. The Committee would look forward to the opportunity to provide further input on this and other issues as this rulemaking advances.

CONCLUSION

The Committee appreciates the opportunity to offer these comments on the Notice. Please do not hesitate to contact Eric Arnold (202-383-0741, eric.arnold@sutherland.com) or Clifford Kirsch (212.389.5052, clifford.kirsch@sutherland.com) if you have any questions regarding this letter.

Respectfully submitted,

SUTHERLAND ASBILL & BRENNAN LLP

BY: _____
Cliff Kirsch

BY: _____
Eric Arnold

FOR THE COMMITTEE OF ANNUITY INSURERS

Appendix A

THE COMMITTEE OF ANNUITY INSURERS

AIG Life & Retirement
Allianz Life
Allstate Financial
Ameriprise Financial
Athene USA
AXA Equitable Life Insurance Company
Fidelity Investments Life Insurance Company
Genworth Financial
Global Atlantic Life and Annuity Companies
Great American Life Insurance Co.
Guardian Insurance & Annuity Co., Inc.
Jackson National Life Insurance Company
John Hancock Life Insurance Company
Life Insurance Company of the Southwest
Lincoln Financial Group
MassMutual Financial Group
Metropolitan Life Insurance Company
Nationwide Life Insurance Companies
New York Life Insurance Company
Northwestern Mutual Life Insurance Company
Ohio National Financial Services
Pacific Life Insurance Company
Protective Life Insurance Company
Prudential Insurance Company of America
Symetra Financial Corporation
The Transamerica companies
TIAA-CREF
USAA Life Insurance Company
Voya Financial, Inc.

FINANCIAL SERVICES INSTITUTE

VOICE OF INDEPENDENT FINANCIAL SERVICES FIRMS
AND INDEPENDENT FINANCIAL ADVISORS

VIA ELECTRONIC MAIL

July 27, 2015

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006

Re: **Regulatory Notice 15-20: Qualification Examinations Restructuring**

Dear Ms. Asquith:

On May 27, 2015, the Financial Industry Regulatory Authority (FINRA) published its request for public comment on a concept release to restructure the representative-level qualifying examination program (Concept Release).[1] The restructured program would require all representative-level associated persons to take a Securities Industry Essentials Examination (SIE) and the specialized knowledge examination appropriate for their particular job function. FINRA would eliminate the duplicative testing of general securities knowledge on the various specialized knowledge examinations.

The Financial Services Institute[2] (FSI) appreciates the opportunity to comment on this important proposal. FSI supports the approach proposed by FINRA in the Concept Release. We believe the proposed changes will increase the efficiency of the examination program and reduce burdens on firms through the elimination of unnecessary or duplicative examinations. We look forward to continuing a dialogue with FINRA as it refines its proposal.

Background on FSI Members

The independent financial services community has been an important and active part of the lives of American investors for more than 40 years. In the U.S., there are approximately 167,000 independent financial advisors, which account for approximately 64.5% percent of all producing registered representatives. These financial advisors are self-employed independent contractors, rather than employees of Independent Broker-Dealers (IBD).

FSI member firms provide business support to financial advisors in addition to supervising their business practices and arranging for the execution and clearing of customer transactions.

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[1] FINRA Regulatory Notice 15-20 (May 27, 2015) *available at* http://www.finra.org/sites/default/files/notice_doc_file_ref/Notice_Regulatory_15-20.pdf.

[2] The Financial Services Institute (FSI) is an advocacy association comprised of members from the independent financial services industry, and is the only organization advocating solely on behalf of independent financial advisors and independent financial services firms. Since 2004, through advocacy, education and public awareness, FSI has been working to create a healthier regulatory environment for these members so they can provide affordable, objective financial advice to hard-working Main Street Americans.

Independent financial advisors are small-business owners who typically have strong ties to their communities and know their clients personally. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations and retirement plans with financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide middle-class Americans with the financial advice, products, and services necessary to achieve their investment goals.

Discussion

FSI supports FINRA's approach and appreciates the opportunity to comment on the Concept Release. We commend FINRA for undertaking a review of its existing examination system and for choosing to initially propose potential solutions through a Concept Release. We encourage FINRA to take similar steps to review the principal-level examination program. Below we highlight several additional points that we recommend FINRA consider as it advances the amendments proposed in the Concept Release. We stand ready to assist FINRA in addressing these considerations and furthering this proposal.

I. Additional Considerations

A. Content

Along with the Concept Release, FINRA released a draft SIE Content Outline that lists the various concepts and rules that would be tested on the SIE. FINRA states that the SIE is to be a general examination covering fundamental securities industry knowledge. While we believe that a basic awareness of regulations governing certain issues included in the SIE Content Outline might be appropriate for a general knowledge exam, the specific details of several of these rules and regulations would be better suited for a specialized examination. For example, we recommend that the SIE not test the specific details of rules governing things such as net capital, margin, hypothecation of customer securities, and order and quotation display. We respectfully request that FINRA clarify that the SIE will not require an understanding of the specific details of rules that are better suited for testing on a specialized knowledge examination.

B. Eligibility to Take the SIE

In the Concept Release, FINRA proposes to permit individuals not associated with a FINRA member to sit for the SIE. FINRA explains "that expanding who is eligible to take an examination will enable prospective securities industry professionals to demonstrate to prospective employers a basic level of knowledge prior to a job application."[3] FINRA also clarifies that non-associated persons taking the SIE would be subject to the Rules of Conduct and waiting period for retaking a failed exam.

We understand FINRA's intention in authorizing non-associated persons to sit for the SIE, but we believe it is important to note that this could raise investor protection concerns. Allowing these individuals to take the SIE may result in certain bad actors seeking to use the SIE as a vehicle to defraud unsuspecting investors. We are certain FINRA has considered this risk and is putting

[3] Regulatory Notice 15-20, *supra* note 1, at 6.

appropriate controls in place. We suggest that one way FINRA could address this issue is to develop a surveillance system to ensure that those individuals who pass the SIE do not hold themselves out as licensed representatives prior to association with a member firm and successfully taking a specialized knowledge exam. We believe it is vitally important to ensure the integrity of these licensed professions and ensure that no amendments increase the ability of bad actors to mislead investors.

C. Fees

In the Concept Release, FINRA states that it will "conduct a pricing analysis to determine a fair and reasonable cost for the SIE."[4] In conducting such an analysis FSI suggests that FINRA consider the potential for the SIE to serve as a barrier to entry into the financial services industry. If passing the SIE prior to being hired will become a requirement for employment in the securities industry, we wish to note that imposing a high fee for the exam may have the unintended consequence of making securities industry employment cost-prohibitive for some interested and capable individuals. This is acutely important as firms look to recruit the next generation of financial advisors and ensure that they institute succession plans designed to ensure their clients maintain access to professional financial expertise after their current advisor retires. We encourage FINRA to consider this potentiality in conducting its pricing analysis and ensure the accessibility of financial services industry employment.

D. Operational and Implementation Considerations

FINRA states in the Concept Release that an individual "would be able to schedule both the SIE and specialized knowledge examinations for the same day."[5] FSI believes this raises an important operational question concerning the situation of an individual that is scheduled to take both the SIE and a specialized examination on the same day, but does not pass the SIE. We recommend creating a mechanism that would allow such an individual to withdraw from sitting for, and avoid the cost of, the specialized knowledge examination. We encourage FINRA to engage in a dialogue as it seeks to clarify this issue.

FSI also wishes to point out that the restructuring of the examination program proposed in the Concept Release will require alterations to several internal systems, such as a trade approval system. These system changes will require both firm resources and coordination with clearing firm partners. We request that FINRA consider these required system alterations in proposing an implementation period that allows firms to account for these required projects.

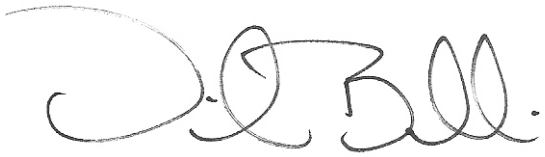
[4] *Id.* at 14.
[5] *Id.*

Conclusion

We appreciate the opportunity to provide these comments to FINRA and we reiterate our support for the amendments proposed in the Concept Release. We are committed to constructive engagement in the regulatory process and welcome the opportunity to work with FINRA on this and other important regulatory efforts

Thank you for considering FSI's comments. Should you have any questions, please contact me at (202) 803-6061.

Respectfully submitted,



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Marcia E. Asquith
Office of the Corporate Secretary
1735 K Street, NW
Washington, DC 20006-1506

27 July 2015

Re: FINRA request for comment on a Concept Proposal to Restructure the Representative-Level Qualification Examination Program

Dear Mr. Ketchum,

CFA Institute appreciates the opportunity to comment to the Financial Industry Regulatory Authority ("FINRA") with regard to Regulatory Notice 15-20 ("the Notice") pertaining to the restructuring of the representative-level qualification examinations. CFA Institute represents the views of investment professionals before standard setters, regulatory authorities, and legislative bodies worldwide on issues that affect the practice of financial analysis and investment management, education and licensing requirements for investment professionals, and on issues that affect the integrity and accountability of global financial markets.

The Notice published on June 1, 2015 introduces a concept proposal whereby all potential representative-level registrants would take a general knowledge examination and an appropriate specialized knowledge examination to reflect their particular registered role. The Notice seeks input from member firms and other stakeholders, such as investment professionals, investors and professional associations.

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CFA Institute believes this consultation is timely, relevant, and in the best interests of investors. At CFA Institute, we consider that high standards of proficiency can have a positive impact in helping ensure investor protection and the integrity and efficiency of capital markets. It is clear that the restructure of the qualification examinations further advances FINRA's already high proficiency standards. As a result, CFA Institute supports FINRA's concept proposal for representative-level registrants to continue to safeguard the highest levels of professionalism in the industry.

Currently FINRA believes that its representative level exam structure contains too many exams with too much content overlap. With this proposal on exam qualification restructuring FINRA is seeking to improve overall efficiency in its representative level exam structure primarily by creating one exam, the SIE exam, which would eliminate duplicative testing of general securities knowledge. In addition, FINRA is proposing to combine the SIE with a revised specialized examination for each of its representative categories. In this process FINRA is also proposing to eliminate a number of registration categories with low enrollment.

Overall, CFA Institute believes that the approach as described is certainly viable and represents an improvement over the current arrangement. Hence our supportive views on FINRA's proposal in its current form.

Background on CFA Institute and the CFA Charter

CFA Institute is the leading global association of investment professionals with more than 133,000 members in more than 147 countries. Our mission is to lead the investment profession globally by promoting the highest standards of ethics, education, and professional excellence for the ultimate benefit of society. We aspire to serve all finance professionals seeking education, knowledge, and professional development. CFA Institute also seeks to lead the investment profession's thinking in the areas of ethics, capital market integrity, and excellence of practice.

As part of its portfolio of educational programs, CFA Institute offers the Chartered Financial Analyst® (CFA®) charter, which is the global investment industry's most challenging and most widely respected graduate-level investment credential. Earning the charter requires demonstrating four years of

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professional investment experience, committing to uphold a comprehensive code of ethics, and passing three levels of rigorous exams that test an advanced curriculum of investment management and analysis skills. This achievement takes multiple years of persistent effort and hundreds of hours of study per exam level. Successfully doing so demonstrates a commitment to professional ethics as well as a mastery of a comprehensive range of advanced investment principles needed to successfully practice in the investment industry.

The CFA program curriculum is grounded in the practice of the investment profession. CFA Institute, through the oversight of the Educational Advisory Committee, regularly conducts a practice analysis survey of investment professionals around the world to determine the knowledge, skills, and abilities (competencies) that are relevant to the profession. The results of the practice analysis define the Global Body of Investment Knowledge and the CFA program Candidate Body of Knowledge. The topic areas covered by the CFA program range from ethical and professional standards, investment tools, all asset classes, and portfolio management.

In addition to the CFA charter, CFA Institute also offers the Claritas Investment Certificate and the Certificate in Investment Performance Measurement (CIPM). The Claritas Investment Certificate is intended for those working in support roles in the financial industry and who need to have a clear understanding of how the financial industry works. Finally the CIPM is focused on performance attribution and manager selection.

CFA Membership and Candidate Pool in the United States of America

As stated previously, CFA Institute has more than 130,000 members, and approximately 220,000 candidates sit for the CFA exams each year. In the United States of America, CFA Institute has more than 56,000 CFA charterholders and about 40,000 candidates sat for the exams in the most recently completed exam cycle.

There are thirty-five CFA Societies in the United States that operate as not-for-profit organizations supporting the professional development and advancement of CFA charterholders. The societies provide member services including educational programs, sponsored events, employment postings, and

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networking opportunities. Some of the largest CFA societies in the United States are amongst the top ten CFA Societies around the world and include the New York Society of Security Analysts (NYSSA) with more than 10,000 members, Boston Society of Securities Analysts with 5,000, CFA Chicago with 3,000 members and CFA San Francisco with 3,000.

CFA Program Recognition by Regulatory Agencies in the United States of America

Regulators around the world recognize the rigor of the CFA program by granting waivers from their own requirements for those who successfully participate in the CFA program. In all, regulators from twenty-nine countries or territories formally recognize the CFA program. In the case of the United States of America, the CFA Program has been recognized by regulatory agencies for certain job roles within the investment profession, thus allowing our candidates and charterholders to waive some of the Series exams required by FINRA, the North American Securities Administrators Association (NASAA) and the New York Stock Exchange (NYSE).

- The NASAA has granted a waiver to the CFA Charter from the Uniform Investment Adviser Examination (Series 65) that is administered by FINRA and required for investment advisors managing up to US$100 Million.

- The NYSE exempts those who have passed CFA Level I and Part I of the NYSE Supervisory Analysts Qualification Exam (Series 16) from Part II of this two part exam.

- The NYSE and FINRA grant a waiver from the Series 86 exam for successful CFA Level II candidates who function as research analysts;

The CFA Program benchmarked as Masters' degree equivalent

The CFA Charter has been benchmarked by the National Academic Recognition Information Centre (NARIC) as comparable to a Master's Degree program or to the United Kingdom's Qualifications and Credit Framework (QCF) Level 7. Additionally, each level of the program has been benchmarked by NARIC as follows: (a) Level III of the CFA Program is benchmarked at Level 7; (b) Level II of the CFA Program is benchmarked at Level 6 and; (c) Level I of the CFA Program is benchmarked at Level 5.

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Question 1: FINRA is proposing to move to a general knowledge examination and specialized knowledge examinations for the representative-level qualification examinations. Does moving to this type of structure make sense? Would it help member firms better manage and develop individuals?

FINRA is proposing to move to a core and top off approach for its representative level qualifications. This approach entails combining a general knowledge examination, the Securities Industry Essentials (SIE) examination, with specialized knowledge examinations, depending upon the particular representative category chosen by an individual.

CFA Institute believes FINRA's proposal makes sense, and we support it. We understand that the existing qualification structure has become overly complex and needs to be simplified. Within the past few years certain regulatory events and the introduction of new products in the industry has caused the need to create new exams and registration categories. As a consequence there are 16 representative level qualifications available as illustrated below:

A. Current Structure

The current FINRA representative-level examination program consists of 16 examinations, including 10 that have been introduced during the past 20 years. There are 11 FINRA representative-level examinations that qualify individuals to engage in sales activities with investors. These are the:

- Investment Company and Variable Contracts Products Representative Examination (Series 6);
- General Securities Representative Examination (Series 7);
- Order Processing Assistant Representative Examination (Series 11);
- United Kingdom (U.K.) Securities Representative Examination (Series 17);
- Direct Participation Programs Representative Examination (Series 22);
- Canadian Securities Representative Examinations (Series 37 and Series 38);
- Options Representative Examination (Series 42);
- Corporate Securities Representative Examination (Series 62);
- Government Securities Representative Examination (Series 72); and
- Private Securities Offerings Representative Examination (Series 82).

In light of the complexity of the current qualification structure, we support FINRA's efforts in trying to streamline the representative level qualifications. It is clear to us that the core-top off approach will eliminate redundancies in the content of the examinations and simplify the structure. Therefore we agree with FINRA that this change was overdue.

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In addition to simplification, we feel the new approach will make FINRA a more effective regulator since some of the registration categories will be retired and duplicative testing reduced. All this, should allow FINRA to be a more focused and effective regulator. As to investors we consider that the new structure would also be beneficial because it would bring considerable clarity to the registration process requirements. Investors will be able to understand in much simpler terms the requirements to practice in the financial industry.

As to member firms, we have confidence the core top-off approach will help firms better develop and manage individuals and reduce costs. The Essentials Exam, which is required to all representative categories, will give all professionals a common understanding of the investment industry. This will make it easier for an individual to move from one representative category to another, thus increasing flexibility for member firms in developing and managing individuals. As to costs, FINRA expects that due to the fact that the specialized qualification exams will be shorter in length that exam fees will be reduced which is good news for the industry and professionals.

Finally, with this approach we also deem that professionals will benefit as it will likely increase career opportunities and make practicing in the industry more accessible, especially for those who are truly committed. For the reasons that the Essentials Exam does not require candidates to be associated with a member firm and has a validity of four years, we expect this will spur significant interest in the student community and allow for candidates to prepare and search for adequate opportunities in the industry over time.

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Will all that said, and consistent with our responses to subsequent questions, CFA Institute would like to encourage FINRA to also consider granting waivers to individuals who are on the path of completing an appropriate professional qualification, such as the CFA Program. This would have the effect of providing choices to the industry in terms of education and recognizing the accomplishments of those who demonstrate interest in acquiring a professional body of knowledge. Furthermore, it need not have a negative effect on the economics of the new structure for FINRA. Examination fees could simply be adjusted to compensate.

Question 2: FINRA is proposing to create the SIE covering fundamental securities industry knowledge. Do you consider the content listed in the sample content outline to be common knowledge? Is there other knowledge not listed that you believe should be included on the SIE? What is an appropriate level of depth?

CFA Institute considers the content outline listed for the SIE Exam to be common knowledge. The draft outline contains four proposed major topic areas which fit the purpose of the SIE exam to provide a basic understanding of the industry. These topic areas are: (1) "Knowledge of Capital Markets," that focuses on types of markets, offerings, broker-dealers and economic cycles; (2) "Understanding Products and Their Risks," covering securities products at a high level as well as associated investment risks; (3) "Understanding Trading, Customer Accounts and Prohibited Activities," that focuses on accounts, orders, settlement and prohibited activities; and (5) "Overview of the Regulatory Framework," encompasses topics such as SROs, registration requirements and specified conduct rules.

We believe that the knowledge of these four major topic areas is central to gaining an understanding of the investment industry. Additionally we note that the content proposed is balanced in terms of breadth and depth of content and expect it will not be subject to significant changes over time.

As to content that could be added we believe that some coverage of "Quantitative Concepts" (i.e. Time Value of Money) is necessary. Knowledge of quantitative concepts is extremely important to understanding the world of finance and investing, because they play a key role in helping make financial decisions, such as saving and borrowing, and also form the foundation for valuing investment opportunities. Additionally we feel that coverage of how best to "Serve Client Needs" would be a plus.

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Clients differ in terms of their financial resources, objectives, attitudes and financial expertise and so on. These differences affect their investment needs, what services they require, and what investments are appropriate for them. Thus the importance, to understand each of their specific circumstances in order to best support them in meeting their objectives.

Finally, we would recommend a section on "Risk Management Process", to introduce the types of risks that financial firms in the investment industry and professionals face. Although risk managements is viewed as a specialist function, a good risk management process will encompass the entire company and filter down from senior management to employees, giving them advice in carrying out their roles. Any actions taken by employees may end up affecting the firm's risk profile, even if these actions are regular daily activities. Thus, our view that the SIE should have some coverage of risk management.

We consider the suggested three additional topics to be common knowledge as well. Our recommendations are the result of our own experience in creating the Claritas Investment Certificate, which is a program that has a similar purpose as the Essentials Exam. Back in May 2014, CFA Institute launched the Claritas Investment Certificate with the objective to help professionals gain a basic understanding of how the financial industry works. The Claritas Program covers the essentials of finance, ethics, and investment roles. The topic areas are organized into seven modules titled: (1) Industry Overview; (2) Ethics and Regulation; (3) Inputs and Tools; (4) Investment Instruments; (5) Industry Structure; (6) Serving Client Needs and (7) Industry Controls.

If we compare the content outlines of the SIE exam with the Claritas program we can draw some parallels between the materials covered. Conducting a preliminary mapping analysis we see that the Claritas program covers a high level of content of the SIE exam, except for the FINRA "Associated Rules" (specific rules and regulations).

Based on the identified similarities, our conclusion from the mapping is that the proposed SIE exam outline resembles the Claritas Investment Certificate excluding the associated rules. This analysis supports our view that the SIE exam covers the essentials of finance and has an adequate content outline in its draft form saving for the three areas we suggested including. In the next page we provide a comparison table of the content outlines of the SIE versus Claritas.

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Comparison Table – SIE Exam and Claritas Investment Certificate

FINRA Essentials Exams Content Outline	Claritas Investment Certificate Coverage
Section 1 – Knowledge of Capital Markets	
• Market Structure	Chapter 1: The Investment Industry Chapter 15: The Functioning of Financial Markets
• Factors that affect the securities markets	Chapter 5: Macroeconomics Chapter 6: Economics of International Trade
• Associated Rules	
Section 2 – Understanding products and their risks	
• Products	Chapter 9: Debt Securities Chapter 10: Equity Securities Chapter 11: Derivatives Chapter 12 Alternative Investments Chapter 14: Investment Vehicles
• Investment Risks	
• Associated Rules	
Section 3 – Understanding Trading, Customer Accounts & Prohibited Activities	
• Trading, Settlement and Corporate Actions	Chapter 15: The Functioning of Financial Markets Chapter 10: Equity Securities
• Customer Accounts & Compliance Considerations	Chapter 10: Equity Securities Chapter 20: Investment Industry Documentation
• Account Statements, Confirmations and Settlement	Chapter 15: The Functioning of Financial Markets
• Prohibited Activities	Chapter 2: Ethics and Investment Professionalism
• Associated Rules	
Section 4 – Overview of the regulatory framework	
• Regulatory Entities	Chapter 3: Regulation (general principles on regulation)
• SRO Regulatory Requirements Associated Persons	
• Associated Rules	

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Question 3: FINRA is proposing to allow any individual, including an individual who is not associated with a member firm, to take the SIE. Further, a passing result on the SIE would be valid for four years. Does this approach make sense? Is four years a reasonable length of time for a passing result on the SIE examination to be valid?

CFA Institute supports FINRA's approach to allowing any individual, including an individual who is not associated with a member firm, to take the SIE exam. We expect this measure will benefit particularly those individuals who are not yet associated with a member firm and who wish to gain access to the industry in the not so distant future. The proposal clearly would clearly make the industry more accessible and permits future professionals to plan ahead their entry while building their knowledge over time. It is likely that this new measure will generate significant interest from the student community resulting in firms realizing savings from not having to sponsor candidates to sit for the SIE exam but just for the specialized exams. Over time it is likely that firms will only consider for their interview process those candidates who have passed the SIE exam.

With that said, we also think that the new proposed framework would flexibilize the current structure while at the same time take away some of the pressure that typically comes from having to earn your place at a member firm and pass a 6 hour exam within 3 or 4 months' time period. With the new proposed changes, having to sit just for a specialized exam, not only reduces the lead time for individuals to start producing for the firm but also allows professionals to focus their efforts in obtaining the necessary experience and practical expertise to practice in the industry. Thus, our conclusion that this is a more practical approach.

As to whether four years is a reasonable length of time for a passing result on the SIE examination to be valid, we believe that it is. We would agree with FINRA that the content of the SIE exam is fundamental in nature and therefore not subject to much change over time. Consequently, we feel that permitting four years as the validity period for passing the SIE exam is appropriate because it would allow individuals sufficient time to become associated with a member firm. Recent trends in employment have made it difficult to become associated and so four years we think is more than enough time to compensate for possible changes in the economic cycles.

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Question 4: FINRA is proposing retiring the Options Representative, the Corporate Securities Representative and the Government Securities Representative registration categories and the associated Series 42, Series 62 and Series 72 examinations. Do you believe that FINRA should retain any of these examinations? If so, why? Should FINRA consider retiring any other representative-level registration categories that it is considering retaining under the proposal?

We support FINRA's intention to retire the Options Representative, the Corporate Securities Representative and the Government Securities Representative registration categories and their associated Series 42, Series 62 and Series 72 examinations. In our view these registration categories allow an individual to sell a subset of the products that is permitted to be sold by a General Securities Representative. Therefore retiring these registration categories and their respective exams will help streamline the qualification examinations and further consolidate these subsets of registrations into the General Securities Representative category.

Additionally, we also take note of FINRA's disclosure that these categories have seen recent low volumes in registrations probably because firms and individuals have opted to register under the General Securities Representative category which allows to sell a wide array of products including options, corporate and government securities. For these reasons we agree with FINRA that the value of these registrations has diminished and it seems right to retire them.

Question 5: FINRA is considering retiring the U.K. Securities Representative and the Canadian Securities Representative registration categories and the associated Series 17, Series 37 and Series 38 examinations and instead determine foreign qualifications that would exempt an individual from taking the SIE. Do you believe that this approach makes sense or should FINRA create specialized knowledge examinations for the Series 17, Series 37 and Series 38 similar to the other specialized knowledge examinations described in the proposal?

We agree with FINRA that the U.K Securities Representative and the Canadian Securities Representative categories and the associated Series 17, Series 37 and Series 38 examinations should be retired. CFA Institute believes that FINRA could instead determine foreign qualifications that would exempt an individual from taking the SIE or the specialized exams.

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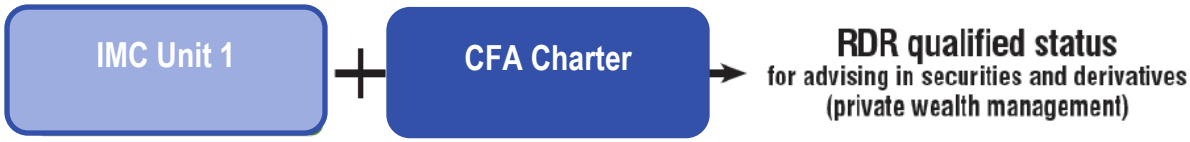
We consider that the qualification approach will result in additional efficiencies and improve the ability of professionals to passport their qualifications. In this regard we believe that CFA Institute programs can help as they already have considerable recognition in the U.K and Canada.

For example in the U.K., the FCA has approved CFA Level 1 plus the full Investment Management Certificate qualification as being Retail Distribution Review (RDR) compliant for those advising and dealing in securities and derivatives. The combination of these two qualifications is listed by the FCA (on the Appropriate Qualifications table) as fully meeting requirements of the RDR. Please note that this works in combination. That is, IMC or CFA Level I alone are not RDR compliant.

In the case of those who hold the CFA charter, the FCA approved the CFA Charter plus "IMC Unit 1: The investment environment", as RDR compliant for those advising and dealing in securities and derivatives. The combination of these two qualifications is listed by the FCA (on the Appropriate Qualifications table) as fully meeting requirements of the Retail Distribution Review (RDR). Once again, this works in combination since neither IMC Unit 1 nor the CFA charter alone are RDR compliant.



