

Notices

Regulatory Notices

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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.

Technology Integration

Technology Changes for Reporting Certain Complaint and Disclosure Information

Effective Date: October 20, 2008

Executive Summary

Beginning October 20, 2008, member firms currently using the NYSE Electronic Filing Platform must begin reporting certain complaint and disclosure information (per NYSE Rule 351 and NASD Rule 3070) through the FINRA Firm Gateway (<https://firms.finra.org>), a tool that provides consolidated access to FINRA applications. These changes are part of FINRA's ongoing effort to integrate NYSE and NASD technology systems. Firms should expect further changes next year to the reporting process as a result of the impending consolidation of Rules 351 and 3070.

This *Notice* also addresses minor changes to NASD 3070 filings on the Firm Gateway.

Questions concerning this *Notice* should be directed to:

- ▶ Dave Troutner, Deputy Director, Central Review Group, Member Regulation, at (240) 386-6404;
- ▶ Charles Shanley, Director of Preliminary Investigations, Central Review Group, Member Regulation, at (646) 315-7405; or
- ▶ Debrah Reed, Technical Reporting, at (240) 386-4612.

Technical questions regarding testing for the technology changes discussed in this *Notice* should be directed to the FINRA Help Desk at (800) 321-6273 (please say that your question is about a **test system issue**, not an actual filing). Firms also should direct all technical questions to the FINRA Help Desk on or after October 20, 2008.

August 2008

Notice Type

- ▶ Guidance

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Senior Management
- ▶ Systems

Key Topics

- ▶ Complaint and Disclosure Filings
- ▶ Firm Gateway
- ▶ NYSE Electronic Filing Platform
- ▶ NYSE Form RE-3

Referenced Rules & Notices

- ▶ NASD Rule 3070
- ▶ NYSE Rule 351

Background & Discussion

NYSE Rule 351 and NASD Rule 3070 Reporting Requirements

NYSE Rule 351(a) and NASD Rule 3070(a) require member firms to promptly file specific disclosure events, and NYSE Rule 351(d) and NASD Rule 3070(c) require member firms to report on a quarterly basis certain statistical information regarding customer complaints. The information reported by firms assists FINRA with the timely identification of potential sales practice and operational issues.

Description of Changes

Effective October 20, 2008, the NYSE Form RE-3 and NYSE Rule 351(d) quarterly filings will migrate from the NYSE Electronic Filing Platform (EFP) to a single filing platform, the Firm Gateway (<https://firms.finra.org>). These changes are part of the continued integration of NASD and NYSE technology applications and will impact the way firms currently using the EFP receive information and document requests regarding preliminary investigations.

Firms should expect further reporting and technical changes next year as a result of the impending consolidation of NYSE Rule 351 and NASD Rule 3070. FINRA will provide firms with adequate notice for any necessary technical enhancements.

Disclosure Event Filings

Beginning October 20, 2008, firms currently filing Form RE-3 via the EFP will submit their disclosure event filings via the Firm Gateway. All disclosure reporting features and functionalities in the current EFP application, as well as the firms' historical filings for the last 12 quarters, will be available on the new platform.

Firms that currently file NYSE Rule 351(a) Disclosure Events per Form RE-3 will see the following differences when submitting through the Firm Gateway:

- ▶ A single "Details for Disclosure Event" field on the Firm Gateway disclosure page will replace multiple "Details for Reason" fields from the Form RE-3. The same information currently provided in "Details for Reasons 1" through "Details for Reason 10" on Form RE-3 must be provided in text form in the "Details for Disclosure Event" field.
- ▶ A field to enter the "Subject Name" will appear when the "Related to Affiliate" or "Related to Other" option is selected.

Firms that file NASD Rule 3070(a) Disclosure Events via the Firm Gateway will experience the following differences:

- The “Comment” field will be renamed “Details for Disclosure Event.”
- A field to enter the “Subject Name” will appear when the “Related to Affiliate” or “Related to Other” option is selected.

Complaint Filings

Beginning with the fourth-quarter complaint filings due January 15, 2009, firms currently using the EFP to file their NYSE Rule 351(d) quarterly complaint reports and subsequent amendments will submit via the Firm Gateway. All complaint reporting features and functionalities in the current EFP application, as well as the firms’ historical filings for the last 12 quarters, will be available on the new platform.

Firms that file NYSE Rule 351(d) or NASD Rule 3070(c) quarterly complaint data in batch format will not experience any differences.

Firms that file NYSE Rule 351(d) quarterly complaint data one record at a time will experience the following differences:

- New mandatory fields: “CRD Branch ID,” “Customer Account Number” and “Supervisor Name.”

Firms that file NASD Rule 3070(c) quarterly complaint data one record at a time via the Firm Gateway will experience the following differences:

- Users will have the ability to view a count of filings on the top of the submitted filings page based on various criteria selected by the user.
- Fields “Branch Zip,” “Representative Work City,” “Representative Work State,” “Representative Work Zip” and “Is Rep Still Employed” no longer will be on the data entry forms, as they will be automatically generated by the system based on the “CRD Branch ID” and “Representative CRD ID.”

Preliminary Investigations

As a result of FINRA’s migration to the Firm Gateway, requests for documents and information via the EFP regarding preliminary investigations with NYSE member firms will temporarily be handled by email or U.S. mail with the designated firm contact on the filing. All other aspects of the preliminary investigation process will remain the same. An electronic interface for information requests and document transmission through the Firm Gateway is under development.

Access to the FINRA Firm Gateway and Testing Relating to the Consolidation of Complaint and Disclosure Filings

FINRA recognizes that the consolidation of the collection of complaint and disclosure filings will require firms to make modifications to the manner in which they file. Firms will have an opportunity to test filing complaints and disclosures using our customer test site at <https://regfilingtest.finra.org> beginning **September 19, 2008**.

The Firm Gateway is accessible from any Internet-enabled workstation and with a FINRA user ID and password; it does not require the installation of a digital certificate. FINRA currently is notifying firms that do not already have a FINRA user ID and password on how to secure one.

Firms that encounter technical problems, or otherwise require assistance, should contact the FINRA Help Desk at (800) 321-6273. Please tell the Help Desk that your question is about **test system issue**, not an actual filing. Likewise, on or after October 20, 2008, all technical questions should be directed to the FINRA Help Desk at (800) 321-6273.

Portfolio Margin Program

FINRA Announces Amendments to Make Permanent the Portfolio Margin Pilot Program

Effective Date: August 1, 2008

Executive Summary

Effective August 1, 2008, the portfolio margin pilot program set forth in NASD Rule 2520(g) and Incorporated NYSE Rule 431(g)¹ became permanent.² In addition, effective August 1, 2008, NASD Rule 2520(g) and Incorporated NYSE Rule 431(g) were amended to codify certain FINRA interpretations related to concentrated equity positions and day trading.³

NASD Rule 2520(g) and Incorporated NYSE Rule 431(g), as amended, are set forth in Attachment A of this *Notice*.

Questions regarding this *Notice* should be directed to:

- Rudolph Verra, Managing Director, Risk Oversight and Operational Regulation, at (646) 315-8811;
- Glen Garofalo, Director, Credit Regulation, at (646) 315-8464; or
- Steve Yannolo, Principal Credit Specialist, Credit Regulation, at (646) 315-8621.

Background & Discussion

Portfolio margin is a methodology that computes margin requirements for an account based on the greatest projected net loss of all positions in a product class or group, and uses computer modeling to perform risk analysis using multiple pricing scenarios. The pricing scenarios are designed to measure the theoretical loss of the positions, given changes in the underlying price and implied volatility inputs to the model. Accordingly, the margin required is based on the greatest loss that would be incurred in a portfolio if the value of its components move up or down by a predetermined amount.⁴

August 2008

Notice Type

- Rule Amendment

Suggested Routing

- Compliance
- Legal
- Margin
- Risk
- Senior Management

Key Topics

- Portfolio Margin

Referenced Rules & Notices

- NASD Rule 2520
- NTM 07-11
- NYSE Rule 431

The portfolio margin program set forth in NASD Rule 2520(g) and Incorporated NYSE Rule 431(g) was initially established as a pilot and was scheduled to expire on July 31, 2008. Effective August 1, 2008, the portfolio margin program became permanent.⁵

In addition, FINRA has codified its interpretation of NASD Rule 2520(g) and Incorporated NYSE Rule 431(g) regarding (1) monitoring concentrated equity positions and (2) the timing of day trading margin calls.

Concentrated Equity Positions

FINRA has codified its interpretation regarding concentrated equity positions. NASD Rule 2520(g)(1) and Incorporated NYSE Rule 431(g)(1) outline various procedural guidelines that firms are required to meet in order to offer portfolio margin to customers. FINRA has issued interpretive guidance in its frequently asked questions, available on its Web site,⁶ regarding its expectation that, among other things, firms develop reports that identify a concentration of any individual security in both individual portfolio margin accounts and across all portfolio margin accounts. Firms are permitted to establish their own criteria as to what constitutes a concentrated position. FINRA expects that firms will impose a higher maintenance margin requirement on any identified concentrated positions.

Day Trading

FINRA has also codified its interpretation regarding timing of day trade margin calls. NASD Rule 2520(g)(13) and Incorporated NYSE Rule 431(g)(13) require firms to monitor accounts that do not maintain \$5 million minimum equity to ensure that day trading requirements promulgated under NASD Rule 2520(e)(8)(B) and Incorporated NYSE Rule 431(e)(8)(B) are applied. Customers are permitted to engage in day trading provided they day trade within a specific dollar limit (*i.e.*, day trading buying power). Customers that day trade in excess of their day trading buying power are required to deposit additional funds and/or securities to meet this special maintenance margin deficiency, or day trade margin call. In a strategy-based margin account, day trade margin calls are due within five business days.⁷ Since maintenance margin deficiencies in portfolio margin accounts are due within three business days,⁸ FINRA requires day trade margin calls incurred in portfolio margin accounts also to be met within three business days.⁹

Endnotes

- 1 The current FINRA rulebook consists of two sets of rules: (1) NASD Rules and (2) rules incorporated from NYSE (Incorporated NYSE Rules). While the NASD Rules generally apply to all FINRA member firms, the Incorporated NYSE Rules apply only to members of both FINRA and the NYSE, referred to as Dual Members.
- 2 See Securities Exchange Act Release No. 58251 (July 30, 2008) 73 FR 45506 (August 5, 2008) (Notice of Filing and Immediate Effectiveness of SR-FINRA-2008-041).
- 3 See Securities Exchange Act Release No. 58236 (July 30, 2008) 73 FR 46111 (August 7, 2008) (Notice of Filing and Immediate Effectiveness of SR-FINRA-2008-042).
- 4 See *NASD NTM 07-11* (February 2007) for additional discussion about the portfolio margin program.
- 5 See Securities Exchange Act Release No. 58251 (July 30, 2008) 73 FR 45506 (August 5, 2008) (Notice of Filing and Immediate Effectiveness of SR-FINRA-2008-041).
- 6 See FINRA's frequently asked questions at www.finra.org/portfoliomargin/faq under "Margin Requirements."
- 7 See NASD Rule 2520(f)(8)(C) and Incorporated NYSE Rule 431(f)(8)(C).
- 8 See NASD Rule 2520(g)(10)(A) and Incorporated NYSE Rule 431(g)(10)(A).
- 9 See FINRA's frequently asked questions at www.finra.org/portfoliomargin/faq under "Day Trading."

Attachment A

New language is underlined; deletions are in brackets.

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2500. SPECIAL ACCOUNTS

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2520. Margin Requirements

(a) through (f) No Change.

(g) Portfolio Margin

As an alternative to the “strategy-based” margin requirements set forth in paragraphs (a) through (f) of this Rule, members may elect to apply the portfolio margin requirements set forth in this paragraph (g) to all margin equity securities,¹ listed options, security futures products (as defined in Section 3(a)(56) of the Exchange Act), unlisted derivatives, warrants, index warrants and related instruments, provided that the requirements of paragraph (g)(6)(B)(i) of this Rule are met.

In addition, a member, provided that it is a Futures Commission Merchant (“FCM”) and is either a clearing member of a futures clearing organization or has an affiliate that is a clearing member of a futures clearing organization, is permitted under this paragraph (g) to combine an eligible participant’s related instruments as defined in paragraph (g)(2)(D), with listed index options, unlisted derivatives, options on exchange traded funds (“ETF”), index warrants and underlying instruments and compute a margin requirement for such combined products on a portfolio margin basis.

The portfolio margin provisions of this Rule shall not apply to Individual Retirement Accounts (“IRAs”).

(1) Monitoring. — Members must monitor the risk of portfolio margin accounts and maintain a comprehensive written risk analysis methodology for assessing the potential risk to the member’s capital over a specified range of possible market movements of positions maintained in such accounts. The risk analysis methodology shall specify the computations to be made, the frequency of computations, the records to be reviewed and maintained, and the person(s) within the organization responsible for the risk function. This risk analysis methodology

must be filed with NASD, or the member's designated examining authority ("DEA") if other than NASD, and submitted to the Commission prior to the implementation of portfolio margining. In performing the risk analysis of portfolio margin accounts required by this Rule, each member shall include in the written risk analysis methodology procedures and guidelines for:

(A) through (F) No Change.

(G) the appropriate response by management when limits on credit extensions related to portfolio margin accounts have been exceeded; [and]

(H) determining the need to collect additional margin from a particular eligible participant, including whether that determination was based upon the creditworthiness of the participant and/or the risk of the eligible product[.];
and

(I) monitoring the credit exposure resulting from concentrated positions within both individual portfolio margin accounts and across all portfolio margin accounts.

