November 2009

Notices

Regulatory Notices

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Information Notice

11/09/09 Continuing Education

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Financial Industry Regulatory Authority

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

Regulatory Notice 09-62

BD and IA Renewals for 2010

Broker-Dealer, Investment Adviser Firm, Agent and Investment Adviser Representative, and Branch Renewals for 2010

Payment Deadline: December 11, 2009

Executive Summary

The 2010 renewal process begins on November 16, 2009, when online Preliminary Renewal Statements are made available to all firms on Web CRD/IARD.

Firms should note the following key dates in the 2010 renewal process:

November 4, 2009	Firms may start submitting post-dated Form U5, BDW, ADV-W and BR Closing/Withdrawal filings via Web CRD/IARD. **Please Note:** Post-dated filings submitted by 11 p.m. Eastern Time (ET) November 13, 2009, will not appear on the firm's Preliminary Renewal Statement. The only date that can be used for a post-dated termination filing is December 31, 2009.
November 16, 2009	Preliminary Renewal Statements are available on Web CRD/IARD.
December 11, 2009	Full payment of Preliminary Renewal Statements is due.
January 4, 2010	Final Renewal Statements are available on Web CRD/IARD.
February 5, 2010	Full payment of Final Renewal Statements is due.

November 2009

Notice Type
- Renewals

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

Key Topic(s)
- CRD®
- IARD™
- Registration
- Renewals

Referenced Rules & Notices
- NTM 02-48

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Member firms are advised that failure to remit full payment of their Preliminary Renewal Statements to FINRA by December 11, 2009, could cause the firm to become ineligible to do business in the jurisdictions where it is registered, effective January 1, 2010.

In addition to this *Notice*, firms should review the instructions posted at *www.finra.org/renewals*, especially the *2010 Renewal Program Bulletin*, the *2010 IARD Renewal Program Bulletin* (if applicable) on the Investment Adviser Web site at *www.iard.com/renewals.asp*, and any information mailed to ensure continued eligibility to do business as of January 1, 2010.

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

Background & Discussion

Preliminary Renewal Statements

Beginning **November 16, 2009**, Preliminary Renewal Statements are available for viewing and printing on Web CRD/IARD. The statements will include the following fees:

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

FINRA must receive full payment of the Preliminary Renewal Statement fees no later than December 11, 2009.

If payment is not received by December 11, 2009, FINRA-registered firms will be assessed a Renewal Payment Late Fee. This late fee will be included as part of the Final Renewal Statement and will be calculated as follows: 10 percent of a member firm's cumulative final renewal assessment or $100, whichever is greater, with a cap of $5,000. Please see *NTM 02-48* for details. In addition, if payment is not received by the deadline, firms also risk becoming ineligible to do business in the jurisdictions where their registrations are not renewed.

New "CRD Renewals" Contact

New for the 2010 Renewal Program is a "CRD Renewals" contact that has been added to the FINRA Contact System (FCS). FINRA-registered firms now have the option to designate who should receive important hardcopy and electronic notifications regarding the FINRA Renewal Program, such as the person responsible for paying the registration renewal fees assessed by FINRA, states/jurisdictions and other self-regulatory organizations. As this is the first renewal cycle in which a CRD Renewals contact can be designated, FINRA also will continue to send renewal communications to other known firm contacts (*e.g.*, CRD Account Administrators, Executive Representatives or CRD Contacts) for the 2010 Renewal Program.

Fees

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

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

A FINRA branch office assessment fee of $75 per branch will be assessed based on the number of active FINRA branches as of December 31, 2009. One branch office assessment fee will be waived per firm.

A FINRA branch renewal processing fee of $20 per branch will be assessed based on the number of active FINRA branches as of December 31, 2009. One branch renewal processing fee will be waived per firm.