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As to the Claritas Investment Certificate, in the U.K. Claritas has been recognized by the Financial Conduct Authority as a "Key 4" for the following job roles under the Retail Distribution Requirements (RDR):

- Activity 15: Overseeing on a day to day basis operating a collective investment scheme or undertaking activities of a trustee or depositary of a collective investment scheme
- Activity 16: Overseeing on a day to day basis safeguarding and administering investments or holding client money
- Activity 17: Overseeing on a day to day basis administrative functions in relation to managing investments
- Activity 18: Overseeing on a day to day basis administrative functions in relation to effecting or carrying out contracts of insurance which are life policies
- Activity 19: Overseeing on a day to day basis administrative functions in relation to the operation of stakeholder pension schemes

The roles listed require a combination of Keys 4+5+6. The requirement can be fulfilled with the combination of the Claritas Investment Certificate with another paper(s), typically focused on local regulations (Key 5) and operations (Key 6).

Even in Canada, the requirements under the National Instrument 31-103 (Registration Requirements, Exemptions and Ongoing Registrant Obligations) follow a similar approach. In NI 31-103 the Canadian Securities Administrators prescribes the minimum level of proficiency necessary for registration as a portfolio manager associate advising representative or a portfolio manager advising representative.

For the portfolio manager associate advising representative CFA Level I is recognized as an acceptable standard but only the CFA Charter is recognized for the more experienced position such as the portfolio manager advising representatives. Per NI 31-103:

Portfolio Manager – Associate Advising Representative: "An associate advising representative of a portfolio manager must not act as an adviser on behalf of the portfolio manager unless any of the following apply: (a) the individual has completed CFA Level I of the Chartered Financial Analyst program and has gained 24 months of relevant investment management experience; (b) the individual has

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received the Canadian Investment Manager designation and has gained 24 months of relevant investment management experience."[…]

Portfolio Manager – Advising Representative: "An advising representative of a portfolio manager must not act as an adviser on behalf of the portfolio manager unless any of the following apply: (a) the individual has earned a CFA Charter and has gained 12 months of relevant investment management experience in the 36-month period before applying for registration; (b) the individual has received the Canadian Investment Manager designation and has gained 48 months of relevant investment management experience, 12 months of which was gained in the 36-month period before applying for registration."[…]

Question 6: FINRA is considering retiring the Order Processing Assistant Representative registration category and the associated Series 11 examination. Do you believe that there is utility in continuing to maintain this registration category and examination?

We believe there is no utility in continuing to maintain the registration category of Order Processing Assistant Representative. As FINRA states the volume of candidates sitting for the Series 11 examination has diminished considerably. This coupled with the recent technological advances and industry changes leads us to believe it may make sense to retire this category as well.

Question 7: Are there any other potential economic impacts of the proposal that need to be identified?

As FINRA notes in its consultation paper, the costs associated with revising the representative level examination structure falls most on FINRA itself. However, the extent that the proposed structure proves to be more efficient, costs should, over time, be reduced. At the same time, opening up the representative examination structure to the general public should lead to a greater number of test takers, which should also lead to an increase in net revenues. Unknown at this time is the extent to which any future change in the pricing of examination fees may affect this dynamic.

One possible factor that could affect the economics of the proposed change is the extent to which FINRA is willing to grant waivers to any portion of its new examination structure. For example, CFA Institute currently enjoys a waiver for successful CFA Level II candidates for the current Series 86 examination,

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and we would welcome the opportunity to demonstrate that this remains a mutually beneficial arrangement once the content for the proposed specialized Series 86 examination has been developed.

But in addition to this, approximately one half of the content (generally speaking, Sections 2 and 3) of the proposed SIE exam could typically be covered in a variety of ways, such as college level investment courses or as part of the program of study in various professional designations. FINRA may wish to consider offering a waiver for the investment content portion of the SIE exam for those who have passed a college level investments course or have made sufficient progress towards earning an appropriate professional qualification. This would, of course, require structuring the SIE exam in two parts in which one part would cover the investment related content, and another would cover the industry laws, rules, and regulations. Done in this manner, this could have a modestly positive effect on the economics of this proposal. Specifically, FINRA could base its examination fee on taking the full SIE. But for individuals who could be eligible for a waiver, they need only take, and FINRA would only have to grade, half of the exam.

Related to this, FINRA may wish to consider the possibility of outsourcing to a third party the development and testing of the laws, rules, and regulations portion of the SIE exam. This could prove economically attractive to FINRA. If such an arrangement is structured in a way that FINRA were to collect a fee for each candidate from a third party provider, while the third party provider absorbs the costs of developing and administering the exam, FINRA could benefit economically.

Question 8: Are there more effective ways to achieve the proposal's goals?

CFA Institute believes that FINRA's approach to restructuring the representative-level qualification examinations is reasonable and will be effective. With that said, we would suggest that FINRA gives consideration to the granting of exemptions to CFA Institute's programs under the new representative qualification regime.

The reason behind our request is our belief that our programs would qualify under NASD rule 1070 for qualification examination waivers as an exceptional case, where good cause can be shown. In view of that, we would encourage FINRA to accept our standards as evidence of an applicant's qualifications for registration (as it already does for the Series 86 and other examinations). Ultimately our objective is to

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help our members and candidates bridge the gap in meeting licensing requirements and avoid unnecessary duplicative testing. At CFA Institute we believe that FINRA maintains high proficiency standards and a robust proficiency regime which has helped ensure investor protection and integrity of capital markets. FINRA's exams play an essential role and are here to stay. However, we believe it would be beneficial for FINRA to consider recognizing our programs for several reasons.

The first reason is that recognizing CFA Institute's programs will allow FINRA to capitalize on our reputation and experience in training professionals. Another reason is that having our programs participate in the framework would provide choices to finance professionals. The ability to make choices in regards to training and the attainment of competence is most critical in our view, as it gives individuals not only a sense of ownership but also of empowerment. With that said, if some individuals feel that pursuing a qualification such as the CFA Charter is in their best interests that should be respected without requiring them to complete additional tests. Having CFA candidates be part of the financial ecosystem we believe is important because of the emphasis our programs place on ethical behavior and achieving excellence in professionalism.

Finally, recognizing our programs would allow individuals to "passport" their qualifications to other jurisdictions. The term passporting refers to the ability of individuals to use their investment qualifications across borders and qualify for licensure. CFA Institute's programs already enjoy broad acceptance by many regulators around the world which speaks to the value and trust that regulatory agencies have placed in our programs. If FINRA were to recognize our programs individuals who then decided to practice in other jurisdictions such as the UK, Canada, Singapore and many others would qualify without the need to complete additional exams.

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Request to FINRA to consider granting an exemption to the Claritas Investment Certificate plus gap-fill course for the SIE exam.

Considering the similarities identified in question two between the Claritas Investment Certificate and the SIE exam (except for the coverage of local rules and regulations) we would like to request FINRA to consider the following proposal:

Our proposal for an exemption of the SIE exam would consist of combining the Claritas Investment Certificate (a core knowledge exam) with a gap-fill course that would cover all the associated rules. The gap-fill course would also have an assessment. At CFA Institute we understand the need for professionals to have both knowledge of business and associated rules and regulations, hence our proposal to combine Claritas (which is global in nature) with a gap-fill that would cover associated rules. In the next page we provide the content outline of both programs in combination.

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Claritas Investment Certificate Outline	Claritas GAP-FILL Course Outline
Module 1 - Industry Overview Chapter 1 – The Investment Industry	*Associated Rules:* ⇨ FINRA By-Laws Article IV section 6 and Rules: 1000, 2010, 2020, 2040, 2060, 2090, 2150, 2210, 2213, 2260, 2266, 2330, 2342, 2360, 3220, 3240, 3270, 3310, 4200, 4311, 4330, 4512, 4513, 4530, 5130, 5210, 5220, 5230, 5240, 5250, 5270, 5280, 5290, 5310, 5320, 6438 ⇨ NASD Rules 1000, 2510, 3040, 3050 ⇨ NYSE Rule 407, 401A ⇨ USA Patriot Act, Section 326 ⇨ Federal Reserve Board Regulation T ⇨ Securities Exchange Act of 1934: Rule 15c3-1 ⇨ Securities Act of 1933: Sections 7, 8, 10; Schedules A &B; Regulation D, Rules 144, 144A, 145, 147, 164 ⇨ MSRB Constitution and Rules: Rules G-1 through G-41,G37, D-8 through D-12 ⇨ Investment Company Act of 1940: Rule 12b-1, Sections 3(a), 4, 5 ⇨ SEA Rules 3a11-1, 10b-18, 10b-5, 10b5-1, Section 11d ⇨ SEC Regulation M, NMS, S-P ⇨ Securities Investor Protection Act 1970
Module 2 - Ethics and Regulation Chapter 2 – Ethics and Investment Professionalism Chapter 3 – Regulation and Supervision	
Module 3 - Inputs and Tools Chapter 4 – Microeconomics Chapter 5 – Macroeconomics Chapter 6 – Economics of International Trade Chapter 7 – Financial Statements Chapter 8 – Quantitative Concepts	
Module 4 – Investment Securities Chapter 9 – Debt Securities Chapter 10 – Equity Securities Chapter 11 – Derivatives Chapter 12 – Alternative Investments	
Module 5 – Industry Structure Chapter 13 – Structure of the Investment Industry Chapter 14 – Investment Vehicles Chapter 15 – The Functioning of Financial Markets	
Module 6 – Serving Client Needs Chapter 16 – Investor and Their Needs Chapter 17 – Investment Management	
Module 7 – Industry Controls Chapter 18 – Risk Management Chapter 19 – Performance Evaluation Chapter 20 – Investment Industry Documentation	

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Request to FINRA to consider granting an exemption to the CFA Level 1 plus gap-fill course for the General Securities Representative registration category.

For the General Securities Representative category we propose that passing the CFA Level I exam in combination with the gap-fill course that would cover the associated rules of both the SIE and Series 7 specialized exam should meet the requirements for licensure. The gap-fill course for the CFA Level I exam would be more extensive in content than the Claritas gap-fill course that would only cover rules in the SIE. In this case, the gap fill course would also come with an assessment.

We believe that the CFA Level I exam would more than cover the knowledge of business component required for general securities representatives. The CFA Level I exam requires approximately 300 hours of study and comprises topics in fixed income, equities, derivatives, portfolio management, ethics, economics, etc…

Besides the content overlap, we have seen that CFA Level tends to be the level that investment banks and dealer firms target on their graduate intake programs. Their rationale being as we understand it, that not all their staff are going to be portfolio managers or research analysts, so levels II and III are less useful. Additionally, we have also noticed that this approach has been approach by regulators overseeing dealer firms in other parts of the world.

As to the content of the gap-fill, since FINRA is in the process of working the content outline of the Series 7 specialized exam, we would wait until that release to detail the content of the gap-fill. In the appendix we provide the readings required for the CFA Level I exam.

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Request to FINRA to consider granting an exemption to the CFA Level II plus Specialized Series 87 for the Research Analyst registration category.

Currently the CFA Level II exam is recognized as being equivalent to the Series 86. Considering this precedent we believe that an optimal structure for the Research Analyst category would be combining CFA Level II exam with the FINRA's specialized Series 87. In this instance, we would not look to create our own gap-fill and take advantage of the proposed Series 87 specialized exam in regulatory administration and best practices to meet the gap.

The CFA Level II digs in deeper than CFA Level I in terms of valuation of asset classes. Consequently we feel that CFA Level II is a better standard for those trying to meet the requirements to practice as research analysts.

A note of the Principal Level Structure

FINRA mentions that it is currently evaluating the structure on the principal level examination may propose to streamline the examinations at a later date. CFA Institute would like to propose that for the principal level examinations that the CFA Charter is considered. Clearly the CFA Level I develops foundational competencies appropriate for entry-level, but falls short a professional standard one would expect from more experienced professionals.

For that reason we would propose that the CFA Charter is the alternative standard for those acting as supervisors. We believe this a compelling approach that recognizes that developing a professional is something that happens over time.

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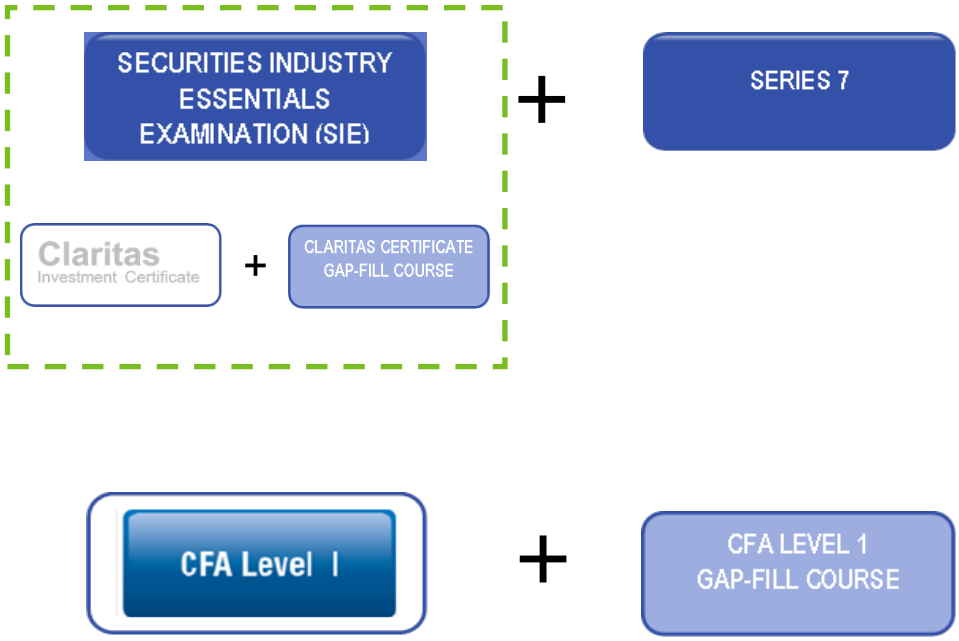
Summary of Requests

<table>
<tr><th>FINRA Registration Category</th><th>General Knowledge Examination</th><th>Specialized Knowledge Examination</th></tr>
<tr><td>FINRA General Securities Representative (GS)</td><td rowspan="2"> 
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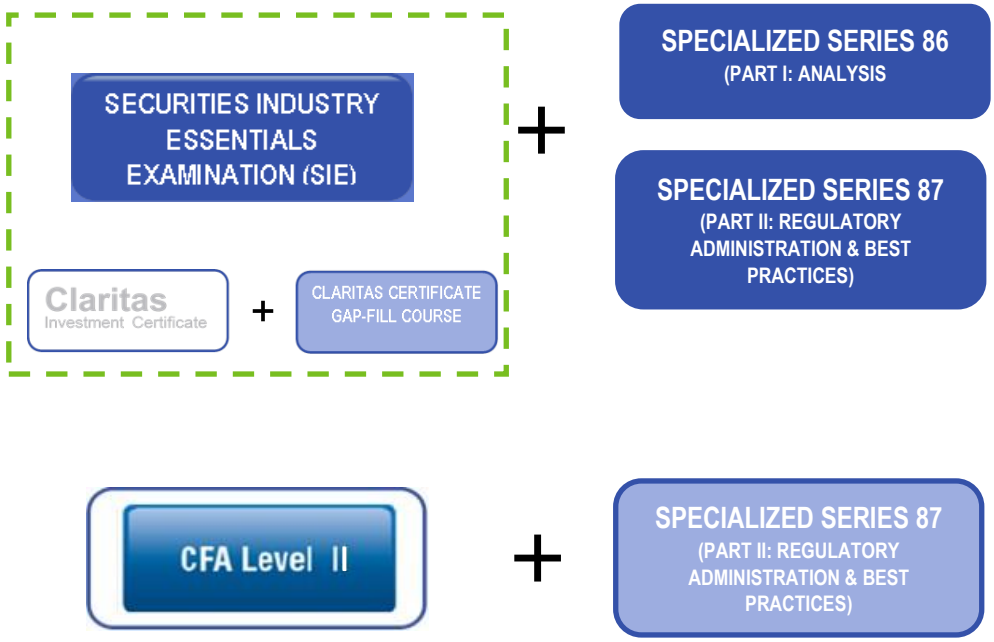
<tr><td>CFA Institute Proposed Path</td><td></td></tr>
<tr><td>FINRA Research Analyst (RS)</td><td rowspan="2"> 
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Question 9: How much of the fees for representative-level examinations are currently paid by member firms versus individuals? Would the proposal change the payment responsibilities? If so, how?

CFA Institute has no data on the extent to which fees for representative level examinations are currently paid for by member firms versus individuals. That said, it would seem logical that, under the new structure, there is no reason to believe that firms which currently pay for their employees' examination fees should have any reason to alter their behavior in this regard. But at the same time, since individuals may now take the SIE without being affiliated with member firms (and presumably paying their own examination fees), it would seem reasonable that the percentage of individuals paying their own fees should increase somewhat relative to the percentage of individuals whose fees are being paid by their employers as a result of this change in policy.

As we just noted, we see no reason why firms which already pay for their employees' examination fees should alter their behavior in this matter. However, allowing individuals unaffiliated with member firms to take and pass the SIE (at their expense) may have a subtle impact on the hiring process at member firms which typically pay their employees' examination fees. It would seem reasonable that such member firms may now give a slight hedge in the hiring decision (all other things equal) to job applicants who have taken and passed the SIE (at their own expense) relative to applicants who have not done so. CFA Institute has no way of estimating how large this effect may be, but it would seem reasonable that it should exist.

CFA Institute has no way of determining how dramatic the percentage shift between the categories of employer paid vs. individual paid examination fees would be as a result of these two effects. Furthermore, we are agnostic on whether or not any such percentage change would be a good thing or a bad thing. We simply wish to note that allowing individuals not affiliated with member firms to take the SIE would likely lead to some increase in the percentage of individuals paying their own fees relative to those whose employers are paying their fees. Beyond this observation, we have no view on this question.

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We would be pleased to discuss our comments in greater detail, or to provide any other assistance that would be helpful. If you have any questions, please do not hesitate to contact us.

Yours sincerely,

On behalf of CFA Institute:

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July 27, 2015

By Electronic Mail (*pubcom@finra.org*)
Marcia E. Asquith
Senior Vice President and Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

RE: Regulatory Notice 15-20 Qualification Examinations Restructuring

Dear Ms. Asquith:

Lincoln Financial Distributors, Inc. (LFD) and Lincoln Financial Network (LFN)[1] are submitting this comment letter in response to FINRA Regulatory Notice 15-20, *Qualification Examinations Restructuring: FINRA Requests Comment on a Concept Proposal to Restructure the Representative-Level Qualification Examination Program* (Proposal). LFD is Lincoln's wholesale broker-dealer which sells Lincoln manufactured products, including annuities, individual and group life insurance, and retirement plans, to other financial institutions and broker-dealers. LFD has over 1,300 registered representatives, the majority of whom maintain a FINRA Series 6 (*Investment Company and Variable Contracts Products Representative*).

LFN is the retail wealth management arm of Lincoln Financial Group (Lincoln) and maintains an open-architecture affiliation with over 8,200 financial advisors, which include registered representatives, investment advisor representatives, insurance brokers and agents. LFN is the marketing name for Lincoln's two dually-registered broker-dealers/investment adviser entities. These broker-dealer entities do not have institutional divisions that provide investment banking, equity/fixed income trading, public finance or research. In total, LFN has more than 3,500 registered representatives, the majority of whom are independent contractors providing advice and comprehensive financial planning services to retail investors.

Regulatory Notice 15-20 proposes to restructure the current representative-level qualification examination program into a two-examination format: (1) a generalized Securities Industry Essentials Examination or "SIE" and (2) a specialized knowledge examination to reflect the registered individual's particular role. The Proposal would also eliminate certain registration categories and their required examinations (e.g., Series 11, Series 42 and Series 62). Finally, the Proposal would allow a member of the public (i.e., someone who is not an associated person of a member firm) to take the SIE examination.

LFD and LFN supports FINRA's goals of (1) making the examination program more efficient, (2) reducing redundancy of subject matter content across examinations, (3) simplifying the qualification

[1] Lincoln Financial Network (LFN) is the marketing name for Lincoln Financial Group's (Lincoln) two dually-registered broker-dealers/investment adviser entities: Lincoln Financial Advisors Corp. and Lincoln Financial Securities Corp. LFN is an affiliate of Lincoln Financial Group, the marketing name for Lincoln National Corporation (LNC), whose other affiliated companies act as issuers of insurance, annuities, retirement plans and individual account products and services, including but are not limited to, The Lincoln National Life Insurance Company ("LNL"); Lincoln Life and Annuity Company of New York ("LLANY") and Lincoln Financial Distributors, Inc. ("LFD").

examination requirements, (4) eliminating outdated registration and examination requirements and (5) increasing the pool of potential employee candidates. In the Proposal, FINRA asked member firms to answer a number of specific questions. Please consider the content below to be LFD's and LFN's responses to FINRA's questions.

1. Does moving to this type of structure make sense? Would it help member firms better manage and develop individuals?

It is unclear whether moving to this type of structure will truly achieve FINRA's goals of eliminating redundancy and increasing efficiency. The core FINRA licenses are the Series 6 (Investment Company and Variable Contracts Products Representative Qualification Examination) and Series 7 (General Securities Representative Qualification Examination). We believe FINRA should analyze how many registered representatives holding these core licenses also hold other specialized licenses. If the majority of registered representatives do not hold other specialized licenses (e.g., Investment Banking Representative Examination or Equity Trader Examination), we would encourage FINRA to evaluate whether there truly is redundancy in many of the examinations and whether a two-step examination process is the more efficient approach. Indeed, moving to a two-step examination process for registered representatives of limited-purpose broker-dealers (like wholesaling broker-dealers) or broker-dealers that specialize in selling investment company and variable insurance products would actually seem more complicated and inefficient.

While there may be downside to this structure, allowing members of the public to take a FINRA examination is progressive and may increase the pool of potential candidates for employment. This could be a positive result for the industry. However, we encourage FINRA to evaluate whether the investing public could be at risk if individuals who are not associated with member firms begin to hold themselves out as "qualified" to advise retail investors because they have passed the SIE examination. FINRA has worked diligently over the last decade to educate retail investors on investment scams and individuals who market themselves to the public with sham credentials and certifications. FINRA should evaluate what additional controls may be necessary to protect the investing public from individuals who might use a FINRA-endorsed examination qualification to improperly solicit potential retail investors.

2. Do you consider the content listed in the sample content outline to be common knowledge?

We agree with FINRA's assessment that securities industry has become increasingly complex and sophisticated over the past 30 years and that a broad knowledge of the fundamental concepts and rules of the securities industry are necessary for registered individuals. FINRA has suggested that the SIE should assess "basic product knowledge" and would cover a broad range of industry content. FINRA anticipates that the SIE would include between 75-100 questions.

The content outline attached to the Proposal is incredibly broad and complex. There are almost 200 bullet points and sub-bullet points of topics to be included in the SIE, yet the SIE examination itself is limited to between 75 and 100 questions. Indeed, the breadth of these topics is far greater than topics covered by the Series 6 or Series 99 examinations. We do not consider many of these topics "common knowledge" of non-selling registered representatives who have limited, operational or home-office roles or for individuals that do not work at a full-service broker-dealer with both private client group and capital markets divisions. For example, many of the employees and registered individuals within LFD simply know and understand the variable insurance space. They would have no reason to learn even basic information about securities borrowing/lending or federal margin requirements because they are associated persons of a limited purpose broker-dealer which does not maintain retail client accounts. As such, we would encourage FINRA to develop a SIE that focuses more on higher level topics common to all broker-dealers, not just full-service broker-dealers that maintain retail accounts.

Alternatively, FINRA should not require individuals to take the SIE who normally would take simpler "specialized" examinations like the 6 or 99. Requiring the more complicated, broader SIE Examination for individuals needing only the Series 6 or 99 would undoubtedly deter some individuals from entering the industry, a result that runs counter to FINRA's goal of increasing the pool of potential employee candidates.

3. Are there any other potential economic impacts of the proposal that need to be identified?

FINRA appears to have identified the potential economic impacts to FINRA of developing and administering new examinations. However, it does not appear that FINRA has identified the costs and economic impacts to individuals or to member firms. A two-examination format will entail additional study materials and courses, which are not inexpensive. It will also require technological changes to administrative systems that are used to track the additional licensing requirements. While these costs are not quantifiable at this time, these costs should be part of FINRA's cost-benefit analysis before the Proposal is finalized.

4. Are there more effective ways to achieve the proposal's goal?

FINRA should consider whether modifying only the existing "specialized" examinations (e.g., Series 55 – Equity Trader Examination; Series 79 – Investment Banking Representative Examination; Series 86/87 – Research Analyst Examinations; and Series 99 – Operations Professional Examination) would be more efficient and cost-effective than modifying both the General Examinations (e.g., the Series 6 and Series 7) and the specialized examinations. Stated another way, FINRA may be able to eliminate the redundancy and increase efficiencies by simply modifying some of the current examinations, rather than adding an additional examination and modifying all current examinations.

We would encourage FINRA to consider these issues as it moves towards finalizing the Proposal. If you have any questions, please do not hesitate to contact me at 484.583.1413 or carrie.chelko@lfg.com.

Respectfully Submitted,

Carrie L. Chelko, Esquire
Chief Counsel
Lincoln Financial Distributors
Lincoln Financial Network

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SMARTEN UP INSTITUTE

COMMENTS ON FINRA REGULATORY NOTICE 15-20

QUALIFICATION EXAMINATIONS RESTRUCTURING

Table of Contents

Introduction

Smarten Up Institute Inc. (SUI) appreciates this opportunity provided by FINRA to comment on qualification examinations restructuring in the U.S. SUI is a Canadian employee-owned company that delivers both online and classroom training to members of the Canadian financial community at large, IIROC and MFDA member firms, as well as to those members of the public who aspire to greater literacy in matters related to investments and finance in general.

The success of the integration and regulatory harmonization of financial services and products at a global level, progressing under the auspices of IOSCO and other regulatory bodies operating under the oversight of the Financial Stability Board (FSB), will rely heavily on the level of proficiency of those who serve the retail and institutional markets in participating countries.

In addition, the proximity and general similarities between the US and Canadian financial marketplaces makes it essential that our respective jurisdictions follow parallel paths in the training and education of those who serve the investing public.

With this in mind we appreciate the opportunity to provide our input on the training and proficiency standards for those charged with helping both issuers and investors meet their financial goals.

If anything, the events that led to the financial crisis in 2008 highlighted the need for greater transparency and proficiency within the industry. Furthermore, the rapid pace and advance of technology, the establishment of new products and new trading processes have created an explosion of information that may be necessary or simply helpful to investment professionals, requiring a re-examination of how future participants entering the industry need to be trained.

The views expressed herein are entirely our own and do not reflect any other party's interests. Also as a supplier of educational services we acknowledge that our views may be interpreted as self- serving but are submitted on the basis that we believe there are certain basic requirements for those who intend to serve as the industry's frontline to the investing public.

