

Notices

Regulatory Notices

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Information Notice

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Disciplinary and Other FINRA Actions

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Notices (December 1996 to current) are also available on the Internet at www.finra.org/notices.

FINRA Web Site References

Amendments to NASD IM-2210-4: Web Site References to FINRA Membership and Limitations on the Use of FINRA's Name and Other Corporate Names Owned by FINRA

Effective Date: November 17, 2007

Executive Summary

Effective November 17, 2007, member firms and persons associated with a member firm that refer to their FINRA membership on a Web site are required to provide a hyperlink to www.finra.org. Certain limits to the use of FINRA's name and any other corporate name owned by FINRA (including NASD) also become effective on this date.

IM-2210-4, as amended, is set forth in Attachment A. The amendments become effective on November 17, 2007.

Questions concerning this *Notice* should be directed to Gary L. Goldsholle, Vice President and Associate General Counsel, Office of General Counsel, at (202) 728-8104; or Rachael Grad, Counsel, Office of General Counsel, at (202) 728-8290.

Background & Discussion

“Hyperlink Requirement”

Previously, FINRA amended IM-2210-4 to establish a requirement for member firms and persons associated with a member that refer to their membership in NASD on a Web site to hyperlink to NASD's home page, www.nasd.com (“the hyperlink requirement”).¹ The rule change was scheduled to take effect on July 7, 2007.² In view of the fact that NASD was changing its corporate name, NASD delayed the implementation of the hyperlink requirement until its new corporate name and Internet domain could be established.³

October 2007

Notice Type

- Rule Amendment

Suggested Routing

- Advertising
- Compliance
- Legal
- Operations
- Senior Management

Key Topics

- Hyperlink Requirement
- Use of FINRA name and FINRA-owned corporate names
- Web site reference to FINRA membership

Referenced Rules & Notices

- NTM 07-02
- NASD IM-2210-4
- NASD Rule 2210

On July 30, 2007, NASD changed its name to FINRA and changed its Internet domain from *www.nasd.com* to *www.finra.org*. On September 17, 2007, FINRA submitted proposed rule change SR-FINRA-2007-14 to amend IM-2210-4 to reflect the new corporate identity.

The amendments to IM-2210-4 replace references to NASD with FINRA. Thus, member firms, or persons associated with a member firm, that refer to their FINRA membership on a Web site must provide a hyperlink to *www.finra.org*, instead of *www.nasd.com*.⁴ As discussed in NASD *Notice to Members 07-02*, firms are not required to refer to their FINRA membership on their Web sites. The hyperlink requirement applies only to the extent that a member firm or a person associated with a member firm chooses to represent on a Web site that the firm is a member of FINRA.

A hyperlink to *www.finra.org* must be located in close proximity to any reference reasonably designed to draw the public's attention to FINRA membership. Since only one hyperlink to *www.finra.org* is required, member firms have the flexibility to place the hyperlink in close proximity to any FINRA reference, as long as it is reasonably designed to draw the public's attention to FINRA membership. Firms should note that IM-2210-4 also applies to a Web site relating to a firm's investment banking or securities business that is maintained by or on behalf of any person associated with the firm.⁵

Use of FINRA-Owned Corporate Names

The amendments to IM-2210-4 also limit the use of any other corporate name owned by FINRA, including NASD, the Trade Reporting and Compliance Engine (TRACE) and the Alternative Display Facility (ADF). Members can neither state nor imply in any communications with the public that FINRA (or any other corporate name or facility owned by FINRA) endorses, indemnifies or guarantees the member's business practices, selling methods, the class or type of securities offered, or any specific security.

Finally, firms should note that the reference to the NASD By-Laws in IM-2210-4 has been updated to refer to the FINRA By-Laws, which were adopted on July 30, 2007.⁶

Endnotes

- 1 See Securities Exchange Act Release No. 54740 (November 9, 2006); 71 FR 67184 (November 20, 2006); File No. SR-NASD-2006-073.
- 2 See NASD *Notice to Members 07-02* (January 2007).
- 3 FINRA previously announced that it would file a separate rule change to amend IM-2210-4 to reflect its new corporate name. See Securities Exchange Act Release No. 56124 (July 24, 2007); 72 FR 42165 (August 1, 2007); File No. SR-NASD-2007-042 (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delay the Implementation of NASD Interpretative Material 2210-4, which Requires Certain Member Firms to Provide a Hyperlink to <http://www.nasd.com>) (File No. SR-NASD-042).
- 4 See File No. SR-NASD-2007-042.
- 5 See NASD *Notice to Members 07-02* (January 2007).
- 6 Specifically, Article XV, Section 2 of the FINRA By-Laws now states: "No member shall use the name of the Corporation except to the extent that may be permitted by the Rules of the Corporation." The name of the Corporation is Financial Industry Regulatory Authority, Inc. See Securities Exchange Act Release No. 56146 (July 26, 2007); 72 FR 42190 (August 1, 2007); File No. SR-NASD-2007-053 (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to the Restated Certificate of Incorporation of National Association of Securities Dealers, Inc.).

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ATTACHMENT A

Below is the text of the rule change. New language is underlined; deletions are in brackets.

* * * * *

2210. COMMUNICATIONS WITH THE PUBLIC

* * * * *

IM-2210-4. Limitations on Use of FINRA's [NASD's] Name and Any Other Corporate Name Owned by FINRA

Members may indicate [NASD] FINRA membership in conformity with Article XV, Section 2 of the [NASD] FINRA By-Laws in one or more of the following ways:

(1) in any communication with the public, provided that the communication complies with the applicable standards of Rule 2210 and neither states nor implies that FINRA, or any other corporate name or facility owned by FINRA, [NASD] or any other regulatory organization endorses, indemnifies, or guarantees the member's business practices, selling methods, the class or type of securities offered, or any specific security;

(2) No Change.

(3) on a member's internet Web site provided that the member provides a hyperlink to [NASD's] FINRA's internet home page, [www.nasd.com] www.finra.org, in close proximity to the member's indication of [NASD] FINRA membership. A member is not required to provide more than one such hyperlink on its Web site. If the member's Web site contains more than one indication of [NASD] FINRA membership, the member may elect to provide any one hyperlink in close proximity to any reference reasonably designed to draw the public's attention to [NASD] FINRA membership. This provision also shall apply to an internet Web site relating to the member's investment banking or securities business maintained by or on behalf of any person associated with a member.

* * * * *

BD and IA Renewals for 2008

Broker-Dealer, Investment Adviser Firm, Agent and Investment Adviser Representative, and Branch Renewals for 2008

Payment Deadline: December 10, 2007

Executive Summary

The 2008 registration renewal process begins on November 5, 2007 when online Preliminary Renewal Statements are made available to all firms on Web CRD/IARD.

Firms should note the following key dates in the 2008 renewal process:

- October 22, 2007** Firms may start submitting post-dated Forms U5 and BR Closing/Withdrawal filings via Web CRD.
- November 1, 2007** Firms may start submitting post-dated Forms BDW via Web CRD, as well as Forms ADV-W via IARD.
- Post-dated filings that are submitted by 11 p.m., Eastern Time (ET) November 2, 2007 will not appear on the firm's Preliminary Renewal Statement. December 31, 2007 is the only date that can be used for a post-dated termination filing.
- November 5, 2007** Preliminary Renewal Statements are available on Web CRD.
- December 10, 2007** Full payment of Preliminary Renewal Statements is due.
- January 2, 2008** Final Renewal Statements are available on Web CRD.

October 2007

Notice Type

- Renewals

Suggested Routing

- Compliance
- Legal
- Operations
- Registered Representatives
- Registration
- Senior Management

Key Topics

- CRD®
- Renewals
- Registration
- IARDSM

Referenced Rules & Notices

- NTM 02-48

Member firms are advised that failure to return full payment of their Preliminary Renewal Statement to FINRA by December 10, 2007 could cause the firm to become ineligible to do business in the jurisdictions where they are registered effective January 1, 2008.

In addition to this *Notice*, firms should review the instructions posted at www.finra.org/renewals, especially the 2008 Renewal Program Bulletin, the 2008 IARD Renewal Program Bulletin (if applicable) on the Investment Adviser Web site at www.iard.com/renewals.asp, and any mailed information to ensure continued eligibility to do business as of January 1, 2008.

Questions concerning this *Notice* should be directed to the Gateway Call Center at (301) 869-6699.

Background & Discussion

Preliminary Renewal Statements

Beginning **November 5, 2007**, Preliminary Renewal Statements will be available for viewing and printing on Web CRD. The statements will include the following fees:

- ▶ Web CRD system processing fees;
- ▶ FINRA branch office fees;
- ▶ FINRA branch renewal processing fees;
- ▶ American Stock Exchange (AMEX), Boston Stock Exchange (BSE), Chicago Board Options Exchange (CBOE), International Securities Exchange (ISE), NASDAQ Stock Exchange (NQX), New York Stock Exchange (NYSE), NYSE Arca, Inc. (ARCA) and Philadelphia Stock Exchange (PHLX) maintenance fees;
- ▶ state agent renewal fees;
- ▶ state BD renewal fees;
- ▶ state BD branch fees
- ▶ investment adviser firm and representative renewal fees, if applicable; and
- ▶ broker-dealer and/or investment adviser branch renewal fees.

FINRA must **receive** full payment of the Preliminary Renewal Statement fees **no later than December 10, 2007**.

If payment is **not** received by the **December 10, 2007** payment due date, firms will be assessed a *Renewal Payment Late Fee*. This late fee will be included as part of the firm's Final Renewal Statement and will be calculated as follows: 10 percent of a member firm's cumulative final renewal assessment or \$100, whichever is greater, with a cap of \$5,000. Please see *NTM 02-48* for details. Firms also risk failing to renew if fees are not received in time.

Fees

A fee of \$30 will be assessed for each person who renews his/her registration with any regulator through Web CRD. Firms can access a listing of agents for whom their firm will be assessed by requesting the Renewals – Firm Renewal Roster.

For 2008, any investment adviser fees that are assessed for state-registered investment adviser firms and investment adviser representatives (RA) by the North American Securities Administrators Association (NASAA) that renew through the IARD Program will be also be included on the Preliminary Renewal Statement.

The FINRA branch office assessment fee of \$75 per branch, based on the number of active FINRA branches as of December 31, 2007, will be assessed. One branch office assessment fee will be waived per firm.

The FINRA branch renewal processing fee of \$20 per branch, based on the number of active FINRA branches as of December 31, 2007, will be assessed. One branch renewal processing fee will be waived per firm.

FINRA personnel assessment fees are not assessed through the FINRA Renewal Program. FINRA will mail all FINRA member firms a separate billing for this fee. Firms can access a listing of agents for whom the firm will be assessed the personnel assessment fee by requesting the Renewals – Firm Renewal Roster.

Renewal fees for AMEX, ARCA, BSE, CBOE, ISE, NOXX, NYSE, PHLX and state registrations are also assessed on the Preliminary Renewal Statement. These fees are based on the number of registered personnel employed in each SRO/jurisdiction by the member firm.

Branch office renewal fees will also be collected for those regulators who choose to renew branches registered with them via Web CRD/IARD.

Some participating jurisdictions may require steps beyond the payment of renewal fees to FINRA to complete the broker-dealer or investment adviser renewal process. Firms should contact each jurisdiction directly for further information on state renewal requirements. A Regulator Directory can be found at www.nasaa.org/QuickLinks/ContactYourRegulator.cfm.

For detailed information regarding 2008 investment adviser renewals, you may also visit the investment adviser Web site, www.iard.com. A matrix of investment adviser renewal fees for states that participate in the 2008 IARD Renewal Program is posted at www.iard.com/pdf/rep_fee_sch.pdf.