Moreover, management must periodically review, in accordance with written procedures, the member's credit extension activities for consistency with these guidelines. Management must periodically determine if the data necessary to apply this paragraph (g) is accessible on a timely basis and information systems are available to adequately capture, monitor, analyze and report relevant data.

(2) through (12) No Change.

(13) Day Trading Requirements. — The day trading restrictions promulgated under paragraph (f)(8)(B) of this Rule shall not apply to portfolio margin accounts that establish and maintain at least five million dollars in equity, provided that a member has the ability to monitor the intra-day risk associated with day trading. Portfolio margin accounts that do not establish and maintain at least five million dollars in equity will be subject to the day trading restrictions under paragraph (f)(8)(B) of this Rule, provided the member has the ability to apply the applicable day trading requirement under this Rule. However, if the position or positions day traded were part of a hedge strategy, the day trading restrictions will not apply. A "hedge strategy" for purposes of

this Rule means a transaction or a series of transactions that reduces or offsets a material portion of the risk in a portfolio. Members are expected to monitor these portfolio margin accounts to detect and prevent circumvention of the day trading requirements. In the event day trades executed in a portfolio margin account exceed the day trading buying power, the day trade margin deficiency that is created must be met by the deposit of cash and/or securities within three business days.

(14) through (15) No Change.

- 1 For purposes of this paragraph (g) of the Rule, the term “margin equity security” utilizes the definition at Section 220.2 of Regulation T of the Board of Governors of the Federal Reserve System.

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Rule 431. Margin Requirements

(a) through (f) No Change.

(g) Portfolio Margin

As an alternative to the “strategy-based” margin requirements set forth in sections (a) through (f) of this Rule, members organizations may elect to apply the portfolio margin requirements set forth in this section (g) to all margin equity securities,¹ listed options, unlisted derivatives, and security futures products (as defined in Section 3(a)(56) of the Securities Exchange Act of 1934 (the “Exchange Act”)), provided that the requirements of section (g)(6)(B)(1) of this Rule are met.

In addition, a member organization, provided that it is a Futures Commission Merchant (“FCM”) and is either a clearing member of a futures clearing organization or has an affiliate that is a clearing member of a futures clearing organization, is permitted under this section (g) to combine an eligible participant’s related instruments as defined in section (g)(2)(E), with listed index options, options on exchange traded funds (“ETF”), index warrants and underlying instruments and compute a margin requirement for such combined products on a portfolio margin basis.

The portfolio margin provisions of this Rule shall not apply to Individual Retirement Accounts (“IRAs”).

(1) Member organizations must monitor the risk of portfolio margin accounts and maintain a comprehensive written risk analysis methodology for assessing the potential risk to the member organization’s capital over a specified range of possible market movements of positions maintained in such accounts. The risk analysis methodology shall specify the computations to be made, the frequency of computations, the records to be reviewed and maintained, and the person(s) within the organization responsible for the risk function. This risk analysis methodology must be filed with the New York Stock Exchange (the “Exchange”), or the member organization’s designated examining authority (“DEA”) if other than the Exchange, and submitted to the Securities and Exchange Commission (“SEC”) prior to the implementation of portfolio margining. In performing the risk analysis of portfolio margin accounts required by this Rule, each member organization shall include in the written risk analysis methodology procedures and guidelines for:

(A) through (F) No Change.

(G) the appropriate response by management when limits on credit extensions related to portfolio margin accounts have been exceeded, [and]

(H) determining the need to collect additional margin from a particular eligible participant, including whether that determination was based upon the creditworthiness of the participant and/or the risk of the eligible product[.],
and

(I) monitoring the credit exposure resulting from concentrated positions within both individual portfolio margin accounts and across all portfolio margin accounts.

Moreover, management must periodically review, in accordance with written procedures, the member organization’s credit extension activities for consistency with these guidelines. Management must periodically determine if the data necessary to apply this section (g) is accessible on a timely basis and information systems are available to adequately capture, monitor, analyze and report relevant data.

(2) through (12) No Change.

(13) Day Trading Requirements. — The day trading restrictions promulgated under section (f)(8)(B) of this Rule shall not apply to portfolio margin accounts that establish and maintain at least five million dollars in equity, provided a member organization has the ability to monitor the intra-day risk associated with day trading. Portfolio margin accounts that do not establish and maintain at least five million dollars in equity will be subject to the day trading restrictions under section (f)(8)(B), provided the member organization has the ability to apply the applicable day trading requirement under this Rule. However, if the position or positions day traded were part of a hedge strategy, the day trading restrictions will not apply. A “hedge strategy” for purposes of this Rule means a transaction or a series of transactions that reduces or offsets a material portion of the risk in a portfolio. Member organizations are expected to monitor these portfolio margin accounts to detect and prevent circumvention of the day trading requirements. In the event day trades executed in a portfolio margin account exceed the day trading buying power, the day trade margin deficiency that is created must be met by the deposit of cash and/or securities within three business days.

(14) through (15) No Change.

- 1 For purposes of this section (g) of the Rule, the term “margin equity security” utilizes the definition at Section 220.2 of Regulation T of the Board of Governors of the Federal Reserve System, excluding a nonequity security.

* * * * *

SEC Rule 144 and TRACE Eligibility

Guidance on Transactions in TRACE-Eligible Securities Under SEC Rule 144

Executive Summary

The SEC recently adopted changes to SEC Rule 144 that shorten the holding period requirements for privately placed securities before they can be sold into the secondary market, subject to the conditions of the rule, and that may change industry conventions in the resale of privately placed debt securities.

FINRA reminds firms that, unless exempt under NASD Rule 6230(e), once a security is eligible under NASD Rule 6210 as a TRACE-eligible security, all secondary market transactions in the security are “reportable TRACE transactions,” as defined in NASD Rule 6210(c). This includes securities that are eligible because they were initially issued pursuant to Section 4(2) of the Securities Act of 1933 and subsequently purchased or sold pursuant to SEC Rule 144A.

Questions regarding this *Notice* may be directed to Elliot R. Levine, Associate Vice President and Counsel, Transparency Services, at (202) 278-8405; or Sharon Zackula, Associate Vice President and Associate General Counsel, Office of General Counsel, at (202) 728-8985.

Background and Discussion

The Securities and Exchange Commission (SEC) recently adopted changes to Rule 144 under the Securities Act of 1933 (Securities Act) (SEC Rule 144) that shorten the holding period for privately placed securities before they can be sold into the secondary market, subject to the conditions as enumerated in the federal rule.¹ As the changes to SEC Rule 144 have

August 2008

Notice Type

- Guidance

Suggested Routing

- Compliance
- Executive Representatives
- Fixed Income
- Legal
- Operations
- Systems
- Trading
- Training

Key Topic(s)

- Freely Tradable Securities
- Rule 144 Holding Period
- Restricted Securities
- TRACE-Eligible Securities

Referenced Rules & Notices

- NASD Rule 6200 Series
- SEC Rule 144
- SEC Rule 144A

begun to impact certain debt market practices, FINRA has received questions regarding transactions in TRACE-eligible securities that were issued pursuant to Section 4(2) of the Securities Act and, thereafter, purchased or sold pursuant to Rule 144A under the Securities Act (SEC Rule 144A).²

There are different conventions by which privately placed securities become freely traded in the secondary market when all the requirements of SEC Rule 144 have been met, but none are relevant for the purposes of determining whether the subsequent secondary market transactions are reportable to TRACE. Therefore, securities acquired under SEC Rule 144A that are resold by simply meeting the holding period of SEC Rule 144, registered for subsequent sale by the issuer or swapped by the issuer for freely tradable securities are all subject to TRACE reporting upon resale.

In sum, a TRACE-eligible security generally is either: (1) registered under the Securities Act or (2) issued pursuant to Section 4(2) of the Securities Act and purchased or sold pursuant to SEC Rule 144A. Unless exempt pursuant to NASD Rule 6230(e), once a security meets the definition of "TRACE-eligible security," all secondary market transactions in such securities are "reportable TRACE transactions," as defined in NASD Rule 6210(c). Accordingly, secondary market transactions either pursuant to SEC Rule 144A, SEC Rule 144 or some other exemption from registration, in a security initially issued pursuant to Section 4(2) and purchased or sold pursuant to SEC Rule 144A are TRACE reportable. In addition, if at the time of the transaction the security is freely tradable, the transaction is subject to TRACE dissemination.

Endnotes

- 1 See SEC Rule 144 (17 CFR 230.144). See SEC Rule 144(d) (holding periods). See SEC Release No. 33-8869 (December 6, 2007), 72 FR 71546 (December 17, 2007) (order approving changes to SEC Rule 144).
- 2 In addition to being issued under Section 4(2) of the Securities Act and traded under SEC Rule 144A (or registered under the Securities Act), a TRACE-eligible security must be U.S.-dollar denominated, depository-eligible under NASD Rule 11310(d), and issued by the United States and/or a foreign private issuer. Certain types of securities are specifically excluded: securities issued by a government-sponsored entity, mortgage- or asset-backed securities, collateralized mortgage obligations and money market instruments having a maturity of less than one year at issuance. See NASD Rule 6210(a).

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Trade Reporting and Compliance Engine (TRACE)

SEC Approves Expanding Disseminated Real-Time TRACE Data

Effective Date: November 3, 2008

Executive Summary

On November 3, 2008, FINRA will begin to publicly disseminate additional data elements for corporate bond transactions that are reported to TRACE.¹ The additional data elements indicate whether a transaction is an inter-dealer transaction or a transaction with a customer and, if a customer transaction, whether the broker-dealer is on the buy or the sell side.

Questions regarding this *Notice* may be directed to:

- ▶ Patrick S. Geraghty, Director, Fixed Income, Market Regulation at (240) 386-4973;
- ▶ Elliot R. Levine, Associate Vice President and Counsel, Transparency Services, at (202) 728-8405; or
- ▶ Sharon Zackula, Associate Vice President and Associate General Counsel, Office of General Counsel, at (202) 728-8985.

Background and Discussion

Currently, two types of information are included in the data elements reported to the Trade Reporting and Compliance Engine (TRACE): (1) the identification of a transaction as an inter-dealer transaction or a transaction with a customer, and (2) whether the reporting broker-dealer (dealer) is on the buy side as principal or agent (Buy) or the sell side as principal or agent (Sell). However, the identification of transactions as either inter-dealer or customer transactions and whether, in customer transactions, the dealer is on the Buy or Sell side, presently are not disseminated in real-time TRACE data.

August 2008

Notice Type

- ▶ SEC Policy Approval

Suggested Routing

- ▶ Compliance
- ▶ Executive Representatives
- ▶ Fixed Income
- ▶ Legal
- ▶ Operations
- ▶ Senior Management
- ▶ Systems
- ▶ Trading
- ▶ Training

Key Topic(s)

- ▶ Disseminated Real-Time TRACE Data
- ▶ Debt Securities Pricing
- ▶ Best Execution
- ▶ Debt Mark-Ups

Referenced Rules & Notices

- ▶ NASD Rule 2110
- ▶ NASD Rule 2320
- ▶ NASD Rule 2440
- ▶ NASD IM-2440-1
- ▶ NASD IM-2440-2
- ▶ NASD Rule 6200 Series

FINRA will disseminate these additional data elements in real-time TRACE data beginning November 3, 2008. In addition to identifying whether a transaction is inter-dealer or with a customer, the additional real-time data elements will indicate whether the dealer is on the Buy or Sell side in dealer transactions with customers. (Currently, in inter-dealer transactions, only the selling dealer's transaction information is disseminated, making a Buy or Sell indicator in the disseminated data unnecessary for such transactions.)

Dissemination of the additional data elements will enhance market transparency by allowing dealers, customers and other corporate bond market participants and observers to better understand the nature of a trade represented by a particular price disseminated in real-time TRACE data. In real-time TRACE data, customer transaction prices are "all-in prices," meaning that the disseminated price includes a mark-up/mark-down or a commission, which is not the case in disseminated inter-dealer transaction prices. Currently, disseminated customer and inter-dealer prices are intermingled in real-time TRACE data, and the additional data elements will allow greater distinction of the nature of the transactions underlying these prices.

With the dissemination of transaction information identifying inter-dealer and customer transactions and the related Buy or Sell side price information in customer transactions, dealers will be able to use the additional data elements to compare prices as an aid in determining their best-execution obligations under NASD Rule 2320, and their compliance with the fair mark-up/mark-down requirements under NASD Rule 2440, NASD IM-2440-1, NASD IM-2440-2 and other provisions of the federal securities laws.² For example, under NASD IM-2440-2, paragraph (b)(6), when a dealer may refer to transaction prices in similar securities to establish a price from which to compute a mark-up or mark-down, the dealer should know the side of the market (*i.e.*, the Buy or Sell information) to determine the relative comparability of a transaction in a similar security to the transaction to determine whether that transaction is appropriate for marking purposes under the rule.³

Investors also will benefit from knowing whether a transaction price reflected in real-time TRACE data is an inter-dealer or customer transaction, and, if a customer transaction, whether it reflects a dealer on the Buy or Sell side. With this information, investors will be able to compare prices more effectively to determine the quality of execution pricing and remuneration.

The revised dissemination policy will become effective November 3, 2008.

Endnotes

- 1 See Securities Exchange Act Release No. 58115 (July 7, 2008), 73 FR 40409 (July 14, 2008) (order approving SR-FINRA-2007-026).
- 2 See Section 17 of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 (Exchange Act) and Rule 10b-5 under the Exchange Act.

NASD Rule 2320, NASD Rule 2440, NASD-IM-2440-1 and NASD IM-2440-2 do not apply to transactions in municipal securities.