SUI Responses to Request for Comments
Regulatory Notice 15-20

1. FINRA is proposing to move to a general knowledge examination and specialized knowledge examinations for the representative-level qualification examinations. Does moving to this type of structure make sense? Would it help member firms better manage and develop individuals?

We endorse the view in the proposal that there should be one fundamental examination that all those entering the industry who will deal with the public. For example we support the concept of a Securities Industry Essentials Examination (SIE) that will serve as a basic platform upon which further qualifications can be built as required by product or role.

Because of the increased complexity of product and market structure, we support the recommendation that individuals servicing certain specialized areas need to attain additional levels of proficiency in these specialized areas over and above the base line. Eliminating content duplication in examinations for those requiring additional certification is essential and will make it easier as well as less costly and time consuming for those taking these additional certifications.

The development of specialist qualifications building on a base line of knowledge, combined with rigorous efforts to eliminate duplication, will enable both the general and specialist courses to cover their material in greater depth. Trying to cover material on a variety of different product and processes in one general course of a reasonable length pushes both the general and the specialized content towards superficiality.

2. FINRA is proposing to create the SIE covering fundamental securities industry knowledge. Do you consider the content listed in the sample content outline to be common knowledge? Is there other knowledge not listed that you believe should be included on the SIE? What is an appropriate level of depth?

With reference to retiring the Options Representatives Series 42 registration category we question whether the knowledge requirements set out in Appendix A, Section 2, Products: Options are in sufficient depth to deal with the increasing proliferation and complexity of an ever expanding options market. Perhaps the intent is to provide more depth in the specialized exams. We suggest that it would be better, as in the Canadian model, to maintain a separate exam for those wishing to advise the public on options trading and keep only a minimal description of options characteristics and uses in the SIE. Under that model, the SIE alone would not qualify an individual to trade in or advise on options.

We also note that “derivatives in general”, except for options, is not covered in the examinations.

While ETF’s are included, the Appendix is silent on ETN’s.

Another topic that we have found of particular interest to our audience, and one of the more successful courses, is “Understanding Investment Returns”, particularly now that performance reporting will be required on client financial statements in the near future here in Canada.

3. FINRA is proposing to allow any individual, including an individual who is not associated with any member firm, to take the SIE. Further, a passing result on the SIE would be valid for four years. Does this approach make sense? Is four years a reasonable length of time for a passing result on the SIE examination to be valid?

Opening the examinations to the public at large is commended and is in line with the current Canadian practice which has served the industry well. It benefits both firms and individuals as outlined in your proposal.

The current Canadian requirement in National Instrument 33-103 is that a course must be completed no more than two years before an initial application in any registration category for which the course is a pre-requisite. We believe this to be too short. There are many career paths in the industry in which a course like the SIE will be useful, but which do not take the individual into functions requiring registration. Furthermore, even those not employed in the industry who take the course will in general have some reason for doing so, even if it is only to assist them in managing their own investments. The idea that such persons will have lost all contact with the industry and the knowledge gained from a fundamental course within two years is, in our opinion, unreasonable.

That has to be balanced against changes in the industry and the general tendency for knowledge that is not used to degrade. For that reason we think that four years is a reasonable length of time, with five as the absolute maximum for that kind of rule.

4. FINRA is proposing retiring the Options Representative, the Corporate Securities Representative and the Government Securities Representative registration categories and the associated Series 42, Series 62 and Series 72 examinations. Do you believe that FINRA should retain any of the examinations? If so, why? Should FINRA consider retiring any other representative-level registration categories that it is considering retaining under the proposal?

See our comments regarding Options Representative in 2 above.

5. FINRA is considering retiring the U.K. Securities Representative and the Canadian Securities Representative registration categories and the associated Series 17, Series 37 and Series 38 examinations and instead determines foreign qualifications that would exempt an individual from taking the SIE. Do you believe that this approach makes sense or should FINRA create specialized knowledge examinations for the Series 17, Series 37 and Series 38 similar to the other specialized knowledge examinations described in the proposal?

From a Canadian perspective the current process for the delivery of courses and examinations and related content is presently under review. As an educational entity we have commented to IIROC our views on both the current curriculum and delivery and examination mechanism. We await the outcome of this review. We assume that IIROC will take into account FINRA's current proposal in order to ensure reasonable parity in knowledge requirements as part of the overall Global initiatives towards more uniform rules, processes and proficiency standards. This will impact FINRA's decision regarding its considerations with reference to Series 37 and 38.

As a point of courtesy, we attach our response to Request for Comment on IIROC Proficiency Assurance Model 14-0181in Appendix B.

Pending the outcome of those reviews, we suggest that there are a number of significant differences in the products, markets, laws and regulations between these jurisdictions, even if there are many similarities. We suggest that it is important not only that representatives understand not only the products and services they are providing, but also the legal framework within they are operating. For that reason we would respectfully disagree with the retirement of the Series 37 and 38.

Under the proposals, individuals holding existing registration through the Series 37 and 38 exams would be allowed to continue without having to write the SEI, but would have to write it after a lapse in registration of two years. We agree with grandfathering existing qualifications. For the same reasons as given in our response to Question 3 above, we suggest that 2 years is too short. We see no reason to believe that investment professionals will lose their understanding of both industry fundamentals and U.S. requirements in that time. We would suggest that a period of four or five years is more reasonable and in line with the recommendation regarding those who that the SEI without obtaining registration.

6. FINRA is considering retiring the Order Processing Assistant Representative registration category and the associated Series 11 examination. Do you believe that there is utility in continuing to maintain this registration category and examination?

Under the new requirements FINRA proposes to develop specialized knowledge examinations for 8 categories that include the existing non sales related activities

- Investment Company and Variable Contracts Products Representative
- General Securities Representative
- Direct Participation Programs Representative
- Equity Trader
- Investment Banking Representative
- Private Securities Offerings Representative
- Research Analyst
- Operations Professional

We support the retirement of categories that no longer serve a useful purpose in light of the changes that have taken place in the industry.

7. Are there any other potential economic impacts of the proposal that need to be identified?

No comment.

8. Are there more effective ways to achieve the proposal's goals?

Eliminating the need to answer questions on subject matter already covered by the SIE examinations will greatly improve the overall efficiency of the qualifying structure as well as allow more focus to be placed on the specific knowledge requirements for the different representative categories.

9. How much of the fees for representative-level examinations are currently paid by member firms versus individuals? Would the proposal change the payment responsibilities? If so, how?

No comment.

Conclusion. We commend FINRA for proposing this overhaul of registration categories and examination requirements given the industry's evolution over the past decade.

Canada's single-vendor model no longer serves the industry well and lacks all the key features and benefits that are best served in the US model, and also addressed in our response to the IIROC Proficiency Assurance Model 14-0181.

In addition, the Canadian securities industry and investors will benefit from the development of a comprehensive license program along the lines of the US model that will provide Investment Advisors with the requisite knowledge of all the relevant products that are integrated into today's portfolios.

We thank you for the opportunity to comment on your proposal and trust that our comments will serve a useful purpose in finalizing your initiative of transforming current proficiency requirements.

Appendix A
Smarten Up Institute Inc.

Launched in 2010, Smarten Up Institute is the independent Canadian provider of financial services training. SUI's clients include regulators, banks, credit unions, correspondent firms and small dealers. The company is owned by its employees, a model that has provided an incentive for experienced industry practitioners and training specialists to write courses, teach and provide advice. Some trainers and authors view this involvement as "a give back" to an industry that has provided them so many opportunities and that they love.

Smart Direct® is SUI's proprietary online learning management system. Using the Internet, the system delivers courses and examinations to students and provides SUI client firms with administrative tools and reports. A distinguishing feature of Smart Direct® is the ease with which changes to course materials and examinations can be uploaded in real time. On successful completion of industry accredited courses, students receive an electronically issued certificate that is used to obtain continuing education (CE) credits.

Smart Talk® is an SUI virtual classroom in which subjects of topical interest are presented and debated, for example High Frequency Trading. Another innovation has been the **Smart Mentor Program®** providing an avenue for "up and coming" stars to obtain advice from the industry's senior players. A recent example has been SUI's sponsorship of the Investment Industry Association of Canada's "**Top Under 40**" program and the donation of a Smart Mentor Program® to the winner of this year's competition.

Classroom courses provide a major portion of the company's revenue. Client firms select courses from the published syllabus or request hybrid courses constructed from modules taken from several courses to meet specific requirements. Classroom courses are held in all the major Canadian cities using facilities at either colleges or conference spaces. A recent growth area for SUI has been delivering seminar programs for larger firms to assist them in effectively assimilating complex regulatory change and highlighting the attendant implications to their business. Whether delivered in a classroom or seminar format, the company uses innovative training techniques to make dry subjects interesting and engaging for participants. These techniques include role playing, gamification and dramatization.

People: Laurie Clark founded SUI in the wake of the 2008 financial crisis with the thesis that the Canadian investment industry should have better educational resources available to it. Small dealers and correspondent firms were especially having difficulty accessing expertise. Laurie's background includes senior

management roles at Penson Financial, Dataphile Software (now Broadridge), IBM Global Services (US), RBC Dominion Securities and Wood Gundy. The employee owned model opened the way for many industry professionals to become involved including a past president of CDS, several Chief Financial Officers, Traders, Retail Trainers, Academics and IT Specialists.

List of Smarten Up's Courses:

Course Title	Type of course
A Guide to Understanding the Derivatives Market	on-line
Accounting for P3's	Seminar
Advanced Company Evaluation	Seminar
Advanced Exchange Traded Funds	on-line
Anti-Money Laundering	on-line
BASEL III	Class
BASEL III	on-line
Branch Manager - Regulation, Governance, Duties and Responsibilities	Class
Canadian Securities Professionals Course	class - advanced course for licensing
Carrier and Correspondent Business and Relationships	Class
Communication Seminar	Seminar
Compliance for the Financial and Securities Industry (Levels 1, 2 and 3)	Class
▪ Introductory Level I	Class
▪ Intermediate Level II	Class
▪ Advanced Level III	Class
Compliance and Audit	Class
Corporate Actions and Entitlements	Online
Corporate Finance	Class
Corporate Investment Decision Making	Class
CRM II	Class
CRM II	on-line
Crowd-funding	Seminar
Data Structures and Technology Fundamentals for the Financial and Securities Industry	Class
Debt Instruments	on-line
Derivatives	Class
Dodd – Frank Act	Class
Dodd – Frank Act	on-line
Ethics for Representatives of Investment Dealers	on-line
Ethics - Acting with Integrity	on-line
Ethics - Best Practices	on-line
Ethics - Borrowing Money from Clients	on-line
Ethics - Conflicts of Interest	on-line
Ethics - Control or Authority over Financial Affairs of Clients	on-line
FATCA Lite	on-line
Finance and Financial Reporting	Seminar
Financial Literacy	Seminar

Financing a Securities Firm - Asset and Risk Exposure, Cash Management, Risk and Controls	Seminar
Forex	on-line
Full Fat FATCA	Class
Full Fat FATCA	on-line
Global Securities: Custody	Class
Global Securities: Trading & Settlement	Class
▪ Introductory Level I	Class
▪ Advanced Level II	Class
Hedge Funds	Class
Investment Advisor Assistant - Regulation, Governance, Duties, Surveillance	Class
Inside Canada's Mutual Fund Industry	Class
Inside Canada's Securities Industry	Class
▪ Introductory Level I	Class
▪ Advanced Level II	Class
International Clearing and Settlement	Class
Introduction to Exchange Traded Funds	on-line
Introduction to Hedge Funds	on-line
Introduction to Options	on-line
Introduction to Pensions and Infrastructure	Class
Introduction to Private Public Partnerships	Class
Investment Analysis	Class
Leadership - Professional Development	Seminar
Life of a Trade	Class
Mutual Funds and Structured Products	Seminar
Mutual Fund Regulation & Governance	Class
Mutual Fund Regulation and Governance	Online
Overview of ETFs	Class
Overview of Global Securities Services	Class
P3 Practice Guidelines	Class
Options based Portfolio Strategies - Advanced Level	on-line
Prime Brokerage	Class
Regulatory Development - Law, Disclosure, Client Management, Documentation, Communication	Class
Repos and Reverse Repos	on-line
Science of ETFs	Class
Securities Lending - National and International	Class
Seniors - Aging and Long Term Care Planning	on-line
Social Media: Regulation and Governance for the Financial Professional	on-line
The Art of Communication for the Financial Professional	Class
The Evolution of Money - A History Lesson	on-line
The US and European Regulatory Framework	on-line

Project Management: Psychology and Emotional Intelligence	Class
Trade Supervision - Regulation, Governance, Supervisory Duties, Surveillance	Class
Trading Equities	on-line
Trading Strategies and Compliance Procedures for Leveraged ETFs	Online
Treasury	Class
Trusts, Trust Officers, Trust Agencies, Regulation and Governance, Compliance	Class
UMIR RULES	Seminar
Understanding Investment Returns	on-line
Understanding Investment Returns	Class
Venture Capital Finance	Class
Workplace Violence and Harassment - Bill 168	Seminar and Executive Workshop
Year End Tax	Class

Licensing Courses: Immediate areas of interest where Smarten Up would contribute expertise and resources to the delivery of licensing courses are:

1. Institutional Sales Training;
2. Advisor Assistant Training;
3. Advisor 30 and 90 Day Training Programs;
4. The Conduct and Practices Course;
5. Regulatory Compliance;
6. Chief Compliance Officer;
7. Chief Financial Officer;
8. Operations Essentials (i.e. CDN equivalent to US Series 99).

Appendix B

SMARTEN UP INSTITUTE

COMMENTS ON IIROC NOTICE 14-0181

PROFICIENCY ASSURANCE CONSULTATION

You may view the submission in detail on the IIROC website at:

http://www.iiroc.ca/Documents/2014/4e355627-7ba6-4db5-b1e5-a371112905f1_en.pdf

Member FINRA / SIPC, MA Registered with the SEC and MSRB

FINRA
Marcia E. Asquith
Office of the Corporate Secretary FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 15-20

Dear Ms. Asquith,

My firm Tessera Capital Partners, LLC ("Tessera") is a third party marketing firm and a member of FINRA. Tessera is also registered with the SEC and the MSRB as a Municipal Advisor ("MA"). In addition to my role at Tessera, I am also the Chairman and Treasurer of the Third Party Marketer's Association (3PM).

I was very pleased to read Regulatory Notice 15-20 and applaud FINRA for working to eliminate redundancies in the current exam program. FINRA should, however, take this initiative one step forward and work with other regulatory authorities that issue qualifying examination to help eliminate any redundancies that exist within these exams as well. In particular, FINRA and the MSRB should work together to include the Series 50 exam within the scope of this concept proposal.

The course outline for the new Series 50 examination reveals a great deal of overlap with the Series 7 examination, specifically in the area of functional business models which comprise nearly 90% of the Series 50 exam content. MAs that have already taken and passed the Series 7 exam, of which 20% of the exam content is devoted to Municipal Securities and overlaps with the Series 50 exam content, should not have to re-take this section of the Series 50 to qualify as a MA. While I understand the MSRB's intent that all MAs should be tested on the new rule set being written, carving out the functional sections of the exam for people who have already been tested on this information would help to eliminate the need for MAs to re-take duplicative sections of the examination.

I also strongly encourage FINRA to extend this concept proposal to principal level examinations, which also contain duplicative content. In this regard, FINRA and the MSRB should consider the duplicative content that would exist between a MA supervisory examination and the Series 24 examination which many MAs have already taken and passed. This is especially relevant considering the MSRB will begin work on a MA principal examination in the near future.

In addition to my comments, I have also had an opportunity to review Lisa Roth's comment to Regulatory Notice 15-20 regarding the concept proposal to restructure the Representative-Level Qualification Examination Program. As such I also urge FINRA's Board to carefully consider Ms. Roth's thoughtful and informed commentary, which has earned my strong support.

Please feel free to reach out to me should you have any questions or if you would like to discuss my comments in more detail. Thank you in advance for your consideration of my remarks.

Regards,

Donna B. DiMaria
CEO / Principal

Sirs:

I applaud dividing the representative qualification exams into a general knowledge exam (SIE) and specific specialized knowledge exams. It makes good sense. The SIE will assure that all registered reps, whatever their function or specialty, will be required to possess the basic knowledge of the securities industry, including ethical rules, rules of FINRA, as well as rules the other SRO's.

I also like the idea of allowing anyone to take the SIE, even those who are not currently affiliated, associated, or registered with a FINRA member firm. In addition, the four-year period, during which such persons must become affiliated, or else lose the benefit of having passed the SIE, seems totally reasonable.

As to retiring the Options Representative , Corporate Securities, and Government Securities exams, that also seems a good idea to me and overdue. Currently, there are too many different representative categories, which, I believe, serve little purpose. The securities markets are too dynamic, too inter-related, too interdependent, for representatives to specialize in just one area, and be tested only in that one area. For example, an equity trader needs to know not only equity markets but also bond markets. Each market has an important effect in real time on the workings of the other. Furthermore, I would recommend that candidates who will be trading these specialties take the SIE and then the general securities Series 7 special knowledge exam. Today's securities markets require professional participants to be familiar with much more than their own limited specialty.

I also would retire the DPP, Equity Trader, Investment Banking, Private Securities, Research Analyst, and Operations specialized knowledge exams. Let candidates who otherwise would sit for these exams pass the Series 7 specialized segment.

By all means get rid of the Order Processing Assistant series 11 exam. This category creates something of a second class registration especially for sales assistants. They need to be as familiar with the markets as the associated person whom they assist. Moreover, the Series 11 always seemed to me to make sales assistants lower-tiered participants.

Roberto A. Eder J.D.

(Bob Eder)

2585 East 4510 South

Salt Lake City, UT 84117

801-278-5605

July 27, 2015

Sirs:

Re Notice 15-20

I have already submitted previous comments on Notice 15-20, but I would like to add several more points.

The Draft of the Content Outline for the SIE includes Associated Rules that are meant to accompany the various sections.

I believe that the mere listing of the rules, without more, will cause consternation and anxiety for future candidates preparing to take the test. For example, under Section 1, listing the Net Capital Rule—15c 3-1, as an Associated Rule—will confuse, and demoralize, even the best of candidates. The SEC Net Capital Rule is dozens of pages long. Surely, FINRA does not expect lowly representatives to have a working knowledge of the rule, or even to have read it from start to finish. I doubt that any candidate, preparing for the representative exam, ever, in the history of NASD or FINRA, ever bothered to read the Net Capital Rule from start to finish.

Another egregious example is listing MSRB Constitution and Rules, G-1 through G-41, and D-8 through D-12, under SIE Section 2. Surely, there are better pedagogical ways for FINRA to point out sources to a test candidate than to list the whole MSRB Rules Manual!

In summary, I believe that FINRA staff should do a better job in giving more pointed direction for candidates seeking to prepare for the SIE. Just throwing out huge swaths of rules will do more harm than good, in my opinion, and prevent even the most diligent students from learning the rules and regulations of the securities industry.

Roberto Eder J.D.
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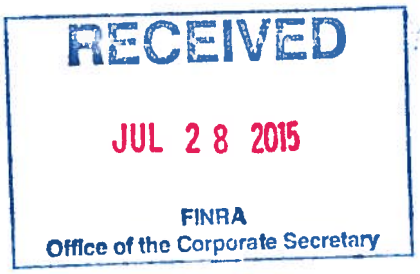
Edward Jones



July 24, 2015

FINRA
Attn: Marcia E. Asquith, Office of the Corporate Secretary
1735 K Street, NW
Washington, DC 20006-1506

Re: FINRA Regulatory Notice 15-20 – Qualification Examination Restructuring

Dear Ms. Asquith:

Edward Jones appreciates the opportunity to submit comments on FINRA's concept proposal to restructure the current representative-level qualification examination program into a format whereby all potential representative-level registrants would take a general knowledge examination (Securities Industry Essentials Examination – "SIE") and an appropriate specialized knowledge examination to reflect their particular registered role.

Edward Jones is one of the largest financial services firms in the United States, serving the needs of over seven million investors through personalized service provided by over 13,500 financial advisors. We focus on serving the needs of the long-term individual investor by promoting an investment philosophy that emphasizes quality and diversification.

We provide the following comments for your consideration.

Edward Jones Supports FINRA's Concept Proposal

Edward Jones supports FINRA's proposal to restructure the current representative-level qualification examination program and appreciates FINRA's recommendations to streamline the format by minimizing duplicative testing of general securities knowledge on examinations. We believe the proposed format will facilitate the ability of individuals to move around financial services firms and ensure that the content for the specialized examinations will be more tailored to the registrant's particular role. We also believe that permitting individuals to take the general knowledge examination without taking the specialized examination will encourage broader and deeper knowledge of the securities industry across all employee levels of the firm.

Edward Jones supports FINRA's proposal to permit individuals not associated with a member firm to take the general knowledge examination (SIE)

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Edward Jones

Edward Jones commends FINRA's forward-thinking approach in proposing to permit individuals not associated with a member firm to take the general knowledge exam. The securities industry must find ways to recruit more financial advisors, particularly given the investment needs of baby boomers approaching or in retirement, and this proposal should help facilitate that growth.

It is well-documented that financial advisors across the industry are aging. A 2014 Cerulli Associates Report found that the average age of financial advisors is 51 and nearly one-third plan to retire or leave the industry during the next decade. Equally concerning, a report from Accenture found that only five percent of advisors are less than 30.

We believe the ability of individuals to sit for the general knowledge examination prior to association with a member firm will provide a pathway for individuals considering career opportunities in the securities industry, whether they are recent college graduates or midlife career-changers. In 2014, approximately 75% of Edward Jones financial advisor recruits were career changers.

Should FINRA move forward with this proposal, we would encourage FINRA to look for opportunities to build awareness of the ability of non-associated individuals to take the general knowledge examination. We would particularly encourage FINRA to reach out to colleges and universities and organizations such as the U.S. military to promote this real world training and opportunities in the securities industry.

Edward Jones supports FINRA's proposal permitting the Series 6 examination to meet the requirements of the general knowledge examination and encourages FINRA to engage with NASAA to consider similar treatment of the Series 65 examination

Edward Jones supports FINRA's proposal to permit individuals who are registered as Investment Company and Variable Contracts Products Representatives (Series 6) to become General Securities Representatives by completing the Specialized Series 7 examination. We believe it is much more likely that insurance and annuity professionals would consider opportunities in the securities industry if they only need to complete the specialized knowledge examination.

Similarly, we would encourage FINRA to engage in a dialogue with NASAA regarding the content of the Series 65 examination. The securities industry has witnessed in recent years a migration of financial professionals to registered investment advisers. Our experience indicates that some of these individuals would like to return to the securities industry, but we believe such a move is unlikely if they need to complete both the general and specialized knowledge examinations contemplated by this proposal.

As FINRA continues to review fundamental changes to the examination qualification requirements, we encourage FINRA to consider whether the Series 65 examination

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Edward Jones

could be updated in conjunction with the development of the Specialized Series 7 examination so that individuals working for registered investment advisers could demonstrate the aptitude and knowledge necessary to work as registered representatives in the securities industry.

Edward Jones supports FINRA's proposed phased implementation approach

Edward Jones supports FINRA's phased implementation approach of changes to the representative-level qualification examination program and commitment to evaluating the structure of the principal-level examinations in the future. We are cognizant this is a concept proposal, however, we will need significantly more information from FINRA regarding this restructuring prior to implementation to fully assess the impact of these proposed changes on our recruiting, onboarding and new financial advisor training programs. We believe changes to the principal-level examination program are also warranted, but recommend FINRA focus on the proposed changes to the representative-level qualification examination program prior to undertaking this additional review.

FINRA should continue to maintain an examination waiver review process

Edward Jones commends FINRA's continued support for a robust qualification examination waiver review process. Irrespective of the proposed changes, we believe individuals who have extensive experience in the securities industry, commendable compliance records and documented efforts to stay current on industry rules and regulations should, under appropriate circumstances, continue to be considered for reinstatement without requiring completion of representative-level examinations.

Conclusion

Edward Jones strongly supports FINRA's proposed changes to the representative-level qualification examination program. We appreciate the opportunity to provide comments on this concept proposal and look forward to working with FINRA on the program's design and implementation. If you have any questions regarding the comments contained in this letter please contact me at 314-515-9711.

Sincerely,

Jesse Hill
Principal
Legal – Government and Regulatory Relations

July 27, 2015

Via Email

Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA, Inc.
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 15-20: FINRA Requests Comment on a Proposal to Restructure the Representative-Level Qualification Examination Program

Dear Ms. Asquith,

I am the General Counsel of Development Corporation for Israel (DCI) and would like to submit the following comments in response to the proposed restructuring of the representative-level examination program.

DCI is a FINRA member which sells debt securities issued by the State of Israel. Due to the limited nature of the products we sell and the market we focus on, we often recruit individuals without experience in the financial industry. As a result, we support the FINRA proposal to allow individuals with an interest in working in the financial industry to begin the qualification process even if they are not yet affiliated with a FINRA member. We believe this will help us to recruit from a wider pool of qualified job candidates who would prefer to see if they can pass a FINRA exam before they leave their former position.

However, we are concerned with the portion of FINRA's current proposal which retires the Series 62 examination. Years ago, the NASD permitted DCI's sales staff to take the Series 62 examination instead of the more comprehensive Series 7 exam. This decision was based on the limited nature of DCI's business and, consequently, the limited product responsibility of DCI registered representatives. While the current Series 62 examination includes material that is beyond what our representatives deal with, if the Series 62 exam is eliminated our new recruits would be required to take an even more comprehensive examination with additional topics that are unrelated to our activity. This would place an unnecessary burden on our prospective employees and might dissuade people from applying for employment with us should the new Series 7 be the only option.

We are also concerned about the breadth of the material included in the proposed SIE examination. Our representatives are involved solely in the sale of debt securities. It appears that FINRA is including content with topics such as options contracts and municipal securities, which were not included in the Series 62 exam. We encourage FINRA to reevaluate the SIE examination content order to eliminate complex areas that most representatives need not master to be effective.

Legal/Compliance

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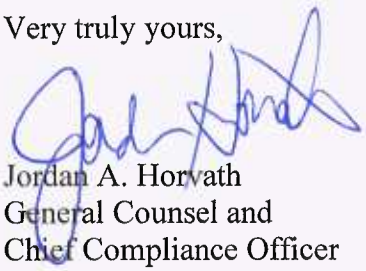
Development Corporation for Israel · 641 Lexington Avenue · New York, NY 10022 · israelbonds.com

Member FINRA

We urge FINRA to consider the interests of specialized broker-dealers whose representatives have taken the Series 62 exam and the burden placed on their prospective employees in revising this proposal. If you require additional information or have questions regarding these comments, please contact me by telephone (212-446-5868) or email (jordan.horvath@israelbonds.com).