Renewal Payment

Firms have four payment methods available to pay 2008 renewal fees:

- **New for 2008:** Automatic Daily-to-Renewal Account Transfer
- Web CRD/IARD E-Pay
- Check
- Wire transfer

Automatic Daily-to-Renewal Account Transfer

To facilitate Renewal payment processing for all firms, FINRA will automatically transfer funds from a firm's Daily Account to its Renewal Account on December 10, 2007, the Preliminary Renewal Statement payment deadline. FINRA will transfer funds only if a firm has sufficient funds available in its Daily Account on December 10 to cover the amount. **Please Note:** If a firm does not want funds automatically transferred from its Daily Account to its Renewal Account, the firm should ensure that its payment is received in its Renewal Account by the December 10 deadline. Separately, if a firm wishes to transfer funds between affiliated firms, the firm should contact the Gateway Call Center at (301) 869-6699 for further instructions prior to the renewal deadline.

Web CRD/IARD E-Pay

The Web CRD/IARD E-Pay application is accessible from both the Preliminary and Final Renewal Statements and the FINRA (www.finra.org/crd) or IARD (www.iard.com) Web sites and allows firms to make an ACH payment from a designated bank account to their Web CRD/IARD Renewal Account. Please note that in order for funds to be posted to your firm's Renewal Account by December 10, 2007, payment must be submitted electronically no later than **8:30 p.m. ET on December 6, 2007**.

Check

The check should be drawn on the member firm's account, with the firm's CRD number included on the front of the check, along with "Renewal" in the memo line. Firms should mail their renewal payment, along with a print-out of the first page of their online renewal statement, directly to:

U.S. Mail or

FINRA
P.O. Box 7777-8705
Philadelphia, PA 19175-8705
(Note: This box will not accept courier or overnight deliveries.)

Express/Overnight Delivery

FINRA
8705
Mellon Bank Room 3490
701 Market Street
Philadelphia, PA 19106
Telephone: (301) 869-6699

Member firms should use **the blue, pre-addressed renewal payment envelope** that they are scheduled to receive in early November, or should use the **full address**, as noted above, to ensure prompt processing.

Please note: The addresses for renewal payments are different than the addresses for funding firms' CRD or IARD Daily Account.

To ensure prompt processing of your renewal payment check:

- Include a printout of the first page of your Preliminary Renewal Statement with payment.
- Do **not** include any other forms or fee submissions.
- Write your firm's CRD number and "Renewal" on the check memo line.
- Be sure to send your payment either in the pre-addressed renewal payment envelope that will be mailed to you or write the address on the envelope exactly as noted above.

Wire Payment

Firms may wire full payment of the Preliminary Renewal Statement by requesting their bank to initiate the wire transfer to: **"Mellon Financial, Philadelphia, PA."** Firms should provide their bank the following information:

Transfer funds to:	Mellon Financial, Philadelphia, PA
ABA Number:	031 000 037
Beneficiary:	FINRA
FINRA Account Number:	8-234-353
Reference Number:	Firm CRD number and "Renewal"

To ensure prompt processing of a renewal payment by wire transfer:

- Remember to inform the bank that the funds are to be credited to the **FINRA bank account**.
- Provide the firm's CRD number and "Renewal" as reference only.
- Record the confirmation number of the wire transfer provided by the bank.

Renewal Reports

Beginning November 5, 2007, the renewal reports will be available to request, print and/or download via Web CRD. Three reports/downloads are available for reconciliation with the Preliminary Renewal Statement:

- **Firm Renewal Report** – applicable to broker-dealer and investment adviser firms. This report lists individuals included in the 2008 Renewal Program processing and includes billing codes (if they have been supplied by the firm).
- **Branches Renewal Report** – applicable to broker-dealer and investment adviser firms. This report lists each branch registered with FINRA, and/or with any other regulator that renews branches registered with the regulator through Web CRD/IARD and for which the firm is being assessed a fee. Firms should use this report to reconcile their records for renewal purposes.
- **Approved AG Reg without FINRA Approval Report** – applicable to FINRA member firms. This report contains all individuals who are not registered with FINRA but are registered with one or more jurisdictions. The report should be used throughout the year, including during the annual Renewal Program, as an aid for firms to reconcile personnel registrations. Firms should request this report as soon as possible to determine if any FINRA registrations need to be requested or jurisdictions terminated prior to renewal processing for the Preliminary Renewal Statement available on November 5. Note that any post-dated termination filings submitted by 11 p.m. ET on November 2, 2007, will not appear on the firm's Preliminary Renewal Statement.

Post-Dated Form Filings

This functionality allows firms to file a termination form with a termination date of December 31, 2007. If a Form U5, BDW, BR Closing/Withdrawal or ADV-W indicates a termination date of December 31, 2007, an agent (AG), broker-dealer and/or investment adviser (firm) and investment adviser representative (RA) may continue doing business in the jurisdiction until the end of the calendar year without being assessed 2008 renewal fees. **December 31, 2007** is the only date that can be used for a post-dated form filing.

Firms can begin electronically filing post-dated Forms U5 and BR Closing/Withdrawal via Web CRD on October 22, 2007. Firms can begin electronically filing post-dated Forms BDW and ADV-W via Web CRD/IARD on November 1, 2007. Firms that submit post-dated termination filings by 11 p.m. ET, on November 2, 2007 **will not** be assessed renewal fees for the terminated registrations on their Preliminary Renewal Statement. Firms that submit post-dated termination filings on, or after, November 5, 2007, will not be assessed renewal fees for the terminated jurisdictions on the Final Renewal Statement in January 2008. Those firms should see a credit balance on their Final Renewal Statement if the firm has not requested additional registrations during that time period to offset the credit balance.

Firms should query individual, branch and/or firm registrations after a termination filing has been submitted to ensure that electronic Forms U5, BDW, BR Closing/Withdrawal and ADV-W are reflected on the system by the renewal filing deadline date of 6 p.m. ET on December 21, 2007.

Firms should exercise care when submitting post-dated Forms U5, BDW, BR Closing/Withdrawal and ADV-W. FINRA will systematically process these forms as they are submitted and **cannot** withdraw a post-dated termination once submitted and processed. A firm that files a post-dated termination in error will have to file a new Form U4, BD Amendment, Form BR or Form ADV when Web CRD/IARD resumes filing processing on January 2, 2008. New registration fees would be assessed as a result.

Filing Form BDW

The CRD Phase II Program allows firms requesting broker-dealer termination (either full or partial) to electronically file their Forms BDW via Web CRD. Firms that file either a full or partial Form BDW by 11 p.m. ET November 2, 2007 will avoid the assessment of the applicable renewal fees on their Preliminary Renewal Statement, provided that the regulator is a CRD Phase II participant. Currently, there are only five regulators that participate in Web CRD renewals for agent fees, but **do not** participate in the CRD Phase II Program:

- American Stock Exchange
- Chicago Stock Exchange
- National Stock Exchange
- NYSE Arca, Inc.
- Philadelphia Stock Exchange

Firms requesting termination with any of the above-listed regulators must submit a paper Form BDW directly to the regulator, as well as submit one electronically to Web CRD.

The deadline for electronic filing of Forms BDW for firms that want to terminate an affiliation before year-end 2007 is 6 p.m. ET December 21, 2007. This same date applies to the filing of Forms BDW with regulators that are not Phase II participants.

Filing Forms ADV to Cancel Notice Filings or Forms ADV-W to Terminate Registrations

Firms that file either a Form ADV Amendment, unmarking a state (generating the status of "Removal Requested at End of Year") or a full or partial Form ADV-W by 11 p.m. ET November 2, 2007 will avoid the assessment of the applicable renewal fees on their Preliminary Renewal Statement.

The deadline for electronic filing of Form ADV Amendments or Forms ADV-W for firms that want to cancel a notice filing or terminate a state registration before year-end 2007 is 6 p.m. ET December 21, 2007.

Removing Open Registrations

Throughout the year, firms have access to the "Approved AG Reg Without FINRA Approval" Report via Web CRD. This report identifies agents whose FINRA registrations are either terminated or have been changed to a "purged" status due to the existence of a deficient condition (*i.e.*, exams or fingerprints) but still maintain an approved registration with a state. Member firms should use this report to terminate obsolete state registrations through the submission of Forms U5 or reinstate the FINRA licenses through the filing of a Form U4 Amendment. This report should aid firms in the reconciliation of personnel registrations prior to year's end and should be requested as soon as possible. Requesting this report will enable firms to identify individuals who can be terminated by November 2, 2007 to avoid being charged for those individuals on their Preliminary Renewal Statement. The Approved AG Reg Without FINRA Approval Report will also advise a firm if there are no agents at the firm within this category.

Final Renewal Statements

Beginning January 2, 2008, FINRA will make available Final Renewal Statements via Web CRD and IARD. These statements will reflect the final status of broker-dealer, registered representative (AG), investment adviser firm and investment adviser representative (RA) registrations and/or notice filings as of December 31, 2007. Any adjustments in fees owed as a result of registration terminations, approvals, notice filings or transitions subsequent to the processing/posting of the Preliminary Renewal Statement will be made in the Final Renewal Statement on Web CRD/IARD.

- If a firm has more agents, branch offices or jurisdictions registered and/or notice filed on Web CRD and IARD at year-end than it did when the Preliminary Renewal Statement was generated, additional renewal fees will be assessed.
- If a firm has fewer agents, branch offices or jurisdictions registered and/or notice filed at year-end than it did when the Preliminary Renewal Statement was generated, a credit/refund will be issued. Please note that overpayments will be systemically transferred to firms' Daily Accounts as of January 2, 2008. Firms that have a credit (sufficient) balance in their Daily Account may request a refund by mailing or faxing a written request signed by the designated signatory to the Finance Department, 9509 Key West Avenue, Rockville, MD 20850, (301) 869-6699, fax number: (240) 386-5344. The request should include a printout of the firm's credit balance as reflected on Web CRD.

On or after January 2, 2008, FINRA member firms and joint BD/IA firms should access the Web CRD Reports functionality for the **Firm Renewal Report**, which will list all renewed personnel with FINRA, AMEX, ARCA, BSE, CBOE, ISE, NOX, NYSE, PHLX, and each jurisdiction. Agents and RAs whose registrations are "approved" in any of these jurisdictions during November and December will be included in this roster. Registrations that are "pending approval" or are "deficient" at year's end will not be included in the 2008 Renewal Program. Firms will also be able to request the **Branches Renewal Report** that lists all branches for which they have been assessed renewal fees. Versions of these reports will also be available for download.

Firms have until **February 4, 2008** to report any discrepancies on the renewal reports. This is also the **deadline for receipt of final payment**. Specific information and instructions concerning the Final Renewal Statement and renewal reports will be available in a January 2008 *Regulatory Notice*.

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PLEASE NOTE: The FINRA rulebook currently consists of both NASD Rules and certain NYSE Rules that FINRA has incorporated, including the NYSE rules referenced in this *Notice*. The incorporated NYSE Rules apply solely to members of FINRA that are also members of NYSE on or after July 30, 2007, referred to as “Dual Members.” Dual Members also must comply with NASD Rules. Until the adoption of a consolidated rulebook, FINRA’s *Regulatory Notices* will address both NASD and the incorporated NYSE Rules.

Regulatory Relief

Guidance for Firms Affected by the California Wildfires

Executive Summary

In light of the tragic situation resulting from the recent California wildfires, FINRA wants to assure those firms with offices in the affected areas that we will work closely with you as you recover. While we recognize your first priority is the well being of your family, employees and customers, we also understand that some firms are concerned with a number of regulatory and compliance issues. In this regard, FINRA is providing guidance on a variety of topics, including emergency office relocations, continuing education requirements for registered personnel, registered personnel engaged in military duty, books and records, the handling of customers’ funds and securities and customer communication.

Questions or comments concerning this *Notice* may be directed to:

- William Jannace, Managing Director, Risk Oversight and Operational Regulation, at (212) 656-2744;
- Patricia Albrecht, Assistant General Counsel, Office of General Counsel, at (202) 728-8026; or
- Daniel M. Sibears, Executive Vice President, Member Regulation Programs, at (202) 728-6911.