Please note that the FINRA personnel assessment fees are not assessed through the annual Renewal Program. FINRA will mail all FINRA-registered firms a separate invoice for these fees. Firms can obtain a listing of agents for whom the firms will be assessed the personnel assessment fee by requesting the Renewals – Firm Renewal Roster.

Renewal fees for AMEX, ARCA, BATS, BX, CBOE, CHX, ISE, NQX, NYSE, PHLX and state registrations are also assessed on the Preliminary Renewal Statement. These fees are based on the number of registered individuals registered in each SRO and jurisdiction.

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

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

For detailed information regarding 2010 investment adviser renewals, you may also visit the Investment Adviser Web site, *www.iard.com*. A matrix of investment adviser renewal fees for states that participate in the 2010 IARD Renewal Program is posted at *www.iard.com/fees.asp*.

Renewal Payment

Firms have four payment methods available to pay 2010 renewal fees:

1. Automatic Daily-to-Renewal Account Transfer
2. Web CRD/IARD E-Pay
3. Check
4. Wire Transfer

Automatic Daily-to-Renewal Account Transfer

To facilitate payment of renewal fees, FINRA will automatically transfer funds from a firm's Daily Account to its Renewal Account on December 11, 2009, the Preliminary Renewal Statement payment deadline. FINRA will transfer funds only if a firm has sufficient funds available in its Daily Account on December 11 to cover the amount due. **Please Note:** If a firm does not want funds automatically transferred, the firm should ensure that its payment is received in its Renewal Account by the December 11 deadline. Separately, if a firm wishes to transfer funds between affiliated firms, the firm should contact the FINRA Gateway Call Center at (301) 869-6699 for further instructions prior to the renewal deadline.

Web CRD/IARD E-Pay

The Web CRD/IARD E-Pay application is accessible from both the Preliminary and Final Renewal Statements and the FINRA (*www.finra.org/crd*) or IARD (*www.iard.com*) Web sites and allows a firm to make an electronic payment from a designated bank account to the firm's Renewal Account with FINRA. Please note that in order for funds to be posted to your firm's Renewal Account by December 11, 2009, payment must be submitted electronically, no later than **8 p.m. ET on December 9, 2009.**

Check

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

U.S. Mail
FINRA
P.O. Box 7777-8705
Philadelphia, PA 19175-8705

(Note: This box will not accept courier or overnight deliveries.)

Overnight or Express Delivery
FINRA
8705
Mellon Bank Room 3490
701 Market Street
Philadelphia, PA 19106

Telephone: (301) 869-6699

Firms paying by check should account for U.S. mail processing time when sending payment via the U.S. Postal Service (USPS).

Member firms should use the blue, pre-addressed renewal payment envelope that is mailed to firms in early November, or should use the full address, provided in this Notice, to ensure prompt processing.

Please Note: The addresses for renewal payments are different than the addresses for funding firms' Web CRD/IARD Daily Accounts.

To ensure prompt processing of your renewal payment check:

- Include a print-out of the first page of your Preliminary Renewal Statement with payment.
- **Do not** include any other forms or fee submissions.
- Write your firm's CRD number and "Renewal" on the check memo line.
- Send your payment either in the blue, pre-addressed renewal payment envelope that is mailed to your firm or write the address on an envelope exactly as noted in this *Notice*.

Wire Payment

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

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

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

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

Renewal Reports

Beginning November 16, 2009, member firms can request, print and/or download renewal reports via Web CRD/IARD. Three reports are available for reconciliation with the Preliminary Renewal Statement:

- **Firm Renewal Report**—This report lists individuals included in the 2010 Renewal Program and includes billing codes (if they have been supplied by the firm).
- **Branches Renewal Report**—This report lists each branch registered with FINRA and/or with any other regulator that renews branches registered with the regulator through Web CRD/IARD and for which the firm is being assessed a fee. Firms should use this report to reconcile their records for renewal purposes.
- **Approved AG Reg Without FINRA Approval Report**—This report contains all individuals who are not registered with FINRA, but are registered with one or more jurisdictions. The report should be used throughout the year, including during the annual Renewal Program, as an aid for firms to reconcile individual registrations. Firms should request this report as soon as possible to determine if any FINRA registrations need to be requested or jurisdictions terminated.