Very truly yours,



Jordan A. Horvath
General Counsel and
Chief Compliance Officer

PFS Investments Inc.
1 Primerica Parkway
Duluth, Georgia 30099-0001
Member FINRA

Via Electronic Mail

July 27, 2015

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

RE: FINRA Regulatory Notice 15-20

Dear Ms. Asquith:

PFS Investments Inc. (PFSI) appreciates the opportunity to provide FINRA with input regarding Regulatory Notice 15-20. PFSI supports FINRA's efforts to modernize the examination program. We note, however, that the proposed restructuring marks a significant change from FINRA's current examination program. To ensure the transition occurs with minimal disruption, member firms must have sufficient time to plan for the new examinations. Below, PFSI has outlined a series of steps that could enhance the transition to the restructured examination program. It is our belief that these steps are in keeping with FINRA's mission and in the best interest of investors and member firms.

Overview

FINRA's examination program is the gateway through which individuals must pass to enter the industry. Accordingly, the purpose of the examination program is to ensure applicants are able to demonstrate competence and knowledge in the areas in which they desire to work. While ensuring the competence of applicants is critical, FINRA must guard against implementing the proposed changes in a manner that could result in negative unintended consequences. Specifically, if the transition is not managed well and certain issues involving cost and timing are not sufficiently resolved, it is possible the restructured examination program could create barriers to entry that are not relevant to the goal of assessing an applicant's competence. If this occurs, firms and applicants will be harmed and the investing public may suffer from reduced access to professional investment advice. To mitigate these concerns, PFSI urges FINRA to consider the following:

Firm Affiliation

PFSI strongly supports FINRA's decision to allow candidates who are not associated with a firm to take the Securities Industry Essentials examination.

Hold or Lower Examination Fees

Today candidates for Series 6 or Series 7 registration pay one fee. Under the proposal, candidates will take multiple exams and pay multiple fees. PFSI appreciates FINRA's commitment that fees will be "fair and reasonable". It is important that FINRA honor that commitment and resist the urge to turn examination fees into a profit center. Candidates should not have to pay more simply because the content has been split into separate exams.

Allow Same-Day Testing for SIE and Other Exams

Currently, a candidate can sit for two or more different exams on the same day, as long as separate appointments are scheduled. It is critical that candidates be allowed to continue this practice. For example, a candidate should be allowed to take the SIE and the Specialized Series 6 examination on the same day. The need to be able to sit for multiple exams on one day is a reflection of the interconnection between exam subjects and the way students prepare for the test. It is impossible to separate the subjects on the Series 6 exam from the subjects on the SIE and candidates should be able to test comprehensively on one day.

Reduce Waiting Periods

It is important that FINRA shorten the waiting periods between initial and subsequent attempts. If the tests are going to be broken down into shorter segments, the waiting periods should be shorter as well. Today a candidate must wait 30 days before retesting and six months after three failed attempts. These time periods make little sense given that the tests will now be more focused. PFSI recommends a seven-day waiting period and a three-month waiting period respectively.

Pass Rates

FINRA should use the restructuring of the examination program as an opportunity to begin providing access to basic pass rate information for each exam. Pass rate information should include the first time pass rate, overall pass rate and the success ratio for each examination. The information should be posted on the FINRA website and updated quarterly.

Reduce the Number of Test Questions

The current Series 6 examination, which includes many of the topics to be tested on the SIE, consists of 100 questions. Regulatory Notice 15-20 states that FINRA "anticipates the SIE would include between 75-100 questions." Creating an SIE exam that is as long as today's Series 6 exam represents a major expansion in the number of test questions dedicated to basic product knowledge and raises the question, why? It is important that the number of questions be driven by psychometric concerns and not merely a desire to have an exam that appears to be of sufficient length.

Delay Implementation Until 2017

The Regulatory Notice states that FINRA is considering introducing the new examinations as soon as the fourth quarter of 2016. PFSI urges FINRA to implement the new examinations no sooner than the third

quarter of 2017 so that member firms and educational service providers have adequate time to prepare and adjust their training and onboarding practices.

Conclusion

PFSI supports FINRA's efforts to ensure that the examination program remains consistent with FINRA's mission and relevant to the industry. Nonetheless, PFSI urges FINRA to implement the restructured program in a manner that will avoid negative unintended consequences.

Again, PFSI appreciates the opportunity to comment on the proposal and welcomes the opportunity to engage in a continued dialogue with FINRA.

Sincerely yours,

Michael Lesutis

Assistant General Counsel / Associate Vice President
PFS Investments Inc. | 1 Primerica Parkway | Duluth GA 30099-0001
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Wells Fargo Advisors, LLC
Regulatory Policy
One North Jefferson Avenue
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HO004-095
314-242-3193 (t)
314-875-7805 (f)

Member FINRA/SIPC

July 27, 2015

Via E-mail: ***pubcom@finra.org***

Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1500

RE: Regulatory Notice 15-20: Qualification Examinations Restructuring – FINRA Requests Comment on a Concept Proposal to Restructure the Representative-Level Qualification Examination Program

Dear Ms. Asquith:

Wells Fargo Advisors, LLC ("WFA") appreciates the opportunity to comment on the Financial Industry Regulatory Authority's ("FINRA") Concept Proposal to Restructure the Representative-Level Qualification Examination Program, set forth in Regulatory Notice 15-20: Qualification Examinations Restructuring (the "Proposal").[1]

WFA is a dually registered broker-dealer and investment advisor that administers approximately $1.4 trillion in client assets. It employs approximately 15,189 full-service financial advisors in branch offices in all 50 states and 3,472 licensed financial specialists in 6,610 retail bank branches across the United States.[2] WFA is a non-bank affiliate of Wells Fargo & Company, whose broker-dealer and asset management affiliates comprise one of the largest retail wealth management, brokerage and retirement providers in the United States. WFA and its affiliates help millions of customers of varying means and investment needs obtain the advice

[1] Regulatory Notice 15-20: Qualification Examinations Restructuring – FINRA Requests Comment on a Concept Proposal to Restructure the Representative-Level Qualification Examination Program (May 2015). http://www.finra.org/sites/default/files/notice_doc_file_ref/Notice_Regulatory_15-20.pdf.

[2] Wells Fargo & Company ("Wells Fargo") is a diversified financial services company providing banking, insurance, investments, mortgage and consumer and commercial finance throughout the United States of America and internationally. Wells Fargo has 275,000 team members across more than 80 businesses.

and guidance they need to achieve financial goals. Furthermore, WFA offers access to a full range of investment products and services that retail investors need to pursue these goals.

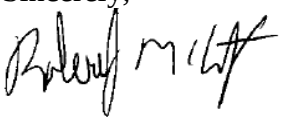
WFA is writing this letter to express its support for FINRA's Proposal to restructure "the current representative-level examination program into a more efficient format whereby all potential representative-level registrants would take a general knowledge examination and a tailored, specialized knowledge examination for their particular registered role."[3] WFA agrees with FINRA that the proposed format would eliminate duplicative testing of general securities knowledge on examinations.

The proposed changes are positive for the financial services industry. The changes would make the representative-level examination program less onerous on, and less costly for, financial services firms while maintaining high professional standards. WFA agrees with FINRA that the applicant pool for the securities industry would be enhanced by permitting individuals to take the securities industry essentials examination (SIE) portion without being associated with a member firm.[4] Consequently, firms could hire professionals who have already expressed a commitment to the industry, have shown an ability to pass representative-level exams and who would enter the industry with a basic level of knowledge. A more qualified pool of prospective employees would allow firms to divert the time and money previously dedicated to providing general securities training for new employees to advancing the skills and knowledge of employees who have demonstrated a commitment to the industry. Ultimately, the client should benefit as firms will be filled with more skilled employees and costs associated with turnover and general securities training will be reduced.

In addition to our support for the Proposal, WFA urges FINRA to consider the requests made by the Securities Industry and Financial Markets Association (SIFMA) in its letter in response to the Proposal, specifically undertaking a review of the principal-level examination structure; aligning the period that the SIE and the specialized examinations are valid; and, increasing the period both examinations are valid to five years. WFA also requests FINRA to seek guidance from the industry regarding the operational aspects of a revised examination structure should this Proposal develop into a rule filing.

WFA appreciates the opportunity to express its support for FINRA's Proposal and commends FINRA for its efforts to restructure the representative-level examinations to promote efficiency. Should you have any questions, please feel free to contact me at 314-242-3193, or robert.j.mccarthy@wellsfargoadvisors.com.

Sincerely,



Robert J. McCarthy
Director of Regulatory Policy

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[3]Proposal, 3.
[4]Proposal, 6.

FINRA
c/o Marcia E. Asquith
Office of the Corporate Secretary FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 15-20

Dear Ms. Asquith,
My firm is a Third Party Marketing firm and a FINRA member. We are also a member of the Third Party Marketer's Association (3PM) and I sit on the Board of Directors. I have had an opportunity to review Lisa Roth's comments regarding Regulatory Notice 15-20 regarding the concept proposal to restructure the Representative-Level Qualification Examination Program. I urge FINRA's Board to carefully consider Ms. Roth's thoughtful and informed commentary in the attached PDF, which has earned my strong support.

Thank you in advance for your consideration of this important commentary.

Regards,
Frank

July 10, 2015

Lisa Roth
630 First Avenue
San Diego, CA 92101
619-283-3500

FINRA
c/o Marcia E. Asquith
Office of the Corporate Secretary FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 15-20

Dear Ms. Asquith,

Thank you for the opportunity to comment on the rule proposal noted above.

My comments to specific questions in the Notice are provided below:

FINRA is proposing to move to a general knowledge examination and specialized knowledge examinations for the representative-level qualification examinations. Does moving to this type of structure make sense? Would it help member firms better manage and develop individuals?

a) I believe the process you propose will help to streamline the application process for individuals and provides a sensible new approach to licensing.
b) I encourage FINRA to adopt a similar process for rolling out the Series 14 Compliance Officer Examination. In other words, identify the set of knowledge that is common to the CCO role, then relegate any remaining specific content to specialized supplementary examinations.
c) Further, I encourage FINRA to reach out to the MSRB for purposes of consolidating the MSRB new Series 50 examination for Municipal Advisors into the 'family' of specialized examinations. Included in the dialogue should be grandfathering individuals with equivalent licenses (Series 7 and/or Series 53) as well as redundancies in the content outlines of the existing versus the proposed examinations.

FINRA is proposing to create the SIE covering fundamental securities industry knowledge. Do you consider the content listed in the sample content outline to be common knowledge? Is there other knowledge not listed that you believe should be included on the SIE? What is an appropriate level of depth?

a) In addition to Types of broker-dealers, I believe the Market Structure section should include a discussion of other market participants such as investment advisers, private equity managers, municipal advisers because knowing where lines of jurisdiction are drawn is important fundamental knowledge for a registered person.
b) I believe that Account Types, Types of customer account registrations and Account Statements, Confirmations and Settlement is better placed in the General Sales exam, and does not belong in the SIE because there are many types of FINRA members that do not open customer accounts.
c) I think topics regarding communications with the public should be added to the outline for the SIE including but not limited to the categories of communications, electronic communications and advertising.
d) Topics missing from or underrepresented in the outline that are fundamental to an RR's knowledge

foundation include confidentiality and privacy (including electronic devices and cyber security) and loans to/from customers.

FINRA is proposing to allow any individual, including an individual who is not associated with a member firm, to take the SIE. Further, a passing result on the SIE would be valid for four years. Does this approach make sense? Is four years a reasonable length of time for a passing result on the SIE examination to be valid?

a) I am opposed to allowing an individual who is not otherwise employed by a member firm to take the examination for several reasons:
   i) The Rules of Conduct do not address restrictions on how an individual might hold him or herself out to the public after passing the examination.
   ii) Even if the Rules of Conduct clearly articulated that an individual must be licensed with a broker-dealer in order to conduct business under the license, there is no supervisory system in place to monitor for non-compliance.
b) Despite efforts to promote understanding, the investing public is not savvy to the existing licensing landscape. Investors are routinely confused about broker-dealers and investment advisers, and importantly, investors are mostly unaware of the differences between RRs and IARS. Adding yet another status to the mix will be a source of confusion and worse, may provide unnecessary leeway for misrepresentations to the public.
c) Not discussed in the proposal is whether or not an otherwise unemployed/unaffiliated person SIE status would be found on BrokerCheck and available to the general public. Please advise the industry on your proposal for restricting the availability of SIE information for individuals who are not employed with a member firm.

Thank you for the opportunity to respond to Regulatory Notice 15-20.

Best regards,

//Lisa Roth//

Lisa Roth, President

Monahan & Roth, LLC

FINRA
c/o Marcia E. Asquith
Office of the Corporate Secretary FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 15-20

Dear Ms. Asquith,

My firm is a third party marketer and a FINRA member. I am also a member of the Third Party Marketer's Association (3PM). I have had an opportunity to review Lisa Roth's comment regarding Regulatory Notice 15-20 regarding the concept proposal to restructure the Representative-Level Qualification Examination Program. I urge FINRA's Board to carefully consider Ms. Roth's thoughtful and informed commentary in the attached PDF, which has earned my strong support.

Steven Rubenstein
Arrow Investments, Inc.
compliance@arrowpartners.com

INVESTMENT COMPANY INSTITUTE

1401 H Street, NW, Washington, DC 20005-2148, USA
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July 21, 2015

Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Proposed Examination Restructuring
FINRA Notice 15-20 (May 2015)

Dear Ms. Asquith:

The Investment Company Institute[1] is pleased to support FINRA's proposal to restructure its qualification examination program.[2] FINRA proposes to replace its current examination program with a new program wherein it requires all new broker-dealer registered representatives to take both a general knowledge examination and the appropriate specialized knowledge examination(s). As proposed, the general knowledge examination would test knowledge that is fundamental to working in the securities industry, such as basic product knowledge, structure and functioning of the securities markets, and regulated and prohibited practices. The specialized knowledge examinations would test content specific to the representative's registration category or job function. Representatives who are currently

[1] The Investment Company Institute (ICI) is a leading, global association of regulated funds, including mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and similar funds offered to investors in jurisdictions worldwide. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. ICI's U.S. fund members manage total assets of $18.2 trillion and serve more than 90 million U.S. shareholders.

[2] *FINRA Requests Comment on a Concept Proposal to Restructure the Representative-Level Qualification Examination Program,* FINRA Notice 15-20 (May 2015) ("FINRA Notice"), which is available at: http://www.finra.org/sites/default/files/notice_doc_file_ref/Notice_Regulatory_15-20.pdf .

registered would not be required to requalify for registration by taking these new examinations so long as their current registrations (and examinations) remain valid.

In addition to restructuring the examination format, FINRA proposes to permit any interested person to take the general knowledge examination.[3] Unlike the current examinations, which are only valid for up to two years after a representative ceases working in a registered capacity, the new general knowledge exam would be valid for four years.[4]

According to the FINRA Notice, FINRA arrived at the proposed structure after conducting a review of its current examination program structure and consulting with a variety of outside groups. Their objective in this process was to:

- Reduce the redundancy of subject matter content across examinations;
- Identify opportunities to simplify the examination requirements;
- Limit the impact of any alternative structure on the registration rules; and
- Identify and eliminate outdated registrations (and their associated qualifying examination) that currently have limited utility (*e.g.,* options representatives).

While the pricing of these new examinations has yet to be determined, according to FINRA, it plans to conduct a pricing analysis to determine a fair and reasonable cost for them. As noted in the FINRA Notice, "FINRA believes that the fee for the specialized knowledge examinations will be lower than that of their current corresponding examination."[5]

Pending necessary regulatory approvals, FINRA plans to roll out this new examination structure during the fourth quarter of 2016. Such rollout would include both the general knowledge examination and the specialized knowledge examinations for the Investment Company and Variable Contracts Products Representative (currently the Series 6 examination), the General Securities Representative (Series 7), and the Investment Banking Representative (Series 79) registration categories.

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[3] Currently, an individual must be associated with a FINRA member firm prior to taking an examination. While FINRA proposes to permit any person to take the general knowledge examination, only those representatives associated with a member firm would be eligible to take the specialized examinations.

[4] Like the current qualifying examinations, the validity of the new specialized examinations would expire two years after the person is no longer associated with a member firm.

[5] FINRA Notice at p. 14.

As noted above, the Institute supports FINRA's proposed restructuring of its existing qualification examination program. The new format should result in a more efficient structure and obviate the need for representatives to repeatedly demonstrate their general securities knowledge each time they take a new examination. We also are pleased that FINRA is proposing to include, as part of its initial roll out of the new structure, a specialized knowledge examination for Investment Company and Variable Contracts Products Representatives.

As FINRA implements this new examination structure, we encourage it to consider two issues. The first issue relates to the pricing of the new examinations. In particular, we recommend that, to the extent practicable, the pricing for this new bi-furcated examination not exceed the current examination fees. Indeed, FINRA's reforms are, in part, intended to reduce examination redundancies and simplify existing requirements. Reducing redundancies and simplifying the existing requirements should result in reducing, not increasing, examination fees. We are pleased that FINRA plans to conduct a pricing analysis to determine the examination fees and assess the potential impacts on member firms and individuals and to include this analysis in a rule filing with the SEC. We urge FINRA to seek comment on any such filing.

The second issue relates to permitting persons not associated with a FINRA member to take the general knowledge examination. Though the Institute is fully supportive of this reform, we believe that FINRA should take special precautions to ensure that such persons not abuse the privilege granted to them by FINRA. While we are aware that all persons taking FINRA examinations are subject to FINRA's Rules of Conduct,[6] we encourage FINRA to take special precautions in connection with offering the general knowledge examination to persons who are not associated with a member firm. In particular, we believe that FINRA, either through affirmations on the examination application or through the adoption of new rules, should make clear that any person who is not associated with a member firm who takes and passes the general knowledge examination is prohibited from holding themselves out to the public as having passed the examination. We are concerned that persons who never become representatives of FINRA or never become associated with a FINRA member (*e.g.,* a person who sells insurance under state insurance laws but who is not associated with a FINRA member) might tout passage of FINRA's general knowledge examination to customers and potential customers as demonstrating their competency or business acumen.

Currently FINRA Rule 2210(e) of FINRA's Rules of Conduct, which governs communications with the public, prohibits a FINRA *member* from implying that FINRA has endorsed the member's business practices, selling methods, or securities offered. However, this prohibition is expressly limited to FINRA members. The Institute wonders what, if any, enforcement options

[6] FINRA Notice at p. 6 and endnote 4.

FINRA has in the event that non-registrants imply some type of FINRA endorsement as a result of passing the general knowledge examination. We strongly recommend that FINRA determine how to address such potential abuses prior to them occurring and prior to permitting representatives of non-members to take a FINRA examination.

With the above caveats, the Institute is pleased to support FINRA's proposal and we look forward to working with our members as they implement it with their newly hired representatives. If you have any questions concerning our comments, please contact the undersigned by phone (202-326-5825) or email (tamara@ici.org).

Regards,

/s/
Tamara K. Salmon
Associate General Counsel

Life Insurance Underwritten by
OZARK NATIONAL LIFE*
(816) 842-6300

Mutual Funds Offered through
N.I.S. FINANCIAL SERVICES, INC
(816) 842-8685

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July 21, 2015

Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

RE: Regulatory Notice 15-20
Comment on Concept Proposal to Restructure
the Representative-Level Qualification Examination Program

Dear Ms. Asquith:

N.I.S. Financial Services, Inc. would like to thank FINRA for the opportunity to comment on the Concept Proposal to Restructure the Representative-Level Qualification Examination Program. FINRA provided questions that they would like the firms to specifically comment on. Our firm is commenting on the following questions regarding Regulatory Notice 15-20:

1. FINRA is proposing to move to a general knowledge examination and specialized knowledge examinations for the representative-level qualification examinations. Does moving to this type of structure make sense? Would it help member firms better manage and develop individuals?

FIRM COMMENT:

Our firm is strongly of the opinion that the proposed changes do not make sense. We do not believe that moving to this type of structure would better manage and develop individuals. The modifications proposed simply seem to serve a "gate keeper" function of limiting the number of qualified registered representatives in the industry. Rather than enhancing competition and increasing the availability of qualified registered representatives available, it appears to me as an attempt to protect entrenched interests of firms.

It would provide very little additional protection or value to our customers. Our firm is in an Introducing firm for mutual funds only. Our hiring process for our registered representatives requires the representative to study for and pass the Series 63 and the Series 6 exams to become licensed with our firm. We feel these two current representative-level exams already provide a representative with sufficient knowledge to introduce mutual funds to our clients and answer any questions they may have. Requiring our representatives to also take the SIE would only require additional time and costs to our new hires and provide them with no additional useful knowledge beyond what they would have already received from the currently required exams.

2. FINRA is proposing to create the SIE converting fundamental securities industry knowledge. Do you consider the content listed in the sample content outline to be common knowledge? Is there other knowledge not listed that you believe should be included on the SIE? What is an appropriate level of depth?

FIRM COMMENT:

In responding to the query, we must ask "common knowledge to whom?" There is great difficulty in trying to impose a "one-size fits all" standard on an industry as diverse as the securities industry. We are of the opinion that the Series 63 and Series 6 exams already provide the appropriate level of depth required to sell our product and provide our client's with excellent customer service. The difficulty with creating the SIE to attempt to match anyone's idealized "appropriate level of depth" is precisely in the diversity of the industry. Not all firms' representatives have a need to know all of the minutia of markets or sales that are foreign to their firms' business. The existing examinations strike a balance already in terms of generalized and specialized knowledge, in our opinion.

3. Are there more effective ways to achieve the proposal's goals?

FIRM COMMENT:

We respectfully submit that if there are "gaps" in terms of knowledge deemed necessary, the appropriate method of handling these would to include that subject matter on the existing securities examinations, rather than layering on an additional examination which would only serve as a barrier for entry into the securities field for many prospective registered representatives.

4. How much of the fees for representative-level examinations are currently paid by member firms versus individuals? Would the proposal change the payment responsibilities? Is so, how?

FIRM COMMENT:

The fees for our firm's representative-level examinations are currently paid by the newly hired representative. As stated in our comment to question one, this proposal would increase the study time and cost to newly hired individuals.

Please feel free to contact the undersigned with any questions you may have on our firm's comments.

Sincerely,
N.I.S. Financial Services, Inc. #5361

Michelle Salyer
Vice President and
Chief Compliance Officer

MS/se

39 Broadway, Suite 3300, New York, New York 10006-3019

Via email: pubcom@finra.org

July 27, 2015

RE: Regulatory Notice 15-20: Concept Proposal
to Restructure Qualification Examinations

Integrated Management Solutions USA LLC ("IMS") is pleased to comment on Regulatory Notice 15-20 ("RN 15-20"), FINRA's Concept Proposal to Restructure Qualification Examinations (the "Proposal"). This Proposal represents a significant, long-overdue reassessment of how FINRA's representative-level qualification examination program should be structured. We support the Proposal, but feel that other factors, not discussed in RN 15-20, should also be considered so as to maximize the value of qualification examinations and other related requirements to the financial services industry.[1]

IMS is one of the largest providers of financial accounting and compliance consulting services to the financial services industry, providing such services to about 100 FINRA members, among others types of financial services firms.[2] We counsel clients daily on which examinations their Associated Persons will need to take to engage in the business lines for which they are approved or are seeking approval. Many of the key people employed by our clients

[1] RN 15-20's request for comments frames 9 questions for which input is sought. Our comment letter, while discussing these 9 areas in context, focuses largely on Question 8: "Are there more effective ways to achieve the proposal's goals?"

[2] The statements in this comment letter incorporate the views of IMS, not necessarily those of our clients.

were FINRA-exam qualified at one point, but for a variety of reasons, their exam qualification lapsed two years after leaving a FINRA firm. Most continued to work in some aspect of the financial services industry in capacities that did not require FINRA registration, e.g., in M&A, for mutual or hedge funds, proprietary trading firms, investment advisors, or with private equity or venture capital funds or as regulators or compliance attorneys. Unfortunately, under the current rules once they are no longer registered through a FINRA member, we could say that they have become "dismembered" though that term would be unduly harsh and would imply significant pain. These people, no longer associated with a FINRA member, do not lose their knowledge when departing a FINRA member. That is especially so when they continue to use the same or similar skills that they used when they were associated with a FINRA member. Similarly, there are persons who have been registered with a national securities exchange but not with FINRA and yet they perform the same functions they would have performed had they been with a FINRA member.

We also regularly advise individuals on whether they should seek a waiver of a qualification examination for a FINRA license previously held. At any one time, we have several examination waiver requests or appeals of adverse decisions pending before FINRA on behalf of our clients.[3] We believe that our regular, daily experience with FINRA's examination rules and how they are applied enables us to assess whether those rules are meeting their intended goals as well their impact on FINRA members from both a regulatory and business perspective.

[3] We have been fortunate to be able to appeal adverse decisions that we believe should never have been made, yet we realize what a frustrating process this is. The individual applicant is forced to wait a great deal of time for a decision to be issued by senior officials or the National Adjudicatory Council and cannot function in the capacity for which an examination waiver is sought while the application is stalled in regulatory limbo. This is clearly unfair and counterproductive. For the sake of full disclosure, we can say that we earn fees for our efforts in this regard, but would prefer to earn fees for exercises that are more positive and productive.

The Concept

FINRA is now proposing that all potential representative-level registrants take a general knowledge examination, the Securities Industry Essentials Examination (SIE), followed by specialized knowledge examinations to allow them to perform their particular registered role. SIE will test knowledge fundamental to working in the securities industry, including basic product knowledge; structure and functioning of the securities industry markets; regulatory agencies and their functions; and regulated and prohibited practices. The specialized knowledge examinations would correlate to current representative examinations (e.g., Series 7 - General Securities Representative), testing subjects specific to each registration category or job function.

The Proposal is a quantum improvement over current rules because individuals will not have to be associated with a FINRA member firm to take the SIE and a passing score would be valid for four years.[4] Assuming many individuals would consider taking the SIE straight out of college, or even as part of curriculum for a specific degree, to determine if licensure with a FINRA member is a viable career path, this would create a huge pool of exam-qualified applicants for brokerage firms of all sizes. The days of intensive, highly structured training programs of at least several months' duration at bulge bracket firms are long gone.[5] Mid-sized and smaller firms were never able to afford the investment of time and resources such training programs require. One very positive benefit of the Proposal to the industry is that a larger group of more knowledgeable applicants for jobs are likely to be available. We suspect that likely SIE

[4] Our concerns about this aspect of the SIE will be discussed below.

[5] We recognize that various firms might prefer to offer intensive training to their new recruits. We applaud such efforts. Yet we recognize that, to some extent, those efforts become necessary because under the current regime, qualifying examinations may not be taken unless and until a Form U4 application is submitted for each candidate. Thus the candidates are currently less likely to have in advance the knowledge that we believe industry participants need.

candidates will include buy-side professionals, professors and instructors, regulators, prosecutors and other litigators and students.

As with all regulatory provisions, the policy metric for evaluating the Proposal should be risk assessment and cost efficiency. As discussed further below, we believe that FINRA has not adequately assessed the risks inherent in the exam qualification process nor has it proposed the most cost efficient solutions. Regrettably, the Proposal does not, in its current form, take into account the impact of qualification exams on the daily operations of the industry.