- 3 See also, e.g., NASD IM-2440-2, paragraph (b)(5)(A) and paragraph (b)(5)(B).

In describing the reporting requirements for TRACE, the information that is reported to TRACE, and the information that will be disseminated in real-time TRACE data, the term “inter-dealer trade” or “inter-dealer transaction” includes the dealer’s own inter-dealer transactions. In contrast, when a dealer is applying FINRA’s mark-up rules and interpretations and NASD Rule 2110 in the context of mark-ups, the term “inter-dealer trade” or “inter-dealer transaction” does not include the dealer’s own inter-dealer transactions.

Chairperson Eligibility Requirements

SEC Approves a Proposed Rule Change to Amend the Chairperson Eligibility Requirements in the Arbitration Codes for Customer and Industry Disputes

Effective Date: September 22, 2008

Executive Summary

An amendment to the chairperson eligibility requirements of the Code of Arbitration Procedure for Customer Disputes and Industry Disputes that removes the alternative “substantially equivalent training or experience” criterion¹ is effective September 22, 2008.

The text of the amendment is set forth in Attachment A. It will apply to chairperson lists generated according to Rules 12403 or 13403 on or after September 22, 2008, and to arbitrators appointed by the Director of Arbitration according to Rules 12406, 12411, 13406 or 13411 on or after September 22, 2008, when an insufficient number of names remain on the consolidated list.

Questions concerning this *Notice* should be directed to Barbara L. Brady, Vice President and Director of Neutral Management, at (212) 858-4352 or barbara.brady@finra.org; or Mignon McLemore, Assistant Chief Counsel, FINRA Dispute Resolution, at (202) 728-8151 or mignon.mclemore@finra.org.

August 2008

Notice Type

- Rule Amendment

Suggested Routing

- Compliance
- Legal

Key Topic(s)

- Arbitration
- Chairperson Selection
- Code of Arbitration Procedure
- Dispute Resolution

Referenced Rules & Notices

- Rule 12400(c)
- Rule 13400(c)

Background and Discussion

Under Rules 12400(c) and 13400(c) of the Code of Arbitration Procedure for Customer Disputes (Customer Code) and the Code of Arbitration Procedure for Industry Disputes (Industry Code) (the Codes), arbitrators are eligible for the chairperson roster if they have completed FINRA's chairperson training course (chair training) or have substantially equivalent training or experience, and have served as arbitrators through award in three cases (two cases for attorneys).² For purposes of these rules, FINRA anticipated that substantially equivalent training or experience might include service as a judge or administrative hearing officer, or chairperson training offered by another recognized dispute resolution forum.

In the year since these rules have been in effect,³ all arbitrators currently classified as chairpersons have completed FINRA's chair training, and the chair training requirement has never been waived for an arbitrator claiming to satisfy the "substantially equivalent" criterion. Thus, FINRA has determined that the "substantially equivalent" criterion has not been essential to arbitrators in establishing their eligibility for the chairperson roster and FINRA is, therefore, removing this criterion from the rules.

As a result of this change, FINRA will require all arbitrators wishing to qualify as chairpersons to take FINRA chair training before they can become eligible for the chairperson roster.⁴ The chair training builds on the basic arbitrator training and instructs arbitrators on the added responsibilities they assume in the essential role of chairperson in the FINRA forum. These responsibilities include overseeing the discovery process, ruling on motions and objections, and managing hearings. Once arbitrators have taken the chair training,⁵ FINRA staff will review their qualifications to determine their eligibility for the chairperson roster.

Since FINRA staff will no longer assess arbitrators' prior experience or training to determine whether it was substantially equivalent to FINRA chair training, Rules 12400(c) and 13400(c), as amended, will reduce staff discretion, making chair eligibility determinations more objective, and will provide investors with access to well-trained and well-qualified arbitrators.

Effective Date Provisions

The amendment will become effective on September 22, 2008, and will apply to chairperson lists generated according to Rules 12403 or 13403 on or after September 22, 2008, and to arbitrators appointed by the Director of Arbitration according to Rules 12406, 12411, 13406 or 13411 on or after September 22, 2008, when an insufficient number of names remain on the consolidated list.

Endnotes

- 1 Exchange Act Release No. 58004 (June 23, 2008), 73 Federal Register 36579 (June 27, 2008) (File No. SR-NASD-2008-009).
- 2 Rule 12400(c) of the Customer Code and Rule 13400(c) of the Industry Code.
- 3 When the SEC approved the Code Revision in January 2007, Rules 12400 and 13400 were adopted to improve the arbitrator selection process by creating and maintaining a new roster of arbitrators who are qualified to serve as chairpersons. See Securities Exchange Act Release No. 55158 (January 24, 2007); 72 FR 4574 (January 31, 2007) (File Nos. SR-NASD-2003-158 and SR-NASD-2004-011).
- 4 The online Chairperson training course is \$50 and is available at www.finra.org/ArbitrationMediation/ResourcesforArbitratorsandMediators/ArbitratorTraining/ArbitratorTrainingPrograms/index.htm.
- 5 In addition to Basic Arbitrator Training and Chair Training, FINRA provides voluntary modules on specific arbitration topics, such as disclosure, discovery abuse and sanctions, and understanding the pre-hearing stage. These courses are also available on FINRA's Web site for a nominal fee. See note 4 for link to Arbitrator Training Programs.

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Attachment A

Deleted language is in brackets.

Code of Arbitration Procedure for Customer Disputes

and

Code of Arbitration Procedure for Industry Disputes

* * *

Customer Code

12400. Neutral List Selection System and Arbitrator Rosters

(a) - (b) No change.

(c) Eligibility for Chairperson Roster

In customer disputes, chairpersons must be public arbitrators. Arbitrators are eligible for the chairperson roster if they have completed chairperson training provided by NASD [or have substantially equivalent training or experience] and:

{Remainder of the rule unchanged.}

* * *

Industry Code

13400. Neutral List Selection System and Arbitrator Rosters

(a) - (b) No change.

(c) Eligibility for Chairperson Roster

Arbitrators are eligible to serve as chairperson of panels submitted for arbitration under the Code if they have completed chairperson training provided by NASD [or have substantially equivalent training or experience] and:

{Remainder of rule – no change.}

* * *

Arbitration and Mediation Fees

FINRA to Deduct All Delinquent Arbitration and Mediation Fees from CRD Accounts

Effective Date: September 22, 2008

Executive Summary

Effective September 22, 2008, FINRA will begin deducting all delinquent arbitration and mediation fees owed by member firms from their Central Registration Depository accounts.¹ Such fees are considered delinquent if they are not paid within 60 days after the date of an invoice.

When collecting arbitration and mediation fees, FINRA will:

- send a written invoice informing the firm that the fees are due and must be paid within 60 calendar days of the invoice date; and
- deduct the delinquent fees from funds maintained in a firm's Central Registration Depository account.

Questions regarding this *Notice* may be directed to Dorothy Popp, Vice President and Director of Operations, at (212) 858-3950.

August 2008

Notice Type

- Guidance

Suggested Routing

- Compliance
- Legal

Key Topic(s)

- Arbitration
- Central Registration Depository
- Dispute Resolution
- Fees
- Mediation

Referenced Rules & Notices

- NASD Rule 10000 Series
- NASD Rule 12000 Series
- NASD Rule 13000 Series
- NASD Rule 14000 Series
- NTM 97-71
- NTM 98-61
- NTM 99-84

Discussion

Arbitration Fees

Parties to an arbitration may be required to pay fees at various stages of the proceedings. Each party who filed a claim in an arbitration case before April 16, 2007, must pay an arbitration filing fee and hearing session deposit fee according to the schedule in the prior Code of Arbitration Procedure (NASD Rule 10000 Series) unless the Director of Arbitration defers payment of the fees.² Each party filing a claim in an arbitration case on or after April 16, 2007, must pay an arbitration filing fee according to the schedule in the Code of Arbitration Procedure for Customer Disputes (NASD Rule 12000 Series) or the Code of Arbitration Procedure for Industry Disputes (NASD Rule 13000 Series) unless the Director of Arbitration defers payment of the fee.³ Other arbitration fees include the member surcharge;⁴ pre-hearing process and hearing process fees;⁵ an injunctive relief surcharge;⁶ hearing session fees;⁷ other costs and expenses;⁸ postponement fees and fees for last minute adjournments;⁹ and injunctive costs, expenses and arbitrator honoraria.¹⁰ Parties should direct questions about the assessment of arbitration fees to the assigned case administrator.

Mediation Fees

Each party to a matter submitted directly to mediation before January 30, 2006, must pay a mediation filing fee according to the schedule in the prior Code of Arbitration Procedure (NASD Rule 10400 series) unless the Director of Mediation waives the fee.¹¹ Each party to a matter submitted directly to mediation on or after January 30, 2006, must pay a mediation filing fee according to the schedule in the Mediation Code (NASD Rule 14000 series) unless the Director of Mediation waives the fee.¹² When a matter is initially filed in arbitration and is subsequently submitted to mediation, each party in a case involving more than \$25,000 in dispute must pay a mediation filing fee unless the Director of Mediation waives the fee.¹³ Parties to a FINRA mediation must pay all of the mediator's fees and expenses.¹⁴ Parties should direct questions about the assessment of mediation fees to the assigned mediation administrator.

New Procedures for Deduction of Arbitration and Mediation Fees

Effective September 22, 2008, FINRA will begin deducting all delinquent arbitration and mediation fees owed by member firms from their Central Registration Depository (CRD) accounts. Such fees are considered delinquent if they are not paid within 60 days after the date of an invoice.

When collecting arbitration and mediation fees, FINRA will:

- send a written invoice informing the firm that the fees are due and must be paid within 60 calendar days after the date of the invoice, and
- deduct the delinquent fees from funds maintained in a firm's CRD account.

Invoices

During an arbitration, member firms that are parties to the arbitration will receive a written invoice for all member surcharges, pre-hearing process fees and hearing process fees.¹⁵ In addition, parties to a pending arbitration may receive a written invoice for any outstanding administrative or other fees billed to the parties. At the conclusion of an arbitration, parties will receive a written invoice for all outstanding arbitration fees, including filing fees, member surcharges, pre-hearing process and hearing process fees, hearing session fees, postponement fees, injunctive fees, arbitrator honoraria and other costs and expenses. For fees assessed to more than one party jointly and severally, FINRA reserves the right to invoice and collect from any party liable for those joint and several fees.

During a mediation, parties will receive one or more written invoices for mediation fees. At the conclusion of a mediation, parties will receive a final written invoice for outstanding mediation fees.

If the firm is or was represented by outside counsel in the underlying arbitration or mediation, FINRA will send the firm's invoice only to such counsel of record.¹⁶

Deduction from CRD Account

If the firm does not pay the arbitration and mediation fees it owes within 60 days of the invoice date, FINRA will deduct the delinquent fees owed by the firm from its CRD account. Written confirmation of each deduction will continue to be provided to the firm's compliance officer.

Suspension/Cancellation of Membership or Registration

Firms are responsible for replenishing the funds on deposit to ensure that there are no delays in processing any CRD-related obligation. If there are insufficient funds on deposit in the CRD account to cover the outstanding arbitration and mediation fees, and the firm has not made other arrangements for payment, FINRA will pursue cancellation or suspension of the firm's membership pursuant to Article VI, Section 3 of FINRA's By-Laws.

Endnotes

- 1 For open arbitration cases, FINRA currently deducts from firms' CRD accounts all unpaid surcharges, pre-hearing process fees and hearing process fees that are more than 60 days past due. For closed cases, FINRA deducts from firms' CRD accounts all unpaid arbitration fees that are more than 60 days past due. *See NTMs 97-71, 98-61 and 99-84.*
- 2 *See* NASD Rule 10332(a).
- 3 *See* NASD Rules 12900 and 13900.
- 4 Each firm that either files or is named as a respondent in a claim, counterclaim, cross claim or third-party claim, or at the time the dispute arose employed an associated person who is named in a claim, counterclaim, cross claim or third-party claim, must pay this fee. *See* NASD Rules 12901 and 13901.
- 5 Each firm that is a party to an arbitration in which more than \$25,000, exclusive of interest and expenses, is in dispute, must pay these fees. *See* NASD Rules 12903 and 13903.
- 6 Each party seeking permanent injunctive relief in arbitration must pay this fee. *See* NASD Rules 10335(b)(6) and 13804(c)(6).
- 7 *See* NASD Rules 10332(c), 12902(a)(b) and 13902(a)(b). Hearing session fees are referred to as "forum fees" in the Code of Arbitration Procedure Rule 10000 series.
- 8 *See* NASD Rules 10332(c), 12902(c) and 13902(c).
- 9 *See* NASD Rules 10319(b) and (c), 12601(b) and 13601(b).
- 10 *See* NASD Rules 10335(b)(6) and 13804(c)(6).
- 11 *See* NASD Rule 10407(a).
- 12 *See* NASD Rule 14110(a).
- 13 *See* NASD Rules 10407(b) and 14110(b).
- 14 *See* NASD Rules 10407(c) and 14110(c).
- 15 Member firms that are not parties to an arbitration, but at the time the dispute arose employed an associated person who is a named respondent in an arbitration, will also receive a written invoice for a member surcharge fee.
- 16 FINRA will send the written invoice for a mediation case to the counsel of record in the arbitration case. If there is no arbitration case, FINRA will send the written invoice to the counsel of record in the mediation case.