Post-Dated Form Filings

This functionality allows firms to file termination forms with a termination date of December 31, 2009. If a Form U5, BDW, BR Closing/Withdrawal or ADV-W filing indicates a termination date of December 31, 2009, an agent (AG), investment adviser representative (RA), broker-dealer and/or investment adviser (firm) and the branch may continue doing business in that jurisdiction until the end of the calendar year without being assessed 2010 renewal fees. **December 31, 2009, is the only date that can be used for a post-dated form filing.**

Firms can begin electronically filing post-dated Form U5, BDW, ADV-W and BR Closing/Withdrawal filings via Web CRD/IARD on November 4, 2009. Firms that submit post-dated termination filings by 11 p.m. ET on November 13, 2009, **will not** be assessed renewal fees for the terminated registrations on their Preliminary Renewal Statements. Firms that submit post-dated termination filings on, or after, November 16, 2009, will not be assessed renewal fees for the terminated jurisdictions on their Final Renewal Statements in January 2010. Those firms should see a credit balance on their Final Renewal Statements if the firm has not requested additional registrations during that time period to offset the credit balance.

Firms should query individual, branch and/or firm registrations after a termination filing has been submitted to ensure that electronic Forms U5, BDW, BR Closing/ Withdrawal and ADV-W are processed by the renewal filing deadline date of 1 p.m. ET on December 24, 2009.

Firms should exercise care when submitting post-dated Form U5, BDW, BR Closing/ Withdrawal and ADV-W filings. Web CRD/IARD will process these forms as they are submitted and FINRA cannot withdraw a post-dated termination filing once submitted. A firm that submits a post-dated termination filing in error will have to file a new Form U4, BD Amendment, Form BR or Form ADV when Web CRD/IARD resumes normal processing on January 4, 2010. New registration fees will be assessed as a result.

Filing Form BDW

The CRD Phase II Program allows firms requesting broker-dealer termination (either full or partial) to electronically file their Forms BDW via Web CRD. Firms that file either a full or partial Form BDW by 11 p.m. ET November 13, 2009, will avoid the assessment of the applicable renewal fees on their Preliminary Renewal Statements, provided that the regulator is a CRD Phase II participant. Currently, there are only five regulators that participate in Web CRD renewals for agent fees, but **do not** participate in CRD Phase II:

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

Firms requesting termination with any of those five regulators must submit a paper Form BDW directly to that regulator, as well as submit one electronically via Web CRD.

The deadline for electronic filing of a Form BDW for any firm that wants to terminate a registration before year-end 2009 is 1 p.m. ET December 24, 2009. This same date applies to the filing of any Form BDW with regulators that are not Phase II participants.

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

Firms that file either a Form ADV Amendment, unmarking a state (generating the status of "Removal Requested at End of Year") or a full or partial Form ADV-W by 11 p.m. ET November 13, 2009, will avoid the assessment of the applicable renewal fees on their Preliminary Renewal Statements.

The deadline for electronic filing of Form ADV Amendments or Form ADV-W for firms that want to cancel a notice filing or terminate a state registration before year-end is 1 p.m. ET December 24, 2009.

Removing Open Registrations

Throughout the year, firms have access to the "Approved AG Reg Without FINRA Approval Report" via Web CRD. This report identifies agents whose FINRA registrations are either terminated or have been changed to a "purged" status due to the existence of a deficient condition (*i.e.*, exams or fingerprints), but still maintain an approved registration with a jurisdiction. Member firms should use this report to terminate obsolete jurisdiction registrations through the submission of a Form U5 or reinstate the FINRA positions through the filing of a Form U4 Amendment. This report should

aid firms in the reconciliation of individual registrations prior to year's end. Firms should request this report as soon as possible so they can identify individuals who can be terminated by November 13, 2009, to avoid being charged for those individuals on their Preliminary Renewal Statements. The Approved AG Reg Without FINRA Approval Report will also advise a firm if there are no agents at the firm within this category.