October 2007

Notice Type

- Guidance

Suggested Routing

- Compliance
- Executive Representative
- Senior Management
- Institutional
- Internal Audit
- Legal
- Operations
- Registration
- Systems

Key Topic(s)

- Books and Records
- Business Continuity
- Continuing Education
- Customer Communication
- Customer Funds and Securities
- Credit Regulation
- Disaster Recovery
- Emergency Office Relocation
- Form U4
- Military Personnel & National Guard
- Margin Extension Process

Referenced Rules & Notices

- NASD IM-1000-2
- NASD Rule 3010
- NASD Rule 3012
- NASD Rule 3110
- NYSE Rule 342 and Rule 342.23
- NYSE Rule 342.10
- NYSE Rule 343
- NYSE Rule 345(a), Interpretation /03
- NYSE Rule 401(b)
- NYSE Rule 440

Discussion

Emergency Office Relocations

To relocate displaced personnel, member firms not impacted by the California wildfires are encouraged to make office space available and to otherwise assist those who have been recently displaced. If a firm relocates displaced personnel to a location not currently registered as a branch office or identified as a regular nonbranch location, firms should use their best efforts to provide written notification to FINRA as soon as possible after establishing a new temporary office or space-sharing arrangement that includes, at minimum:

- the office address,
- the entities involved,
- the names of registered personnel,
- a contact phone number,
- the expected duration,¹ if possible, and
- whether any space-sharing arrangements are with an organization in a securities or related business.

FINRA also will not require Dual Members to obtain prior approval pursuant to Rule 343 (Offices-Sole Tenancy, Hours, Display of Membership Certificates) for a temporary office or space-sharing arrangement (*i.e.*, arrangements with an expected duration of 90 calendar days or less).

All firms making temporary office arrangements, however, should remain mindful of the need for proper supervision of these locations.²

Form U4

The requirement to maintain updated Form U4 information (*e.g.*, office of employment address) for registered employees affected by relocations resulting from this event are temporarily suspended. In addition, it is not necessary to submit branch office applications for any newly opened temporary office locations or space-sharing arrangements established as a result of recent events.

Books and Records Maintained at the Affected Locations

Firms that maintained books and records at the affected locations should make every effort to retrieve or back up such records. If any such records were permanently destroyed, a list of the types of books and records required to be maintained pursuant to NASD Rule 3110 (Books and Records) and Exchange Act Rules 17a-3³ and 17a-4⁴— and, for Dual Members only, NYSE Rule 440 (Books and Records)— must be prepared. The list should include the time periods affected, but need not include records that can be recreated from an electronic database or that can be retrieved otherwise from a service bureau, back-up records storage facility, etc. All such lists must be submitted to the firm's Liaison or Finance Coordinator as soon as possible, but no later than December 31, 2007. Firms unable to meet this time frame must contact their Liaison or Finance Coordinator, as appropriate.

Customer Funds and Securities

As soon as possible, firms should determine the dollar amount of any customer checks or securities held at affected business offices that cannot be located or accounted for. This information should be provided, in writing, to your Liaison or Finance Coordinator. In areas where postal service has been suspended or the firm is concerned about a customers' ability to receive mail, FINRA will not object to interim solutions for dealing with customer dividend, interest and similar cash payments. See the U.S. Postal Service Web site for further information on areas with disrupted or suspended mail service at: www.usps.com/communications/news/serviceupdates.htm#ca.

In instances where a branch office or nonbranch location has been relocated or customer calls are being rerouted to another office, FINRA understands that firms may need to deviate from standard operating procedures to accommodate customers who need to access their funds. Procedures that generally require written letters of authorization to move funds or direct a check to a third-party address may, at the firm's discretion, be waived, but firms should exercise as much due diligence as possible in validating the identity of the customer and providing heightened overall supervision of these accounts. Validating the identity of customers remains each firm's responsibility.

Where changes to normal operations are needed, those should be taken into account by firms in fulfilling their obligations to review their supervisory control policies and procedures. When conducting that review, members should ensure that the policies and procedures relating to the transmittal of customer funds, customer changes of address and increased requests for hand delivery of checks are adequate after considering changes to normal operations. Supervisory control policies and procedures also should be considered that will mitigate risk that may arise due to reduced ability to communicate with customers, inability to rely on mail or other disruptions to the existing controls. Please consult NASD Rule 3012 (Supervisory Control System) for further guidance. Dual Members should also consult NYSE Rule 342.23 (Approval, Supervision and Control) and NYSE Rule 401(b) (Business Conduct).

Firms that clear for introducing firms unable to conduct business are encouraged to accept liquidating orders from customers so that customers' access to funds is not restricted. Additionally, member firms that participate in FINRA's recently developed Small Firm Emergency Partner Program (SFEPP) may wish to invoke those arrangements. If they do, those firms should remember to contact their pre-established partner firm during this significant business disruption to assist customers in accessing their funds and other assets through liquidating transactions, and if previously agreed to by the two firms, effecting certain types of purchases, such as purchasing money market funds. Member firms with general questions regarding the SFEPP can access information on FINRA's Web site at www.finra.org/sfepp.

Continuing Education and Qualification Examinations

FINRA is extending continuing education requirements and qualifications examination windows for candidates who reside in any county in California declared a "major disaster" by the federal government. Registered representatives who have a qualifications examination or continuing education window due to expire any time from the date of this *Notice* to the end of November will have their windows extended to December 31, 2007. As more information becomes available, additional extensions may be provided. Please contact FINRA Field Support Services at (800) 999-6647 if you have any questions or require additional information on test center status in these areas.

Credit Regulation

FINRA will be accepting margin extensions on a case-by-case basis for reason code "Acts of God" for customers located in regions affected by the wildfires. Please contact Financial Operations at (202) 728-8411 prior to transmission. Dual Members should contact the Credit Regulation Department at (212) 656-8572 prior to transmission.

Confirmations and Customer Statements

FINRA will not object to member firms holding confirmations, statements and other communications or notices on behalf of those customers located in the affected areas for a period not to exceed 90 calendar days or until further notice. Firms must exercise appropriate supervisory review of the accounts affected, maintain a log of those accounts for which mail is being held and notify the customer holding those accounts that those communications are being held on their behalf as soon as possible. If additional time is required beyond 90 calendar days, please contact your Liaison or Finance Coordinator.

Customer Communication

Firms are encouraged to promptly place a notice on their Web sites that indicates to affected customers whom they may contact concerning their accounts, access to funds or securities, etc. If feasible, firms should consider the activation of toll-free numbers dedicated to responding to these customers.

Business Continuity and Contingency Plans

Firms affected by the California wildfires should contact their Liaison or Finance Coordinator to discuss those business continuity and contingency plan actions implemented to address any problems that have resulted.

Military Personnel and National Guard

FINRA By-Laws, as well as NASD Interpretive Material 1000-2 (Status of Persons Serving in the Armed Forces of the United States) and NYSE Rule 345(a), Interpretation /03 (Registered Persons Who Volunteer or Are Called to Active Military Duty) (Dual Members only), provide specific relief to FINRA-registered persons engaged in the investment banking and securities business who volunteer or are called into active military duty. Such persons will be placed in a specially designated “inactive” status once FINRA is notified of their military call-up, but will remain registered for FINRA purposes. Such persons will remain eligible to receive transaction-related compensation, including continuing commissions, because they remain registered with a firm while on inactive status.

Also, an employing firm may allow a registered person on inactive status to enter into an arrangement with another person registered with the employing firm to service his or her accounts and to share in commissions generated by those accounts. However, such a person on inactive status may not perform any duties of a registered person. In addition, dues and assessments identified in Article VI of the FINRA By-Laws will be waived for such persons. Member firms should notify FINRA of such events by mailing or faxing to the Registration and Disclosure Department a letter (on firm letterhead) identifying the name and CRD number of the person called into active duty, the name and CRD number of the firm (or firms) with whom the person is associated, the date the firm received notification from the individual and a copy of the official call-up notification. Member firms should mail letters notifying FINRA of military call-ups to FINRA Registration and Disclosure Department, P.O. Box 9495, Gaithersburg, MD 20898-9495 or fax them to (240) 386-4751.

If you have questions about this process, please call the Gateway Call Center at (301) 590-6500. For more information, view FINRA’s Active Military Leave Guidance Web page at www.finra.org/RegulatorySystems/CRD/FilingGuidance/p005228.

Endnotes

- 1 A temporary location established in response to the implementation of a business continuity plan is not considered to be a branch office, as that term is defined in NASD Rule 3010(g)(2)(A)(vii) and NYSE Rule 342.10(G) (Definition of Branch Office) unless the location supervises one or more non-branch locations. *See* NASD Rule 3010(g)(2)(B); NYSE Rule 342.10.
- 2 *See* generally NASD Rule 3010; NYSE Rules 342.
- 3 *See* 17 C.F.R. 240.17a-3.
- 4 *See* 17 C.F.R. 240.17a-4.

ACATS Transfer Cycle

SEC Approves Amendments to NASD Rule 11870 and NYSE Rule 412 to Conform with NSCC's ACATS Transfer Cycle Time Frames

Effective Date: October 22, 2007

Executive Summary

The SEC approved amendments to NASD Rule 11870 and NYSE Rule 412 to make the time frames in the rules for validating or taking exception to an instruction to transfer a customer's securities account assets and for completing the transfer of the assets consistent with the time frames in the NSCC Automated Customer Account Transfer Service (ACATS) transfer cycle.¹

As further discussed in this *Notice*, effective October 22, 2007, NSCC modified its rules to shorten the account transfer time frame with respect to certain types of transfers.²

NASD Rule 11870 and NYSE Rule 412, as amended, are set forth in Attachment A. The amendments became effective on October 22, 2007.

Questions concerning this *Notice* should be directed to:

- Rachael Grad, Counsel, Office of General Counsel, at (202) 728-8290 (with respect to NASD Rule 11870).
- Stephen Kasprzak, Principal Counsel, Risk Oversight and Operational Regulation, at (212) 656-5226 (with respect to NYSE Rule 412).

October 2007

Notice Type

- Rule Amendment

Suggested Routing

- Compliance
- Legal
- Operations
- Senior Management

Key Topic(s)

- Automated Customer Account Transfer Service (ACATS)
- Customer Account Transfer Contracts
- National Securities Clearing Corporation (NSCC)

Referenced Rules & Notices

- NASD Rule 11870
- NSCC Important Notice A#6515 (P&S#6085)
- NYSE Rule 412

Background and Discussion

NASD Rule 11870 and NYSE Rule 412 regulate the transfer of customer accounts from one member (the carrying firm) to another (the receiving firm). Such transfers generally occur through ACATS, an electronic transfer system the National Securities Clearing Corporation (NSCC) developed to automate and standardize account transfers. The rule amendments make the time frames in NASD Rule 11870 and NYSE Rule 412 consistent with the time frames that NSCC established in ACATS.

Members are advised that, effective October 22, 2007, NSCC modified its rules to shorten the account transfer time frame with respect to certain types of ACATS transfers. The current NSCC time frames are addressed in NSCC Important Notice A#6515 (P&S#6085) (October 18, 2007) http://www.dtcc.com/downloads/legal/imp_notices/2007/nsc/a6515.pdf, and NSCC Important Notices cited therein. NASD Rule 11870 and NYSE Rule 412, as amended, reflect NSCC's recent changes by eliminating two of the three business days previously allowed for validating or taking exception to transfer requests.

NASD Rule 11870 and NYSE Rule 412 will change if and when NSCC further modifies the account transfer time frames in the future. FINRA will announce any such changes in those time frames to its members in a *Regulatory Notice* and other appropriate communications.