Election Notice

Nominee for Vacant FINRA Board of Governors Small Firm Seat

August 26, 2008

Suggested Routing

- Executive Representatives
- Senior Management

Executive Summary

FINRA will conduct a special meeting of member firms on Friday, November 21, 2008, to elect an individual to fill the vacant Small Firm Governor seat. A formal notice of the meeting, including the precise time and location, will be mailed on or about October 24, 2008.

In response to FINRA's communications soliciting candidates, 40 individuals applied or were recommended for consideration for the vacancy. The individual nominated by the NASD Group Committee¹ of the FINRA Board of Governors (FINRA Board) for election to the Small Firm seat is Mari J. Buechner. Eligible individuals who were not nominated may petition to have their name included on the ballot by following the procedures below.

Pursuant to Article VII, Section 10 of FINRA's By-Laws, a person who has not been so nominated for election to the FINRA Board may be included on the ballot for the election of governors if:

- within 45 days after the date of this *Election Notice*, such person presents to the Secretary of FINRA petitions in support of such nomination, duly executed by at least three percent of FINRA member firms entitled to vote for such nominee's election; and
- the Secretary certifies that such petitions have been duly executed by the executive representatives of the requisite number of FINRA member firms entitled to vote for such person's election, and the person being nominated satisfies the classification of the governorship to be filled based on the information provided by the person as is reasonably necessary for the Secretary to make the certification.

Only Small Firm member firms may endorse nominees for the vacant Small Firm Governor seat. No firm may endorse more than one such nominee. Persons submitting petitions must provide information sufficient for the Corporate Secretary to determine that the petitions are duly executed by the executive representatives of the requisite number of small firm members by Friday, October 10, 2008.

The number of FINRA Small Firms as of close of business on August 25, 2008, was 4,596, and the requisite number of Small Firms required to meet the above-referenced threshold is 138.

Note: This Notice was distributed electronically to the executive representative of each FINRA member firm and it is posted on FINRA's Web site at www.finra.org/Notices/Election/082608. Executive representatives should circulate this Notice to their firms' branch managers.

Questions regarding this *Election Notice* may be directed to:

- Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA, at (202) 728-8949; or
- T. Grant Callery, Executive Vice President and General Counsel, FINRA, at (202) 728-8285.

Composition of the Board

Pursuant to Article XXII, Section 2 of the FINRA By-Laws, during the Transitional Period,² the FINRA Board shall consist of 23 members, including:

- the Chief Executive Officer of FINRA;
- the Chief Executive Officer of NYSE Regulation, Inc.;³
- eleven Public Governors;
- one Floor Member Governor;
- one Independent Dealer/Insurance Affiliate Governor;
- one Investment Company Affiliate Governor;
- three Small Firm Governors;
- one Mid-Size Firm Governor; and
- three Large Firm Governors.

Of the 23 Board members, the three Small Firm Governors, one Mid-Size Firm Governor and three Large Firm Governors were elected as Governors at the first annual meeting of members following the Closing on October 26, 2007, and, subject to certain qualifications,⁴ will hold office until the first annual meeting of members following the Transitional Period, or until a successor is duly appointed and qualified, or until death, resignation, disqualification or removal. The Small Firm Governor seat is vacant as a result of the resignation of one of the Small Firm Governors elected last October.

Small Firm Governor Vacancy on the FINRA Board

Pursuant to Article XXII, Sec. 3, in the event of any vacancy among the Small Firm Governors during the Transitional Period, where a position is vacant for more than 12 months, nominations to fill the vacancy are made by the NASD Group Committee of the FINRA Board and voted upon by the FINRA member firms entitled to vote for that category of Governor.

As noted above, the NASD Group Committee's nominee is Mari J. Buechner. A person who has not been so nominated to fill the Small Firm Governor vacancy on the FINRA Board may be included on the ballot for the election if he or she obtains the requisite number of petitions in support of his or her nomination.

To be eligible to serve, Small Firm Governors must be registered with a Small Firm. A Small Firm is defined as a member that employs at least one and no more than 150 registered persons.⁵ In order for the Board to maintain compliance with the compositional requirements of the FINRA By-Laws, elected Board members have a continuing obligation to satisfy the firm-size classification throughout the entire term for which the Governor is elected.

The By-Laws expressly provide that the term of office of a Governor shall terminate immediately upon a determination by the Board, by a majority vote of the remaining Governors, that the Governor no longer satisfies the classification for which the Governor was elected. Individuals seeking nomination for the Small Firm seat also have an obligation to satisfy the firm-size classification on the date the petition is circulated, the date the petition is certified by the Corporate Secretary and date of the special meeting conducted to fill this vacancy. Individuals who fail to meet this requirement will be disqualified from election.

Term of Office

The elected individual will be elected to complete the term vacated by Governor Richard L. Goble and serve until the first annual meeting of members following the Transitional Period, or until his or her successor is duly elected or qualified, or until death, resignation, disqualification or removal.⁶

The Transitional Period will conclude on July 30, 2010.

Voting Eligibility

Member firms are eligible to vote for the industry nominees who are running for seats that are in the same size category as their own firm. Therefore, only Small Firm members are eligible to vote in this election.

The size of each FINRA member firm will be verified on the day proxies for the special meeting are mailed. Each eligible Small Firm will receive a proxy containing the nominees for the vacant Small Firm Governor seat.

Endnotes

- 1 The NASD Group Committee comprises the five Public Governors appointed by the legacy NASD Board of Governors (NASD Board), the Small Firm Governors nominated by the NASD Board and the Independent Dealer/Insurance Affiliate Governor appointed by the NASD Board.
- 2 Pursuant to Article I (zz) of the FINRA By-Laws, the Transitional Period means the period commencing on the date of the Closing and ending on the third anniversary of the date of the Closing; however, the initial member elected governors shall hold office, subject to certain qualifications, until the first annual meeting of members following the Transitional Period. *See* Article XXII, Section 3 of the FINRA By-Laws.
- 3 During the Transitional Period, the Chairman of the Board shall be the Chief Executive Officer of NYSE Regulation, Inc. as of Closing.
- 4 *See* Article XXII, Section 3 of the FINRA By-Laws.
- 5 *See* Article I (ww) of the FINRA By-Laws.
- 6 *See* Article XXII, Section 3 of the FINRA By-Laws.

Attachment A

Profile of FINRA Small Firm Governor Nominee

The NASD Group Committee of the FINRA Board of Governors has nominated Mari J. Buechner pursuant to Article XXII, Section 3 of the FINRA By-Laws to fill the Small Firm Governor vacancy on the FINRA Board.

Mari Buechner is the President and Chief Executive Officer of Coordinated Capital Securities, Inc. (CCS), a full-service broker-dealer and investment advisory firm located in Madison, WI. She is a skilled financial services industry executive with over 20 years of industry experience. CCS has 90 independent contractor registered representatives and seven home office personnel. Ms. Buechner has developed and implemented a supervisory system designed to accommodate a small independent contractor firm.

In 2008, Ms. Buechner was appointed as an at-large member of FINRA's Small Firm Advisory Board. She is a member of FINRA's Independent Dealer/Insurance Affiliate Committee and has been active in District 8 Committees as well. She is also a Board member of the Financial Services Institute.

Ms. Buechner graduated from the University of Wisconsin-Madison in 1987 with a Bachelor of Science Degree in Finance and Marketing.

Information Notice

June 2008 Supplement to the Options Disclosure Document

On June 26, 2008, the SEC approved a supplement to the Options Disclosure Document (www.optionsclearing.com/publications/risks/riskstoc_jun08_sup.pdf) (ODD). The ODD contains general disclosures on the characteristics and risks of trading standardized options. The recently approved supplement provides additional disclosures regarding certain binary options on stock and broad-based indexes, range options and delayed start options. As with other supplements to the ODD, this should be read in conjunction with the current ODD entitled *Characteristics and Risks of Standardized Options* (www.optionsclearing.com/publications/risks/riskstoc.pdf). This supplement supersedes and replaces the April 2008 supplement to the ODD, which relates to binary options and delayed start options, as described in *Information Notice 05/15/08*.

Rule 9b-1 under the Securities Exchange Act requires broker-dealers to deliver the ODD and supplements to customers.¹ FINRA has similar requirements in NASD Rule 2860(b)(11)(A)(1), which requires that member firms deliver the current ODD to each customer at or prior to the time the customer is approved to trade options. In addition, NASD Rule 2860(b)(11)(A)(1) requires member firms to distribute a copy of each ODD supplement to customers who previously received the ODD. ODD supplements must be delivered no later than the time a customer receives confirmation of a transaction in the category of options to which the amendment pertains. NASD Rule 2860(b)(11)(A)(3) requires that FINRA advise member firms when revisions to the ODD are made.

August 26, 2008

Suggested Routing

- Compliance
- Institutional
- Legal
- Options
- Senior Management
- Trading

Key Topics

- Binary Options
- Delayed Start Options
- Options
- Options Disclosure Document
- Range Options

Referenced Rules & Notices

- NASD Rule 2860
- NTM 98-3
- SEC Rule 9b-1

To comply with the requirements of NASD Rule 2860(b)(11)(A)(1), firms may distribute the ODD supplement in various ways, including, but not limited to, one of the following:

1. conducting a mass mailing of the supplement to all of its customers approved to trade options who have already received the ODD; or
2. distributing the supplement to customers who previously received the ODD, no later than the time a customer receives confirmation of a transaction in the category of options to which the amendment pertains.

Firms are reminded that they may electronically transmit documents that they are required to furnish to customers under NASD rules, including the ODD and supplements thereto, provided the member adheres to the standards contained in the May 1996 and October 1995 Securities Exchange Commission Releases² and as discussed in *Notice to Members 98-3* (January 1998)(www.finra.org/notices/ntm/98-3).

Questions regarding this *Notice* may be directed to Gary L. Goldsholle, Vice President and Associate General Counsel, Office of General Counsel (OGC), at (202) 728-8104; or Kathryn M. Moore, Assistant General Counsel, OGC, at (202) 974-2974.

Endnotes

- 1 17 CFR 240.9b-1.
- 2 See Securities Act Release No. 7288 (May 9, 1996) 61 FR 24644 (May 15, 1996) and Securities Act Release No. 7233 (October 6, 1995) 60 FR 53458 (October 13, 1995).

Trade Reporting Notice

Trade Reporting Frequently Asked Questions

Executive Summary

FINRA is issuing this *Notice* to announce publication on its Web site of Trade Reporting Frequently Asked Questions (FAQ), which provide guidance for firms on reporting over-the-counter (OTC) transactions in equity securities to a FINRA Facility (*i.e.*, a Trade Reporting Facility (TRF), the Alternative Display Facility (ADF) or the OTC Reporting Facility (ORF)). The Trade Reporting FAQ can be found at www.finra.org/tradereportingfaq.

Questions regarding this *Notice* may be directed to

- Dave Chapman, Market Regulation, at (240) 386-4995;
- Mark Dorsey, Market Regulation, at (240) 386-6163;
- the Office of General Counsel, at (202) 728-8071; or
- FINRA Operations, at (866) 776-0800.

Discussion

FINRA is publishing the Trade Reporting FAQ to provide additional guidance to member firms and other interested parties on reporting OTC transactions in equity securities to a FINRA Facility. All OTC transactions in equity securities to which a FINRA member firm is a party must be reported to FINRA, unless expressly excepted from the trade reporting rules. Reportable OTC transactions include trades in NMS stocks effected otherwise than on an exchange, which must be reported to the ADF or a TRF, as well as trades in OTC Equity Securities,¹ PORTAL equity securities and Direct Participation Program securities, which must be reported to the ORF. The FINRA rules governing the reporting of OTC transactions in equity securities are set forth in the Trade Reporting FAQ.

August 14, 2008

Key Topic(s)

- Alternative Display Facility
- OTC Reporting Facility
- Trade Reporting
- Trade Reporting Facilities

Referenced Rules & Notices

- NASD Rule 6610

The Trade Reporting FAQ addresses several different subject-matter areas relating to trade reporting, including:

- Reporting Relationships and Responsibilities;
- Types of Reports/Transactions;
- Trade Report Modifiers;
- Exceptions to Trade Reporting Rules;
- Reporting Transactions for Regulatory Transaction Fee Purposes; and
- Foreign Securities Transactions.

The Trade Reporting FAQ can be found on FINRA's Web site at www.finra.org/tradereportingfaq. FINRA expects to update the FAQ periodically. New questions will be marked "new" and, to the extent previously published questions are updated or revised, they will be marked "updated."

Firms are encouraged to contact FINRA at the numbers listed above to suggest additional topics or questions for inclusion in the Trade Reporting FAQ.

Endnote

- 1 NASD Rule 6610(d) defines OTC Equity Security as "any non-exchange-listed security and certain exchange-listed securities that do not otherwise qualify for real-time trade reporting," which effectively includes all securities quoted on the OTC Bulletin Board, securities quoted on the Pink Sheets, and securities traded but not otherwise quoted in a quotation medium in the OTC equity market.

Disciplinary and Other FINRA Actions

Firm Expelled, Individual Sanctioned

PAZ Securities, Inc. (CRD #17554, Boca Raton, Florida) and Joseph Mizrachi (CRD #337288, Registered Principal, Boca Raton, Florida). The firm was expelled from FINRA membership and Mizrachi was barred from association with any FINRA member in any capacity. The SEC affirmed the sanctions imposed by FINRA on remand from the U.S. Court of Appeals. The sanctions were based on findings that the firm and Mizrachi failed to respond to FINRA requests for information.