Final Renewal Statements

Beginning January 4, 2010, FINRA will make available all Final Renewal Statements on Web CRD/IARD. These statements will reflect the final status of broker-dealer, registered representative (AG), investment adviser firm and investment adviser representative (RA) registrations and/or notice filings as of December 31, 2009. Any adjustments in fees owed as a result of registration terminations, approvals, notice filings or transitions subsequent to the Preliminary Renewal Statement will be reflected on the Final Renewal Statement in Web CRD/IARD.

- If a firm has more individuals, branch offices or jurisdictions registered and/or notice filed on Web CRD/IARD at year-end than it did when the Preliminary Renewal Statement was generated, additional renewal fees will be assessed.

- If a firm has fewer individuals, branch offices or jurisdictions registered and/or notice filed at year-end than it did when the Preliminary Renewal Statement was generated, a credit/refund will be issued. Please note that overpayments will be systematically transferred and reflected on firms' Daily Accounts on January 4, 2010. Firms that have a credit (sufficient) balance in their Daily Accounts may submit a written refund request signed by an appropriate signatory by mail to the Finance Department, 9509 Key West Avenue, Rockville, MD 20850, or by fax to: (240) 386-5344. The request should include a print-out of the firm's credit balance as reflected on Web CRD/IARD.

On or after January 4, 2010, FINRA member firms and joint BD/IA firms should access the Web CRD reports functionality for the **Firm Renewal Report**, which will list all individuals renewed with FINRA, AMEX, ARCA, BATS, BX, CBOE, CHX, ISE, NQX, NYSE, PHLX, and each jurisdiction. Agents and RAs whose registrations are "approved" in any of these jurisdictions during November and December will be included in this roster. Registrations that are "pending approval" or are "deficient" at year's end will not be included in the 2010 Renewal Program. Firms will also be able to request the **Branches Renewal Report** that lists all branches for which they have been assessed renewal fees. Versions of these reports will also be available for download.

Firms have until **February 5, 2010**, to report any discrepancies on the renewal reports. This is also the **deadline for receipt of final payment**. Specific information and instructions concerning the Final Renewal Statement and renewal reports will be available in a January 2010 *Regulatory Notice*.

Regulatory Notice 09-63

Discretionary Accounts and Transactions

FINRA Requests Comment on Proposed Consolidated FINRA Rule Governing Discretionary Accounts and Transactions

Comment Period Expires: December 28, 2009

Executive Summary

As part of the process of developing a new consolidated rulebook (the Consolidated FINRA Rulebook),[1] FINRA is requesting comment on a proposed consolidated FINRA rule governing discretionary accounts and transactions.

The text of the proposed rule is set forth in Attachment A.

Questions regarding this *Notice* should be directed to Afshin Atabaki, Assistant General Counsel, Office of General Counsel, at (202) 728-8902.

Action Requested

FINRA encourages all interested parties to comment on the proposed rule. Comments must be received by December 28, 2009.

Members and other interested parties can submit their comments using the following methods:

- Emailing comments to *pubcom@finra.org*; or
- Mailing comments in hard copy to:

  Marcia E. Asquith
  Office of the Corporate Secretary
  FINRA
  1735 K Street, NW
  Washington, DC 20006-1506

November 2009

Notice Type

- Request for Comment
- Consolidated FINRA Rulebook

Suggested Routing

- Compliance
- Legal
- Operations
- Senior Management
- Systems
- Trading

Key Topic(s)

- Authorization
- Discretionary Power
- Documentation
- Record Retention
- Supervision
- Time or Price Discretion

Referenced Rules & Notices

- Advisers Act Rule 202(a)(11)-1
- Information Notice 3/12/08
- NASD Rule 2510
- NASD Rule 3110
- NTM 03-73
- NTM 83-70
- NYSE Rule 408
- NYSE Rule Interpretation 408
- Regulatory Notice 08-25
- SEA Rule 17a-3
- SEA Rule 17a-4

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To help FINRA process and review comments more efficiently, persons should only use one method to comment on the proposal.