Overall Concerns

We are pleased that FINRA is now seeking input from stakeholders in the examination process. FINRA's current licensing requirements are valuable, but needlessly complex. With the introduction of the SIE, we hope FINRA will use this as an opportunity to rationalize and simplify the confusing subcategories of licenses now in place as well as the license maintenance process. We have spent countless hours explaining to prospective applicants the differences, benefits and burdens among the Series 7, 22, 62, 79 and 82 licenses.[6] NASD Rules 1031 and 1032 are torturous to read and somewhat contradictory; the exam instructions for each of these series licenses are worse than the rules themselves.

The Proposal contains an arbitrary and useless limitation that does nothing to assure professional competency. By mandating that the validity of the SIE automatically expires after 4 years, FINRA takes a paternalistic (and unsubstantiated) view that someone's knowledge base has somehow evaporated simply by the mere passage of time. Is there any research in learning

[6] This is particularly important because some of the current categories are not even relevant in today's marketplace. For example, the Series 22 examination is for Direct Placement Programs. Those are defined in terms that seem to relate to the Internal Revenue Code. However, we know that many, if not most, professional investors who invest in Limited Liability Companies or Limited Partnerships don't give much consideration to whether an investment provides flow-through tax attributes. We believe that the Series 82 should thus be redesigned to accommodate representatives who deal with customers to whom the investments are marketed, especially if those customers are non-natural persons, regardless of the legal structure of the entity of the issuer.

theory that supports that conclusion?[7] If FINRA's goal is to create a more effective and efficient exam qualification process, arbitrary limitations with no substantive support are counterproductive. We suspect that they will only perpetuate the need for an exam waiver process (including appeals of adverse decisions) where people document why the work they have done during that 4 year period constitutes "related experience."[8] That is certainly not an efficient use of regulatory resources.[9]

In our experience,[10] people pursue career options that enhance their knowledge and experience. Even if someone does not immediately register with a broker-dealer, generally, such individuals are inclined to work in the business world or other segments of the financial services industry. Nor do individuals who have left the broker-dealer industry necessarily lose their knowledge base. The value of experience in creating a knowledge base is a universal precept, probably from time immemorial. In fact, we know that the knowledge gained outside of being associated with a FINRA member is often more valuable than the knowledge and experience gained at a FINRA member.

How to Assess Professional Competency

We believe there is a viable, proven and verifiable solution: mandated Continuing Education ("CE"), especially where there has been a break in someone's continuous use of learned skills. FINRA currently uses mandatory CE as a requirement to allow an individual's licenses to remain active. We believe that if someone attends and completes a relevant CE

[7] This is probably data-driven core knowledge for an introductory college psychology of learning course.
[8] This is one of FINRA's standard for determining whether a supervisor can serve in that capacity. NASD Rule 1014(a)(10)(D).
[9] We are amused to note that FINRA anticipates that there will be requests for waivers of the SIE, as well as the specialized exams and is prepared to review such requests. RN 15-20, p. 15. If our recommendation that FINRA licensing be permanent is adopted, the exam waiver process would largely disappear.
[10] The two writers of this letter have about 70 years' industry experience between them.

session, that should demonstrate sufficient industry proficiency to maintain a FINRA license, regardless of the lapse of time. [11,12]

To implement the use of CE as the qualification barrier to working as an Associated Person at a broker-dealer, FINRA can enhance and upgrade its training options. FINRA's Regulatory Element should be vastly expanded to cover topics that are relevant to each registrant's current or proposed duties. The current choice of a mere four series is appallingly deficient. As a prime example, FinOps take the same Series 201 as a General Securities Principal and are not otherwise required to update their proficiency in finance or operations. This is, as a matter of substance, fundamentally meaningless. We know from our firm's first-hand experience that the current Series 201 CE session required of FinOps does not really demonstrate that relevant proficiency has been maintained.

Integration of Rules and Protocols

We are baffled that FINRA has not given much consideration to the interrelationship between examination requirements, continuing education requirements and waiver practices. Yes, they are all interdependent. Looking at examination requirements without understanding why, for decades, we now have Continuing Education requirements and an examination waiver process that as a matter of course is excruciatingly slow is somewhat unfair. The Continuing Education program that was approved by the SEC over two decades ago has been somewhat successful in its goals. NASD Notice to Members 95-35 stated its purpose as helping "…ensure that registered persons stay current on products, markets, and rules to the ultimate benefit of the

[11] Actually, a person who leaves a broker-dealer to be employed in an ancillary activity such as being associated with a so-called buy-side organization, or practicing professions such as law or accounting, or being employed as regulators, brings invaluable experience when he or she rejoins the FINRA community. There is little sense in having them requalify by examination when they possess experience that is extremely valuable to the financial services community.

[12] That's the way that other professions deal with someone who leaves the profession. An individual seeking licensure when he or she wishes to return is simply required to demonstrate that he or she has successfully obtained continuing professional education.

investing public." In our opinion, the Continuing Education Program should eliminate any need for license expirations. We are pleased that FINRA has begun to recognize that there's little reason for an individual to be associated with a member to take the SIE but the rest of the concepts proposed in RN 15-20 seem to have been created in a vacuum, without recognizing Continuing Education as a key tool to maintain professional proficiency.

FINRA Licenses Should be Permanent

FINRA should treat the license earned for any series as permanent. That should be so no matter whether a license was earned by examination, waiver or grandfathering. No broker-dealer affiliation should ever be required to maintain a license. No license should ever lapse due to an artificial, mechanical time limit. Examinations should be available to anyone (even someone who has no involvement in the financial services industry). Continuing education should be available to anyone to ensure continued expertise.

Notification of the need to update proficiency by CE should be generated automatically by the Central Registration Depository to anyone who provides an email address. This can be done by providing an optional page when submitting a Form U4, where an applicant can indicate his or her email address. The burden should be placed on the licensee, who is the most direct beneficiary of the CE qualification process. This would supplement or supplant the need for members to chase after individuals to arrange for their Continuing Education. This is especially important for those individuals who are not currently associated with a FINRA member but wish to join one. Currently, a person who needs to take CE had he or she been registered must wait until a Form U4 is filed, make a testing center appointment, take the CE and only then is that

person is able to work under the license that they have. They often give up weeks of earnings as a result.

Permanent licenses would make FINRA's licensing rules comparable to those of other professional licenses that currently do not expire, such as CPAs, lawyers,[13] doctors, engineers, etc. All of these other professional licenses are currently maintained by mandated CE requirements, without impairing professional competence and/or standards. We are dismayed that FINRA, in RN15-20, has continued to perpetuate the two-year use it or lose it rule under certain circumstances. That is outdated thinking that separates FINRA's licensing process from those of other professions. FINRA offers no substantive statistics to justify maintaining this unique and arbitrary licensing rule.

This would also eliminate the extant hypocrisy under current FINRA rules. FINRA tolls license expirations for various individuals. For example, members of the United States armed forces on active duty are not required to take CE. Maintenance of military proficiency is obviously more important when serving in the armed forces than maintaining financial services proficiency; this reinforces our conclusion that neither being active as an Associated Person nor the mere lapse of time diminishes someone's substantive knowledge.[14] Another tolling example is of individuals who associate with foreign securities affiliates or subsidiaries.[15] Yet another is individuals who remain nominally as licensed Associated Persons of a broker-dealer even though

[13] The current heads of the SEC and FINRA are lawyers who presumably maintain their legal credentials through Continuing Legal Education. In fact, there are many FINRA employees who probably do the same.

[14] We don't oppose this tolling procedure. It simply demonstrates that FINRA itself turns a blind eye to the necessity for a person to be actively involved with a member if the person is serving our beloved country in a military capacity.

[15] Strangely, this doesn't cover persons who associate with non-FINRA member affiliates or subsidiaries yet remain in the financial services industry.

they hardly ever use the substantive knowledge their licenses indicate when providing services to their employers, such as legal, compliance, internal audit, back-office operations, etc.[16]

We also believe that if individuals can obtain licenses without affiliation with a FINRA member, they should also have the option to hide license attainments from access by current employers or others. That would allow individuals to seek more licenses so that they can pursue other career paths without jeopardizing their current employment positions.[17] For example, an individual should be able to qualify as a principal when such license would be required for a future career path.[18]

Permanent licenses would have an additional benefit to the industry. New and Continuing Member Applications will not be stymied by the wait for individuals to attain required licenses while employed currently at a different member or not employed by any member. Our experience indicates this is a major cause of bottlenecks in the application process.[19]

The Costs of Permanent FINRA Licenses

Examination and educational costs should be borne by FINRA members or individuals seeking FINRA licensure.[20] This will generate additional revenue for FINRA without significant incremental costs. We believe the benefits to the industry and the investing public would far outweigh the costs.

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[16] See NASD Rules 1021(a) and 1031(a).

[17] We are familiar with situations where senior management at firms prohibits people from taking FINRA exams they do not believe would benefit their firms. Individuals should have the option to assume the costs of taking and maintaining all or some of their licenses.

[18] The current environment is anti-competitive. Individuals cannot easily leave their current employers without significant financial impairment. Indeed, the customers that the individuals currently service cannot be served by the individuals until they have the licenses they need. See previous footnote.

[19] We feel qualified to make this statement because as compliance consultants to the financial services industry, at any one time, IMS has several New Member Applications and Continuing Member Applications pending before FINRA or in preparation for filing with FINRA.

[20] See, footnote 12, above, for situations when an individual may choose to bear FINRA exam and maintenance costs.

Changes to BrokerCheck

Licenses held should be reflected in addition to examinations passed. Grandfathered licenses, e.g., Series 79, should be displayed. Waived licenses should be displayed.[21]

Professional degrees or attainments should be displayed, on optional basis. This would include CPA, CA, MBA, PhD, JD, LL.M., CLU, etc. Doing so, we believe, would provide a more rounded and accurate description of an Associated Person to the investing public and the industry.

Permanent Licenses for Regulators and Others

All persons who regulate FINRA members on a daily basis should be required to take and pass industry examinations, no later than within a short period of time of hire. Licenses previously acquired by examination whether while at a FINRA member or otherwise should never expire. In fact, we believe this requirement should apply to all regulators and auditors in contact with FINRA members, including those from FINRA, the SEC, NFA and senior outside auditor staff. Holding industry licenses would certainly enhance their credibility when conducting examinations and audits. There is an ancillary benefit to permanent licensure for these people. Currently, some of them are not attracted to a career at FINRA or elsewhere for fear that they will lose their licenses. Some of them join FINRA and leave before their two-year window expires so that they are not required to requalify by examination. Eliminating license expiration will likely result in some of them joining FINRA or other regulators, knowing full

[21] We are aware of an individual who left a FINRA member for more than two years and served in a highly visible political position. He returned to the industry as head of a FINRA member. His BrokerCheck does not indicate that he retook FINRA examinations upon his return to the financial services industry; we assume that he was granted examination waivers. The general public should have access to waived examination information. Of course, if his licenses hadn't expired, as we suggest, this disclosure wouldn't be relevant.

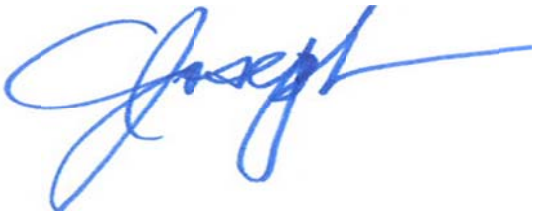
well that because they are licensed they can leave anytime they wish. More likely, however, they will stay with regulators once they know that they can continue to retain their licenses.[22]

* * * * *

What the industry needs is a simplified, rational and uniform approach to the admission and ongoing regulation of financial professionals registered with broker-dealers. The key guidelines should be risk assessment and cost efficiency.

Thank you for the opportunity to comment on RN 15-20. Should you have any further questions, please feel free to call Howard Spindel at 212-897-1688 or Cassondra Joseph at 212-897-1687, or contact us by e-mail at hspindel@intman.com or cjoseph@intman.com, respectively.

Very truly yours,



Howard Spindel
Senior Managing Director

Cassondra E. Joseph
Managing Director

[22] We are aware that individuals with regulatory experience can apply for waivers from the need to qualify for licensure. For individuals who have no previous registration, they need to have at least five years of regulatory experience to so qualify. Based upon what we have suggested, we prefer that while they serve in a regulatory capacity, they qualify by examination in a short period of time and that their licenses should be permanent. The two-year, use it or lose it concept should disappear permanently from FINRA policy.

ARM Association of Registration Management
Post Office Box 133, Bowling Green Station, New York, NY 10274

July 29, 2015

Marcia E. Asquith
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1735 K Street, N.W.
Washington, DC 20006-1506

Re: Regulatory Notice 15-20: FINRA Requests Comment on a Proposal to Restructure the Representative-Level Qualification Examination Program

Dear Ms. Asquith,

The Association of Registration Management, Inc. ("ARM") appreciates the invitation to comment on the proposal by the Financial Industry Regulatory Authority ("FINRA") to restructure the current representative-level qualification examination program and introduce a general knowledge examination, referred to as the Securities Industry Essentials Examination ("SIE").

ARM is an organization that exists for the primary purpose of representing the financial services industry on issues that concern the registration and licensing functions. The organization, which started in 1975, has now provided that representation for 40 years. ARM appreciates the opportunity to submit this letter and present feedback collected from the financial securities industry on this topic and the related process.

Along with our member firms, ARM has reviewed both the FINRA proposal and the comment letter provided by our colleagues in the Securities Industry and Financial Markets Association ("SIFMA"). ARM supports both the FINRA

proposal and the comments in the SIFMA letter. The FINRA proposal restructures the examination program with the type of efficiency that our member firms have long requested. However, ARM requests additional information on certain registration matters related to this proposal.

The SIE proposal will eliminate some of the duplication that exists amongst many of the current examinations. This increased efficiency will result in savings of time and cost for our member firms. ARM requests that FINRA provide more information about the process to apply for the SIE. We understand that the exam will be made available for individuals who are not associated with member firms, including those who are seeking employment in the securities industry. ARM is interested to learn more about the application process for these individuals. It is unclear if these applicants will be required to complete form filings similar to the Form U4 and/or disclose the type of information that requested by that application. If such a form exists, ARM also requests information on how the accuracy and completeness of the requested form information will be validated by FINRA, as these individuals may not be associated by member firms. Considering the current efforts that our member firms have made to comply with the validation requirements of FINRA Rule 3110(e), we place the utmost importance on the content of any application completed by a potential associated person of a member firm, the reliability of the information disclosed, and the availability of that information for review on CRD. ARM is willing to collect and coordinate feedback from our member firms about possible application and review processes related to this new examination, and we look forward to discussing this topic in more detail with FINRA.

ARM also asks for more information on SIE scheduling. The FINRA proposal indicates that the SIE and a specialized examination can be scheduled for the same day. However, as SIFMA has highlighted, it is unclear if a failure of the SIE would prevent the individual from sitting for the specialized examination. ARM requests information of FINRA policies related to SIE and specialized examination scheduling, fees, and other operational issues.

Regarding the content of the SIE, ARM agrees with SIFMA's suggestion that some of the SEC and FINRA rules and regulations proposed for inclusion may be too complicated for the examination's intention, including SEC Rule 15c3-1 regarding net capital, SEC Regulation NMS regarding national market structure rules, and FINRA Rule 2360 regarding options, among others. The complexity of these rules and their specific focus suggest that their inclusion would be more appropriate for specialized examinations than for an examination of general securities industry knowledge. ARM and our member firms would like the opportunity to provide more feedback on specialized

examination content, and we second SIFMA's encouragement of FINRA to solicit industry comments.

ARM appreciates the FINRA proposal of a four-year period for the SIE to remain valid. However, considering how the examination is being partially targeted towards individuals interested in securities industry employment, ARM requests that FINRA consider extending this period to six years. Many academically successful college students participate in internship, part-time, and holiday/summer programs with our member firms, and ARM views the SIE as a future factor or possible pre-requisite for candidates interested in such programs. As many of these same successful applicants may also move on to graduate and masters programs, ARM is concerned that many top-level candidates will be deterred from taking the SIE until the later years of their undergraduate studies in fear of the examination expiring while they attend these higher-level academic programs.

For other specialized examinations, we echo SIFMA's call to extend the validation window for five years. Our member firms are finding more and more examples of individuals who remain active in the financial service industry but move to roles and/or firms where the individual's securities registrations do not apply, because of the nature of the position, the firm business, or their geographic location. If these individuals move to such firms or positions for periods of more than two years after being previously registered, ARM member firms are asked to submit waiver requests on the individual's behalf in an attempt to demonstrate how their background and experience should qualify them for a particular registration. ARM believes that this change will result in significant time and cost savings for both the member firms preparing these waiver requests and the FINRA staff required to review them.

ARM understands FINRA's intentions for retiring certain examinations, such as the UK and Canadian Securities Representative exams. However, our member firms are concerned that this change will fail to recognize the qualifications, experience, and knowledge that many of our personnel gain through registered roles in those countries. While ARM supports any plans that will increase the efficiency and simplify the complexity of registration qualifications, we look for additional efforts to recognize this experience of our previously foreign-based associated persons. For this reason, ARM would like to once again raise a request for guidelines for our member firms who wish to submit waiver and/or re-instatement requests to FINRA. The publication of basic guidelines would assist our member firms in defining the general circumstances under which waiver requests should be considered for our associated persons, and would allow the Compliance and Registration

departments of our firms to better manage the expectations of those associated persons. ARM believes that the release of basic high-level waiver requirements would result in time, energy, and cost savings for both FINRA and member firm personnel.

ARM agrees with SIFMA's encouragement of FINRA to review and amend the principal-level examination program. ARM's request for a five-year validation period and waiver requirements should be extended to the principal examinations as well. We look forward to future opportunities to discuss the principal-level examinations with FINRA in more detail.

Finally, ARM would like to reiterate our comments from previous letters on implementation plans. While ARM and our member firms appreciate FINRA's efforts to review and update numerous registration and examination issues, many of these changes are occurring within a close time frame. For example, our member firms have recently made efforts to comply with the validation requirements of FINRA Rule 3110(e), and are currently preparing for new methods of continuing education delivery, and new proposals such as the Series 57 for Securities Traders and the recent Algorithmic Trading proposal. We look forward to discussing implementation and timelines with FINRA in an effort to properly prepare for and comply with these new registration requirements and changes.

ARM commends FINRA for this continued review of their examination program. We look forward to learning more about the plans for the SIE, the specialized examinations, and the changes to the principal-level examination program.

Thank you for your time and consideration. Please contact me if you wish to discuss the matter in more detail, if you have any questions, or if I can assist with this issue any further.

Sincerely,

Michele Van Tassel
President, Association of Registration Management
michele.vantassel@credit-suisse.com

sifma
Invested in America

July 17, 2015

By Electronic Mail (*pubcom@finra.org*)

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, N.W.
Washington, DC 20006-1506

Re: Regulatory Notice 15-20: FINRA Requests Comment on a Proposal to Restructure the Representative-Level Qualification Examination Program

Dear Ms. Asquith:

The Securities Industry and Financial Markets Association ("SIFMA")[1] appreciates the opportunity to provide comment on a concept proposal by the Financial Industry Regulatory Authority ("FINRA") to restructure the representative-level qualification examination program.[2]

I. INTRODUCTION & BACKGROUND

In Regulatory Notice 15-20 ("RN 15-20" or the "Proposal"), FINRA solicits comment on a concept proposal to restructure the current representative-level qualification examination program into a format whereby all representative-level registrants would take a general knowledge examination (referred to as the Securities Industry Essentials Examination, or "SIE") and an appropriate specialized knowledge examination to reflect their particular registered role.

The SIE would (1) test knowledge fundamental to working in the securities industry, (2) not require an individual to be associated with a member firm, and (3) be

[1] SIFMA is the voice of the U.S. securities industry, representing the broker-dealers, banks and asset managers whose 889,000 employees provide access to the capital markets, raising over $2.4 trillion for businesses and municipalities in the U.S., serving clients with over $16 trillion in assets and managing more than $62 trillion in assets for individual and institutional clients including mutual funds and retirement plans. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit http://www.sifma.org.

[2] *See generally* FINRA Regulatory Notice 15-20 (May 27, 2015) (available at: http://www.finra.org/sites/default/files/notice_doc_file_ref/Notice_Regulatory_15-20.pdf) [last visited July 14, 2015].

valid for four years. The specialized examinations would correlate to the current registration examinations (such as the Series 6 or the Series 7) and would test knowledge specific to each category/job function.

FINRA proposes to develop eight (8) specialized examinations, including general securities representative, investment and variable contract representative and equity trader examinations. FINRA further proposes to retire various specialized examinations, including the options representative, government securities, and order processing assistant examinations.

Individuals registered as representatives, or representatives who have been registered within the past two years, prior to the effective date of the proposal would be eligible to maintain those registrations without being subject to any additional requirements. Those individuals will be considered to have passed the SIE.

FINRA is proposing to roll out the revised structure in two phases. Phase one includes the general knowledge examination and the specialized knowledge examinations for the Investment Company and Variable Contracts Products Representative, the General Securities Representative and the Investment Banking Representative registration categories. Phase two includes all remaining specific knowledge examinations.

FINRA is evaluating the structure of the principal-level examinations and may propose to streamline this examination structure at a later time. The current proposal would not impact the principal-level registration categories.

The proposed examination structure does not affect the current continuing education requirements. Individuals who have passed the general knowledge examination but not a specialized knowledge examination and do not hold a registered position would not be subject to the continuing education requirements.

II. EXECUTIVE SUMMARY

In this section, SIFMA summarizes some of its general comments on RN 15-20. A detailed discussion of each of these issues is included in the various sections of this comment letter.

- ***Review of Existing Representative-Level Examination Structure*:** SIFMA supports FINRA's review of the existing representative-level examination program. SIFMA believes the proposed changes included in RN 15-20 will make FINRA's examination program less burdensome, less costly and more efficient. These changes ultimately should benefit

investors and the industry by, among other things, eliminating unnecessary and duplicative examinations.[3]

- ***Review of Existing Principal-Level Examination Structure*:** SIFMA encourages FINRA to review and amend the principal-level examination program. SIFMA believes changes to this program are warranted and would prove beneficial to investors, FINRA and the industry.[4]

- ***Retiring Certain Examinations*:** FINRA proposes to retire various specialized examinations. SIFMA supports FINRA's proposal to retire examinations that are duplicative and not extensively used within the industry.[5]

- ***Align the Period that the SIE and Specialized Examinations are Valid***: SIFMA believes that material cost savings and efficiencies can be gained by aligning the periods that the SIE and specialized examinations are valid. SIFMA believes aligning these periods will not impact investor protection concerns.[6]

- ***Solicitation of Member Firm Comments on Specialized Examinations*:** SIFMA requests that FINRA solicit member firm comments on the topics of the specialized examinations through a Regulatory Notice to members.[7]

- ***Length of the SIE and Specialized Examinations*:** SIFMA requests that FINRA include an overall time limit on the SIE plus specialized examinations.[8]

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[3] *See generally* Section III.A of this comment letter.

[4] *See generally id.*

[5] *See generally* Sections III.B & III.J of this comment letter.

[6] *See generally* Section III.D of this comment letter.

[7] *See generally* Section III.G of this comment letter.

[8] *See generally* Section III.H of this comment letter.

- ***Certain Operational Considerations*:** SIFMA understands that RN 15-20 is a concept proposal and, therefore, represents an early stage in FINRA's review of its representative-level examination program. SIFMA encourages FINRA to continue to maintain an open dialogue with the industry as this process evolves. A dynamic dialogue with the industry is particularly important to identify and resolve operational issues at the earliest possible opportunity.[9]

III. SIFMA's Comments on RN 15-20 – Concept Proposal to Restructure the Representative-Level Qualification Examination Program

A. SIFMA Supports FINRA's Concept Proposal

SIFMA strongly supports FINRA's review of the existing representative-level examination program. SIFMA believes that over the years the existing examination program has evolved to include duplicative examinations and generally has become less efficient. SIFMA believes the proposed changes included in RN 15-20 will make FINRA's examination program less onerous, less costly and more efficient. It also recognizes that, as individuals at large firms increasingly trade multiple products, having a licensing regime that requires individuals to take separate single-purpose examinations is inefficient at best and confusing at worst. These changes ultimately should benefit investors and the industry by, among other things, eliminating unnecessary and duplicative examinations.

SIFMA supports the process that FINRA has used to review and propose changes to the current representative-level examination program. SIFMA encourages FINRA to continue to review its various systems, programs, rules and interpretations and to solicit member firm feedback on the function, operation, and purpose of FINRA's rules and interpretations.

SIFMA encourages FINRA to review and amend the principal-level examination program. SIFMA believes changes to this program are warranted and would prove beneficial to investors, FINRA and the industry.

B. Retiring Certain Examinations

FINRA proposes to retire various specialized examinations: options representative, corporate securities representative, government securities representative, and order processing assistant examinations. FINRA also is considering retiring the

[9] *See generally* Section III.I of this comment letter.

U.K. securities representative and Canadian securities representative registration categories. Section III.I of this comment letter includes SIFMA's comments on the U.K. and Canadian specialized examinations.

SIFMA supports FINRA retiring the above-listed examinations, as these examinations have not extensively been used within the industry over the last few years. Eliminating these examinations and folding their content into another examination category should result in less duplication and redundancy in the overall examination regime.

C. Period of Time that the SIE is Valid – Extend from Four Years to Five Years

FINRA proposes that the SIE will be valid for a four year period. The specialized examinations will be valid for a two year period. FINRA states that the SIE should be valid for a longer period than the specialized examinations because the knowledge covered by the SIE would be less likely to change than the content covered by the specialized knowledge examinations.

SIFMA agrees that the knowledge covered by the SIE is less likely to change over a short period of time than the information covered by the specialized examinations. SIFMA, however, requests that FINRA extend the time period over which the SIE is valid from four years to five years. A round five year period will work better with other rules[10] that FINRA members are subject to and other firm operations, practices, and procedures. Extending this period of time will not implicate investor protection concerns because the information included in the SIE examination is unlikely to change much, if at all, over an additional one year period.

D. Align the Validity Periods of the SIE & Specialized Examinations

FINRA proposes that the SIE will be valid for four years. FINRA further proposes to maintain the current two year validity period for the specialized knowledge examinations.[11]

FINRA proposes a shorter validity period for the specialized examinations because the "knowledge covered by the SIE would be less likely to change than the content covered by the specialized knowledge examinations."[12] SIFMA understands

[10] *See* Broker-Dealer CIP Rules, 31 C.F.R. § 1023.220 (2015).

[11] *See* RN 15-20 at 6. Under the current registered representative examination regime, a registered person's license is valid for 2 years after terminating her association with a member firm.

[12] *Id.*

FINRA's staleness concerns, but SIFMA requests that FINRA provide additional background information to support its contention that specialized examination content is more likely to become stale sooner than SIE content.

SIFMA believes it is unlikely that the content of specialized examinations will generally become stale within just two years. SIFMA is concerned that even assuming some percentage of the information included in the specialized examinations will become stale sooner than the information in the SIE, there still is a lack of empirical data that indicates that a significant enough percentage of the information in the specialized examinations will become stale to warrant the cost and inefficiency of a short two year validity period. The practical effect of FINRA's proposed four-year and two-year validity periods is that a sizable percentage of the individuals holding a securities license might have to take an examination every two years.