Endnotes

- 1 See Securities Exchange Act Release No. 56677 (October 19, 2007), 72 FR 60699 (October 25, 2007) (Order Granting Approval of a Proposed Rule Change Relating to NASD Rule 11870 (Customer Account Transfer Contracts) and NYSE Rule 412 (Customer Account Transfer Contracts) to Make the Time Frames in the Rules for Validating or Taking Exception to an Instruction to Transfer a Customer's Securities Account Consistent with the Time Frames in the Automated Customer Account Transfer Service; File No. SR-FINRA-2007-005).
- 2 See Securities Exchange Act Release No. 56678 (October 19, 2007) 72 FR 60701 (October 25, 2007) (Order Granting Approval of a Proposed Rule Change to Amend its Rules and Procedures with Regard to the Automated Customer Account Transfer Service (ACATS) and ACATS Fund/SERV Processing; File No. SR-NSCC-2007-13).

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Attachment A

Below is the text of the rule change. New language is underlined; deletions are in brackets.

* * * * *

11000. UNIFORM PRACTICE CODE

* * * * *

11870. Customer Account Transfer Contracts

(a) No Change

(b) Transfer Procedures

(1) Upon receipt from the customer of an authorized broker-to-broker transfer instruction form (“TIF”) to receive such customer’s securities account assets in whole or in specifically designated part, from the carrying member, the receiving member must immediately submit such instruction to the carrying member. The carrying member must, within [three] one business day[s] following receipt of such instruction, or receipt of a TIF received directly from the customer authorizing the transfer of assets in specifically designated part: (A) validate the transfer instruction to the receiving member (with an attachment reflecting all positions and money balances to be transferred as shown on its books); or (B) take exception to the transfer instruction for reasons other than securities positions or money balance discrepancies and advise the receiving member of the exception taken. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the National Securities Clearing Corporation (NSCC).

(2) No Change.

(c) and (d) No Change.

(e) Completion of the Transfer

Within three business days following the validation of a transfer instruction, the carrying member must complete the transfer of the customer’s security account assets to the receiving member. The receiving member and the carrying member must immediately establish fail-to-receive and fail-to-deliver contracts at then-current market values upon their respective books of account against the long/short positions that have not been delivered/received and the receiving/carrying member must debit/credit the related money amount. The customer’s security account assets shall thereupon be deemed transferred. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the NSCC.

(f) through (n) No Change.

* * * * *

Rule 412. Customer Account Transfer Contracts

(a) No Change.

(b)

(1) Upon receipt from the customer of an authorized broker-to-broker transfer instruction form ("TIF") to receive such customer's securities account assets in whole or in specifically designated part, the receiving organization will immediately submit such instruction to the carrying organization. The carrying organization must, within [three (3)] one business day[s] following receipt of such instruction, or receipt of a TIF received directly from the customer authorizing the transfer of assets in specifically designated part: (i) validate the transfer instruction (with an attachment reflecting all positions and money balances to be transferred as shown on its books) to the receiving organization or (ii) take exception to the transfer instruction for reasons other than securities positions or money balance discrepancies and advise the receiving organization of the exception taken. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the National Securities Clearing Corporation (NSCC).

(2) No Change.

(3) Within three [(3)] business days following the validation of a transfer instruction, the carrying organization must complete the transfer of the customer's securities account assets to the receiving organization. The carrying organization and the receiving organization must establish fail to receive and fail to deliver contracts at then current market values upon their respective books of account against the long/short positions (including options) that have not been delivered/received and the receiving/carrying organization must debit/credit the related money amount. The customer's securities account assets shall thereupon be deemed transferred. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the NSCC.

(c) through (f) No Change.

Supplementary Material .10 through .30 No Change.

* * * * *

Minor Rule Violation Plan

Amendments to NASD IM-9216 to include certain NYSE Rules under the Minor Rule Violation Plan

Effective Date: September 24, 2007

Executive Summary

Effective September 24, 2007, the list of violations eligible for disposition under the MRVP includes certain NYSE rules that pertain to the regulation of member firm conduct and that were incorporated into the FINRA rulebook.¹ FINRA's NYSE rules apply solely to FINRA members that also are members of the NYSE on or after July 30, 2007, referred to as "dual members." The amendments to NASD IM-9216 allow FINRA to impose a fine—rather than commence disciplinary proceedings—for minor violations by dual members of the NYSE rules (in addition to the other rules) contained in the MRVP.

IM-9216, as amended, is set forth in Attachment A of this *Notice*.

Questions concerning this *Notice* may be directed to Kathryn M. Moore, Assistant General Counsel, Office of General Counsel, at (202) 974-2974.

Background and Discussion

The FINRA rulebook currently consists of both NASD Rules and certain incorporated NYSE Rules. The incorporated NYSE Rules apply solely to members of FINRA that are also members of the NYSE on or after July 30, 2007, referred to as "dual members."²

FINRA did not incorporate, among other rules, the NYSE disciplinary rules or related interpretations, including NYSE's Minor Rule Violation Plan (MRVP), as set forth in NYSE Rule 476A.³ As a result, FINRA has amended its MRVP (as set forth in NASD IM-9216) to include those incorporated NYSE Rules currently listed in NYSE's MRVP.

October 2007

Notice Type

- Rule Amendment

Suggested Routing

- Compliance
- Legal
- Operations
- Registered Representatives
- Senior Management

Key Topic(s)

- Minor Rule Violation Plan (MRVP)

Referenced Rules & Notices

- NASD IM-9216
- NASD Rule 9216
- NYSE Rule 476A
- SEC Rule 19d-1(c)(2)

The purpose of the MRVP is to provide for a meaningful sanction for a minor or technical violation of a rule when the initiation of a disciplinary proceeding through the formal complaint process would be more costly and time-consuming than would be warranted. Inclusion of a rule in the MRVP does not mean it is an unimportant rule; rather, it means that a minor or technical violation of the rule may be more appropriately handled with a fine rather than through disciplinary proceedings. FINRA retains the discretion to bring full disciplinary proceedings for the violation of any rule listed in the MRVP.

Currently, NASD IM-9216 lists certain rules from the following categories of rules, the minor violation of which may result in a fine:

- NASD Rules
- Provisions of the NASD (now FINRA) By-Laws and Schedules to By-Laws
- Incorporated NYSE Rules
- Exchange Act Rules
- MSRB Rules

The amendments to IM-9216 also specify the applicability of the rules listed based on whether the firm is a dual member or a FINRA-only member.

- Any dual member (including any persons affiliated with such member) may be subject to a fine for minor violations of any rule listed in NASD IM-9216 that applies to such member or person. However, any dual member that was not also a member of NASD as of July 30, 2007 (*i.e.*, was an NYSE-only member prior to the effective date of the consolidation) and that does not engage in any activities that would have required it to be a FINRA member (and its affiliated persons that are not otherwise subject to NASD rules) may be subject to a fine for minor violations only of the following rules listed in NASD IM-9216: any incorporated NYSE Rule, Exchange Act Rule, FINRA By-Law or Schedule to By-Laws, or the NASD Rule 8000 Series.⁴
- Any FINRA member firm that is not also a member of the NYSE (and its associated persons that are not otherwise subject to NYSE rules) may be subject to a fine for minor violations of any rule listed in NASD IM-9216, with the exception of the incorporated NYSE rules.

FINRA will continue to apply the \$2,500 maximum fine level under NASD IM-9216 in determining fine levels for minor violations of any rule included in the plan, including the incorporated NYSE Rules.

The amendments also delete from NASD IM-9216 references to NASD rules that have been rescinded.⁵

Endnotes

- 1 See Securities Exchange Act Release No. 56504 (September 24, 2007), 72 FR 55850 (October 1, 2007) (Approval Order of File No. SR-NASD-2007-055).
- 2 See Securities Exchange Act Release No. 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (Notice of Filing and Order Granting Accelerated Approval of File No. SR-NASD-2007-054).
- 3 The NYSE's MRVP (NYSE Rule 476A) was not incorporated because NYSE Rule 476A contains procedures that would conflict with the finding of a minor rule violation by FINRA. For example, NYSE Rule 476A permits a person against whom a fine is imposed to contest the NYSE's fine determination by, among other things, appealing to the NYSE board of directors.
- 4 FINRA has established a membership waive-in process for certain NYSE member organizations that were not also NASD members as of July 30, 2007. See Securities Exchange Act Release No. 56653 (October 12, 2007), 72 FR 59127 (October 18, 2007) (Order Approving SR-NASD-2007-056). Firms admitted pursuant to this process are subject only to the incorporated NYSE Rules, FINRA's By-Laws and Schedules to By-Laws, the NASD Rule 8000 Series (Investigations and Sanctions) and the NASD Rule 9000 Series (Code of Procedure), provided their securities business is limited to certain permitted floor activities. Accordingly, such firms are not subject to a fine for the minor violation of NASD Rules that do not apply to such firms.
- 5 On June 30, 2006, the SEC approved SR-NASD-2005-087, which, among other things, deleted NASD Rules 4619, 4642, 4652, 5430, 6720 and 8212 from the NASD Manual. See Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (Order Approving SR-NASD-2005-087). On September 28, 2006, the SEC approved SR-NASD-2006-091, which, among other things, deleted NASD Rule 6420 from the NASD manual. See Securities Exchange Act Release No. 54537 (September 28, 2006), 71 FR 59173 (October 6, 2006) (Order Approving SR-NASD-2006-091).

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Attachment A

Below is the text of the rule change. New language is underlined; deletions are in brackets

* * * * *

9200. DISCIPLINARY PROCEEDINGS

* * * * *

IM-9216. Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d-1(c)(2)

Any member of FINRA that is also a member of the New York Stock Exchange LLC (“NYSE”) (“Dual Member”) (including any persons affiliated with such member) may be subject to a fine under NASD Rule 9216(b) with respect to any rule listed in this IM-9216 that applies to such member or person. However, any Dual Member that was not also a member of NASD as of July 30, 2007 and that does not engage in any activities that would have required it to be an NASD member (and its affiliated persons that are not otherwise subject to NASD rules) shall only be subject to a fine under NASD Rule 9216(b) with respect to the following rules listed in this IM-9216: any NYSE rule, SEC Exchange Act rule, NASD By-Law or Schedule to the By-Laws, or the NASD Rule 8000 Series.

Any member of FINRA that is not also a member of the NYSE (and its associated persons that are not otherwise subject to NYSE rules) may be subject to a fine under NASD Rule 9216(b) with respect to any rule listed in this IM-9216, with the exception of the NYSE rules.

—NASD Rules 2210, 2211, and 2220, and IM-2210-1, -2210-2, -2210-3, -2210-4, -2210-5, -2210-7, and -2210-8 — Communications with the public.

—NASD Rule 3360 — Failure to timely file reports of short positions on Form NS-1.

—NASD Rule 3110 — Failure to keep and preserve books, accounts, records, memoranda, and correspondence in conformance with all applicable laws, rules, regulations and statements of policy promulgated thereunder, and with NASD Rules.

—NASD Rules 8211[, Rule 8212,] and [Rule] 8213 — Failure to submit trading data as requested.

—Article IV of the NASD By-Laws — Failure to timely submit amendments to Form BD.

— Article V of the NASD By-Laws — Failure to timely submit amendments to Form U4.

— Article V of the NASD By-Laws — Failure to timely submit amendments to Form U5.

— NASD Rule 1120 — Failure to comply with the Firm Element of the continuing education requirements.

— NASD Rule 3010(b) — Failure to timely file reports pursuant to the Taping Rule.

— NASD Rule 3070 — Failure to timely file reports.

[— Rule 4619(d) — Failure to timely file notifications pursuant to SEC Regulation M.]

— NASD Rules 4632, [4642, 4652,]4632A, [5430,]6130, 6170, 6130A, 6170A, 6230, [6420,]6550, and 6620[, and 6720] — Transaction reporting in equity and debt securities.

— NASD Rules 6954 and 6955 — Failure to submit data in accordance with the Order Audit Trail System (“OATS”).