Important Notes: The only comments that FINRA will consider are those submitted pursuant to the methods described above. All comments received in response to this Notice will be made available to the public on the FINRA Web site. Generally, FINRA will post comments on its site one week after the end of the comment period.[2]

Before becoming effective, a proposed rule change must be authorized for filing with the SEC by the FINRA Board of Governors, and then must be approved by the SEC, following publication for public comment in the *Federal Register*.[3]

Background

The FINRA rulebook contains several provisions regarding discretionary accounts and transactions,[4] including NASD Rule 2510 and Incorporated NYSE Rule 408 (and its Interpretation).[5]

NASD Rule 2510

NASD Rule 2510 addresses the obligations of members that have discretionary power over a customer's account.

Rule 2510(a) (Excessive Transactions) prohibits members and their agents or employees that have discretionary power over a customer's account from effecting any excessive transactions in view of the financial resources and character of such discretionary account. Rule 2510(b) (Authorization and Acceptance of Account) provides that a member or registered representative may not exercise any discretionary power in such account unless the customer has given prior written authorization to a stated individual, and the account has been accepted in writing by the member or a designated partner, officer or manager of the member. Rule 2510(c) (Approval and Review of Transactions) requires that a member or a designated partner, officer or manager of the member approve promptly in writing each discretionary order entered and review all discretionary accounts at frequent intervals to detect and prevent excessive transactions.

NASD Rule 2510(d) (Exceptions) provides certain exceptions from the requirements of paragraphs (a) through (c) of the rule. NASD Rule 2510(d)(1) provides an exception for investment discretion granted by a customer as to the price at which or the time to execute an order given by a customer for the purchase or sale of a definite amount of a specified security. However, the authority to exercise such discretion will be in effect only until the end of the business day on which the customer granted such discretion, unless the customer provides a specific written contrary indication signed and dated, or it is a valid good-'til-canceled instruction issued on a "not-held" basis for an institutional account as defined in NASD Rule 3110(c)(4).[6] Rule 2510(d)(1) also requires that any exercise of time or price discretion be reflected on the order ticket.

NASD Rule 2510(d)(2) provides an exception for bulk exchanges at net asset value of money market mutual funds using negative response letters sent to customers, subject to specified conditions. FINRA staff has issued guidance regarding the use of the negative response process under Rule 2510(d)(2) in certain circumstances.[7]

NYSE Rule 408 and Rule Interpretation 408

NYSE Rule 408(a) prohibits members and their employees from exercising discretionary power in a customer's account without first obtaining: (1) the customer's written authorization (substantially similar to NASD Rule 2510(b)); (2) the signature of the person(s) authorized to exercise discretion in the account (similar to NASD Rule 3110(c)(3)(A)); and (3) the date such discretionary authority was granted (similar to NASD Rule 3110(c)(3)(B)). The requirements of NYSE Rule 408(a) also apply to those circumstances where a member or an employee accepts orders for a customer account from a third person (*i.e.*, an agent of the customer).

NYSE Rule 408(b) requires that: (1) employees notify a supervisor and obtain his or her prior approval before exercising discretionary power in a customer's account (substantially similar to NASD Rule 2510(b)); (2) the supervisor frequently review the account (substantially similar to NASD Rule 2510(c)); and (3) members maintain a written statement of the supervisory procedures governing such accounts (substantially similar to the general requirements of NASD Rule 3010(b)(1)). The rule further requires that an order entered on a discretionary basis by an employee be identified as discretionary on the order ticket (similar to SEA Rule 17a-3(a)(6)(i)).[8]

NYSE Rule 408(c) prohibits employees that have discretionary power over a customer's account from effecting any excessive transactions in view of the financial resources of such customer (substantially similar to NASD Rule 2510(a)).