SIFMA believes that FINRA can extend the validity period of the specialized examinations beyond two years without implicating investor protection concerns. Concerns about registered individuals having stale knowledge would be better addressed through FINRA's continuing education requirements.[13]

SIFMA believes that the SIE and specialized examinations should be valid for five years. Aligning the validity periods of the SIE and specialized examinations would result in material cost savings and efficiencies. Indeed, the numerous charts in RN 15-20 providing examples of all the various examination termination scenarios indicates how complex and inefficient the registration system can become if the validity periods of the SIE and specialized examinations are not aligned.

E. Coordination with the Municipal Securities Rulemaking Board ("MSRB")

The MSRB maintains an examination program for municipal securities professionals.[14] SIFMA believes it is important that FINRA and the MSRB to coordinate their respective efforts in structuring and operating their respective examination programs. Requiring firms to comply with different examination standards is costly and inefficient. SIFMA, therefore, requests that FINRA and the MSRB align their examination program structures. SIFMA believes that the examination program

[13] For example, assuming FINRA adopts a 5 year validity period for both the SIE and specialized knowledge examinations, a person not associated with a FINRA member firm during the 5 year validity period could avoid the staleness issue by satisfying a FINRA periodic continuing education requirement.

[14] *See generally* MSRB Rule G-2 and http://www.msrb.org/Rules-and-Interpretations/Professional-Qualification.aspx [last visited on July 14, 2015].

approach outlined in FINRA's concept proposal is an appropriate approach that should also be followed by the MSRB.

F. SIE Examination -- Content

In RN 15-20, FINRA provides a draft SIE examination content outline.[15] The draft content outline includes references to a large number of detailed and complex SEC and FINRA rules.[16] For example,

- SEC Rule 15c3-1 (net capital);[17]
- Federal Reserve Board Regulation T (margin);[18]
- Section 11(d) of the Securities Exchange Act of 1934 (Trading by Exchange Members, Brokers and Dealers: "Prohibition on Extension of Credit by Broker-Dealer");[19]
- SEC Regulation NMS (national market structure rules);[20]
- FINRA Rule 2360 (options);[21]
- Section 10 of the Securities Act of 1933 (information required in a prospectus);[22] and
- The Securities Investor Protection Act of 1970.[23]

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[15] *See* RN 15-20, App. A at 19-26.

[16] *See generally id*.

[17] *See id.* at 19.

[18] *See id.* at 25.

[19] *See id.* at 25.

[20] *See id.* at 22.

[21] *See id.* at 22.

[22] *See id.* at 20.

[23] *See id.* at 26.

SIFMA understands that FINRA intends for the SIE to function as a general knowledge examination that will overlay more detailed specialized examinations. SIFMA believes that the large number of detailed rules that are included in the draft SIE examination content outline are more appropriate for the specialized examinations. SIFMA appreciates that a general knowledge examination might test a general awareness of some of the issues covered by the detailed rules listed in the proposal, but SIFMA does not believe that a person taking the SIE should have to know the detailed provisions of each of the rules and statutory sections listed in the draft SIE content outline.

SIFMA believes that the SIE could test, for example, a person's awareness that there are rules governing broker-dealer finances and how a broker-dealer handles customer funds and securities and the general contours of those rules. SIFMA does not believe, however, that the SIE, as a general knowledge exam, should require a person to read and know the detailed provisions of the SEC's net capital rule (Rule 15c3-1).

G. Specialized Examinations – Content

SIFMA encourages FINRA to solicit comment on the content of the new specialized examinations through a Regulatory Notice to Members.

H. There Should be a Time Limit for the SIE and Specialized Examinations

SIFMA requests that FINRA include an overall time limit on the SIE plus specialized examinations. Employees taking the examinations already have full-time jobs and in many cases will need to take more than one examination. Limiting the overall time of the combined SIE and specialized examinations will be more efficient and cost effective.

I. Certain Operational Considerations

FINRA states in RN 15-20 that "[i]ndividuals would be able to schedule both the SIE and specialized examinations for the same day. . . ."[24] It is unclear from the concept proposal whether an individual who fails the SIE would be permitted to continue on and take a specialized examination. RN 15-20 also is unclear if in this situation a firm would be charged the specialized exam fee and whether the individual would be charged with a failing attempt at the specialized exam as well as the SIE.

[24] *See* RN 15-20 at 14.

SIFMA anticipates that additional technical and operational questions will arise as the new exam program is implemented. SIFMA encourages FINRA to maintain an open dialogue with the industry during this transition period, including issuing guidance through, for example, frequently-asked-questions.

J. Canadian & U.K. Specialized Examinations

FINRA states in RN 15-20 that it might retire the U.K. Securities Representative registration (Series 17) and the Canadian Securities Representative registrations (Series 37 & Series 38). FINRA further states that it is reviewing the relevant U.K. and Canadian registration requirements to determine whether there is sufficient overlap between the SIE and these registration requirements so as to permit them to act as exemptions to the SIE.

SIFMA supports FINRA's review of these specialized examinations. SIFMA would like to offer FINRA any assistance it may need in conducting its review of the U.K. Securities Representative registration (Series 17) and the Canadian Securities Representative registrations (Series 37 & Series 38).

IV. Specific Questions Raised in RN 15-20

In this section, SIFMA provides responses to the individual questions that FINRA raised in Regulatory Notice 15-20. The below responses should be read in conjunction with the overall comments provided in the other sections of this comment letter.

1. *FINRA is proposing to move to a general knowledge examination and specialized knowledge examinations for the representative-level qualification examinations. Does moving to this type of structure make sense? Would it help member firms better manage and develop individuals?*

   SIFMA supports the proposals included in RN 15-20. SIFMA believes the proposals will make the overall examination program more efficient and lessen the overlap between examinations. SIFMA also believes permitting individuals to take the SIE without also having to take a specialized examination will facilitate and encourage greater knowledge and skill across all employee levels within the securities industry. See Section III.A of this comment letter.

2. *FINRA is proposing to create the SIE covering fundamental securities industry knowledge. Do you consider the content listed in the sample content outline to be common knowledge? Is there other knowledge not listed that you believe should be included on the SIE? What is an appropriate level of depth?*

   Subject to the comments included in Section III.F of this comment letter, SIFMA believes the proposed content of the SIE generally covers fundamental securities industry knowledge. See Sections III.F & G of this comment letter.

3. *FINRA is proposing to allow any individual, including an individual who is not associated with a member firm, to take the SIE. Further, a passing result on the SIE would be valid for four years. Does this approach make sense? Is four years a reasonable length of time for a passing result on the SIE examination to be valid?*

   See Sections III.A, C & D of this comment letter.

4. *FINRA is proposing retiring the Options Representative, the Corporate Securities Representative and the Government Securities Representative registration categories and the associated Series 42, Series 62 and Series 72 examinations. Do you believe that FINRA should retain any of these examinations? If so, why? Should FINRA consider retiring any other representative-level registration categories that it is considering retaining under the proposal?*

   See Section III.B of this comment letter.

5. *FINRA is considering retiring the U.K. Securities Representative and the Canadian Securities Representative registration categories and the associated Series 17, Series 37 and Series 38 examinations and instead determine foreign qualifications that would exempt an individual from taking the SIE. Do you believe that this approach makes sense or should FINRA create specialized knowledge examinations for the Series 17, Series 37 and Series 38 similar to the other specialized knowledge examinations described in the proposal?*

   See Section III.J of this comment letter.

6. *FINRA is considering retiring the Order Processing Assistant Representative registration category and the associated Series 11 examination. Do you believe that there is utility in continuing to maintain this registration category and examination?*

See Section III.B of this comment letter.

7. *Are there any other potential economic impacts of the proposal that need to be identified?*

See Section III.A of this comment letter.

8. *Are there more effective ways to achieve the proposal's goals?*

See Section III of this comment letter.

9. *How much of the fees for representative-level examinations are currently paid by member firms versus individuals? Would the proposal change the payment responsibilities? If so, how?*

SIFMA understands, based on an informal survey of SIFMA member firms, that member firms take different approaches on registration fee allocation.

- **Some firms pay for all of their employees' examination fees.**

- **Other firms base examination fee expense allocation on an individual's association status with the firm: employee or independent contractor. Under this approach, independent contractors generally are responsible for their own examination fees. The firm, however, generally covers the examination fees incurred by employees of the firm.**

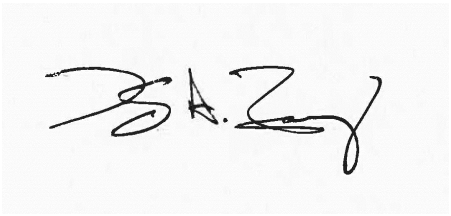
At the concept proposal stage, many firms do not anticipate that the Proposal will impact how firms allocate examination fee expenses.

V. CONCLUSION

SIFMA thanks FINRA for the opportunity to comment on FINRA's concept proposal to restructure the representative-level qualification examination program. Subject to the comments included in this letter, SIFMA supports the proposed changes to the representative-level examination program. SIFMA commends FINRA for undertaking a review of the program and encourages FINRA to consider similar updates to its principal-level examination program.

If you have any questions or require further information, please contact Kevin Zambrowicz, Associate General Counsel & Managing Director, SIFMA at (202) 962-7386 (kzambrowicz@sifma.org), or Stephen Vogt, Assistant Vice President & Assistant General Counsel, SIFMA at (202) 962-7393 (svogt@sifma.org).

Very truly yours,



Kevin Zambrowicz
Associate General Counsel &
Managing Director

Stephen Vogt
Assistant Vice President &
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Cc: Belinda Blaine, Co-Chair, SIFMA, Registrations Working Group
Marla Moskowitz-Hesse, Co-Chair, SIFMA, Registrations Working Group

Evan Charkes, Co-Chair, SIFMA Compliance & Regulatory Policy Committee
Pamela Root, Co-Chair, SIFMA Compliance & Regulatory Policy Committee

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 FINRA Rules

* * * * *

1200. REGISTRATION AND QUALIFICATION

1210. Registration Requirements

Each person engaged in the investment banking or securities business of a member shall be registered with FINRA as a representative or principal in each category of registration appropriate to his or her functions and responsibilities as specified in Rule 1220, unless exempt from registration pursuant to Rule 1230. Such person shall not be qualified to function in any registered capacity other than that for which the person is registered, unless otherwise stated in the rules.

• • • Supplementary Material: ----------

.01 Minimum Number of Registered Principals. Each member, except a member with only one associated person, shall have at least two officers or partners who are registered as General Securities Principals pursuant to Rule 1220(a)(2), provided that a member that is limited in the scope of its activities may instead have two officers or partners who are registered in a principal category under Rule 1220(a) that corresponds to the scope of the member's activities. The requirement that a member have a minimum of two principals shall apply to persons seeking admission as members and existing members.

Pursuant to the Rule 9600 Series, FINRA may waive the requirement that a member have a minimum of two principals in situations that indicate conclusively that

only one person associated with an applicant for membership or existing member should be required to register as a principal.

In addition to the requirement that a member have a minimum of two principals, an applicant for membership or existing member shall have at least one person: (1) registered as a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal, as applicable, pursuant to Rule 1220(a)(4)(A); (2) designated as a Principal Financial Officer pursuant to Rule 1220(a)(4)(B); and (3) designated as a Principal Operations Officer pursuant to Rule 1220(a)(4)(B). An applicant for membership or existing member, if the nature of its business so requires, shall also have at least one person registered as: (1) an Investment Banking Principal pursuant to Rule 1220(a)(5); (2) a Research Principal pursuant to Rule 1220(a)(6); (3) a Securities Trader Principal pursuant to Rule 1220(a)(7); and (4) a Registered Options Principal pursuant to Rule 1220(a)(8).

.02 Permissive Registrations. A member may make application for or maintain the registration as a representative or principal, pursuant to Rule 1220, of any associated person of the member and any individual engaged in the investment banking or securities business of a foreign securities affiliate or subsidiary of the member. Individuals maintaining such permissive registrations shall be considered registered persons and subject to all FINRA rules, to the extent relevant to their activities.

Consistent with the requirements of Rule 3110, members shall have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions. With respect to an individual who solely maintains a permissive registration(s), the individual's

direct supervisor shall not be required to be a registered person. However, for purposes of compliance with Rule 3110(a)(5), a member shall assign a registered supervisor who shall be responsible for periodically contacting such individual's direct supervisor to verify that the individual is not acting outside the scope of his or her assigned functions. If such individual is permissively registered as a representative, the registered supervisor shall be registered as a representative or principal. If the individual is permissively registered as a principal, the registered supervisor shall be registered as a principal. Moreover, the registered supervisor of an individual who solely maintains a permissive registration(s) shall not be required to be registered in the same representative or principal registration category as the permissively-registered individual.

.03 Qualification Examinations and Waivers of Examinations. Before the registration of a person as a representative can become effective under Rule 1210, such person shall pass the Securities Industry Essentials ("SIE") and an appropriate representative qualification examination as specified in Rule 1220(b). Before the registration of a person as a principal can become effective under Rule 1210, such person shall pass an appropriate principal qualification examination as specified in Rule 1220(a).

If the job functions of a registered representative, other than an individual registered as an Order Processing Assistant Representative or a Foreign Associate, change so as to require the person to register in another representative category, the person shall not be required to pass the SIE. Rather, the registered person would need to pass only an appropriate representative qualification examination as specified in Rule 1220(b). All associated persons shall be eligible to take the SIE. In addition, individuals who are not associated persons shall be eligible to take the SIE. However, passing the

SIE alone shall not qualify an individual for registration with FINRA. To be eligible for registration with FINRA, an individual shall pass an applicable representative or principal qualification examination as specified in Rule 1220 and satisfy all other applicable prerequisite registration requirements.

Pursuant to the Rule 9600 Series, FINRA may, in exceptional cases and where good cause is shown, waive the applicable qualification examination(s) and accept other standards as evidence of an applicant's qualifications for registration. Age or disability will not individually of themselves constitute sufficient grounds to waive a qualification examination. Experience in fields ancillary to the investment banking or securities business may constitute sufficient grounds to waive a qualification examination. FINRA shall only consider waiver requests submitted by a member for individuals associated with the member who are seeking registration in a representative or principal registration category. Moreover, FINRA shall consider waivers of the SIE alone or the SIE and the applicable representative and principal examination(s) for such individuals. FINRA shall not consider a waiver of the SIE for individuals who are not associated persons or for associated persons who are not registering as representatives or principals.

.04 Requirements for Registered Persons Functioning as Principals for a Limited Period. Subject to the requirements of Rule 1220.03, a member may designate any person currently registered, or who becomes registered, with the member as a representative to function as a principal for a period of 120 calendar days prior to passing an appropriate principal qualification examination as specified under Rule 1220(a), provided that such person has at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation and has

fulfilled all applicable prerequisite registration, fee and examination requirements prior to designation as a principal. However, in no event may such person function as a principal beyond the initial 120 calendar day period without having successfully passed an appropriate principal qualification examination as specified under Rule 1220(a). The requirements above apply to designations to any principal category, including those categories that are not subject to a prerequisite representative registration requirement. Further, a person registered as an Order Processing Assistant Representative or a Foreign Associate shall not be eligible to be designated as a principal under Supplementary Material .04 of this Rule.

Subject to the requirements of Rule 1220.03, a member may designate any person currently registered, or who becomes registered, with the member as a principal to function in another principal category for a period of 120 calendar days prior to passing an appropriate qualification examination as specified under Rule 1220. However, in no event may such person function in such other principal category beyond the initial 120 calendar day period without having successfully passed an appropriate qualification examination as specified under Rule 1220.

.05 Rules of Conduct for Taking Examinations and Confidentiality of Examinations. Associated persons taking the SIE shall be subject to the SIE Rules of Conduct. Associated persons taking any representative or principal examination shall be subject to the Rules of Conduct for representative and principal examinations. A violation of the SIE Rules of Conduct or the Rules of Conduct for representative and principal examinations by an associated person shall be deemed to be a violation of Rule 2010. If FINRA determines that an associated person has violated the SIE Rules of

Conduct or the Rules of Conduct for representative and principal examinations, the associated person may forfeit the results of the examination and may be subject to disciplinary action by FINRA.

Individuals taking the SIE who are not associated persons shall agree to be subject to the SIE Rules of Conduct. If FINRA determines that such individuals cheated on the SIE or that they misrepresented their qualifications to the public subsequent to passing the SIE, they may forfeit the results of the examination and may be prohibited from retaking the SIE.

FINRA considers all of its qualification examinations content to be highly confidential. The removal of examination content from an examination center, reproduction, disclosure, receipt from or passing to any person, or use for study purposes of any portion of such qualification examination or any other use that would compromise the effectiveness of the examinations and the use in any manner and at any time of the questions or answers to the examinations shall be prohibited and shall be deemed to be a violation of Rule 2010. An applicant cannot receive assistance while taking the examination and shall certify that no assistance was given to or received by him or her during the examination.

.06 Waiting Periods for Retaking a Failed Examination. Any person who fails to pass a qualification examination prescribed by FINRA shall be permitted to take that examination again after a period of 30 calendar days has elapsed from the date of such person's last attempt to pass that examination, except that any person who fails to pass an examination three or more times in succession within a two-year period shall be

prohibited from again taking that examination until a period of 180 calendar days has elapsed from the date of such person's last attempt to pass that examination.

The waiting periods for retaking a failed examination shall apply to the SIE and the representative and principal examinations specified under Rule 1220. Individuals taking the SIE who are not associated persons shall agree to be subject to the same waiting periods for retaking the SIE.

.07 All Registered Persons Must Satisfy the Regulatory Element of Continuing Education. All registered persons, including those individuals who solely maintain permissive registrations pursuant to Rule 1210.02, shall satisfy the Regulatory Element of continuing education as specified in Rule 1240(a).

If a person registered with a member has a continuing education deficiency with respect to that registration as provided under Rule 1240(a), such person shall not be permitted to be registered in another registration category under Rule 1220 with that member or to be registered in any registration category under Rule 1220 with another member, until the person has satisfied the deficiency.

.08 Lapse of Registration and Expiration of SIE. Any person who was last registered as a representative two or more years immediately preceding the date of receipt by FINRA of a new application for registration as a representative shall be required to pass a representative qualification examination appropriate to his or her category of registration as specified in Rule 1220(b). Any person who last passed the SIE or who was last registered as a representative, whichever occurred last, four or more years immediately preceding the date of receipt by FINRA of a new application for registration as a representative shall be required to pass the SIE in addition to a representative

qualification examination appropriate to his or her category of registration as specified in Rule 1220(b).

Any person who was last registered as a principal two or more years immediately preceding the date of receipt by FINRA of a new application for registration as a principal shall be required to pass a principal qualification examination appropriate to his or her category of registration as specified in Rule 1220(a).

Any person whose registration has been revoked pursuant to Rule 8310 shall be required to pass a principal or representative qualification examination appropriate to his or her category of registration as specified in Rule 1220(a) or Rule 1220(b), respectively, to be eligible for registration with FINRA.

For purposes of Supplementary Material .08 of this Rule, an application shall not be considered to have been received by FINRA if that application does not result in a registration.

.09 Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member. Upon request by a member, FINRA shall waive the applicable qualification examination(s) for an individual designated with FINRA as working for a financial services industry affiliate of a member if the following conditions are met:

(a) Prior to the individual's initial designation, the individual was registered as a representative or principal with FINRA for a total of five years within the most recent 10-year period, including for the most recent year with the member that initially designated the individual;

(b) The waiver request is made within seven years of the individual's initial designation;

(c) The individual continuously worked for the financial services industry affiliate(s) of a member since the individual's last Form U5 filing;

(d) The individual has complied with the Regulatory Element of continuing education as specified in Rule 1240(a); and

(e) The individual does not have any pending or adverse regulatory matters, or terminations, that are reportable on the Form U4, and has not otherwise been subject to a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act while the individual was designated as eligible for a waiver.

As used in Supplementary Material .09 of this Rule, a "financial services industry affiliate of a member" is a legal entity that controls, is controlled by or is under common control with a member and is regulated by the SEC, CFTC, state securities authorities, federal or state banking authorities, state insurance authorities, or substantially equivalent foreign regulatory authorities.

.10 Status of Persons Serving in the Armed Forces of the United States. The following provisions address the status of current and former registered persons serving in active duty in the Armed Forces of the United States:

(a) Inactive Status of Currently Registered Persons

A registered person of a member who volunteers for or is called into active duty in the Armed Forces of the United States shall be placed, after proper notification to FINRA, on inactive status and need not be re-registered by such member upon his or her return to active employment with the member. Such person shall remain eligible to

receive transaction-related compensation, including continuing commissions. The employing member also may allow such person to enter into an arrangement with another registered person of the member to take over and service the person's accounts and to share transaction-related compensation based upon the business generated by such accounts. However, because such persons are inactive, they may not perform any of the functions and responsibilities performed by a registered person.

A registered person who is placed on inactive status pursuant to this paragraph (a) shall not be included within the definition of "Personnel" for purposes of the dues or assessments as provided in Article VI of the FINRA By-Laws. In addition, a registered person who is placed on inactive status pursuant to this paragraph (a) shall not be required to complete either the Regulatory Element or Firm Element set forth in Rule 1240 during the pendency of such inactive status.

The relief provided in this paragraph (a) shall be available to a registered person who is placed on inactive status pursuant to this paragraph (a) during the period that such person remains registered with the member with which he or she was registered at the beginning of active duty in the Armed Forces of the United States, regardless of whether the person returns to active employment with another member upon completion of his or her active duty in the Armed Forces of the United States.

The relief described in this paragraph (a) shall be provided only to a person registered with a member and only while the person remains on active military duty. Further, the member with which such person is registered shall promptly notify FINRA in such manner as FINRA may specify of such person's return to active employment with the member.

(b) Inactive Status of Sole Proprietorships

A member that is a sole proprietor who temporarily closes his or her business by reason of volunteering for or being called into active duty in the Armed Forces of the United States, shall be placed, after proper notification to FINRA, on inactive status while the member remains on active military duty.

A sole proprietor member placed on inactive status as set forth in this paragraph (b) shall not be required to pay dues or assessments during the pendency of such inactive status and shall not be required to pay an admission fee upon return to active participation in the investment banking or securities business.

The relief described in this paragraph (b) shall be provided only to a sole proprietor member and only while the person remains on active military duty. Further, the sole proprietor shall promptly notify FINRA in such manner as FINRA may specify of his or her return to active participation in the investment banking or securities business.

(c) Status of Formerly Registered Persons

If a person who was formerly registered with a member volunteers for or is called into active duty in the Armed Forces of the United States at any time within two years after the date the person ceased to be registered with a member, FINRA shall defer the lapse of registration requirements set forth in Rule 1210.08 (i.e., toll the two-year expiration period for representative and principal qualification examinations) and the lapse of the SIE (i.e., toll the four-year expiration period for the SIE). FINRA shall defer the lapse of registration requirements and the SIE commencing on the date the person begins actively serving in the Armed Forces of the United States, provided that FINRA is

properly notified of the person's period of active military service within 90 days following his or her completion of active service or upon his or her re-registration with a member, whichever occurs first. The deferral will terminate 90 days following the person's completion of active service in the Armed Forces of the United States. Accordingly, if such person does not re-register with a member within 90 days following his or her completion of active service in the Armed Forces of the United States, the amount of time in which the person must become re-registered with a member without being subject to a representative or principal qualification examination or the SIE shall consist of the standard two-year period for representative and principal qualification examinations or the standard four-year period for the SIE, whichever is applicable, as provided in Rule 1210.08 reduced by the period of time between the person's termination of registration and beginning of active service in the Armed Forces of the United States.

If a person placed on inactive status while serving in the Armed Forces of the United States ceases to be registered with a member, FINRA shall defer the lapse of registration requirements set forth in Rule 1210.08 (i.e., toll the two-year expiration period for representative and principal qualification examinations) and the lapse of the SIE (i.e., toll the four-year expiration period for the SIE) during the pendency of his or her active service in the Armed Forces of the United States. FINRA shall defer the lapse of registration requirements based on existing information in the CRD system, provided that FINRA is properly notified of the person's period of active military service within two years following his or her completion of active service or upon his or her re-registration with a member, whichever occurs first. The deferral shall terminate 90 days following the person's completion of active service in the Armed Forces of the United

States. Accordingly, if such person does not re-register with a member within 90 days following his or her completion of active service in the Armed Forces of the United States, the amount of time in which the person must become re-registered with a member without being subject to a representative or principal qualification examination or the SIE shall consist of the standard two-year period for representative and principal qualification examinations or the standard four-year period for the SIE, whichever is applicable, as provided in Rule 1210.08.

.11 Impermissible Registrations. Members shall not register or maintain the registration of any person unless consistent with the requirements of Rule 1210.

12[3]20. Registration Categories

(a) Definition of Principal and Principal Registration Categories

(1) [Reserved] Definition of Principal

A "principal" is any person associated with a member, including, but not limited to, sole proprietor, officer, partner, manager of office of supervisory jurisdiction, director or other person occupying a similar status or performing similar functions, who is actively engaged in the management of the member's investment banking or securities business, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions. Such persons shall include, among other persons, a member's chief executive officer and chief financial officer (or equivalent officers).

A "principal" also includes any other person associated with a member who is performing functions or carrying out responsibilities that are required to be performed or carried out by a principal under the FINRA rules.

The term "actively engaged in the management of the member's investment banking or securities business" includes the management of, and the implementation of corporate policies related to, such business. The term also includes managerial decision-making authority with respect to the member's investment banking or securities business and management-level responsibilities for supervising any aspect of such business, such as serving as a voting member of the member's executive, management or operations committees.

(2) [Reserved] General Securities Principal

(A) Requirement

Each principal as defined in paragraph (a)(1) of this Rule shall be required to register with FINRA as a General Securities Principal, subject to the following exceptions:

(i) if a principal's activities include the functions of a Financial and Operations Principal (or an Introducing Broker-Dealer Financial and Operations Principal, as applicable), a Principal Financial Officer, a Principal Operations Officer, an Investment Banking Principal, a Research Principal, a Securities Trader Principal or a Registered Options Principal as specified in paragraphs (a)(3) through (a)(8) of this Rule, then such person shall appropriately register in one or more of those categories;

(ii) if a principal's activities are limited solely to the functions of a Government Securities Principal, an Investment Company and Variable Contracts Products Principal, a Direct Participation Programs Principal or a Private Securities Offerings Principal as specified in paragraphs (a)(9), (a)(11), (a)(12) or (a)(13) of this Rule, then such person may appropriately register in one or more of those categories in lieu of registering as a General Securities Principal;

(iii) if a principal's activities are limited solely to the functions of a General Securities Sales Supervisor as specified in paragraph (a)(10) of this Rule, then such person may appropriately register in that category in lieu of registering as a General Securities Principal, provided, however, that if such person is engaged in options sales activities, such person shall be required to register with FINRA as a Registered Options Principal as specified in paragraph (a)(8) of this Rule or as a General Securities Sales Supervisor as specified in paragraph (a)(10) of this Rule; and

(iv) if a principal's activities are limited solely to the functions of a Supervisory Analyst as specified in paragraph (a)(14) of this Rule, then such person may appropriately register in that category in lieu of registering as a General Securities Principal, provided, however, that if such person is responsible for approving the content of a member's research report on equity

securities, such person shall be required to register with FINRA as a Research Principal as specified in paragraph (a)(6) of this Rule or as a Supervisory Analyst as specified in paragraph (a)(14) of this Rule.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as a Corporate Securities Representative and a General Securities Principal on [the effective date of the proposed rule change] and each person who was registered with FINRA as a Corporate Securities Representative and a General Securities Principal within two years prior to [the effective date of the proposed rule change] shall be qualified to register as a General Securities Principal without passing any additional qualification examinations, provided that his or her supervisory responsibilities in the investment banking or securities business of a member are limited to corporate securities activities of the member.