This decision has been appealed to the U.S. Court of Appeals and the sanctions are in effect pending consideration of the appeal. **(FINRA Case #C0720030055)**

Firms Fined, Individuals Sanctioned

David A. Noyes & Company (CRD #205, Chicago, Illinois) and Russell Warren Bauman (CRD #15099, Registered Principal, Indianapolis, Indiana) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$40,000 and required to revise its written supervisory procedures regarding recommendations to customers in over-the-counter (OTC) equity securities; review of active accounts; communications with the public; advertising; institutional sales material; customer correspondence; approval of new accounts; memoranda of brokerage orders; recommendations of speculative, low-priced securities; reviews and supervision of outgoing customer correspondence; outside business activities; discretionary customer accounts; fee-based accounts; open orders; and the activities of the branch office manager. Bauman was fined \$10,000, suspended from association with any FINRA member in any principal capacity for 75 days and required to complete eight hours of FINRA-sponsored continuing education in supervision.

Without admitting or denying the findings, the firm and Bauman consented to the described sanctions and to the entry of findings 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 recommendations to customers in OTC equity securities; review of active accounts; communications with the public; advertising; institutional sales material; customer correspondence;

Reported for August 2008

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).

approval of new accounts; memoranda of brokerage orders; recommendations of speculative, low-priced securities; reviews and supervision of outgoing correspondence; outside business activities; discretionary customer accounts; fee-based accounts; open orders and the activities of the branch office manager. The findings stated that Bauman, as branch office manager, failed to reasonably supervise a registered representative to detect and prevent violations of NASD Rules 2110, 2120, 2315, 3030, Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-5. The findings also stated that Bauman failed to reasonably supervise the activities of other registered representatives at the firm to detect and prevent violations of NASD Rules 2110 and 3030.

The suspension in any principal capacity is in effect from August 4, 2008, through October 17, 2008. **(FINRA Case #20050000292-04)**

Linsco/Private Ledger Corp. nka LPL Financial Corporation (CRD #6413, Boston, Massachusetts) and Phillip Scott Eggers (CRD #2064151, Registered Principal, Frisco, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$125,000, \$25,000 of which was jointly and severally with Eggers. Eggers was suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, the firm and Eggers consented to the described sanctions and to the entry of findings that Eggers recommended securities transactions to public customers without reasonable grounds for believing that his recommendations were suitable for the customers. The findings stated that Eggers utilized discretion in the customers' accounts without the customers' written authorization to use discretion, and without his member firm's approval of the accounts as discretionary. The findings also stated that Eggers distributed misleading sales literature to the customers regarding the growth rate of their accounts and the inflation rate. The findings also included that the firm failed to reasonably supervise Eggers in connection with the strategies he employed, his use of marketing materials and the appropriateness of the investments he recommended to the customers.

The suspension in any capacity was in effect from June 23, 2008, through July 14, 2008. **(FINRA Case #E062004027401)**

Firms and Individuals Fined

Cascadia Capital, LLC (CRD #101020, Seattle, Washington) and Michael Joseph Butler (CRD #1607507, Registered Principal, Seattle, Washington) submitted a Letter of Acceptance, Waiver and Consent in which the firm and Butler were censured and fined \$10,000, jointly and severally. Butler was fined an additional \$15,000. Without admitting or denying the findings, the firm and Butler consented to the described sanctions and to the entry of findings that the firm, acting through Butler, permitted him to perform duties requiring registration while his registration status with FINRA was inactive due to his failure to complete the Regulatory Element of FINRA's continuing education requirement. The findings stated that Butler continued to perform these duties when he knew his registration status was inactive. **(FINRA Case #2007007962901)**

Chicago Investment Group, LLC (CRD #11853, Chicago, Illinois), Richard Paul Lynch (CRD #1938604, Registered Principal, Chicago, Illinois) and George Ernest Reilly (CRD #1523041, Registered Principal, Fox Lake, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm, Lynch and Reilly were censured; the firm was fined \$75,000, \$15,000 of which was jointly and severally with Lynch and \$20,000 was jointly and severally with Reilly. Reilly must requalify by examination as a general securities principal, and the firm is required to retain an independent consultant to conduct a comprehensive review of the adequacy of its policies, systems, procedures (written and otherwise) and training related to supervising individuals with a disciplinary history, preserving electronic communications and conducting due diligence in its participation in private placement offerings.

Without admitting or denying the findings, the firm, Lynch and Reilly consented to the described sanctions and to the entry of findings that the firm, acting through Lynch, sold shares of a private placement offering pursuant to a private placement memorandum that contained negligent material misrepresentation or omissions. The findings stated that the firm failed to timely report settlements and failed to report a \$20 million arbitration award for a registered representative who was subject to a special supervisory plan. The findings also stated that the firm failed to keep the registered representative's Uniform Application for Securities Industry Registration or Transfer (Form U4) current by disclosing the arbitration award, and failed to register representatives as principals based upon the activities in which each was engaged. The findings also included that the firm, acting through Reilly, failed to establish, maintain and enforce an adequate supervisory system and procedures regarding the activities of a registered representative under a special supervisory plan. FINRA found that the firm failed to ensure that email correspondence a registered representative sent and received under a special supervisory plan was maintained in a non-rewritable, non-erasable format, and failed to implement and enforce an adequate supervisory system and procedures to ensure compliance with SEC and FINRA recordkeeping requirements. (FINRA Case #E8A2005004601)

Firms Fined

A.G. Edwards & Sons, Inc. (CRD #4, St. Louis, Missouri) 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 its former securities lending representatives facilitated improper stock loan transactions with counterparties at artificially low rates, directed or facilitated unwarranted payments to finders, and participated in transactions that did not serve the firm's interest whatsoever, but benefited counterparties and finders who made payments back to the firm's registered stock loan representatives. The findings stated that the firm failed to establish, maintain and enforce a system and written supervisory procedures regarding its securities lending business and lending representatives in order to prevent and detect fraudulent stock loan transactions. The findings also stated that the firm's supervisory system failed to require an independent

supervisory review to ensure that delegated supervisory authority and responsibility were being properly exercised. The findings also included that the firm permitted an individual to serve as its securities lending manager although the New York Stock Exchange had never registered, approved or found him to be qualified. FINRA found that the firm failed to retain copies of facsimile transmissions stock loan desk sent or received. **(FINRA Case #2007011877401)**

Ameriprise Financial Services, Inc. (CRD #6363, Minneapolis, Minnesota) 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 incorrectly reported corporate bond transactions in the Trade Reporting and Compliance Engine (TRACE) reporting system as principal capacity trades when, in fact, they were agency capacity trades. The findings stated that the firm failed to report the yields for corporate bond transactions and failed to report both the customer-side and dealer-side trades of corporate bond transactions to TRACE. **(FINRA Case #20070071181-01)**

Banc of America Securities LLC (CRD #26091, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the NASDAQ Market Center (NMC—now the NASD/NASDAQ Trade Reporting Facility (TRF)), and failed to designate some of them as late; failed to report the correct symbol indicating whether transactions were buy, sell, sell short, sell short exempt or cross for transactions in reportable securities to the NMC; failed, within 90 seconds after execution, to transmit last sale reports of transactions in NASDAQ National Market and SmallCap securities to the NMC; and the firm reported last sale reports of transactions in designated securities to the NMC that it was not required to report. The findings stated that the firm incorrectly media-reported clearing transactions in reportable securities to the TRF, and failed to report the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity to the TRF. **(FINRA Case #20060041509-01)**

Chardan Capital Markets LLC (CRD #120128, 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 executed short sale orders and failed to properly mark the orders as short. The findings stated that the firm failed to report the correct symbol indicating whether transactions in reportable securities were a buy, sell, sell short, sell short exempt or cross to the TRF. The findings also 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 sales. **(FINRA Case #20050031683-01)**

Choice Investment, Inc. (CRD #17665, Austin, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$20,000 and required to file all advertisements used on its Web site or on the Internet with FINRA at least 10 days prior to first use for six months. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it committed several violations of NASD rules by means of various false and misleading statements regarding its services, including incomplete and unbalanced discussions of market timing and the use of leverage, within its Web site. The findings stated that these misleading advertisements were available for widespread access and use by the investing public, not only by those who were the firm's customers. The findings also stated that the firm's Web site discussed and presented performance data for a specific registered investment company but failed to comply with the specific disclosure requirements of Rule 482 under the Securities Act of 1933, and noted that it was a member of the Securities Investor Protection Corporation (SIPC) but failed to properly comply with SIPC's by-laws. The findings also included that the firm failed to file its Web site with FINRA as it was required to do. **(FINRA Case #2007008278201)**

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 \$100,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that the customer identification program (CIP) a division of the firm utilized was inadequate in that certain accounts were not subjected to an adequate customer identify verification process at the account opening stage. The findings stated that accounts in this division were not restricted despite the fact that the firm failed to properly verify the customers' identities within 30 days of the account opening. **(FINRA Case #E102005008801)**

Deutsche Bank Securities, Inc. (CRD # 2525, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$37,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it had a fail-to-deliver position in a threshold security at a registered clearing agency for 13 consecutive settlement days and failed immediately thereafter to close out the fail- to-deliver position by purchasing securities of like kind and quantity, and continued to have a fail- to-deliver position which it failed to close out as required for 10 consecutive settlement days thereafter. The findings stated that the firm reported route or combined order/route reports to the Order Audit Trail System (OATS) that the OATS system was unable to link to the related order routed to SuperMontage, or was unable to link to the corresponding new order the destination member firm submitted due to inaccurate, incomplete or improperly formatted data. The findings also stated that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated and eligible securities to the TRF; transmitted last sale reports of transactions in eligible securities to the TRF and failed to designate some of the eligible securities reports as late. The findings also included that the firm failed append "the .W" trade modifier to reflect prices based on average-weighting or other special pricing formulae. FINRA found that the firm failed to

accept or decline transactions in reportable securities in the TRF within 20 minutes after execution, and that the firm had an obligation to accept or decline in the TRF as the order entry firm (OEID). (FINRA Case #20050018280-01)

E*Trade Capital Markets LLC (CRD #111528, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$40,000 and required to revise its written supervisory procedures regarding the three-quote rule, “riskless” principal transaction reporting, accepting short sales in threshold securities pursuant to Regulation SHO, accepting or declining trades in a timely manner, soft dollar accounts and multiple market participant identifiers (MPIDs). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to contemporaneously or partially execute customer limit orders in NASDAQ securities after it traded each security for its own market-making account at a price that would have satisfied each customer’s limit order; incorrectly reported the second leg of “riskless” principal transactions in designated securities to the NMC because it incorrectly designated the transactions as media reported; incorrectly reported principal transactions as “riskless” principal transactions to the NMC; and failed to report the correct symbol indicating whether transactions were long, sell short or sell short exempt for transactions in reportable securities to the NMC.

The findings stated that the firm failed, when it acted as principal for its own account, to provide written notification disclosing to its customers that transactions were executed at an average price, the correct reported trade price, that it was a market maker in each security, and incorrectly disclosed a commission in connection with the transactions when no commission had been charged. The findings also stated that the firm failed to provide its customers with an annual notification that hard copies of the firm’s order routing information were available, free of charge, upon request. The findings also included that the firm failed to enforce its written supervisory procedures regarding soft dollar trades and accepting short sales in threshold securities pursuant to Regulation SHO, and failed to maintain records evidencing that the firm had conducted an annual compliance meeting pursuant to NASD Rule 3010(a)(7). FINRA 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 regarding the three-quote rule, “riskless” principal transaction reporting, accepting short sales in threshold securities pursuant to Regulation SHO, accepting or declining trades in a timely manner, soft dollar accounts and multiple MPIDs. (FINRA Case #20050031831-01)

E*Trade Securities, LLC (CRD #29106, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report to TRACE transactions in TRACE-eligible securities executed on a business day during TRACE system hours within 15 minutes of the time of execution and reported to TRACE transactions in TRACE-eligible securities it was not required to report. (FINRA Case #20060055189-01)

FTN Financial Securities Corp. (CRD #46346, Memphis, Tennessee) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and required to revise its written supervisory procedures regarding TRACE. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct contra-party's identifier in transactions in TRACE-eligible securities to TRACE, and failed to report transactions in TRACE-eligible securities within 30 minutes of execution. 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 TRACE. (FINRA Case #20050013890-01)

Gilder Gagnon Howe & Co., LLC (CRD #2002, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$17,000 and required to revise its written supervisory procedures regarding supervisory systems, procedures and qualifications, order handling, best execution, trade reporting, sale transactions, other trading rules and OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity to the NMC. The findings stated that the firm failed to report the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt or cross for one transaction in a reportable security to the NMC; the firm incorrectly matched an erroneous trade for one transaction in a reportable security on the NMC. The findings also stated that the firm failed to provide written notification disclosing to its customers its correct capacity in transactions and/or incorrectly disclosed that the price the customers received was an average price. 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 addressing quality of market topics. Specifically, FINRA found that the firm's written supervisory procedures failed to provide for minimal requirements for adequate written supervisory procedures in the following areas: supervisory systems, procedures and qualifications, order handling, best execution, trade reporting, sale transactions, other trading rules and, OATS. FINRA also found that the firm failed to conduct adequate supervision with regard to its trade reporting to the NMC. (FINRA Case #20060044855-01)

Great Pacific Fixed Income Securities, Inc. (CRD #29251, Costa Mesa, California) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and required to revise its written supervisory procedures regarding TRACE and municipal securities reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities within 30 minutes of execution. The findings stated that the firm improperly reported information to the Real-time Transaction Reporting System (RTRS) that it should not have, in that it improperly reported