— NASD Rule 11870 — Failure to abide by Customer Account Transfer Contracts.

— Failure to provide or update contact information as required by NASD Rules.

— SEC Exchange Act Rule 604 — Failure to properly display limit orders.

— SEC Exchange Act Rule 602(b)(5) — Failure to properly update published quotations in certain Electronic Communication Networks (“ECNs”).

— SEC Exchange Act Rule 17a-5 — Failure to timely file FOCUS reports and annual audit reports.

— SEC Exchange Act Rule 17a-10 — Failure to timely file Schedule I.

— MSRB Rule A-14 — Failure to timely pay annual fee.

— MSRB Rule G-12 — Failure to abide by uniform practice rules.

— MSRB Rule G-14 — Failure to submit reports.

— MSRB Rule G-36 — Failure to timely submit reports.

- MSRB Rule G-37 — Failure to timely submit reports for political contributions.
- MSRB Rule G-38 — Failure to timely submit reports detailing consultant activities.
- NYSE Rule 134(c) and (e) — Failure to comply with specified QT procedures and time periods.
- NYSE Rules 312(a), (b) & (c), 313, 345.12, 345.17, 346(c), 351, 421, and 440F & G — Reporting rule violations.
- NYSE Rules 345.11, 410, 432(a), 440, 440I, and 472(c) — Record retention rule violations.
- NYSE Rules 312(h) & (i), 342(c), 342.10, 346(e) and (f), 382(a), and 791(c) — Failure to obtain approval rule violations.
- NYSE Rules 342(b), (d) & 342.13, 311(b)(5), and 344 — Failure of a member organization to have individuals responsible and qualified for the positions of Financial Principal, Operations Principal, Compliance Official, Branch Office Manager and Supervisory Analyst.
- NYSE Rule 343 — Requirements relating to member organization office sharing arrangements.
- NYSE Rule 345(a) — Failure of a member organization to have individuals responsible and qualified for the positions of Securities Lending Supervisor and Securities Trader Supervisor.
- NYSE Rule 346(b) — Failure to obtain employer’s prior written consent for engaging in an outside activity.
- NYSE Rule 352(b) and (c) — Guaranteeing a customer’s account against loss or sharing in profits or losses.
- NYSE Rule 387 — Requirements for customer COD/POD transactions.
- NYSE Rule 392 — Notification requirements.
- NYSE Rule 401A — Failure to acknowledge customer complaint within 15 business days.
- NYSE Rule 407 — Requirements for transactions of employees of the Exchange, members or member organizations.

—NYSE Rule 407A — Reporting and notification requirements for members.

—NYSE Rule 408(a) — Requirement that written authorization be obtained for discretionary power in a customer’s account.

—NYSE Rule 411(b) — Requirements to bundle multiple odd-lot orders in the same stock, which aggregate to 100 shares or more, to aggregate the orders into round-lot orders.

—NYSE Rule 412 and the interpretations thereunder — Failure to transfer a customer securities account in accordance with requirements.

—NYSE Rule 416A — Failure to promptly provide or promptly update required membership profile information through the Electronic Filing Platform (“EFP”), or failure to electronically certify that required membership profile information is complete and accurate.

—NYSE Rule 445(4) — Failure to designate and identify an Anti-Money Laundering contact person or persons.

— NYSE Rules 704 and 705 — Options position limits and exercise limits.

— NYSE Rules 720 and 722(b) — Failure of a member organization to have individuals responsible and qualified for the positions of Registered Options Principal, Senior Registered Options Principal and Compliance Registered Options Principal.

— NYSE Rule 726 — Options disclosure document and prospectus delivery requirement violations.

— NYSE Rule 780(b)(i) — Requirement for members and member organizations to indicate final decisions of holders of equity options either to exercise or not to exercise expiring equity options by a specific time.

— NYSE Rule 780(f) — Requirement for members and member organizations to make, keep and file with the Exchange records concerning final exercise decisions made with respect to options in certain circumstances.

— NYSE Rule 780.10(b) — Requirement to deliver “exercise advice”.

— NYSE Rule 781 — Allocation of exercise assignment notice violations.

* * * * *

Information Notice

Extension of Current Rate for Fees Paid under Section 31 of the Exchange Act

Executive Summary

Since October 1, 2007, the SEC has been operating under a continuing resolution for fiscal year 2008. As such, the Section 31 fee will remain at \$15.30 per million until further notice.

Discussion

As announced by the Securities and Exchange Commission (SEC) in Fee Rate Advisory #2 for Fiscal Year (FY) 2008 (*see www.sec.gov/news/press/2007/2007-207.htm*), the SEC has been operating under a continuing resolution since the start of FY 2008 on October 1, 2007, which specifies that the fee paid under Section 31 of the Securities Exchange Act of 1934 (Exchange Act) will remain at the current rate of \$15.30 per million.

However, as the SEC has announced, 30 days after the date of enactment of its regular fiscal year 2008 appropriation, the rate for the Section 31 fee will decrease from \$15.30 per million to \$11.00 per million. FINRA will notify member firms through an *Information Notice* when the SEC's regular appropriation has been enacted and a final date has been determined for implementing the rate change to \$11.00 per million.

FINRA obtains its Section 31 fees from its membership, in accordance with Section 3 of Schedule A to the By-Laws. Section 3 specifies that the amount assessed on members will be determined periodically in accordance with Section 31 of the Exchange Act.

Questions concerning this *Notice* may be directed to Rob Renner, Senior Director of Accounting Operations, at (240) 386-5303.

October 5, 2007

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Trading

Key Topics

- ▶ Section 31 Fee

Referenced Rules & Notices

- ▶ Section 3 of Schedule A to the By-Laws
- ▶ Section 31 of the Securities Exchange Act of 1934

Disciplinary and Other FINRA Actions

Firm Fined, Individual Sanctioned

Castlewood Securities, L.L.C. (CRD # 45179, Chicago, Illinois) and Fred Owen Goldman (CRD #1857380, Registered Principal, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent (AWC) in which the firm was censured, fined \$250,000 and required to pay \$418,597.10 in restitution within 60 days of the issuance of the AWC to compensate affected mutual funds for the profits realized from improper market timing. In addition, an officer of the firm must certify to FINRA that payments to the fund companies have been made and must provide FINRA with copies of canceled checks or other documents evidencing such payment. Goldman was censured, fined \$20,000 and required to requalify by examination as a general securities principal within 90 days. If Goldman fails to requalify as a general securities principal on or before that date, his registration in that capacity will be suspended on that date until such time as he passes the required examination.

Without admitting or denying the findings, the firm and Goldman consented to the described sanctions and to the entry of findings that the firm facilitated deceptive practices regarding market timing in the sub-accounts of variable annuities for hedge fund clients. In employing the strategy, the hedge fund clients used individuals and corporate entities as nominees to purchase variable annuity contracts from numerous insurance companies. The firm enabled the hedge fund clients to purchase these contracts, which they used to carry out frequent transfers among the sub-accounts of certain variable annuities without being detected by the insurance companies or by their respective sub-account fund managers. The findings stated that even after three insurance companies sent multiple notices to the firm that the clients' trading strategy was disruptive, and contrary to the language of the applicable prospectus and to the interests of long-term investors and should not be continued, the firm continued to sell variable annuity contracts to the hedge fund clients. The findings also stated that the firm knew, or should have known, that the prospectuses for these variable annuities stated that the products were not suitable for market timing. The findings also included that, as a result of the firm's activities, the hedge fund clients executed transfers in the sub-accounts of variable annuities from the companies, after receiving restriction letters from the companies, yielding profits of \$418,597.10 at the expense of long-term investors in the mutual funds. FINRA found that the firm failed to preserve for three years, and/or to preserve in an accessible place for two years, electronic mail communications its agents and employees received and sent that related to its business as a broker or dealer. FINRA also found that Goldman, who was the principal at the firm and responsible for the supervision of variable annuity activities, failed to adequately supervise the firm's variable annuity business and the hedge fund clients' market timing activities. (FINRA Case #SAF2004040701)

Reported for October 2007

FINRA® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

Firms and Individuals Fined

B. Riley and Co., Inc. (CRD #40355, Los Angeles, California), Knut L. Grevle (CRD #4152295, Registered Principal, Los Angeles, California) and Sherry Lee Tejada (CRD #2478647, Registered Principal, Tujunga, California) submitted a Letter of Acceptance, Waiver and Consent in which they were censured; the firm was fined \$265,000, of which \$10,000 was joint and several with Grevle, and \$30,000 was joint and several with Tejada. Grevle was fined an additional \$5,000. The firm was also required to revise its written supervisory procedures with respect to best execution, the three quote rule, the Order Audit Trail System (OATS), Securities and Exchange Commission (SEC) Rule 11Ac1-6, limit order display, limit order protection, anti-competitive practices, short sales, recordkeeping, trade reporting, the Automated Confirmation Transaction Service (ACT) reporting, registration, quoting or trading during a trading halt, and NASD Rules 5262, 5263, 6330 and 2320(g)(2).

Without admitting or denying the findings, the firm, Grevle and Tejada consented to the described sanctions and to the entry of findings that the firm did not submit new order or execution reports to OATS and submitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. The findings stated that the firm's records contained numerous omissions and inaccuracies, and the firm failed to preserve brokerage order memoranda for a period of not less than three years, the first two in an accessible place, and did not create brokerage order memorandums when the firm received orders from other dealers. The findings also stated that the firm improperly handled short sales due to a misunderstanding as to when a transaction was a short sale, and as a result, when the firm executed short sale transactions on a down bid in its proprietary account while holding a customer long sale order in NASDAQ National Market (NNM) securities in which the firm was not a market maker, the firm sold the securities at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. The findings also included that when the firm executed short sale transactions while holding a customer long sale order when the firm was not a market maker in the security, the firm effected short sales for the firm's proprietary account(s) and failed to make/annotate an affirmative determination that the firm could borrow the securities or otherwise provide for delivery of the securities by settlement date.

FINRA found that the firm, when selling a security while holding a customer long sale order in the security when the firm did not have an inventory position, executed short sale transactions and failed to report each of these transactions to the Trade Reporting Facility, OTC Reporting Facility, NASDAQ or ACT with a short sale modifier. FINRA also found that the firm incorrectly reported long sales as short sales to ACT when executing principal transactions while holding a customer short sale order in the security when the firm had an inventory position in the security. In addition, FINRA determined that the firm effected short sales of securities registered on a national securities exchange at or below the price at which the last sale of each security, regular way, was reported pursuant to an effective transaction reporting plan. Moreover, the findings stated that the firm failed to report the execution time for cross transactions in last sale reports, failed to report the correct execution time in last sale reports, failed to report last sale reports of transactions in designated securities; failed to timely submit cancellation reports, incorrectly reported transactions as non-tape transactions

and incorrectly reported capacity. The findings stated that due to a misunderstanding of when a trade was a riskless principal transaction, the firm consistently misreported riskless principal transactions; incorrectly reported to the appropriate trade reporting system for the specific market involved, the second leg of “riskless” principal transactions because it incorrectly designated the capacity as “agent;” and failed to submit for the offsetting, “riskless” portion of “riskless” principal transactions either a clearing-only report with a capacity indicator of “riskless principal” or a non-tape, non-clearing report with a “riskless principal” capacity indicator. The findings also stated that the firm failed to provide written notification disclosing to its customers that transactions were executed at an average price; failed to disclose the correct price on one occasion and disclosed the incorrect market center on customer confirmations. The findings also included that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning best execution, the three quote rule, OATS, SEC Rule 11Ac1-6, limit order display, limit order protection, anti-competitive practices, short sales, recordkeeping, trade reporting, ACT reporting, registration, quoting or trading during a trading halt, and NASD Rules 5262, 5263, 6330 and 2320(g)(2).