All other individuals registering as General Securities Principals after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration, become registered pursuant to paragraph (b)(2) of this Rule as a General Securities Representative and either (i) pass the General Securities Principal qualification examination or (ii) register as a General Securities Sales Supervisor and pass the General Securities Principal Sales Supervisor Module qualification examination.

(3) [Reserved] Compliance Officer

(A) Requirement

Subject to the exception in paragraph (a)(3)(C) of this Rule, each person designated as a Chief Compliance Officer on Schedule A of Form BD as specified in Rule 3130(a) shall be required to register with FINRA as a Compliance Officer.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as a General Securities Representative and a General Securities Principal on [the effective date of the proposed rule change] and each person who was registered with FINRA as a General Securities Representative and a General Securities Principal within two years prior to [the effective date of the proposed rule change] shall be qualified to register as a Compliance Officer without passing any additional qualification examinations. In addition, subject to the lapse of registration provisions in Rule 1210.08, each person registered as a Compliance Official in the CRD system on [the effective date of the proposed rule change] and each person who was registered as a Compliance Official in the CRD system within two years prior to [the effective date of the proposed rule change] shall be qualified to register as a Compliance Officer without passing any additional qualification examinations.

All other individuals registering as Compliance Officers after [the effective date of the proposed rule change], shall, prior to or concurrent with such registration: (i) become registered pursuant to paragraph (b)(2) of this Rule as a General Securities Representative and pass the General Securities Principal qualification examination; or (ii) pass the Compliance Official qualification examination.

(C) Exception

An individual designated as a Chief Compliance Officer on Schedule A of Form BD of a member that is engaged in limited investment banking or securities business may be registered in a principal category under Rule 1220(a) that corresponds to the limited scope of the member's business.

(4) [Reserved] Financial and Operations Principal and Introducing Broker-Dealer Financial and Operations Principal

(A) Requirement

Each member that is operating pursuant to the provisions of SEA Rules 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), shall designate a Financial and Operations Principal. Each member subject to the requirements of SEA Rule 15c3-1, other than a member operating pursuant to SEA Rules 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), shall designate either a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal.

A Financial and Operations Principal and an Introducing Broker-Dealer Financial and Operations Principal shall be responsible for performing the following duties:

(i) final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body;

(ii) final preparation of such reports;

(iii) supervision of individuals who assist in the preparation of such reports;

(iv) supervision of and responsibility for individuals who are involved in the actual maintenance of the member's books and records from which such reports are derived;

(v) supervision and performance of the member's responsibilities under all financial responsibility rules promulgated pursuant to the provisions of the Exchange Act;

(vi) overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the member's back office operations; and

(vii) any other matter involving the financial and operational management of the member.

(B) Designation of Principal Financial Officer and Principal Operations Officer

Each member shall designate a:

(i) Principal Financial Officer with primary responsibility for financial filings and those books and records related to such filings; and

(ii) Principal Operations Officer with primary responsibility for the day-to-day operations of the member's business, including overseeing the receipt and delivery of securities and funds, safeguarding customer and member assets, calculation and collection of margin from customers and processing dividend receivables and payables and reorganization redemptions and those books and records related to such activities.

Each member that self-clears, or that clears for other members, shall be required to designate separate persons to function as Principal Financial Officer and Principal Operations Officer. Such persons may also carry out the other responsibilities of a Financial and Operations Principal and an Introducing Broker-Dealer Financial and Operations Principal as specified in paragraph (a)(4)(A) of this Rule. If such member is limited in size and resources, it may, pursuant to the Rule 9600 Series, request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer.

Each member that is an introducing member may designate the same person to function as Financial and Operations Principal (or Introducing Broker-Dealer Financial and Operations Principal), Principal Financial Officer and Principal Operations Officer.

Each person designated as a Principal Financial Officer or Principal Operations Officer shall be required to register as a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal pursuant to paragraph (a)(4)(A) of this Rule.

(C) Qualifications

Each person seeking to register as a Financial and Operations Principal shall, prior to or concurrent with such registration, pass the Financial and Operations Principal qualification examination. Each person seeking to register as an Introducing Broker-Dealer Financial and Operations Principal shall, prior to or concurrent with such registration, pass the Financial and Operations Principal qualification examination or the Introducing Broker-Dealer Financial and Operations Principal qualification examination.

(5) [Reserved] Investment Banking Principal

(A) Requirement

Each principal as defined in paragraph (a)(1) of this Rule who is responsible for supervising the investment banking activities specified in paragraph (b)(5) of this Rule shall be required to register with FINRA as an Investment Banking Principal.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as an Investment Banking Representative and a General Securities Principal on [the effective date of

the proposed rule change] and each person who was registered with FINRA as an Investment Banking Representative and a General Securities Principal within two years prior to [the effective date of the proposed rule change] shall be qualified to register as an Investment Banking Principal without passing any additional qualification examinations.

All other individuals registering as Investment Banking Principals after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration, become registered pursuant to paragraph (b)(5) of this Rule as an Investment Banking Representative and pass the General Securities Principal qualification examination.

(6) [Reserved] Research Principal

(A) Requirement

Each principal as defined in paragraph (a)(1) of this Rule who is responsible for approving the content of a member's research reports on equity securities, or who, with respect to equity research, is responsible for supervising the overall conduct of a Research Analyst registered pursuant to paragraph (b)(6) of this Rule or a Supervisory Analyst registered pursuant to paragraph (a)(14) of this Rule shall be required to register with FINRA as a Research Principal, subject to the following exceptions:

(i) if a principal's activities are limited solely to approving the content of a member's research reports on equity securities, then such person may register as a Supervisory Analyst pursuant to

paragraph (a)(14) of this Rule in lieu of registering as a Research Principal;

(ii) if a principal's activities are limited solely to reviewing a member's research reports on equity securities only for compliance with the disclosure provisions of Rule 2241, then such person may register as a General Securities Principal pursuant to paragraph (a)(2) of this Rule in lieu of registering as a Research Principal; and

(iii) if a principal's activities are limited solely to approving the content of a member's research reports on debt securities or the content of third-party research reports, then such person may register as a General Securities Principal pursuant to paragraph (a)(2) of this Rule or as a Supervisory Analyst pursuant to paragraph (a)(14) of this Rule in lieu of registering as a Research Principal.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as a Research Principal on [the effective date of the proposed rule change] and each person who was registered with FINRA as a Research Principal within two years prior to [the effective date of the proposed rule change] shall be qualified to register as a Research Principal without passing any additional qualification examinations.

All other individuals registering as Research Principals after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration: (i) become registered pursuant to paragraph (b)(6) of this Rule as a Research Analyst and pass the General Securities Principal qualification examination; or (ii) become registered pursuant to paragraph (a)(14) of this Rule as a Supervisory Analyst and pass the General Securities Principal qualification examination.

(7) [Reserved] Securities Trader Principal

(A) Requirement

Each principal as defined in paragraph (a)(1) of this Rule who is responsible for supervising the securities trading activities specified in paragraph (b)(4) of this Rule shall be required to register with FINRA as a Securities Trader Principal.

(B) Qualifications

Each person seeking to register as a Securities Trader Principal shall, prior to or concurrent with such registration, become registered pursuant to paragraph (b)(4) of this Rule as a Securities Trader and pass the General Securities Principal qualification examination.

(8) [Reserved] Registered Options Principal

(A) Requirement

Each member that is engaged in transactions in options with the public shall have at least one Registered Options Principal.

In addition, each principal as defined in paragraph (a)(1) of this Rule who is responsible for supervising a member's options sales practices with the public, including a person designated pursuant to Rule 3110(a)(2), shall be required to register with FINRA as a Registered Options Principal, subject to the following exception. If a principal's options activities are limited solely to those activities that may be supervised by a General Securities Sales Supervisor as specified in Rule 2360, then such person may register as a General Securities Sales Supervisor pursuant to paragraph (a)(10) of this Rule in lieu of registering as a Registered Options Principal.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as a Registered Options Principal on [the effective date of the proposed rule change] and each person who was registered with FINRA as a Registered Options Principal within two years prior to [the effective date of the proposed rule change] shall be qualified to register as a Registered Options Principal without passing any additional qualification examinations.

All other individuals registering as Registered Options Principals after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration, become registered pursuant to paragraph (b)(2) of this Rule as a General Securities Representative and pass the Registered Options Principal qualification examination.

(9) [Reserved] Government Securities Principal

(A) Requirement

Each principal as defined in paragraph (a)(1) of this Rule shall be required to register with FINRA as a Government Securities Principal if his or her activities include:

(i) the management or supervision of the member's government securities business, including:

a. underwriting, trading or sales of government securities;

b. financial advisory or consultant services for issuers in connection with the issuance of government securities;

c. research or investment advice, other than general economic information or advice, with respect to government securities in connection with the activities described in subparagraphs a. and b. above;

d. activities other than those specifically described above that involve communication, directly or indirectly, with public investors in government securities in connection with the activities described in subparagraphs a. and b. above; or

(ii) the supervision of:

a. the processing and clearance activities with respect to government securities; or

b. the maintenance of records involving any of the activities described in paragraph (a)(9)(A)(i) of this Rule.

If a principal's functions include the activities specified in paragraph (a)(9)(A) of this Rule, then such person may register as a General Securities Principal pursuant to paragraph (a)(2) of this Rule in lieu of registering as a Government Securities Principal.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as a Government Securities Principal on [the effective date of the proposed rule change] and each person who was registered with FINRA as a Government Securities Principal within two years prior to [the effective date of the proposed rule change] shall be qualified to register as a Government Securities Principal without passing any additional qualification examinations.

All other individuals registering as Government Securities Principals after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration, become registered pursuant to paragraph (b)(2) of this Rule as a General Securities Representative.

(10) [Reserved] General Securities Sales Supervisor

(A) Principals Engaged in Limited Activities

Each principal as defined in paragraph (a)(1) of this Rule may register with FINRA as a General Securities Sales Supervisor if his or her supervisory responsibilities in the investment banking or securities business of a member are limited to the securities sales activities of the member, including the approval of customer accounts, training of sales and sales supervisory personnel and the maintenance of records of original entry or ledger accounts of the member required to be maintained in branch offices by Exchange Act record-keeping rules.

A person registered solely as a General Securities Sales Supervisor shall not be qualified to perform any of the following activities:

(i) supervision of the origination and structuring of underwritings;

(ii) supervision of market making commitments;

(iii) supervision of the custody of broker-dealer or customer funds or securities for purposes of SEA Rule 15c3-3; or

(iv) supervision of overall compliance with financial responsibility rules for broker-dealers promulgated pursuant to the provisions of the Exchange Act.

(B) Qualifications

Each person seeking to register as a General Securities Sales Supervisor shall, prior to or concurrent with such registration become registered pursuant to paragraph (b)(2) of this Rule as a General Securities

Representative and pass the General Securities Sales Supervisor qualification examinations.

(11) [Reserved] Investment Company and Variable Contracts Products Principal

(A) Principals Engaged in Limited Activities

Each principal as defined in paragraph (a)(1) of this Rule may register with FINRA as an Investment Company and Variable Contracts Products Principal if his or her activities in the investment banking or securities business of a member are limited to the activities specified in paragraph (b)(7) of this Rule.

(B) Qualifications

Each person seeking to register as an Investment Company and Variable Contracts Products Principal shall, prior to or concurrent with such registration: (i) become registered pursuant to paragraph (b)(2) of this Rule as a General Securities Representative and pass the Investment Company and Variable Contracts Products Principal qualification examination; or (ii) become registered pursuant to paragraph (b)(7) of this Rule as an Investment Company and Variable Contracts Products Representative and pass the Investment Company and Variable Contracts Products Principal qualification examination.

(12) Direct Participation Programs Principal

(A) Principals Engaged in Limited Activities

Each principal as defined in paragraph (a)(1) of this Rule may register with FINRA as a Direct Participation Program Principal if his or her activities in the investment banking or securities business of a member are limited to the activities specified in paragraph (b)(8) of this Rule.

(B) Qualifications

Each person seeking to register as a Direct Participation Program Principal shall, prior to or concurrent with such registration: (i) become registered pursuant to paragraph (b)(2) of this Rule as a General Securities Representative and pass the Direct Participation Program Principal qualification examination; or (ii) become registered pursuant to paragraph (b)(8) of this Rule as a Direct Participation Programs Representative and pass the Direct Participation Program Principal qualification examination.

(13) Private Securities Offerings Principal

(A) Principals Engaged in Limited Activities

Each principal as defined in paragraph (a)(1) of this Rule may register with FINRA as a Private Securities Offerings Principal if his or her activities in the investment banking or securities business of a member are limited to the activities specified in paragraph (b)(9) of this Rule.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as a Private Securities Offerings Representative and a General Securities Principal on [the effective date of the proposed rule change] and each person who was registered with

FINRA as a Private Securities Offerings Representative and a General Securities Principal within two years prior to [the effective date of the proposed rule change] shall be qualified to register as a Private Securities Offerings Principal without passing any additional qualification examinations.

All other individuals registering as Private Securities Offerings Principals after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration, become registered pursuant to paragraph (b)(9) of this Rule as a Private Securities Offerings Representative and pass the General Securities Principal qualification examination.

(14) Supervisory Analyst

(A) Principals Engaged in Limited Activities

Each principal as defined in paragraph (a)(1) of this Rule may register with FINRA as a Supervisory Analyst if his or her activities are limited to approving the following: (i) the content of a member's research reports on equity securities; (ii) the content of a member's research reports on debt securities; (iii) the content of third-party research reports; (iv) retail communications as described in Rule 2241(a)(11)(A); or (v) other research that does not meet the definition of "research report" under Rule 2241, provided that the Supervisory Analyst has technical expertise in the particular product area.

The activities of a Supervisory Analyst engaged in equity research shall be supervised by a Research Principal registered pursuant to paragraph (a)(6) of this Rule.

(B) Qualifications

Each person seeking to register as a Supervisory Analyst shall, prior to or concurrent with such registration pass the Supervisory Analyst qualification examination.

Upon written request pursuant to the Rule 9600 Series, FINRA shall grant a waiver from the securities analysis portion (Part II) of the Supervisory Analyst qualification examination upon verification that the applicant has passed Level I of the Chartered Financial Analyst ("CFA") Examination.

(b) Definition of Representative and Representative Registration Categories

(1) [Reserved] Definition of Representative

A "representative" is any person associated with a member, including assistant officers other than principals, who is engaged in the member's investment banking or securities business, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a member for any of these functions.

(2) [Reserved] General Securities Representative

(A) Requirement

Each representative as defined in paragraph (b)(1) of this Rule shall be required to register with FINRA as a General Securities Representative, subject to the following exceptions:

(i) if a representative's activities include the functions of an Operations Professional, a Securities Trader, an Investment Banking Representative or a Research Analyst as specified in paragraphs (b)(3) through (b)(6) of this Rule, then such person shall appropriately register in one or more of those categories; and

(ii) if a representative's activities are limited solely to the functions of an Investment Company and Variable Contracts Products Representative, a Direct Participation Programs Representative or a Private Securities Offerings Representative as specified in paragraphs (b)(7) through (b)(9) of this Rule, then such person may appropriately register in one or more of those categories in lieu of registering as a General Securities Representative.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as a General Securities Representative on [the effective date of the proposed rule change] and each person who was registered with FINRA as a General Securities Representative within two years prior to [the effective date of the proposed rule change] shall be

qualified to register as a General Securities Representative without passing any additional qualification examinations.

All other individuals registering as General Securities Representatives after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration, pass the SIE and the General Securities Representative qualification examination.

([6]3) [Reserved] Operations Professional

(A) [Covered Persons] Requirement

(i) Covered Persons

Each of the following persons shall be required to register with FINRA as an Operations Professional:

[(i)]a. [S]senior management with direct responsibility over the covered functions specified in paragraph (b)([6]3)([B]A)(ii) of this Rule;

[(ii)]b. [A]any person designated by senior management specified in paragraph (b)([6]3)(A)(i)a. of this Rule as a supervisor, manager or other person responsible for approving or authorizing work, including work of other persons, in direct furtherance of each of the covered functions specified in paragraph (b)([6]3)([B]A)(ii) of this Rule, as applicable, provided that there is sufficient

designation of such persons by senior management to address each of the applicable covered functions; and

[(iii)]c. [P]persons with the authority or discretion materially to commit a member's capital in direct furtherance of the covered functions specified in paragraph (b)([6]3)([B]A)(ii) of this Rule or to commit a member to any material contract or agreement (written or oral) in direct furtherance of the covered functions specified in paragraph (b)([6]3)([B]A)(ii) of this Rule.

([B]ii) Covered Functions

For purposes of paragraph (b)(3) of this Rule, the following are the covered functions:

[(i)]a. [C]client on-boarding (customer account data and document maintenance);

[(ii)]b. [C]collection, maintenance, re-investment (*i.e.*, sweeps) and disbursement of funds;

[(iii)]c. [R]receipt and delivery of securities and funds, account transfers;

[(iv)]d. [B]bank, custody, depository and firm account management and reconciliation;

[(v)]e. [S]settlement, fail control, buy ins, segregation, possession and control;

[(vi)]f. [T]trade confirmation and account statements;

[(vii)]g. [M]margin;

[(viii)]h. [S]stock loan or securities lending;

[(ix)]i. [P]prime brokerage (services to other broker-dealers and financial institutions);

[(x)]j. [A]approval of pricing models used for valuations;

[(xi)]k. [F]financial control, including general ledger and treasury;

[(xii)]l. [C]contributing to the process of preparing and filing financial regulatory reports;

[(xiii)]m. [D]defining and approving business requirements for sales and trading systems and any other systems related to the covered functions, and validation that these systems meet such business requirements;

[(xiv)]n. [D]defining and approving business security requirements and policies for information technology, including, but not limited to, systems and data, in connection with the covered functions;

[(xv)]o. [D]defining and approving information entitlement policies in connection with the covered functions; and

[(xvi)]p. [P]posting entries to a member's books and records in connection with the covered functions to ensure integrity and compliance with the federal securities laws and regulations and FINRA rules.

([C]B) Qualifications [Examination]

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as an Investment Company Products and Variable Contracts Representative, a General Securities Representative, a United Kingdom Securities Representative, a Canada Securities Representative, an Operations Professional, a Registered Options Principal, a General Securities Sales Supervisor, a Supervisory Analyst, a General Securities Principal, an Investment Company Products and Variable Products Principal, a Financial and Operations Principal, an Introducing Broker-Dealer Financial and Operations Principal, a Municipal Fund Securities Limited Principal or a Municipal Securities Principal on [the effective date of the proposed rule change] and each person who was registered with FINRA in such registration categories within two years prior to [the effective date of the proposed rule change] shall be qualified to register as an Operations Professional without passing any additional qualification examinations.

Each person who registers with FINRA as an Investment Company Products and Variable Contracts Representative, a General Securities Representative, a Registered Options Principal, a General Securities Sales

Supervisor, a Supervisory Analyst, a General Securities Principal, an Investment Company Products and Variable Products Principal, a Financial and Operations Principal, an Introducing Broker-Dealer Financial and Operations Principal, a Municipal Fund Securities Limited Principal or a Municipal Securities Principal after [the effective date of the proposed rule change] shall also be qualified to register as an Operations Professional without passing any additional qualification examinations.

All other individuals registering as Operations Professionals after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration, pass the SIE and the Operations Professional qualification examination.

[Subject to the exception in paragraph (b)(6)(D) of this Rule, any person who is required to register as an Operations Professional shall pass the Operations Professional qualification examination before such registration may become effective.]

[(D) Exception]

[(i) Any person who is registered with FINRA as an Investment Company Products/Variable Contracts Representative, General Securities Representative, United Kingdom Securities Representative or Canada Securities Representative, Registered Options Principal, General Securities Sales Supervisor, Compliance Officer, Supervisory Analyst, General Securities Principal, Investment Company Products/Variable Products

Principal, Financial and Operations Principal, Introducing Broker-Dealer Financial and Operations Principal, Municipal Fund Securities Limited Principal or Municipal Securities Principal, and any person who has been registered in one of these categories within the two years immediately prior to registering as an Operations Professional, shall be qualified to register as an Operations Professional without passing the Operations Professional qualification examination, provided that such registration is not revoked pursuant to Rules 8310 or 8320, suspended or otherwise deemed inactive.]

[(ii) The staff] FINRA may accept as an alternative to the [Operations Professional] qualification examination requirement in paragraph (b)([6]3)([C]B) of this Rule any domestic or foreign qualification if it determines that acceptance of such alternative qualification is consistent with the purposes of [this] paragraph (b)(3) of this Rule, the protection of investors, and the public interest.

[(E) Implementation]

[(i) Any person who is required to register as an Operations Professional as of October 17, 2011 shall request registration as an Operations Professional via Form U4 in CRD within 60 days after October 17, 2011. Any person who is required to register as an Operations Professional as of October 17, 2011

and must pass the Operations Professional qualification examination (or an eligible qualification examination listed in paragraph (b)(6)(D) of this Rule) to qualify for Operations Professional registration shall be allowed a period of 12 months beginning on October 17, 2011 to pass such qualifying examination, during which time such person may function as an Operations Professional.]

[(ii) Any person who is required to register as an Operations Professional from October 18, 2011 through December 16, 2011 shall register as an Operations Professional and, if applicable, pass the Operations Professional qualification examination (or an eligible qualification examination listed in paragraph (b)(6)(D) of this Rule) prior to engaging in any activities that would require such registration; provided, however, any such person who must pass the Operations Professional qualification examination (or an eligible qualification examination listed in paragraph (b)(6)(D) of this Rule) to qualify for Operations Professional registration shall be allowed until April 14, 2012 to pass such qualifying examination, during which time such person may function as an Operations Professional.]

[(iii) Any person who is required to register as an Operations Professional on or after December 17, 2011 shall register as an Operations Professional and, if applicable, pass the

Operations Professional qualification examination (or an eligible qualification examination listed in paragraph (b)(6)(D) of this Rule) prior to engaging in any activities that would require such registration; provided, however, any such person who must pass the Operations Professional qualification examination (or an eligible qualification examination listed in paragraph (b)(6)(D) of this Rule) to qualify for Operations Professional registration] A person registering as an Operations Professional shall be allowed a period of 120 days beginning on the date such person requests Operations Professional registration to pass any applicable qualification examination [such qualifying examination], during which time such person may function as an Operations Professional.

(4) [Reserved] Securities Trader

(A) Requirement

Each representative as defined in paragraph (b)(1) of this Rule shall be required to register with FINRA as a Securities Trader if, with respect to transactions in equity, preferred or convertible debt securities effected otherwise than on a securities exchange, such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities, other than any person associated with a member whose trading activities are conducted principally on behalf of an investment company that is registered with the SEC pursuant

to the Investment Company Act and that controls, is controlled by or is under common control, with the member.

In addition, each person associated with a member who is: (i) primarily responsible for the design, development or significant modification of an algorithmic trading strategy relating to equity, preferred or convertible debt securities; or (ii) responsible for the day-to-day supervision or direction of such activities shall be required to register with FINRA as a Securities Trader.

For purposes of paragraph (b)(4) of this Rule, an "algorithmic trading strategy" is an automated system that generates or routes orders (or order-related messages) but shall not include an automated system that solely routes orders received in their entirety to a market center.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as a Securities Trader on [the effective date of the proposed rule change] and each person who was registered with FINRA as a Securities Trader within two years prior to [the effective date of the proposed rule change] shall be qualified to register as a Securities Trader without passing any additional qualification examinations.

All other individuals registering as Securities Traders after [the effective date of the proposed rule change] shall, prior to or concurrent

with such registration, pass the SIE and the Securities Trader qualification examination.

(5) [Reserved] Investment Banking Representative

(A) Requirement

Each representative as defined in paragraph (b)(1) of this Rule shall be required to register with FINRA as an Investment Banking Representative if his or her activities in the investment banking or securities business of a member involve:

(i) advising on or facilitating debt or equity securities offerings through a private placement or a public offering, including but not limited to origination, underwriting, marketing, structuring, syndication, and pricing of such securities and managing the allocation and stabilization activities of such offerings, or

(ii) advising on or facilitating mergers and acquisitions, tender offers, financial restructurings, asset sales, divestitures or other corporate reorganizations or business combination transactions, including but not limited to rendering a fairness, solvency or similar opinion.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as an Investment Banking Representative on [the effective date of the proposed rule change] and

each person who was registered with FINRA as an Investment Banking Representative within two years prior to [the effective date of the proposed rule change] shall be qualified to register as an Investment Banking Representative without passing any additional qualification examinations.

All other individuals registering as Investment Banking Representatives after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration, pass the SIE and the Investment Banking Representative qualification examination.

(C) Exceptions

(i) Associated Persons Participating in New Employee Training Program

An associated person who participates in a new employee training program conducted by a member shall not be required to register as an Investment Banking Representative for a period of up to six months from the time the associated person first engages within the program in activities described in paragraph (b)(5) of this Rule, but in no event more than two years after commencing participation in the training program. This exception is conditioned upon the member maintaining records that:

a. evidence the existence and details of the training program, including but not limited to its scope, length, eligible participants and administrator; and

b. identify those participants whose activities otherwise would require registration as an Investment Banking Representative and the date on which each participant commenced such activities.

(ii) Associated Persons Engaged in Limited Activities

An associated person shall not be required to register as an Investment Banking Representative if his or her activities in the investment banking or securities business of a member are limited solely to:

a. advising on or facilitating the placement of direct participation program securities as defined in paragraph (b)(8)(A) of this Rule;

b. effecting private securities offerings as specified in paragraph (b)(9) of this Rule; or

c. retail or institutional sales and trading activities.

(6) Research Analyst

(A) Requirement

Each person associated with a member who is to function as a research analyst shall be required to register with FINRA as a Research Analyst.

For purposes of paragraph (b)(6) of this Rule, "research analyst" shall mean an associated person who is primarily responsible for the preparation of the substance of an equity research report or whose name

appears on an equity research report, and "research report" shall have the same meaning as in Rule 2241.

The requirements of paragraph (b)(6) of this Rule shall not apply to an associated person who:

(i) is an employee of a non-member foreign affiliate of a member ("foreign research analyst");

(ii) resides outside the United States; and

(iii) contributes, partially or entirely, to the preparation of globally branded or foreign affiliate research reports but does not contribute to the preparation of a member's research, including a mixed-team report, that is not globally branded.