"purchase and sale transactions effected in municipal securities" when the events were nonreportable customer allocations of reportable block transactions that the firm failed to report. The findings also stated that the firm failed to report information regarding purchase and sale transactions effected in municipal securities to the RTRS in the manner prescribed by Rule G-14 RTRS Procedures and the RTRS Users Manual by failing to include a special condition indicator, or failing to report information to an RTRS Portal within 15 minutes of the trade time for certain transactions or by the end of the execution day for other transactions. 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 and MSRB rules concerning TRACE and municipal securities reporting. FINRA found that the firm failed to enforce its written supervisory procedures that specified that the designated principal would initial and date transaction or order records reviewed with notations in the supervisor's daytimer or supervisory log. (FINRA Case #20050020359-02)

KBC Financial Products USA, Inc. (CRD #46709, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report the correct execution time for transactions in TRACE-eligible securities to TRACE, failed to report the correct terms of transactions, and submitted incorrect reports to TRACE that were not canceled or corrected. The findings stated that the firm reported transactions in TRACE-eligible securities to TRACE that it was not required to report because the transactions were executed outside the United States by its foreign affiliate. The findings also stated that the firm failed to enforce its written supervisory procedures relating to TRACE reporting, which specified that the firm's "desk supervisor" (or designee) must review the daily trading records in part to ensure that corporate bond trades executed and cleared outside the United States by a foreign affiliate of the firm would not be reported in the United States by the firm. (FINRA Case #20050001668-02)

Lexington Investment Company (CRD #27393, Lexington, Kentucky) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report corporate bond trades to TRACE because it mistakenly assumed that its clearing agent was reporting the trades, and no one at the firm took any steps to ensure and verify that TRACE-eligible trades were being reported. The findings stated that the firm failed to retain copies of all outgoing email communications, and failed to prepare accurate securities received and forwarded blotters. (FINRA Case #2007007339501)

Merrill Lynch Government Securities, Inc. (CRD #19693, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$140,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to reconcile principal and interest payments relating to mortgage-backed securities and U.S. Treasuries, primarily in connection with repurchase agreements and reverse repurchase agreements. The findings stated that the firm's books and records were inaccurate from approximately

December 21, 2005, to April 2007, and the firm filed an inaccurate Report on Finances and Operations of Government Securities Brokers and Dealers (FOGS Report), however, the firm had—at all times—excess liquid capital above its requirements and its deposits to its (k)(2)(i) segregated account had been sufficient throughout the period in question. The findings also stated that the firm had an inadequate supervisory system and control in place regarding the activities of its unit responsible for processing principal and interest payment activity, and its procedures for internal firm communications were also inadequate, resulting in a lengthy delay before its regulatory personnel know of the problems, and before the problems were reported to FINRA. **(FINRA Case #2006007511101)**

Piper Jaffray & Co. (CRD #665, Minneapolis, Minnesota) 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 when it acted as an underwriter in primary offerings of municipal securities, it failed to submit G-36 forms (official statements and advance refunding documents) with the MSRB in a timely manner. **(FINRA Case #20070071254-01)**

Sterne, Agee & Leach, Inc. (CRD #791, Birmingham, Alabama) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it erroneously computed its customer reserve, in that it failed to make the required adjustments to the Customer Reserve Formula computations and failed to ensure its accuracy. The findings stated that the firm failed to prepare the adjustments required at the time of the computation and, therefore, failed to accurately calculate its reserve formula. The findings also stated that the firm failed to maintain accurate books and records with regard to the computations and recalculations it performed. **(FINRA Case #2007009471301)**

Scotttrade, Inc. (CRD #8206, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$45,000 and required to revise its written supervisory procedures regarding SEC Rules 203(a)(1) and 203(b)(1), and NASD Rule 6130(d)(6). Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it effected short sales in a security for its proprietary account(s) and failed to annotate an affirmative determination that the firm could borrow the security or otherwise provide for delivery of the security by settlement date. The findings stated that the firm had fail-to-deliver positions at a registered clearing agency in threshold securities for 13 consecutive settlement days and, because of discrepancies between data processing systems, failed to immediately close out the fail-to-deliver positions by purchasing securities of like kind and quantity, and continued to have fail-to-deliver positions at the clearing agency thereafter for consecutive settlement days until a later date. The findings also stated that the firm failed to accept or decline transactions in reportable securities in the NMC within 20 minutes after execution that it had an obligation to accept or decline in the NMC as the OEID. 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 SEC Rules 203(a)(1) and 203(b)(1), and NASD Rules 3370 and 6130(d)(6). **(FINRA Case #20041000164-01)**

SMH Capital Inc. fka Sanders Morris Harris Inc. (CRD #20580, Houston, Texas)

submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$45,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, while acting through one of its representatives, it executed mutual fund transactions, a number of which exceeded the trading limitations contained in various mutual fund company prospectuses, on behalf of a hedge fund and other customers. The findings stated that the firm had notice of "block letters" from mutual fund companies sent to the representative regarding his excessive market timing activities because the letters were sent to the representative at the firm's home office. The findings also stated that the firm failed to establish, maintain or enforce a supervisory system and procedures reasonably designed to detect and prevent market timing activities that contravened applicable mutual fund company prospectus terms. The findings also included that the firm failed to take any supervisory action against the representative who received the "block letters" to ensure that he did not continue his market timing activities in the subject mutual fund companies. (FINRA Case #E062004031201)

Stoeber, Glass & Company Inc. (CRD # 7031, New York, New York) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,000 and ordered to pay \$3,482.74, plus interest, in restitution to customers. Satisfactory proof of restitution payment or of documented efforts undertaken to effect restitution shall be provided to FINRA. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that in pairs of transactions, the firm purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to a customer at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer, municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer, or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. (FINRA Case #20060049764-01)

UBS Securities LLC (CRD #7654, Stamford, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$116,000 and required to revise its written supervisory procedures concerning compliance with NASD Rules 3110(b)(1), 3370, 6130(d)(6), order handling, best execution, other trading rules, soft dollar accounts and trading, and other rules. 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 in securities 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. The findings stated that the firm effected short sales in securities for its proprietary account and failed to make an affirmative determination or to annotate an affirmative determination that the firm could borrow the securities or otherwise provide for delivery by settlement date. The findings also stated that the firm

executed short sale orders and failed to properly mark the order tickets as short; in addition, the firm executed short sale transactions and failed to report them to the NMC with a short sale modifier. The findings also included that the firm submitted reportable order events (ROEs) to OATS after the 4:00 AM deadline. FINRA found that the firm failed to show correct information on brokerage order memoranda and that it failed to preserve brokerage order memoranda, trading ledgers, customer confirmations and account statements for a period of not less than three years, the first two in an accessible place. FINRA also found that the firm reported the incorrect capacity for last sale reports of transactions in designated securities to the Automated Confirmation Transaction Service (ACT); failed to report last sale reports of transactions in designated securities to ACT; reported the incorrect execution time for last sale reports of transactions in designated securities to ACT, and failed to report the correct modifier for last sale reports of transactions in designated securities to ACT; and reported last sale reports of transactions in designated securities to ACT that it was not required to report. In addition, FINRA determined that the firm transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data. Moreover, FINRA found that the firm failed to immediately display customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved its 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. Furthermore, FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with NASD Rules 3110(b)(1), 3370 and 6130(d)(6); the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and NASD rules concerning order handling, best execution, other trading rules, soft dollar accounts and trading, and other rules. FINRA also found that the firm failed to enforce its written supervisory procedures regarding order handling, soft dollar accounts and trading. (FINRA Case #20041000004-01)

WFG Investments, Inc. (CRD #22704, Dallas, Texas) submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$27,500 and ordered to pay \$10,029.96, plus interest, in restitution to public customers. Satisfactory proof of payment of the restitution or of reasonable and documented efforts undertaken to effect restitution shall be provided to FINRA. The firm was also required to revise its written supervisory procedures regarding compliance with MSRB Rules G-17 and G-30. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in pairs of transactions, it purchased municipal securities for its own account from a customer and/or sold municipal securities for its own account to customers at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount

of the transaction. The findings stated that the firm failed to show correct terms and conditions on the memoranda of transactions in municipal securities for the account of the firm executed with a customer other than a broker or dealer, by incorrectly providing a buy or sell designation on transaction memoranda; failed to include time stamps that showed the correct time of receipt on transaction memoranda; and failed to include time stamps that showed the execution time on transaction memoranda. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with MSRB Rules G-17 and G-30. The findings also included that the firm failed to enforce its written supervisory procedures that specified that a designated principal would review and approve each order ticket and evidence the review by initialing the order ticket; none of the order tickets for the paired transactions reflected any indication of a supervisory review of the order tickets. (FINRA Case #20060042794-01)

Individuals Barred or Suspended

Philip Craig Albrecht (CRD #4335093, Registered Representative, North Muskegon, Michigan) 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 must be paid either immediately upon Albrecht's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Albrecht consented to the described sanctions and to the entry of findings that he effected securities transactions in public customers' accounts without the customers' contemporaneous prior knowledge and consent, as required by his member firm's written supervisory procedures. The findings stated that Albrecht effected the transactions one and two months after the customers made the orders, and as a result, he engaged in discretionary trading without the customers' authorization and against his firm's policy.

The suspension in any capacity was in effect from June 16, 2008, through June 27, 2008. (FINRA Case #2007010827501)

Jack Alexander Arnold (CRD #2550256, Registered Representative, Lakeland, 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, Arnold consented to the described sanction and to the entry of findings that he participated in private securities transactions, for compensation, without prior written notice to, or prior written approval from, his member firms. The findings stated that Arnold invested \$145,000 in a common stock without providing his member firm with prior written notice of his intent to purchase this stock and obtaining his member firm's approval. (FINRA Case #2007009927401)

Christopher Michael Barth (CRD #4321397, Registered Representative, Wilmington, 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 one month. The fine must be paid either immediately upon Barth's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Barth consented to the described sanctions and to the entry of findings that he signed a public customer's name on new account documents without the customer's knowledge, authorization or consent.

The suspension in any capacity was in effect from June 16, 2008, through July 15, 2008. (FINRA Case #2007009577601)

Nicholas Anthony Baumgartner (CRD #5025273, Registered Representative, Overland Park, Kansas) 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, Baumgartner consented to the described sanction and to the entry of findings that, in order to meet a production goal for his broker/dealer insurance affiliate, he falsified fixed insurance product applications, forged signatures on the applications for public customers and submitted the completed applications to an insurance company without the applicants' knowledge or consent. The findings stated that Baumgartner paid the premiums for the initiation of these policies without the applicants' knowledge or consent. (FINRA Case #20080119927-01)

Patrick Larkin Belland (CRD #4379896, Registered Principal, Montreal, Canada) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$50,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Belland consented to the described sanctions and to the entry of findings that he purchased call options after receiving material non-public information about the potential acquisition of a software company from a company employee and failed to take steps to investigate whether the information was material, nonpublic information improperly obtained prior to trading. The findings stated that Belland failed to provide his member firm with fully accurate and complete information regarding his options purchase.

The suspension in any capacity is in effect from July 21, 2008, through September 20, 2008. (FINRA Case #2006004633001)

Robert Eugene Bickford III (CRD #1206667, Registered Principal, Sterling, Virginia) 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, Bickford consented to the described sanction and to the entry of findings that he converted \$31,079.86 of a public customer's funds to his own use and benefit. (FINRA Case #2007009610801)

Patrick Butrico (CRD #2295351, Registered Principal, Staten Island, New York) 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, Butrico consented to the described sanction and to the entry of findings that he executed orders for the purchase or sale of mutual fund shares for public customers through multiple accounts to disguise the accounts' market timing and to evade prohibitions and restrictions imposed by mutual funds through block notices forwarded to Butrico. The findings stated that Butrico facilitated impermissible late trading by receiving orders after 4:00 pm ET, and causing the orders to be entered and executed at that day's net asset value (NAV) although he knew or should have known that the transactions should be priced at the following day's NAV. (FINRA Case #E3A2003049501)

Timothy Tyrone Calaway (CRD #2273397, Registered Representative, Frisco, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Calaway failed to respond fully to FINRA requests for information. The findings stated that Calaway exercised discretionary authority in a public customer's securities account without prior written authorization from either the customer or his member firm. (FINRA Case #2006005441801)

Jeanne Marie Caspersen (CRD# 1822044, Registered Representative, Tomball, Texas) 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, Caspersen consented to the described sanction and to the entry of findings that she misappropriated funds from another employee of her member firm, in that she credited her personal firm account with \$1,000 transferred from another registered representative's personal firm account by entering a credit request through the firm's internal system. (FINRA Case #2007009396501)

Allan Yiv Chan (CRD #4315701, Associated Person, Dublin, California) 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 must be paid either immediately upon Chan's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Chan consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

The suspension in any capacity is in effect from July 7, 2008, through October 6, 2008. (FINRA Case #20070104825-01)

Edward Nelson Colburn Jr. (CRD #1079357, Registered Representative, Kansas City, Missouri) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000, suspended from association with any FINRA member in any capacity for 75 days and ordered to requalify by examination as a general securities representative. If Colburn fails to requalify as a general securities representative within the 75-day period, he will be suspended from acting in such capacity until the examination is successfully completed. The fine must be paid either immediately upon Colburn's reassociation with a FINRA member firm following his suspension, or prior to the filing

of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Colburn consented to the described sanctions and to the entry of findings that he executed unauthorized trades in public customers' accounts. The findings stated that Colburn executed discretionary trades in a customer's account without prior written authorization. The findings also stated that Colburn falsely marked the order tickets as unsolicited, although these trades were, in fact, solicited.