FINRA found that the firm, acting through Grevle and Tejada, failed to adequately enforce its written supervisory procedures that required the firm to conduct and document some of the reviews described in its written supervisory procedures, and failed to adequately supervise OATS, recordkeeping, registration, trade reporting and ACT reporting. FINRA also found that the firm, acting through Tejada, failed to register Grevle, who was engaged in the firm’s securities business and functioning as a principal in the appropriate registration category. **(FINRA Case #20050033034-01)**

Dublind Securities, Inc. (CRD #32534, Greenwich, Connecticut) and Nestor Joseph Olivier (CRD #714206, Registered Principal, Saddle River, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which they were censured and fined \$15,000, jointly and severally. Without admitting or denying the findings, the firm and Olivier consented to the described sanctions and to the entry of findings that the firm, acting through Olivier, filed late Financial and Operations Combined Uniform Single (FOCUS) Reports and failed to timely file its Schedule I Report on Revenue and Expenses. The findings stated that the firm, acting through Olivier, failed to maintain a fidelity bond and failed to notify FINRA on the termination of the fidelity bond. The findings also stated that Olivier acted in a capacity at the firm that required registration, while his registration status with FINRA was inactive due to his failure to complete the Regulatory Element of the Continuing Education Requirements. **(FINRA Case #2006006666501)**

Weller, Anderson & Co., Ltd. (CRD #23736, Houston, Texas) and Fenner Reese Weller Jr. (CRD #830278, Registered Principal, Kingwood, Texas) submitted a Letter of Acceptance, Waiver and Consent in which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the findings, the firm and Weller consented to the described sanctions and to the entry of findings that the firm, acting through Weller, failed to terminate the “minimum-maximum” offering memorandum and return investor funds after failing to raise the minimum offering amount represented by the offering memorandum during the offering period, thereby rendering the representations in the memorandum false. The offering memorandum represented

that investor funds would be deposited into a bank escrow account until the minimum offering amount was raised, and that investor funds would be promptly returned if the minimum offering amount was not raised during the offering period. The findings also stated that the firm, acting through Weller, failed to establish and maintain a supervisory system reasonably designed to achieve compliance with applicable securities, laws, regulations and NASD rules regarding contingent securities offerings. **(FINRA Case #2006003681201)**

Firms Fined

BNP Paribas Securities Corp. (CRD #15794, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to submit Route Reports related to Cancel/Replace reports. The findings stated that the firm submitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order submitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. **(FINRA Case #20050000071-01)**

Citigroup Global Markets, Inc. (CRD #7059, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$300,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that during a review of its short interest reporting, it discovered that it had misreported short interest positions to FINRA for an indeterminate period of time due to computer coding issues. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning short interest reporting. **(FINRA Case #20041000119-01)**

Dresdner Kleinwort Wasserstein Securities LLC nka Dresdner Kleinwort Securities LLC (CRD #41957, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$21,000 and required to revise its written supervisory procedures with respect to SEC Rules 11Ac1-5 (now SEC Rule 605), 11Ac1-6 (now SEC Rule 606), best execution, trade reporting, sale transactions, trading halts, employee registration, anti-intimidation/coordination, soft dollar accounts, books & records and OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports and execution reports that contained inaccurate, incomplete or improperly formatted data to OATS. The findings stated that the firm failed to provide written notification to its customers regarding the average price or correct price of the transactions executed, that details of the average price were available upon request, and the correct capacity in which the firm acted. The findings also stated that the firm failed to timely report Reportable Order Events (ROEs) to OATS. The findings also included that the firm submitted reports with respect to equity securities traded on the NASDAQ Stock Market (NSM) that were not in the electronic form prescribed by FINRA and were repairable. FINRA found that the OATS system rejected the reports and notice of such rejection was made available to the firm on the OATS Web site, but the firm did not correct or replace all of the reports. FINRA also found that the firm's supervisory system did not provide

for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD Rules concerning SEC Rules 11Ac1-5 (now SEC Rule 605), 11Ac1-6 (now SEC Rule 606), best execution, trade reporting, sale transactions, trading halts, employee registration, anti-intimidation/coordination, soft dollar accounts, books & records and OATS. (FINRA Case #20050009836-01)

First Montauk Securities Corp. (CRD #13755, Red Bank, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that the firm's order tickets for corporate bond transactions were deficient, in that the order tickets failed to identify the terms and conditions of the order; did not contain the time of receipt and did not indicate whether the order was solicited or unsolicited. (FINRA Case #2006003821801)

Instinet, LLC (CRD #7897, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to revise its written supervisory procedures with respect to best execution, short sales, trading halts and trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to provide written notification disclosing to its customers that transactions were executed at an average price. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning best execution, short sales, trading halts and trade reporting. (FINRA Case #20050020916-01)

Investors Capital Corporation (CRD #30613, Lynnfield, Massachusetts) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$75,000 and required to review its procedures regarding the preservation of electronic mail communications for compliance with federal securities laws, regulations and NASD rules. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that some of its registered representatives sent business-related email through external electronic servers without first obtaining firm approval. The findings stated that with respect to some of those instances, the firm failed to provide for reasonable follow-up and review upon learning that the registered representatives were using external email accounts, did not timely detect and prevent such use and did not effectively enforce its procedures relating to external email accounts. The findings also stated that the firm failed to retain certain business-related emails its registered representatives sent and received using external accounts and, as a result, it failed to maintain and preserve all of its electronic communications as the Securities Exchange Act of 1934 and Rule 17a-4 requires. (FINRA Case #2006003901001)

Jesup & Lamont Securities Corp. (CRD #39056, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$15,000 and required to revise its written supervisory procedures with respect to municipal securities trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it improperly reported information to the Real-time Transaction Reporting System (RTRS) that it

should not have reported. The findings stated that the firm failed to submit information to the National Securities Clearing Corporation's Real-time Trade Matching automated comparison system in the manner prescribed by the RTRS Users Manual and the MSRB's Notice on Comparison of Inter-Dealer Deliveries that Do Not Represent Inter-Dealer Transactions. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and MSRB rules concerning municipal securities reporting. (FINRA Case #20060058655-01)

JonesTrading Institutional Services LLC (CRD #6888, Westlake Village, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Cancel/Replace and Route Reports that contained inaccurate, incomplete or improperly formatted data to OATS. The findings stated that the firm submitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order submitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. (FINRA Case #20050009206-01)

K-One Investment Company, Inc. (CRD # 16156, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to maintain and preserve copies of internal and external electronic email communications as Section 17(a) of the Securities Exchange Act of 1934 and Rule 17a-4 require. The findings stated that the firm failed to implement and enforce an adequate supervisory system governing the review of external communication. (FINRA Case #2006003768501)

Maxim Group, LLC (CRD #120708, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted reports with respect to equity securities traded on the NSM to OATS that were not in the electronic form FINRA prescribed and were repairable. The findings stated that OATS rejected the subject reports and notice of such rejection was made available to the firm on the OATS Web site, but the firm did not correct the reports. (FINRA Case #20060041435-02)

Merrion Securities, LLC (CRD #30145, Westfield, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports that contained an inaccurate firm Market Participant Identification (MPID) to OATS. The findings stated that the firm failed to enforce its written supervisory procedures, which specified that an initialed supervision log was to be maintained to evidence supervision of OATS reporting. (FINRA Case #20050000076-01)

Miller Johnson Steichen Kinnard, Inc. (CRD #694, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it executed short sale orders and failed to properly mark the orders as short. The findings stated that the firm transmitted reports that contained inaccurate, incomplete or improperly formatted data to OATS. The findings also stated that the firm made available a report on the covered orders in national market system securities that it received for execution from any person that included incorrect information. **(FINRA Case #20050011915-01)**

Pali Capital, Inc. (CRD #117783, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it permitted an associated person to engage in proprietary equity trading on the firm's behalf without being properly registered. The findings stated that the firm, while serving as the placement agent for an issuer conducting a private placement, instructed the escrow agent bank for the private placement to release funds to the issuer before the contingency amount set forth in the escrow agreement had been received in the escrow account. **(FINRA Case #2005000717001)**

Seaboard Securities, Inc. (CRD #755, Florham Park, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report 167 municipal securities transactions to the MSRB, and failed to report an accurate price in one instance. **(FINRA Case #2006003834401)**

Stifel, Nicolaus & Co., Inc. (CRD #793, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to immediately display customer limit orders in NASDAQ securities in its public quotation when each order was at a price that would have improved the firm's bid or offer in each security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each security and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each security. **(FINRA Case #20050016439-01)**

Tradestation Securities, Inc. (CRD #39473, Plantation, Florida) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted customer short sale orders and, for each order, failed to make an affirmative determination that the firm would receive delivery of the security on the customer's behalf, or that the firm could borrow the security on the customer's behalf for delivery by settlement date. **(FINRA Case #20070090219-02)**

Trend Trader, LLC (CRD #43635, Scottsdale, Arizona) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, acting through its financial and operations principal, it utilized the instrumentalities of interstate commerce to engage in the securities business while failing to maintain required minimum net capital. **(FINRA Case #2005003283102)**

Individuals Barred or Suspended

Barry Lynn Amsler (CRD #3162459, Registered Representative, Larkspur, Colorado) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$50,000, which includes disgorgement of \$31,860 in financial benefits received from the sale of promissory notes, and suspended from association with any FINRA member in any capacity for 24 months. The fine is due either immediately upon reassociation with a member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification. Without admitting or denying the findings, Amsler consented to the described sanctions and to the entry of findings that he engaged in private securities transactions for compensation, and failed to give his member firm written notice. The findings stated that Amsler's member firm did not authorize Amsler to engage in such activities. In fact, the firm's written procedures specifically prohibited representatives from becoming involved with the sale of promissory notes.

The suspension in any capacity is in effect from August 20, 2007, through August 19, 2009. **(FINRA Case #2006005252001)**

Ramona Marie Bianchi (CRD #3126133, Registered Representative, Harrisburg, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bianchi consented to the described sanction and to the entry of findings that she obtained possession of an automatic teller machine (ATM) card for a public customer's account and, without the customer's knowledge or authorization, used the ATM card to make unauthorized cash withdrawals from the customer's bank account, and unauthorized purchases totaling \$68,000 for her own benefit. **(FINRA Case #2007008767001)**

Bruce David Bullock (CRD #1568368, Registered Representative, Newport Coast, California) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 20 business days. Without admitting or denying the findings, Bullock consented to the described sanctions and to the entry of findings that he held several seminars to promote the sale of equity indexed annuities and fixed annuities to retirees, promoted the seminars through the use of invitations and used a presentation that contained unwarranted, misleading, unsubstantiated and promissory statements, including false assurances of riskless investing and guarantees that the retirees would never run out of money.

The suspension in any capacity was in effect from September 17, 2007, through October 12, 2007. (FINRA Case #2006005693601)

Brandon W. Cade (CRD #5062931, Registered Representative, Chicago, Illinois) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Cade withdrew \$1,300 from his teller cash drawer at a bank affiliate of his member firm without permission and used the funds for his own purposes. The findings stated that Cade failed to respond to FINRA requests for information. (FINRA Case #2006006367801)

Wayne Kenneth Campbell Jr. (CRD #4676905, Registered Representative, Dover, New Hampshire) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid before Campbell reassociates with a FINRA member following the suspension, or prior to any application or request for relief from statutory disqualification is filed. Without admitting or denying the findings, Campbell consented to the described sanctions and to the entry of findings that he signed public customers' names to account transfer forms and to documents used in connection with the purchase of variable annuities without the customers' knowledge, authorization or consent.