Provided that the following conditions are satisfied:

a. a member that publishes or otherwise distributes globally branded research reports partially or entirely prepared by a foreign research analyst must subject such research to pre-use review and approval by a Research Principal registered pursuant to paragraph (a)(6) of this Rule or a Supervisory Analyst registered pursuant to paragraph (a)(14) of this Rule. In addition, the member must ensure that such research reports comply with Rule 2241, as applicable;

b. in publishing or otherwise distributing globally branded research reports partially or entirely prepared by a

foreign research analyst, a member must prominently disclose:

1. each affiliate contributing to the research report;

2. the names of the foreign research analysts employed by each contributing affiliate;

3. that such research analysts are not registered as Research Analysts with FINRA; and

4. that such research analysts may not be associated persons of the member and therefore may not be subject to Rule 2241 restrictions on communications with a subject company, public appearances and trading securities held by a research analyst account;

c. the disclosures required by paragraph (b)(6)(A)(iii)b. of this Rule shall be presented on the front page of the research report or the front page shall refer to the page on which the disclosures can be found. In electronic research reports, a member may hyperlink to the disclosures. References and disclosures shall be clear, comprehensive and prominent;

d. members shall establish and maintain records that identify those individuals who have availed themselves

of this exemption, the basis for such exemption, and evidence of compliance with the conditions of the exemption. Failure to establish and maintain such records shall create an inference of a violation of paragraph (b)(6) of this Rule. Members shall also establish and maintain records that evidence compliance with the applicable content, disclosure and supervision provisions of Rule 2241. Members shall maintain these records in accordance with the supervisory requirements of Rule 3110, and in addition to such requirement, the failure to establish and maintain such records shall create an inference of a violation of the applicable content, disclosure and supervision provisions of Rule 2241;

e. nothing in paragraph (b)(6) of this Rule shall affect the obligation of any person or broker-dealer, including a foreign broker-dealer, to comply with the applicable provisions of the federal securities laws, rules and regulations and any self-regulatory organization rules;

f. the fact that a foreign research analyst avails himself or herself of the exemption in paragraph (b)(6) of this Rule shall not be probative of whether that individual is an associated person of the member for other purposes, including whether the foreign research analyst is subject to

the Rule 2241 restrictions on communications with a subject company, public appearances and trading securities held by a research analyst account;

g. a member that distributes non-member foreign affiliate research reports that are clearly and prominently labeled as such must comply with the third-party research report requirements in Rule 2241; and

h. for purposes of the exemption in paragraph (b)(6) of this Rule, the terms "affiliate," "globally branded research report" and "mixed-team research report" shall have the following meanings:

1. "affiliate" shall mean a person that directly or indirectly controls, is controlled by, or is under common control with, a member;

2. "globally branded research report" refers to the use of a single marketing identity that encompasses the member and one or more of its affiliates; and

3. "mixed-team research report" refers to any member research report that is not globally branded and includes a contribution by a research analyst who is not an associated person of the member.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as a Research Analyst on [the effective date of the proposed rule change] and each person who was registered with FINRA as a Research Analyst within two years prior to [the effective date of the proposed rule change] shall be qualified to register as a Research Analyst without passing any additional qualification examinations.

All other individuals registering as Research Analysts after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration, pass the SIE and the Research Analyst qualification examinations.

Upon written request pursuant to the Rule 9600 Series, FINRA shall grant a waiver from the analytical portion of the Research Analyst qualification examinations (Series 86) upon verification that the applicant has passed:

(i) Levels I and II of the CFA Examination; or

(ii) if the applicant functions as a research analyst who prepares only technical research reports as defined in paragraph (b)(6) of this Rule, Levels I and II of the Chartered Market Technician ("CMT") Examination; and

(iii) has either functioned as a research analyst continuously since having passed the Level II CFA or CMT

Examination or applied for registration as a Research Analyst within two years of having passed the Level II CFA or CMT Examination.

For purposes of paragraph (b)(6) of this Rule, a "technical research report" shall mean a research report, as that term is defined in Rule 2241, that is based solely on stock price movement and trading volume and not on the subject company's financial information, business prospects, contact with subject company's management, or the valuation of a subject company's securities.

An applicant who has been granted an exemption pursuant to paragraph (b)(6)(B) of this Rule still must pass the regulatory portion of the Research Analyst qualification examinations (Series 87) before that applicant can be registered as a Research Analyst.

(7) [Reserved] Investment Company and Variable Contracts Products Representative

A. Representatives Engaged in Limited Activities

Each representative as defined in paragraph (b)(1) of this Rule may register with FINRA as an Investment Company and Variable Contracts Products Representative if his or her activities in the investment banking or securities business of a member are limited to the solicitation, purchase or sale of:

(i) redeemable securities of companies registered pursuant to the Investment Company Act;

(ii) securities of closed-end companies registered pursuant to the Investment Company Act during the period of original distribution only;

(iii) variable contracts and insurance premium funding programs and other contracts issued by an insurance company except contracts that are exempt securities pursuant to Section 3(a)(8) of the Securities Act; or

(iv) municipal fund securities as defined under MSRB Rule D-12.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as an Investment Company and Variable Contracts Products Representative on [the effective date of the proposed rule change] and each person who was registered with FINRA as an Investment Company and Variable Contracts Products Representative within two years prior to [the effective date of the proposed rule change] shall be qualified to register as an Investment Company and Variable Contracts Products Representative without passing any additional qualification examinations.

All other individuals registering as Investment Company and Variable Contracts Products Representatives after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration,

pass the SIE and the Investment Company and Variable Contracts Products Representative qualification examination.

(8) [Reserved] Direct Participation Programs Representative

A. Representatives Engaged in Limited Activities

Each representative as defined in paragraph (b)(1) of this Rule may register with FINRA as a Direct Participation Programs Representative if his or her activities in the investment banking or securities business of a member are limited to the solicitation, purchase or sale of equity interests in or the debt of direct participation programs as defined in paragraph (b)(8)(A) of this Rule.

"Direct participation programs" shall mean programs that provide for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution including, but not limited to, oil and gas programs, cattle programs, condominium securities, Subchapter S corporate offerings and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof. Excluded from this definition are real estate investment trusts, tax qualified pension and profit sharing plans pursuant to Sections 401 and 403(a) of the Internal Revenue Code ("Code") and individual retirement plans under Section 408 of the Code, tax sheltered annuities pursuant to the provisions of Section 403(b) of the Code and any company including separate accounts registered pursuant to the Investment Company Act. Also excluded from this definition is any program that is listed on a

national securities exchange or any program for which an application for listing on a national securities exchange has been made.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as a Direct Participation Programs Representative on [the effective date of the proposed rule change] and each person who was registered with FINRA as a Direct Participation Programs Representative within two years prior to [the effective date of the proposed rule change] shall be qualified to register as a Direct Participation Programs Representative without passing any additional qualification examinations.

All other individuals registering as Direct Participation Programs Representatives after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration, pass the SIE and the Direct Participation Programs Representative qualification examination.

(9) [Reserved] Private Securities Offerings Representative

(A) Representatives Engaged in Limited Activities

Each representative as defined in paragraph (b)(1) of this Rule may register with FINRA as a Private Securities Offerings Representative if his or her activities in the investment banking or securities business of a member are limited to effecting sales as part of a primary offering of securities not involving a public offering, pursuant to Sections 3(b), 4(2) or 4(6) of the Securities Act and the Securities Act rules and regulations,

provided, however, that such person shall not effect sales of municipal or government securities, or equity interests in or the debt of direct participation programs as defined in paragraph (b)(8)(A) of this Rule.

(B) Qualifications

Subject to the lapse of registration provisions in Rule 1210.08, each person registered with FINRA as a Private Securities Offerings Representative on [the effective date of the proposed rule change] and each person who was registered with FINRA as a Private Securities Offerings Representative within two years prior to [the effective date of the proposed rule change] shall be qualified to register as a Private Securities Offerings Representative without passing any additional qualification examinations.

All other individuals registering as Private Securities Offerings Representatives after [the effective date of the proposed rule change] shall, prior to or concurrent with such registration, pass the SIE and the Private Securities Offerings Representative qualification examination. However, FINRA shall, upon such evidence as it determines to be appropriate, deem any person who while employed by a bank, engaged in effecting sales of private securities offerings as described in paragraph (b)(9) of this Rule, during the period from May 12, 1999 to November 12, 1999, as qualified to register as a Private Securities Offerings Representative without the need to pass the SIE and the Private Securities Offerings Representative qualification examination.

[(10) Reserved]

[(11) Reserved]

[(12) Reserved]

[(13) Reserved]

[(14) Reserved]

• • • Supplementary Material: ----------

.01 [Reserved] Foreign Registrations. Persons who are in good standing as a representative with the Financial Conduct Authority in the United Kingdom or with a Canadian stock exchange or securities regulator shall be exempt from the requirement to pass the SIE.

.02 [Reserved] Additional Qualification Requirements for Persons Engaged in Security Futures Activities. Each person who is registered with FINRA as a General Securities Representative, United Kingdom Securities Representative, Canada Securities Representative, Options Representative, Registered Options Principal or General Securities Sales Supervisor shall be eligible to engage in security futures activities as a representative or principal, as applicable, provided that such individual completes a Firm Element program as set forth in Rule 1240 that addresses security futures products before such person engages in security futures activities.

.03 [Reserved] Members With One Registered Options Principal. A member that has one Registered Options Principal shall promptly notify FINRA in the event such person is terminated, resigns, becomes incapacitated or is otherwise unable to perform the duties of a Registered Options Principal.

Following receipt of such notification, FINRA shall require the member to agree, in writing, to refrain from engaging in any options-related activities that would necessitate the prior or subsequent approval of a Registered Options Principal until such time as a new Registered Options Principal has been qualified.

Members failing to qualify a new Registered Options Principal within two weeks following the loss of their sole Registered Options Principal, or by the earliest available date for administration of the Registered Options Principal examination, whichever is longer, shall be required to cease doing an options business; provided, however, they may effect closing transactions in options to reduce or eliminate existing open options positions in their own account as well as the accounts of their customers.

.04 [Reserved] Scope of General Securities Sales Supervisor Registration Category. The General Securities Sales Supervisor category is an alternate category of registration designed to lessen the qualification burdens on principals of general securities firms who supervise sales. Without this category of limited registration, such principals would be required to separately qualify pursuant to the rules of FINRA, the MSRB, the NYSE and the options exchanges. While persons may continue to separately qualify with all relevant self-regulatory organizations, the General Securities Sales Supervisor examinations permit qualification as a supervisor of sales of all securities through one registration category. Persons registered as General Securities Sales Supervisors may also qualify in any other category of principal registration. Persons who are already qualified in one or more categories of principal registration may supervise sales activities of all securities by also qualifying as General Securities Sales Supervisors.

Any person required to be registered as a principal who supervises sales activities in corporate, municipal and option securities, investment company products, variable contracts, direct participation program securities as defined in paragraph (b)(8)(A) of this Rule, and security futures (subject to the requirements of Supplementary Material .02 of this Rule) may be registered solely as a General Securities Sales Supervisor. In addition to branch office managers, other persons such as regional and national sales managers may also be registered solely as General Securities Sales Supervisors as long as they supervise only sales activities.

.05 [Reserved]

[.06] Scope of Operations Professional Requirement. Any person whose activities are limited to performing a function ancillary to a covered function specified in paragraph (b)([6]3)([B]A)(ii) of this Rule, or whose function is to serve a role that can be viewed as supportive of or advisory to the performance of a covered function specified in paragraph (b)([6]3)([B]A)(ii) of this Rule (e.g., internal audit, legal or compliance personnel who review but do not have primary responsibility for any covered function), or who engages solely in clerical or ministerial activities in a covered function specified in paragraph (b)([6]3)([B]A)(ii) of this Rule shall not be required to register as an Operations Professional [pursuant to paragraph (b)(6)(A) of this Rule]. For the purpose of paragraph [Rule 1230](b)([6]3)(A)([ii]i)c. of this Rule, the determination as to what constitutes "materially" or "material" is based on a member's pre-established spending guidelines and risk management policies.

An employee of a foreign broker-dealer whose activities, relating to a transaction in foreign securities on behalf of a customer of a member, are limited to facilitating the

clearance and settlement of the transaction shall not be required to register as an Operations Professional [pursuant to paragraph (b)(6)(A) of this Rule] where:

([1]a) the member sending the order for a transaction in foreign securities on behalf of the customer to the foreign broker-dealer is not a direct participant of the applicable foreign clearing system; and

([2]b) in executing such order in the foreign market, the foreign broker-dealer accepts the member's customer's instructions to settle the transaction in foreign securities on a DVP/RVP basis through the foreign clearing system and settle directly with a custodian for the customer.

.06[7] [Reserved] Eliminated Registration Categories. Subject to the lapse of registration provisions in Rule 1210.08, each person who is registered with FINRA as an Order Processing Assistant Representative, a United Kingdom Securities Representative, a Canada Securities Representative, an Options Representative, a Corporate Securities Representative or a Government Securities Representative on [the effective date of the proposed rule change] and each person who was registered with FINRA in such categories within two years prior to [the effective date of the proposed rule change] shall be eligible to maintain such registrations with FINRA. However, if persons registered in such categories subsequently terminate such registration(s) with FINRA and the registration remains terminated for two or more years, they shall not be eligible to re-register in such categories. In addition, each person who is registered with FINRA as a Foreign Associate on [the effective date of the proposed rule change] shall be eligible to maintain such registration with FINRA. However, if persons registered as Foreign

Associates subsequently terminate such registrations with FINRA, they shall not be eligible to re-register as Foreign Associates.

(a) Persons registered as Order Processing Assistant Representatives shall be subject to the following conditions:

(1) Order Processing Assistant Representatives may not solicit transactions or new accounts on behalf of a member, render investment advice, make recommendations to customers regarding the appropriateness of securities transactions, effect transactions in securities markets on behalf of a member or accept customer orders for municipal securities and direct participation program securities as defined in paragraph (b)(8)(A) of this Rule;

(2) members may only compensate Order Processing Assistant Representatives on an hourly wage or salaried basis and may not in any way, directly or indirectly, relate their compensation to the number or size of transactions effected for customers, provided that Order Processing Assistant Representatives are not prohibited from receiving bonuses or other compensation based on a member's profit sharing plan or similar arrangement;

(3) the activities of Order Processing Assistant Representatives may only be conducted at a business location of a member that is under the direct supervision of an appropriately registered principal of the member; and

(4) an Order Processing Assistant Representative shall not be precluded from registering as a General Securities Representative or in another registration category appropriate to his or her functions; however, upon registration in such

other category, such person's registration as an Order Processing Assistant Representative shall be terminated.

(b) Persons registered as Foreign Associates shall be subject to the following conditions:

(1) They shall not be citizens, nationals, or residents of the United States or any of its territories or possessions;

(2) They shall not engage in any securities activities with or for any citizen, national or resident of the United States; and

(3) They shall conduct all of their securities activities in areas outside the jurisdiction of the United States.

1230. Associated Persons Exempt from Registration

The following persons associated with a member are not required to be registered with FINRA:

(a) persons associated with a member whose functions are solely and exclusively clerical or ministerial; and

(b) persons associated with a member whose functions are related solely and exclusively to:

(1) effecting transactions on the floor of a national securities exchange and who are appropriately registered with such exchange;

(2) transactions in municipal securities;

(3) transactions in commodities; or

(4) transactions in security futures, provided that any such person is registered with a registered futures association.

• • • Supplementary Material: ----------

.01 Registration Requirements for Associated Persons Who Accept Customer Orders. The function of accepting customer orders is not considered a clerical or ministerial function. Each person associated with a member who accepts customer orders under any circumstances shall be registered in an appropriate registration category pursuant to Rule 1220. An associated person shall not be considered to be accepting a customer order where occasionally, when an appropriately registered person is unavailable, the associated person transcribes order details submitted by a customer and the registered person contacts the customer to confirm the order details before entering the order.

12[5]40. Continuing Education Requirements

This Rule prescribes requirements regarding the continuing education of [certain registered] specified persons subsequent to their initial [qualification and] registration with FINRA. The requirements shall consist of a Regulatory Element and a Firm Element as set forth below.

(a) Regulatory Element

(1) Requirements

[No member shall permit any registered person to continue to, and no registered person shall continue to, perform duties as a registered person unless such person has complied with the requirements of paragraph (a) hereof] All covered persons shall comply with the requirement to complete the Regulatory Element.

Each [registered] covered person shall complete the Regulatory Element on the occurrence of their second registration anniversary date and every three years thereafter, or as otherwise prescribed by FINRA. On each occasion, the Regulatory Element must be completed within 120 days after the person's registration anniversary date. A person's initial registration date, also known as the "base date," shall establish the cycle of anniversary dates for purposes of this Rule. The content of the Regulatory Element shall be determined by FINRA and shall be appropriate to either the registered representative or principal status of persons subject to the Rule. The content of the Regulatory Element for a person designated as eligible for a waiver pursuant to Rule 1210.09 shall be determined based on the person's most recent registration status, and the Regulatory Element shall be completed based on the same cycle had the person remained registered.

(2) Failure to Complete

Unless otherwise determined by FINRA, any [registered] covered persons who have not completed the Regulatory Element within the prescribed time frames will have their registrations deemed inactive until such time as the requirements of the program have been satisfied. Any person whose registration has been deemed inactive under this Rule shall cease all activities as a registered person and is prohibited from performing any duties and functioning in any capacity requiring registration. Further, such person may not accept or solicit business or receive any compensation for the purchase or sale of securities. However, such person may receive trail or residual commissions resulting from transactions completed before the inactive status, unless the member with which

such person is associated has a policy prohibiting such trail or residual commissions. A registration that is inactive for a period of two years will be administratively terminated. A person whose registration is so terminated may reactivate the registration only by reapplying for registration and meeting the qualification requirements of the applicable provisions of Rules 121[3]0[(b)(6)] and 1220 [the NASD Rule 1020 and 1030 Series]. FINRA may, upon application and a showing of good cause, allow for additional time for a [registered] covered person to satisfy the program requirements. If a person designated as eligible for a waiver pursuant to Rule 1210.09 fails to complete the Regulatory Element within the prescribed time frames, the person shall no longer be eligible for such a waiver.

(3) Disciplinary Actions

Unless otherwise determined by FINRA, a [registered] covered person, other than a person designated as eligible for a waiver pursuant to Rule 1210.09, will be required to retake the Regulatory Element and satisfy all of its requirements in the event such person:

(A) is subject to any statutory disqualification as defined in Section 3(a)(39) of the Exchange Act;

(B) is subject to suspension or to the imposition of a fine of $5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, or

as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding; or

(C) is ordered as a sanction in a disciplinary action to retake the Regulatory Element by any securities governmental agency or self-regulatory organization.

The retaking of the Regulatory Element shall commence with participation within 120 days of the [registered] covered person becoming subject to the statutory disqualification, in the case of (A) above, or the disciplinary action becoming final, in the case of (B) and (C) above. The date of the disciplinary action shall be treated as such person's new base date with FINRA.

(4) Reassociation in a Registered Capacity

Any [registered] covered person who has terminated association with a member and who has, within two years of the date of termination, become reassociated in a registered capacity with a member shall participate in the Regulatory Element at such intervals that may apply (second anniversary and every three years thereafter) based on the initial registration anniversary date rather than based on the date of reassociation in a registered capacity.

(5) Definition of [Registered] Covered Person

For purposes of this Rule, the term ["registered person"] "covered person" means any person, other than a Foreign Associate, registered with FINRA [as a representative, principal, assistant representative or research analyst] pursuant to [Rule 1230(b)(6) and the NASD Rule 1020, 1030, 1040, 1050 and 1110 Series] Rule 1210, including any person who is permissively registered pursuant to Rule

1210.02, and any person who is designated as eligible for a waiver pursuant to Rule 1210.09.

(6) No Change.

(7) Regulatory Element Contact Person

Each member shall designate and identify to FINRA (by name and e-mail address) an individual or individuals responsible for receiving e-mail notifications provided via the Central Registration Depository regarding when a [registered] covered person is approaching the end of his or her Regulatory Element time frame and when a [registered] covered person is deemed inactive due to failure to complete the requirements of the Regulatory Element program. Each member shall identify, review, and, if necessary, update the information regarding its Regulatory Element contact person(s) in the manner prescribed by Rule 4517.

(b) Firm Element

(1) Persons Subject to the Firm Element

The requirements of this subparagraph shall apply to any person registered with a member who has direct contact with customers in the conduct of the member's securities sales, trading and investment banking activities, any person registered as an operations professional pursuant to Rule 12[3]20(b)([6]3) or a research analyst pursuant to [NASD] Rule [1050] 1220(b)(6), and to the immediate supervisors of such persons (collectively, "covered registered persons"). "Customer" shall mean any natural person and any organization, other than another broker or dealer, executing securities transactions with or through or receiving investment banking services from a member.

(2) Standards for the Firm Element

(A) Each member must maintain a continuing and current education program for its covered registered persons to enhance their securities knowledge, skill, and professionalism. At a minimum, each member shall at least annually evaluate and prioritize its training needs and develop a written training plan. The plan must take into consideration the member's size, organizational structure, and scope of business activities, as well as regulatory developments and the performance of covered registered persons in the Regulatory Element. If a member's analysis establishes the need for supervisory training for persons with supervisory responsibilities, such training must be included in the member's training plan.

(B) Minimum Standards for Training Programs — Programs used to implement a member's training plan must be appropriate for the business of the member and, at a minimum must cover training in ethics and professional responsibility and the following matters concerning securities products, services, and strategies offered by the member:

(i) General investment features and associated risk factors;

(ii) Suitability and sales practice considerations; and

(iii) Applicable regulatory requirements.[; and

(iv) With respect to registered research analysts and their immediate supervisors, training in ethics, professional responsibility and the requirements of Rule 2241.]

(C) Administration of Continuing Education Program — A member must administer its continuing education programs in accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by covered registered persons.

(3) Participation in the Firm Element

Covered registered persons included in a member's plan must take all appropriate and reasonable steps to participate in continuing education programs as required by the member.

(4) Specific Training Requirements

FINRA may require a member, individually or as part of a larger group, to provide specific training to its covered registered persons in such areas as FINRA deems appropriate. Such a requirement may stipulate the class of covered registered persons for which it is applicable, the time period in which the requirement must be satisfied and, where appropriate, the actual training content.

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Text of NASD Rules, Incorporated NYSE Rules and Incorporated NYSE Rule Interpretations to be Deleted in their Entirety from the Transitional Rulebook

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NASD Rules

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[IM-1000-2. Status of Persons Serving in the Armed Forces of the United States]

Entire text deleted.

[IM-1000-3. Failure to Register Personnel]

Entire text deleted.

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[1020. Registration of Principals]

[1021. Registration Requirements]

Entire text deleted.

[1022. Categories of Principal Registration]

Entire text deleted.

[IM-1022-1. Limited Principal—Registered Options and Security Futures]

Entire text deleted.

[IM-1022-2. Limited Principal—General Securities Sales Supervisor]

Entire text deleted.

[1030. Registration of Representatives]

[1031. Registration Requirements]

Entire text deleted.

[1032. Categories of Representative Registration]

Entire text deleted.

[1040. Registration of Assistant Representatives and Proctors]

[1041. Registration Requirements for Assistant Representatives]

Entire text deleted.

[1042. Restrictions for Assistant Representatives]

Entire text deleted.

[1050. Registration of Research Analysts]

Entire text deleted.

[1060. Persons Exempt from Registration]

Entire text deleted.

[1070. Qualification Examinations and Waiver of Requirements]

Entire text deleted.

[1080. Confidentiality of Examinations]

Entire text deleted.

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[1100. Foreign Associates]

Entire text deleted.

[1110. Reserved]

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Incorporated NYSE Rules

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[10. "Registered Representative"]

Entire text deleted.

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[344. Research Analysts and Supervisory Analysts]

Entire text deleted.

[345. Employees—Registration, Approval, Records]

Entire text deleted.

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[472. Communications With The Public]

Entire text deleted.

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Incorporated NYSE Rule Interpretations

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[10 "Registered Representative"]

Entire text deleted.

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[344 Research Analysts and Supervisory Analysts]

Entire text deleted.

[345 Employees—Registration, Approval, Records]

Entire text deleted.

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

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Incorporated NYSE Rule

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Rule 321. Formation or Acquisition of Subsidiaries

No member organization may, without the prior written approval of the Exchange, form or acquire a subsidiary company. The member organization shall require such subsidiary to comply with the following provisions.

• • • Supplementary Material ----------

Information Regarding Subsidiary Companies of Member Organizations

.10 through **.14** No Change.

.15 [Employees] Reserved.

[No employee associated with a non U.S. registered foreign subsidiary whose duties correspond to those of a registered representative in the solicitation of accounts or orders for the purchase or sale of U.S. securities shall be employed by such subsidiary unless such person has been and is continued to be approved by the Exchange as a registered representative of the member or member organization.]

[Any filing or submission required under this rule which is made with a properly authorized agent acting on behalf of the Exchange shall for purposes of this rule be deemed to be a filing with the Exchange.]

.16 through **.24** No Change.

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Incorporated NYSE Rule Interpretation

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Rule 311 Formation and Approval of Member Organizations

(b)

(5) OFFICERS

/01 [**Principal Executives**] Reserved.

[**General Qualifications**]

[Principal executives must satisfy any and all examination requirements necessary to perform their assigned functions. Candidates for such positions must also have work experience and background commensurate with their responsibilities. The Exchange may request

information with respect to the experience of anyone appointed or elected to such positions.]

/02 [**Examination Requirements for Chief Financial Officers ("CFO") and Chief Operations Officers ("COO")**] Reserved.

[A person designated CFO or COO pursuant to /01 of this Interpretation must pass the Financial and Operations Principal Qualification Examination ("Series 27") unless designated CFO or COO of an introducing member organization, in which case such person must pass either the Series 27 Examination or the Introducing Broker/Dealer Financial and Operations Principal Qualification Examination ("Series 28").]

/03 [**Dual Designation of CFO and COO**] Reserved.

[If a member organization's activities are limited to introducing customers' accounts and such organization does not hold funds or securities, an individual, who must be either Series 27 or Series 28 qualified, may be designated as both CFO and COO. Member organizations must use due diligence to reasonably assess the supervisory adequacy of such arrangements pursuant to Rule 342. The Exchange must be notified promptly of any such dual designations.]

/06 No Change.

(f) No Change.

(g) MINIMUM OF ACTIVE PARTNERS IN MEMBER ORGANIZATIONS—USE OF MEMBER ORGANIZATION NAME

/01 [**Carrying Accounts**] Reserved.

[To carry customer accounts a member firm must have at least two general partners who are natural persons actively engaged in the organization's business.]

[The purpose of this requirement is to avert a situation in which the death or disassociation of a sole general partner could result in a delay in servicing customers' accounts, in the street-side settlement of open contractual commitments or otherwise interfere in the conduct of the firm's business to the detriment of the public interest and investor confidence.]

/02 No Change.

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