The suspension in any capacity is in effect from July 7, 2008, through September 19, 2008. **(FINRA Case #2007009433801)**

Stephen Patrick Dunbar (CRD #2041644, Registered Representative, Atlanta, Georgia) was barred from association with any FINRA member in any capacity. The sanction was imposed by the National Adjudicatory Council (NAC) following appeal of an Office of Hearing Officers (OHO) decision. The sanction was based on findings that Dunbar engaged in unsuitable trading in public customers' accounts. The findings stated that, in an effort to conceal the unsuitable trading in the accounts, Dunbar provided the customers with false and misleading account summaries. The findings also stated that Dunbar exercised discretion in the customers' accounts without written authorization. **(FINRA Case #C0720050050)**

Leland Alan Dykes (CRD #2230072, Registered Principal, Houston, Texas) 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, Dykes consented to the described sanction and to the entry of findings that he raised \$450,000 from public customers and represented that their funds would be utilized to invest in pharmaceutical companies or to purchase medical receivables, and that they would receive a return on their investments, but he failed to adequately disclose all potential risks associated with the investment. The findings stated that Dykes subsequently utilized the investors' funds for, among other things, personal and other expenses and to make purported interest/return of principal payments to the investors. The findings also stated that Dykes willfully failed to update his Form U4 to disclose material information. The findings also included that Dykes failed to respond to FINRA requests for information. **(FINRA Case #2006006804301)**

William Ewing (CRD #4823220, Registered Representative, New Canaan, Connecticut) submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined \$10,000 and suspended from association with any FINRA member in any capacity for four months. Ewing must also cooperate with FINRA in its prosecution of any other disciplinary action related to these events and to testify truthfully at any related hearing. The fine must be paid either immediately upon Ewing's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ewing consented to the described sanctions and to the entry of findings that he failed to conduct an adequate inquiry into and follow up on a public customer's trades, in that he had knowledge of various orders from a hedge fund customer to sell shares of a stock and that each of the orders was placed just before the market's open and close. The findings stated that Ewing knew that the

customer benefited from a decreased share price and should have known that these trades could represent the customer's attempts to improperly manipulate the share price by marking the open and close.

The suspension in any capacity is in effect from July 7, 2008, through November 6, 2008. (FINRA Case #2007007792901)

John Danis Garcia (CRD #4621646, Registered Representative, Bronx, 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, Garcia consented to the described sanction and to the entry of findings that he failed to appear for a FINRA on-the-record interview. (FINRA Case #2006005957301)

Arthur Anthony Gerome (CRD #804891, Registered Representative, Oak Park, California) 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 30 days. Without admitting or denying the findings, Gerome consented to the described sanctions and to the entry of findings that, contrary to his member firm's written procedures, he borrowed \$14,500 from a public customer without receiving his firm's written approval or without disclosing the borrowing arrangement before receiving the loan.

The suspension in any capacity is in effect from July 21, 2008, through August 19, 2008. (FINRA Case #2006006417301)

Paul Michael Giarmoleo (CRD #2096430, Registered Principal, Miller Place, New York) was fined \$27,500 and suspended from association with any FINRA member in any capacity for one year. The fine is due and payable when, and if, Giarmoleo returns to the securities industry. The sanctions were based on findings that Giarmoleo made fraudulent misrepresentations and omissions in his recommendation of a speculative stock. The findings stated that Giarmoleo recommended the stock without having a reasonable basis for believing the stock was suitable for the customers and failed to base his recommendation on a review of the issuer's current financial statements. The findings also stated that Giarmoleo made price predictions concerning the stock that were reckless material misrepresentations because they lacked a reasonable basis.

The suspension in any capacity is in effect from July 7, 2008, through July 6, 2009. (FINRA Case #2005000191701)

Gary Mark Giblen (CRD #1819311, Registered Principal, Darien, Connecticut) submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for seven business days. In light of Giblen's financial status, no monetary sanction was imposed. Without admitting or denying the allegations, Giblen consented to the described sanction and to the entry of findings that he issued a public research report on a stock through his member firm with an "Accumulate" recommendation, an upgrade from his previous "Neutral" rating on the company. The findings stated that without revising his recommendation and contrary to previous recommendations, Giblen purchased put options on the stock, reflecting his negative short-term view on the stock, which was inconsistent with his then-current recommendation of "Accumulate."

The suspension in any capacity was in effect from July 21, 2008, through July 29, 2008. (FINRA Case #2005001601001)

Dennis Todd Lloyd Gordon (CRD #1614614, Registered Principal, Rosenberg, Texas) and Sterling Scott Lee (CRD #1848950, Registered Principal, Austin, Texas) were barred from association with any FINRA member in any capacity and suspended from association with any FINRA member in any capacity for six months. In addition, Lee was suspended from association with any FINRA member in any capacity for an additional 30 days. Lee's suspensions shall run concurrently. The Securities and Exchange Commission (SEC) affirmed and imposed the sanctions following appeal of a NAC decision. The sanctions were based on findings that Gordon and Lee permitted an unregistered and statutorily disqualified individual to function as a principal of the firm and failed to disclose the individual's association with the firm on its Uniform Application for Broker-Dealer Registration (Form BD). The findings also stated that Gordon and Lee charged public customers excessive and undisclosed markups, and that Lee was responsible for his firm's failure to disclose its markups on customer confirmations.

The suspensions in any capacity are in effect from July 7, 2008, through January 6, 2009. Lee's additional suspension in any capacity was in effect from July 7, 2008, through August 5, 2008. The bars have been in effect since the issuance of the NAC's decision. (FINRA Case #C0620040027)

Jimmie Lee Griffith (CRD #2321620, Registered Representative, Richmond, California) was fined \$13,200 and suspended from association with any FINRA member in any capacity for three months. The NAC imposed the sanctions following appeal of an OHO decision. The SEC dismissed Griffith's application for an SEC review. The sanctions were based on findings that Griffith effected unauthorized trades in a customer account.

The suspension in any capacity was in effect from May 7, 2007, through August 6, 2007. (FINRA Case #C0120040025)

Vivian Veryle Gwin (CRD #4228943, Registered Representative, Bismarck, North Dakota) 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, Gwin consented to the described sanction and to the entry of findings that she participated in private securities transactions, for compensation, without prior written notice to, and written approval from, her member firm. The findings stated that Gwin failed to appear for a FINRA on-the-record interview. (FINRA Case #20060072975-01)

Thomas Charles Helbig (CRD #1039534, Registered Representative, Carnegie, Pennsylvania) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Helbig misused a public customer's funds by causing the unauthorized transfer of \$10,000 from a customer's annuity to a bank account Helbig owned, thereby commingling the customer's funds with his personal funds. The findings stated that Helbig failed to respond fully to FINRA requests for information and documents, and failed to appear for a FINRA on-the-record interview. (FINRA Case #2006005528601)

Charlene Chong Ingram (CRD #4876128, Registered Representative, Chesapeake, Virginia) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Ingram's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Ingram consented to the described sanctions and to the entry of findings that she signed public customers' names on various documents relating to customer transactions, without their authorization or consent.

The suspension in any capacity is in effect from July 7, 2008, through October 6, 2008. (FINRA Case #2007008916401)

John Tawfik Iskander (CRD #3203895, Registered Representative, Dayton, New Jersey) 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 six months. The fine must be paid either immediately upon Iskander's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Iskander consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4 and his member firm's Disclosure Form.

The suspension in any capacity is in effect from July 7, 2008, through January 6, 2009. (FINRA Case #2007009461101)

William Edward Kassar Jr. (CRD #2245223, Registered Principal, Lattingtown, New York) submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Kassar's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Kassar consented to the described sanctions and to the entry of findings that he sold unregistered shares of securities on public customers' behalf, which violated Section 5 of the Securities Act of 1933 and NASD Rule 2110. The findings stated that Kassar possessed information that should have alerted him to the necessity of conducting an inquiry into the registration or exemption status of the securities and did not ascertain any facts necessary to determine if the shares were exempt.

The suspension in any capacity was in effect from July 7, 2008, through August 5, 2008. (FINRA Case #2005000075703)

David Allen Kecskes (CRD #1938745, Registered Representative, Lawrenceburg, Indiana) 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 five business days. Without admitting or denying the findings, Kecskes 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 and his member firm's acceptance of the account as discretionary.

The suspension in any capacity was in effect from July 21, 2008, through July 25, 2008. **(FINRA Case #2006006125901)**

Mitchell Scott Kenvin (CRD #2251552, Registered Representative, Plano, Texas) 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 18 months. The fine must be paid either immediately upon Kenvin's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Kenvin consented to the described sanctions and to the entry of findings that he engaged in outside business activities without prompt written notice to his member firms.

The suspension in any capacity is in effect from July 7, 2008, through January 6, 2010. **(FINRA Case #2007008106801)**

Jose E. Llopiz Feliciano (CRD #5315653, Associated Person, Chicago, Illinois) 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 must be paid either immediately upon Feliciano's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Feliciano consented to the described sanctions and to the entry of findings that he failed to disclose a material fact on his Form U4.

The suspension in any capacity is in effect from June 16, 2008, through September 15, 2008. **(FINRA Case #2007010254301)**

Vicente Demetrius Lopez (CRD #2216550, Registered Representative, East Orange, New Jersey) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Lopez failed to respond to FINRA requests for documents and information. The findings stated that Lopez improperly borrowed \$22,000 from a public customer and reported false information on a firm compliance questionnaire relating to that loan. **(FINRA Case #2006005998601)**

Warren Elroy Lystrup (CRD #1787059, Registered Representative, Goodyear, Arizona) 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 30 days. Without admitting or denying the findings, Lystrup consented to the described sanctions and to the entry of findings that he cut and pasted a public customer's signature onto his member firm's delivery assurance form—which substantiated delivery of a financial plan—without the customer's knowledge or consent.

The suspension in any capacity was in effect from July 7, 2008, through August 5, 2008. **(FINRA Case #2007010327001)**

Rafael Luis Marte (CRD #4304158, Registered Principal, Bronx, New York) submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in a Limited Principal – Financial and Operations capacity for 20 business days. The fine must be paid either immediately upon Marte's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Marte consented to the described sanctions and to the entry of findings that he allowed his member firm to conduct a securities business while the firm was below its net capital requirement. The findings stated that Marte maintained inaccurate financial books and records for his firm and filed inaccurate Financial and Operational Combined Uniform Single (FOCUS) reports on his firm's behalf with FINRA. The findings also stated that Marte failed to ensure that his firm maintained a fidelity bond.

The suspension in a Limited Principal – Financial and Operations capacity is in effect from July 21, 2008, through August 15, 2008. (FINRA Case #2007007155401)

Dina Mistry (CRD #5332701, Associated Person, Lake Hiawatha, New Jersey) submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Mistry's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Mistry consented to the described sanctions and to the entry of findings that she willfully failed to disclose material information on her Form U4.

The suspension in any capacity is in effect from July 7, 2008, through January 6, 2009. (FINRA Case #2007009199301)

Manuel Raul Montanez (CRD #4525405, Registered Representative, Duarte, California) 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 must be paid either immediately upon Montanez' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Montanez consented to the described sanctions and to the entry of findings that he engaged in outside business activities and failed to provide his member firm with prompt written notice.

The suspension in any capacity is in effect from July 21, 2008, through October 20, 2008. (FINRA Case #2006007065501)

Paul Andrew Niess (CRD #2157145, Registered Representative, Bartlett, Illinois) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Niess participated in private securities transactions without prior written notice to, or written approval from, his member firm. The findings stated

that Niess borrowed \$405,000 from public customers in violation of his firm's written supervisory procedures, which prohibited registered representatives from "making loans to or accepting loans from customers." (FINRA Case #2005003332001)

Christopher Daniel Nowak (CRD #4024458, Registered Representative, Lincoln, Rhode Island) 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, Novak consented to the described sanction and to the entry of findings that he forged his spouse's name on mortgage documents to secure loans totaling \$273,500. (FINRA Case #2007009835101)

Farhang Oshidary (CRD #1545176, Registered Representative, Sunnyvale, California) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for four months. In light of Oshidary's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Oshidary consented to the described sanction and to the entry of findings that he engaged in private securities transactions without prior written or oral notice to his member firm.

The suspension in any capacity is in effect from July 21, 2008, through November 20, 2008. (FINRA Case #2007009432901)

Kenneth Rik Osmer (CRD #5194984, Registered Representative, Villa Park, California) 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 60 days. The fine must be paid either immediately upon Osmer's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Osmer consented to the described sanctions and to the entry of findings that, without their knowledge or consent, he signed public customers' names on medical consent forms intended for use in connection with their life insurance applications.

The suspension in any capacity is in effect from July 21, 2008, through September 18, 2008. (FINRA Case #2007010470601)

Tony James Parker (CRD #5262801, Associated Person, Bowling Green, Kentucky) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Parker failed to respond to FINRA requests for information. The findings stated that Parker willfully failed to disclose a material fact on his Form U4. (FINRA Case #2007007959601)

Leland Anthony Patin (CRD #1466597, Registered Representative, Dallas, Texas) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Patin failed to respond to FINRA requests to provide on-the-record testimony. (FINRA Case #2006006789001)

James Mintz Provo (CRD #1995147, Registered Principal, Camden-Wyoming, Delaware) 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 must be paid either immediately upon Provo's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Provo consented to the described sanctions and to the entry of findings that he signed public customer names to financial disclosure documents without their authorization or consent.