The suspension in any capacity is in effect from September 17, 2007, through December 15, 2007. (FINRA Case #2006006481301)

Dale Lewis Cash (CRD #4909387, Registered Representative, Oxford, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Cash consented to the described sanction and to the entry of findings that he affixed a bank financial specialist's signature to an instrument without the specialist's authorization, knowledge or consent in order to withdraw \$5,100 from the bank for a public customer's benefit, but failed to assign the funds to any customer account. The findings stated that Cash's failure to assign the funds to a customer account prevented the bank from identifying the customer, thereby incurring a loss for the bank. (FINRA Case #2006006319201)

Therese C. Castro (CRD #2625196, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$15,000, suspended from association with any FINRA member firm in any capacity for one year and barred from association with any FINRA member firm in a supervisory/principal capacity. The fine must be paid before Castro reassociates with any FINRA member following the suspension, or prior to the filing of any application or request for relief from statutory disqualification. Without admitting or denying the findings, Castro consented to the described sanctions and to the entry of findings that she asked an unregistered employee of her member firm or its affiliate to place Castro's initials on numerous pieces of branch correspondence as evidence that she had reviewed the correspondence, although she had not done so. The findings stated that Castro falsely certified in monthly reports submitted to her member firm that a supervisor had reviewed daily trade blotters when many had not been reviewed.

The suspension in any capacity is in effect from September 17, 2007, through September 16, 2008. (FINRA Case #2005002680301)

Anthony Cipriano (CRD #2998665, Registered Representative, West Islip, New York) was fined \$40,000, ordered to pay \$606, plus interest, in restitution to a public customer, suspended from association with any FINRA member firm in any capacity for one year and required to requalify by examination before acting in any registered capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) Decision. The sanctions were based on findings that Cipriano failed to disclose material information and made baseless price predictions when recommending a speculative stock to several public customers.

The suspension in any capacity is in effect from September 17, 2007, through September 16, 2008. **(FINRA Case #C0720050029)**

James Richard Clayborn (CRD #4844986, Registered Representative, Bristol, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member firm in any capacity and required to pay \$118,287.39, plus interest, in restitution to public customers. The restitution must be paid before Clayborn reassociates with a FINRA member following the suspension, or prior to the filing of any application or request for relief from statutory disqualification. Without admitting or denying the findings, Clayborn consented to the described sanctions and to the entry of findings that he misused approximately \$150,000 from public customers, for his personal expenses. The findings stated that Clayborn, in an effort to conceal his misappropriation of funds from the customers, created and distributed a false account statement that purportedly verified that \$80,000 was invested with his member firm for the customers. **(FINRA Case #2006005927801)**

Michael R. Colletti (CRD #2831635, Registered Principal, East Elmhurst, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member firm in any capacity. Without admitting or denying the findings, Colletti consented to the described sanction and to the entry of findings that he submitted timesheets for certain individuals that were false when he executed them, in that he knew the individuals did not work the hours that the timesheets presented. **(FINRA Case #2005003383701)**

Harold Lee Connell (CRD #1482623, Registered Principal, Miami, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member firm in any capacity for 30 days. Without admitting or denying the findings, Connell consented to the described sanctions and to the entry of findings that he failed to amend his Form U4 to disclose material information.

The suspension in any capacity is in effect from September 17, 2007, through October 16, 2007. **(FINRA Case #2006005321601)**

Thomas Anthony DeMarco (CRD #4608717, Registered Representative, Springfield, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member firm in any capacity. Without admitting or denying the findings, DeMarco consented to the described sanction and to the entry of findings that he directed that \$5,000 were withdrawn from a public customer's savings account to purchase additional shares in mutual funds, but the funds were not

used as directed. The findings stated that DeMarco discovered the funds in his desk drawer six weeks later, at which time he forwarded the funds to his member firm. The findings also stated that DeMarco failed to timely respond to FINRA requests for information. **(FINRA Case #2006004803301)**

Carolyn Sue Everhard (CRD #2344119, Registered Representative, Cincinnati, Ohio) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Everhard received \$6,400 from a public customer for investment purposes and converted the funds to her own use and benefit without the customer's knowledge, authorization or consent. The findings stated that Everhard failed to fully respond in a timely manner to FINRA requests for information. **(FINRA Case #20050025930)**

Robert Finstra (CRD #5127389, Associated Person, Brandon, Florida) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Finstra consented to the described sanction and to the entry of findings that he willfully failed to disclose material information on his Form U4. The findings stated that Finstra failed to respond to FINRA requests for information. **(FINRA Case #2006005704601)**

Norman R. Flemens (CRD #3212865, Registered Representative, Las Vegas, Nevada) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid immediately upon reassociation with a FINRA member firm following the suspension, or prior to the filing of any application or request for relief from statutory disqualification. Without admitting or denying the findings, Flemens consented to the described sanctions and to the entry of findings that he received checks and/or letters of application from public customers to transfer funds to effect the purchase of mutual fund company shares, and delayed entering the checks on his member firm's checks-received blotter and delayed forwarding the checks and processing applications to effect the purchases, thereby failing to execute customer orders.

The suspension in any capacity is in effect from September 4, 2007, through March 3, 2009. **(FINRA Case #2006005294301)**

Daniel Stephan Flitt (CRD #2965169, Registered Representative, Buffalo, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Flitt consented to the described sanction and to the entry of findings that he borrowed \$2,660 from a public customer without his member firm's approval and contrary to his firm's written procedures prohibiting representatives from borrowing money from customers. The findings stated that Flitt failed to respond to FINRA requests for information. **(FINRA Case #2006005734401)**

Maurice Duane Freed (CRD #2308116, Registered Representative, Wichita, Kansas) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid immediately upon reassociation with any FINRA

member firm following the suspension, or prior to the filing of any application or request for relief from statutory disqualification. Without admitting or denying the findings, Freed consented to the described sanctions and to the entry of findings that he engaged in private securities transactions by selling \$185,000 in promissory notes to public customers without prior written notice to his member firm of the sales or his role therein.

The suspension in any capacity is in effect from September 17, 2007, through March 16, 2008. (FINRA Case #20060060747-01)

Mangri Mohini Harlal (CRD #2242211, Registered Representative, Wanaque, New Jersey) was fined \$10,000 and suspended from association with any FINRA member firm in an investment company products and variable contracts representative capacity for six months. The fine is due and payable when, and if, Harlal seeks to return to the securities industry. The sanctions were based on findings that Harlal signed a public customer's name to insurance documents without the customer's permission and authority.

The suspension as an investment company products and variable contracts representative is in effect from August 20, 2007, through February 19, 2008. (FINRA Case #2005000960801)

Philippe Noel Keyes (CRD #1172528, Registered Representative, Valencia, California) was fined \$103,412 and suspended from association with any FINRA member in any capacity for two years and six months. The NAC imposed the sanctions following the SEC's remand of a previous NAC decision. The sanctions were based on findings that Keyes engaged in private securities transactions for compensation without prior written notice to, and written approval from, his member firm. The findings also stated that Keyes provided public customers with misleading sales literature in connection with the sale of promissory notes that were securities.

The suspension in any capacity is in effect from September 10, 2007, through March 10, 2010. (FINRA Case #C0220040016)

Michaelene Kocher (CRD #4712826, Registered Representative, Kingston, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kocher consented to the described sanction and to the entry of findings that she failed to respond to FINRA requests for information and to appear for an on-the-record interview. (FINRA Case #2006007069101)

Jason John Konior (CRD #2818111, Registered Representative, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 30 business days. In light of Konior's financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Konior consented to the described sanction and to the entry of findings that he recommended the purchase of shares of a volatile and speculative stock to a public customer without having reasonable grounds for believing that this recommendation was suitable for the customer based on the customer's financial

situation, investment objectives and needs. The findings stated that Konior made no reasonable effort to obtain information about the customer's tax or financial status prior to recommending the security.

The suspension in any capacity is in effect from September 17, 2007, through October 26, 2007. **(FINRA Case #2005001078101)**

Michael J. Menendez (CRD #4895632, Registered Representative, Chandler, Arizona) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Menendez misappropriated approximately \$3,000 that belonged to his member firm's affiliated bank and failed to respond to FINRA requests for information. **(FINRA Case #2006005688201)**

Alvin Saul Mirman (CRD #336645, Registered Principal, Sarasota, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Mirman consented to the described sanction and to the entry of findings that he failed to respond to a FINRA request to appear for an on-the-record interview. **(FINRA Case #E072005007001)**

David Anthony Nagler (CRD #1190128, Registered Supervisor, Santa Fe, New Mexico) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 20 business days. The fine is due and payable either immediately upon reassociation with any FINRA member firm following the suspension, or prior to the filing of any application or request for relief from statutory disqualification. Without admitting or denying the allegations, Nagler consented to the described sanctions and to the entry of findings that he borrowed \$3,000 from a public customer contrary to his member firm's written procedures prohibiting its registered representatives from borrowing or lending money from or to a client under any circumstances. The findings stated that Nagler failed to request or obtain his firm's permission to borrow money from a public customer. The findings also stated that Nagler misled another member firm during the hiring process when he failed to advise the firm that he had been permitted to resign from a previous firm for violating its policy prohibiting borrowing funds from customers.

The suspension in any capacity was in effect from September 4, 2007, through October 1, 2007. **(FINRA Case 2005003406001)**

Timothy John Nicksick (CRD #1174143, Registered Representative, Charleston, West Virginia) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Nicksick consented to the described sanctions and to the entry of findings that he signed a public customer's name on application documents to purchase an annuity without the customer's knowledge or consent

The suspension in any capacity is in effect from September 4, 2007, through December 3, 2007. **(FINRA Case #2006006634301)**

Claudia Reyes (CRD #4815334, Registered Representative, Los Lunas, New Mexico) submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Reyes consented to the described sanction and to the entry of findings that she received more than \$3,000 from customers of an insurance company affiliate of her member firm. Reyes either failed to forward the full amount of the customers' payments or did not forward any of the payments to the insurance company affiliated with her member firm. The findings stated that Reyes acted without the customers' knowledge and consent, thereby improperly using customer funds. **(FINRA Case #2006006912001)**

Michael Kevin Roberts (CRD #5116615, Associated Person, Pittsburgh, Pennsylvania) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for three months. The fine is due and payable either immediately upon reassociation with a member firm following the suspension, or prior to the filing of any application or request for relief from statutory disqualification. Without admitting or denying the findings, Roberts consented to the described sanctions and to the entry of findings that he misrepresented material fact on his Form U4.

The suspension in any capacity is in effect from September 17, 2007, through December 16, 2007. **(FINRA Case #2006005193701)**

James Joseph Robison (CRD #857336, Registered Principal, Crownsville, Maryland) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine is due and payable either immediately upon reassociation with a member following the suspension, or prior to the filing of any application or request for relief from any statutory disqualification. Without admitting or denying the findings, Robison consented to the described sanctions and to the entry of findings that he exercised discretion in a public customer's account without the customer's prior written authorization or his member firm's acceptance of the account as discretionary.

The suspension in any capacity was in effect from August 20, 2007, through August 31, 2007. **(FINRA Case #2006004848501)**

Owen Brian Rosenblum (CRD #1330416, Registered Representative, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Rosenblum consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information. **(FINRA Case #2007007697701)**

Richard Lewis Serrano (CRD #4201647, Registered Representative, Azusa, California) submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Serrano consented to the described sanction and to the entry of findings that he failed to amend his Form U4 to disclose material information. The findings stated that Serrano failed to respond to FINRA requests for information. **(FINRA Case #2006006216501)**

Elliot Yale Stevens (CRD #4358373, Registered Representative, Granite Falls, North Carolina) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine is due and payable either prior to reassociation with a member firm following the suspension, or prior to the filing of any application or request for relief from any statutory disqualification. Without admitting or denying the findings, Stevens consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U4.

The suspension in any capacity is in effect from August 20, 2007, through November 19, 2007. **(FINRA Case #2006005694101)**

Michael Thomas Studer (CRD #707394, Registered Principal, Amityville, New York) was fined \$37,500, jointly and severally with his firm and barred from association with any FINRA member in any capacity. The SEC affirmed the NAC decision that imposed sanctions following appeal of an OHO decision. The sanctions were based on findings that Studer failed to reasonably supervise trading in a public customer's account by ignoring "red flags" that indicated potential problems with the account. The findings also stated that Studer's firm induced a public customer to execute margin guarantees that benefited his firm and exposed the customer to significant risk.