The suspension in any capacity is in effect from July 7, 2008, through October 6, 2008. (FINRA Case #2007008694901)

Quay Allison Pund (CRD #4202236, Associated Person, Old Monroe, Missouri) 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, Pund consented to the described sanction and to the entry of findings that she converted \$29,193.21 that belonged to a public customer by requesting that the liquidation of the customer's mutual funds which had been erroneously placed into her firm personal investment account, to be sent to her home address as a check, which she then cashed. The findings stated that Pund failed to appear for a FINRA on-the-record interview. (FINRA Case #20070114482-01)

Melvin Ray (CRD #5122930, Associated Person, Tamarac, Florida) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for 45 business days. In light of Ray's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Ray consented to the described sanction and to the entry of findings that, while associated with a member firm, he acted in a capacity that required registration with FINRA while he was not registered and never possessed any securities licenses. The findings stated that Ray made misrepresentations to a prospective customer regarding the material features of bonds and the safety of the bonds.

The suspension in any capacity is in effect from June 16, 2008, through August 18, 2008. (FINRA Case #2007007901301)

Andre Ryan Roman (CRD #4703018, Registered Representative, Fredericksburg, Virginia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Roman failed to respond to FINRA requests for information. The findings stated that Roman signed a public customer's name on a switch authorization form without the customer's authorization or consent. (FINRA Case #2006007102001)

Allan Bruce Rosenthal (CRD #2252495, Registered Representative, Columbus, New Jersey) 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, Rosenthal consented to the described sanction and to the entry of findings that he effected unauthorized transactions and/or failed to execute sell orders in public customer accounts. The findings stated that Rosenthal marked all of the order tickets for the unauthorized trades as unsolicited when the trades, in fact, were

solicited. The findings also stated that Rosenthal sent misleading and unapproved emails to customers from his personal email address, contrary to NASD rules and his member firm's policy requiring that all written correspondence be sent from the firm's system and prohibiting the recommendations of securities not followed by the firm's research. The findings also included that Rosenthal failed to provide prompt written notice to his firm of his outside business activities. **(FINRA Case #2007009427201)**

David Michael Rozzano (CRD #2027455, Registered Principal, Syracuse, 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, Rozzano consented to the described sanction and to the entry of findings that he misappropriated approximately \$178,000 from public customers by persuading them to withdraw funds from their existing variable annuities on the pretense that he would invest the proceeds in other securities, but instead, he converted the funds for his own use and benefit. **(FINRA Case #2007009262101)**

Raquel Mae Sabando Sanchez (CRD #4795168, Registered Principal, Miami, Florida) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Sanchez failed to appear for FINRA on-the-record interviews. **(FINRA Case #2007007253802)**

Mark Anthony Sanicki (CRD #4860196, Registered Representative, Wayne, New Jersey) 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 nine months. The fine must be paid either immediately upon Sanicki's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Sanicki consented to the described sanctions and to the entry of findings that he failed to report material information on his Form U4.

The suspension in any capacity is in effect from July 7, 2008, through April 6, 2009. **(FINRA Case #2007009464701)**

Peter Schmitt Jr. (CRD #1708137, Registered Representative, Plymouth, Wisconsin) 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, Schmitt consented to the described sanction and to the entry of findings that while he was the executive secretary for a private association, he opened a securities account for the association at a member firm without authority to do so and later transferred the association's securities account to another member firm. The findings stated that Schmitt opened another unauthorized securities account in the association's name at this firm that was a deferred compensation account for Schmitt's financial benefit. The findings also stated that Schmitt caused securities transactions to be effected in the association's securities accounts without the association's knowledge or consent, and in the absence of written or oral authorization to exercise discretion in the accounts. The findings also included that Schmitt submitted false and misleading Resolution Agreements when he opened the accounts, certifying that the Association's Board of Directors had voted to open the accounts when, in fact, there had not been

any such vote. FINRA found that Schmitt opened a joint securities account in his and his wife's names at the firm but failed to disclose the existence of the securities accounts in which he had a financial interest to his member firms, and failed to advise the firm with which he had the accounts, in writing, that he was a registered representative with other firms. FINRA found that Schmitt failed to give prior written notice of his intention to execute securities transactions with the firm where he maintained the accounts to a member firm. **(FINRA Case #2006005570801)**

Mark Ted Skowron (CRD #4712871, Registered Representative, Streamwood, Illinois) 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 two years. The fine must be paid either immediately upon Skowron's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Skowron consented to the described sanctions and to the entry of findings that he affixed public customers' signatures to life insurance documents without their prior knowledge or consent.

The suspension in any capacity is in effect from July 21, 2008, through July 20, 2010. **(FINRA Case #2006005993501)**

Stephen Matthew Sirianni (CRD #715867, Registered Representative, Wausau, Wisconsin) submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Sirianni's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Sirianni consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give prior written notice to, and receive written approval from, his member firm. The findings stated that Sirianni, while using the means and instrumentalities of interstate commerce to offer securities for sale, made material misrepresentations in the form of price predictions to induce transactions, which did occur. The findings also stated that Sirianni engaged in outside business activities and failed to give prompt written notice to his member firm. The findings also included that Sirianni failed to amend his Form U4 to disclose an SEC civil action.

The suspension in any capacity is in effect from August 4, 2008, through August 3, 2010. **(FINRA Case #E8A2004095401)**

Mark Richard Sommers (CRD #430582, Registered Representative, Cedar, Michigan) submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for six months. In light of Sommers' financial status, no monetary sanction has been imposed. Without admitting or denying the findings, Sommers consented to the described sanction and to the entry of findings that he borrowed \$42,000 from public customers, contrary to his member firm's written procedures forbidding registered representatives from borrowing money from customers. The findings stated that Sommers failed to amend his Form U4 to disclose material information.

The suspension in any capacity is in effect from June 16, 2008, through December 15, 2008. (FINRA Case #2006005509601)

Mark Elliott Taylor (CRD #4077014, Registered Representative, Purlear, North Carolina) 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, Taylor consented to the described sanction and to the entry of findings that he converted a public customer's term life insurance policy to whole life without her approval, forged her signature on a supplemental application and concealed his misconduct from the customer and his member firm by changing the address on the policy from the customer's address to his own post office box. The findings stated that Taylor wrote a check to cover the initial premium and as a result, did not profit from his conduct but received production credit for renewing the policy. The findings also stated that Taylor failed to appear for FINRA on-the-record testimony. (FINRA Case #2007010627201)

Erica Latishia Tolbert (CRD #5109478, Associated Person, Atlanta, Georgia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Tolbert ordered checks for a public customers' account using her personal address as the delivery address and either negotiated checks or caused checks totaling \$12,200 to be negotiated by a third party, thereby converting \$12,200, without the customers' authorization, knowledge or consent. The findings stated that Tolbert failed to respond to FINRA requests for information. (FINRA Case #2007007580501)

Giovi Rogelio Ulloa (CRD #4579872, Registered Representative, Fairview, New Jersey) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Ulloa failed to appear for a FINRA on-the-record interview. (FINRA Case #2007007253801)

James Byongmin Yim (CRD #3137645, Registered Representative, Sparks, Nevada) was barred from association with any FINRA member in any capacity and ordered to pay \$414,000 in restitution to a public customer. The sanctions were based on findings that Yim submitted requests to his member firm, which public customers purportedly signed, requesting the transfer of funds totaling \$1,328,000 from the customers' accounts to other accounts, without their knowledge, authorization or consent. The findings stated that Yim failed to respond to FINRA requests for information and to appear for an on-the-record interview. (FINRA Case #20060063365-01)

Thomas Rodrigo Yost (CRD #4202542, Registered Representative, Odenton, 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 six months. The fine must be paid either immediately upon Yost's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Yost consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, without prompt written notice to his member firm.

The suspension in any capacity is in effect from June 16, 2008, through December 15, 2008. (FINRA Case #2007010341701)

Decisions Issued

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

Cheryl Simone Eaton (CRD #2028154, Associated Person, Richmond, Virginia) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Eaton failed to respond to FINRA requests for information. The findings stated that Eaton willfully failed to disclose material information on her Form U4.

This decision has been appealed to the NAC, and the sanction is not in effect pending consideration of the appeal. (FINRA Case #2007009838001)

Joseph Ricupero (CRD #1457028, Registered Principal, Stewart Manor, New York) was barred from association with any FINRA member in any capacity. The sanction was based on findings that Ricupero failed to respond to FINRA requests for information and documents. The findings stated that Ricupero failed to file FOCUS reports, an Annual Audit Report and a Form 1017 application for approval of his member firm's agreement to sell 1,800 customer accounts, representing substantially all of his firm's customer accounts, to another member firm for \$50,000.

This decision has been appealed to the NAC, and the sanction is not in effect pending consideration of the appeal. (FINRA Case # 2006004995301)

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.

Richard P. Buss (CRD #2178688, Registered Representative, West Bend, Wisconsin) was named as a respondent in a FINRA complaint alleging that he received \$842,475 from public customers to be invested for the customers' benefit but, instead, used the funds to his own use and benefit or to pay insurance premiums for unrelated customers, without their knowledge or permission. The complaint alleges that Buss failed to respond to FINRA requests for information. (FINRA Case #2006005732801)

Kaleen Abdul Cooper (CRD #4471537, Registered Representative, Arlington, Virginia) was named as a respondent in a FINRA complaint alleging that, without the customers' authorization or consent, he converted \$12,017.51 by forging their signatures on forms to cause unauthorized redemptions or withdrawals from their mutual fund or variable life insurance accounts and then subsequently transferring the funds to his bank account for his own purposes. The complaint alleges that Cooper failed to respond to FINRA requests to testify at an on-the-record interview. **(FINRA Case #2007008636401)**

Jason John DeFelice (CRD #2748462, Registered Representative, Mount Pleasant, South Carolina) was named as a respondent in a FINRA complaint alleging that he engaged in a private placement offering of interest in a hedge fund through means of an offering memorandum that was materially false and misleading. The complaint alleges that DeFelice engaged in highly aggressive short-term trading in the hedge fund account that was unsuitable, excessive and inconsistent with the disclosures in the fund offering memorandum. The complaint also alleges that DeFelice, in connection with the purchase or sale of securities, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of any national securities exchange, knowingly or recklessly employed devices, scheme or artifices to defraud; made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; engaged in acts, practices or courses of business which operated, or would operate, as a fraud or deceit upon any person; or effected transactions in, or induced the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance. The complaint further alleges that DeFelice churned the fund account by effecting a highly aggressive short-term trading strategy and acting with intent to defraud or with reckless disregard for the customer's best interests, for the purpose of generating commissions. **(FINRA Case #E072003011204)**

Allerton Towne (CRD #1212315, Registered Representative, Boca Raton, Florida) was named as a respondent in a FINRA complaint alleging that he made improper use of public customer funds intentionally and without authorization. The complaint alleges that Towne converted money belonging to the customer by wiring \$4,181.81 from the customer's account to a bank account in the name of a corporation he controlled. The complaint also alleges that Towne engaged in outside business activity, for compensation, outside the scope of his relationship with his member firm and failed to give his firm notice of the activities. The complaint further alleges that Towne failed to respond to a FINRA request for documents. **(FINRA Case #2005003031001)**

James Richard Willard III (CRD #1212281, Registered Principal, Greene, New York) was named as a respondent in a FINRA complaint alleging that he made unsuitable recommendations to a public customer without having a reasonable basis for believing that such recommendations were suitable based on the customer's age, investment objectives, risk tolerance, financial situation and needs. The complaint alleges that in connection with the unsuitable transactions, Willard created false documents causing his member firm's books and records to contain false and misleading information regarding the customer's age. The complaint also alleges that Willard willfully reported false information on his Forms U4 and willfully failed to disclose material information on his Forms U4. **(FINRA Case #2006006046401)**

Firms Suspended Pursuant to NASD Rule 9552 for Failure to Supply Financial Information

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

NMP Capital, LLC
Kansas City, Missouri
(June 10, 2008)

Redwood Securities Group, Inc.
San Francisco, California
(June 5, 2008)

Firms 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.)

Granite Associates, Inc.
Delray Beach, Florida
(November 20, 2007 – June 18, 2008)

K.W. Brown Investments
Delray Beach, Florida
(June 10, 2008)

Individuals Barred Pursuant to NASD Rule 9552(h)

(If the bar has been vacated, the date follows the bar date.)

Darrin Cornelius Bryant
Middletown, Connecticut
(June 2, 2008)

Rendell Eshey Draper
St. Charles, Missouri
(June 23, 2008)

Loris Kay Hager
Fargo, North Dakota
(June 20, 2008)

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.)

Eric Richard Fronczek
Naperville, Illinois
(June 30, 2008)

Hsialoan Sharon Hsu
Wellesley, Massachusetts
(June 6, 2008)

Joonbeom Kim
Diamond Bar, California
(June 9, 2008)

William Leo Peckenpaugh
Louisville, Kentucky
(June 30, 2008)

Anthony Gerard Russo
Corona, California
(June 20, 2008)

John Suk
La Mirada, California
(June 30, 2008 – August 5, 2008)

Jimmy Eduardo Villarreal
Queens Village, New York
(June 23, 2008)

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.)

Nicholas P. Bentivegna
Bethpage, New York
(June 27, 2008)

Stephen Joseph Berry
Westfield, New Jersey
(June 19, 2008)

Allen Myles Darby
Cornelius, North Carolina
(April 24, 2008 – June 19, 2008)

Michael Joseph Hernandez
Dallas, Texas
(October 6, 2006 – June 19, 2008)

Chad James Johnson
Dallas, Texas
(June 27, 2008)

Brent Steven Lemons
Tyler, Texas
(June 27, 2008)

Raffi Oghlian
Westwood, New Jersey
(June 27, 2008)

Kenneth Joseph Pujdak
Greenville, South Carolina
(June 27, 2008)

Gene Paul Ramos
Jersey City, New Jersey
(May 8, 2008 – June 5, 2008)