This decision has been appealed to the United States Court of Appeals and all sanctions, other than the bar, are not in effect pending consideration of the case. **(FINRA Case #C3A20010036)**

The suspension in any capacity is in effect from October 1, 2007, through September 30, 2008. **(FINRA Case #E9A2004001901)**

Rockie Lee White Jr. (CRD #5182566, Associated Person, Philadelphia, Pennsylvania) was barred from association with any FINRA member in any capacity. The sanction was based on findings that White willfully failed to make material disclosures on his Form U4 and failed to respond to FINRA requests for information. **(FINRA Case #2006006150101)**

Individuals Fined

Daniel William Bukovcik (CRD #1684170, Investment Company Products and Variable Contracts Limited Representative, Ovid, Michigan) was fined \$10,000. The NAC imposed the sanction after calling for review a Hearing Panel decision issued by OHO. The sanction was based on findings that Bukovcik affixed public customers' signatures to numerous account documents without their prior written authorization. **(FINRA Case #C8A20050055)**

Andrew Joseph Hardin (CRD #4534287, Registered Representative, Greenville, South Carolina) was censured and fined \$10,000. The NAC imposed the sanctions following a call for review of an OHO decision. The sanctions were based on findings that Hardin exercised discretion in a public customer's account without prior written authorization. The findings stated that Hardin parked certificates of deposit (CDs) in the customer's account and made false representations to his member firm regarding the reasons for purchasing the CDs. **(FINRA Case #E072004072501)**

Decisions Issued

The Office of Hearing Officers (OHO) issued the following decision, which has been appealed to or called for review by the NAC as of August 31, 2007. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions which time for appeal has not yet expired will be reported in subsequent FINRA Notices.

John Christopher Correro (CRD #3179667, Registered Representative, Madison, Mississippi) was fined \$5,000, suspended from association with any FINRA member in any capacity for one year and ordered to requalify by examination before serving in any registered capacity. The sanctions were based on findings that Correro misrepresented the public customers' statuses on mutual fund sales orders to obtain contingent deferred sales charge waivers by falsely claiming that the customers were disabled. The findings stated that Correro's misrepresentations caused his member firm's books and records to be inaccurate.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. **(FINRA Case #E102004083702)**

Brian James Kelly (CRD #2270427, Registered Representative, Severna Park, Maryland) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Kelly churned a public customer's account and engaged in trading in the account that was unsuitable due to the quantity of trades and excessive use of margin. The findings stated that Kelly exercised discretion in the customer's account without his member firm's prior written approval.

This decision has been appealed to the NAC and the sanction is not in effect pending consideration of the appeal. **(FINRA Case #E9A2004048801)**

Douglas John Toth (CRD #2332079, Registered Principal, Skillman, New Jersey) was suspended from association with any FINRA member in any capacity for one year. In light of Toth's financial status, no monetary sanctions have been imposed. The NAC imposed the sanction following appeal of an OHO decision. The sanction was based on findings that Toth willfully caused the filing of a Form U4 that failed to disclose a material fact and failed to correct the inaccurate Form U4.

This decision has been appealed to the SEC and the sanction is not in effect pending consideration of the appeal. **(FINRA Case #E9A2004001901)**

Joseph Andrew Zaragoza Jr. (CRD #2417735, Registered Representative, Chicago, Illinois) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Zaragoza effected discretionary transactions in a public customer's account without the customer's prior written authorization and his firm's prior written acceptance of the account as discretionary. The findings stated that Zaragoza recommended and effected excessive trading in the customer's account despite the customer's investment objectives and financial situation. The findings also stated that Zaragoza failed to submit email correspondence to his firm for review and approval before sending it to the customer. The findings also included that Zaragoza engaged in outside business activity for compensation and failed to give his member firm prompt written notice.

This decision has been appealed to the NAC and the sanction is not in effect pending consideration of the appeal. **(FINRA Case #E8A2002109804)**

Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Charles Edward Atwell (CRD #1208702, Registered Principal, Easley, South Carolina) was named as a respondent in a FINRA complaint alleging that he made unsuitable recommendations to public customers to purchase variable universal life insurance policies without a reasonable basis for making the recommendations given the financial needs and circumstances of the customers. The complaint alleges that Atwell made material misrepresentations or omitted material facts in connection with the variable life insurance sales to public customers. **(FINRA Case #2005001491701)**

Bryan Lee Croger (CRD #2829939, Registered Representative, Noblesville, Indiana) was named as a respondent in a FINRA complaint alleging that he withdrew \$18,398.29 from public customers' bank accounts and used the funds for his own use and benefit without the customers' knowledge and consent. The complaint alleges that Croger sold shares of stock from a customer's securities account without the customer's knowledge

or consent and in the absence of any written or oral authorization to exercise discretion in the customer's account. The complaint also alleges that Croger sold the securities in the customer's account in an attempt to conceal his \$2,000 withdrawal from the account. The complaint further alleges that Croger failed to respond to FINRA requests for documents and information. **(FINRA Case #2006006397601)**

Michael Englese Jr. (CRD #3221850, Registered Representative, Ozone Park, New York) was named as a respondent in a FINRA complaint alleging that he executed purchases of a penny stock in public customers' accounts and failed to provide the customers with the required penny stock disclosures pursuant to the penny stock rules under Rule 15g of the Securities Exchange Act. The complaint alleges that Englese failed to respond to FINRA requests for information. **(FINRA Case #2005002464701)**

Cheryl Diane Jimerson (CRD #1379935, Registered Representative, Sayville, New York) was named as a respondent in a FINRA complaint alleging that she effected securities transactions in public customers' accounts without the customers' prior knowledge, authorization or consent. The complaint alleges that Jimerson engaged in a pattern of unsuitable and excessive trading activity in a customer's Individual Retirement Account (IRA) in light of the customer's objectives, financial situation and needs, and exercised discretionary authority with respect to some transactions in the account even though the customer had not executed any document permitting such discretion. The complaint also alleges that Jimerson engaged in short-term trading of mutual funds in the customer's account without reasonable grounds for believing that the transactions were suitable for the customer based on the customer's financial situation and needs. The complaint further alleges that Jimerson failed to respond to FINRA requests for information and to appear for an on-the-record interview. **(FINRA Case #E102004089201)**

Firms Expelled for Failure to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Amerifinancial
Boca Raton, Florida
(August 31, 2007)

Archer Alexander Securities Corporation
Kansas City, Missouri
(August 31, 2007)

Asensio Brokerage Services, Inc. nka Integral Securities, Inc.
New York, New York
(August 31, 2007)

J.P.R. Capital Corp.
Syosset, New York
(August 31, 2007)

Individual Suspended Pursuant to NASD Rule 9553 for Failure to Pay Arbitration Fees

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Dwight Keith Hazlewood
Little Rock, Arkansas
(June 4, 2007 – August 21, 2007)

Individuals Revoked for Failing to Pay Fines and/or Costs in Accordance with NASD Rules 8320

Michael Ray Claiborne
Dallas, Texas
August 31, 2007

Dan Alan Harbertson
Fuguay Varina, North Carolina
(August 31, 2007)

Gregory Roy Masceri
Rochester, New York
(August 31, 2007)

Tony Seokoo Paik
Suwanee, Georgia
(August 31, 2007)

Candace Sametini
Boca Raton, Florida
(August 31, 2007)

Kathleen Patricia Smith
Cincinnati, Ohio
(August 31, 2007)

Brian T. Ungerer
Middletown, Delaware
(August 31, 2007)

Individuals Barred Pursuant to NASD Rule 9552(h)

Eduardo Jesus Camejo
St. Petersburg, Florida
(August 13, 2007)

Scott C. Dorenbush
Albertville, Minnesota
(August 21, 2007)

Gerard Costante Gonzalez
St. Petersburg, Florida
(August 6, 2007)

Alan Kreitman
West Palm Beach, Florida
(August 15, 2007)

Larry Joseph McKenney
Apopka, Florida
(August 14, 2007)

Frank Rocco Peperno
Old Forge, Pennsylvania
(August 15, 2007)

Leon Andre Turner
Beaverton, Oregon
(August 22, 2007)

Individuals Suspended Pursuant to NASD Rule 9552(d)

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Joshua Kevin Englert
Westminster, Colorado
(August 20, 2007)

Thomas Brian Jordan
Helena, Alabama
(August 14, 2007)

Jason Scott Woessner
Boca Raton, Florida
(August 1, 2007)

Individuals Suspended Pursuant to NASD Rule Series 9554 for Failure to Comply with an Arbitration Award or Settlement Agreement

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Enrico Joseph Franco
Jackson, New Jersey
(August 30, 2007)

Robert Patrick Hodgins
Oyster Bay, New York
(March 17, 2006 - August 21, 2007)

Jason Alexander Lawson
Flushing, New York
(October 18, 2005 – August 21, 2007)

Kevin Mark Luetje
Sarasota, Florida
(August 24, 2007)

George Rushton Marshall
North Logan, Utah
(August 31, 2007)

Xin Shen
San Jose, California
(August 30, 2007)

Daniel Richard Siddons
West Chester, Pennsylvania
(August 30, 2007)

Dean William Urick
Sarasota, Florida
(August 24, 2007)

FINRA Fines Morgan Stanley \$1.5 Million, Orders \$4.6 million In Restitution To Customers Overcharged in Corporate Bond Sales

Firm's Bond Trader, Kenneth S. Carberry, Also Suspended for 15 Days for His Role in Improper Charges In More Than 2,800 Sales

The Financial Industry Regulatory Authority (FINRA) has fined Morgan Stanley DW Inc. (now known as Morgan Stanley & Co. Incorporated) \$1.5 million and ordered the firm to pay more than \$4.6 million in restitution for rule violations relating to the sale of corporate bonds to retail customers at excessive prices. The firm was cited for charging excessive mark-ups in more than 2,800 transactions and for having an inadequate supervisory system for monitoring the pricing of corporate fixed income securities sold to customers.

The firm's corporate bond trader, who was responsible for setting the excessive prices, Kenneth S. Carberry III, was fined \$40,000 jointly and severally with the firm and suspended in all capacities for 15 business days.

NASD's Enforcement Department investigated and settled the action prior to the creation of FINRA, which consolidated NASD and the member regulation functions of the New York Stock Exchange.

"Firms have a fundamental obligation to their customers to offer securities at prices that are fair and reasonable," said Susan Merrill, FINRA Executive Vice President and Chief of Enforcement. "In this case, Morgan Stanley and its bond trader breached that obligation, resulting in excessive mark-ups in more than 2,800 transactions. Firms should carefully monitor the methods used by traders in setting prices to ensure that the prices paid by customers are not excessive."

FINRA found that during a five-month period in 2001, Morgan Stanley charged markups ranging from 5.88 percent to 17.86 percent on 2,807 sale transactions of Kemper Lumbermans Mutual Casualty Surplus Notes in the 9.15 percent and 8.30 percent series, with a face value totaling over \$59 million. In pricing the securities, the firm's corporate fixed income securities trader, Carberry, established the offering price, to which a sales commission was added. However, the firm's procedures failed to provide for a review of the mark-ups charged using the prevailing market price at the time, which in this case was best evidenced by the firm's cost for acquiring the bonds that it later sold to customers. The pricing method used by Carberry and the firm resulted in excessive prices paid by its customers. These transactions were conducted out of the firm's main office in New York City.

In addition, FINRA found that the firm failed to have a supervisory system in place that would have allowed the firm to detect the excessive mark-ups, and failed to properly register the individual responsible for review of the trading activities.

In concluding this settlement, the firm and Carberry neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

The suspension in any capacity was in effect from August 20, 2007, through September 10, 2007.