Similar to NASD Rule 2510(d)(1), NYSE Rule 408(d) excludes from the requirements of NYSE Rules 408(a) through (c) the exercise of certain time or price discretion, including a valid good-'til-canceled instruction issued on a "not-held" basis for an institutional account. However, the definition of "institutional account" for purposes of the exclusion under NYSE Rule 408(d) differs from the definition of "institutional account" for purposes of the exclusion under NASD Rule 2510(d)(1).[9]

NYSE Rule 408.10 requires that all discretionary orders in listed index warrants be approved and initialed on the day entered by a Senior Registered Options Principal or Registered Options Principal.[10]

NYSE Rule Interpretation 408/01 (Automatic Money Market Fund Redemptions) addresses the obligation of members that offer their customers automatic money market fund redemption programs whereby debit balances created by the purchase of securities in a customer's account are automatically satisfied by the redemption of shares of a money market fund in the account.[11] Such programs are subject to specific conditions, including the requirement to notify customers in writing regarding the programs.

Proposal

FINRA proposes to transfer NASD Rule 2510 into the Consolidated FINRA Rulebook as FINRA Rule 3260 with certain changes that take into account requirements under NYSE Rule 408. The most significant proposed changes are described generally below. However, FINRA urges member firms to carefully review the entire attached proposed rule text to understand the full extent of the proposed changes. Unless otherwise noted below, the provisions in NASD Rule 2510 will transfer, subject only to non-substantive changes, as part of proposed FINRA Rule 3260.

A. Transactions by Members and Their Associated Persons (Proposed FINRA Rule 3260(a))

To provide additional clarity, proposed FINRA Rule 3260(a) groups together the requirements (such as trade-by-trade approval and frequent review of accounts) applicable to members and their associated persons that have discretionary power over a customer's account. The proposed rule clarifies that the requirements apply to all associated persons of a member, not just agents, employees and registered representatives. Consistent with the proposed changes to the consolidated FINRA rules governing books and records,[12] the proposed rule requires that a customer's written authorization be provided to a named, natural person or persons and that the discretionary account be accepted in writing by a designated partner, officer or manager of a member denoting that the account has been accepted in accordance with the member's policies and procedures for acceptance of discretionary accounts. Further, consistent with NYSE Rule 408(b), the proposed rule clarifies that the designated partner, officer or manager responsible for denoting acceptance of discretionary accounts, approving discretionary orders and reviewing such accounts has to be someone other than the person vested with discretionary power.

In addition, consistent with NASD Rule 3110(c)(3)(B) and NYSE Rule 408(a),[13] the proposed rule requires that members and associated persons obtain the customer's "dated" prior written authorization to identify the date that the discretionary authority was granted.[14]

B. Transactions by Agents of Customers (Proposed FINRA Rule 3260(b))

Proposed FINRA Rule 3260(b) requires that, before accepting orders for a customer's account from any person other than the customer, members and associated persons obtain the customer's dated prior written authorization granting discretionary power to such person. This provision establishes a baseline requirement, regardless of the type of account.

This change is based in part on the existing requirements of NYSE Rule 408(a) regarding accepting orders for a customer account from a third person and SEA Rule 17a-3(a)(17)(ii) (which requires that, for each discretionary account with a natural person, members maintain a record containing the dated signature of the customer granting authorization).

FINRA is soliciting comments specifically on the ability of members to obtain the required written authorizations from customers in an institutional account (*e.g.*, sub-account customers in a master account—sub-account arrangement).

C. Specific Discretionary Activities by Members and Their Associated Persons in a Customer's Account; Extent Permissible (Proposed FINRA Rule 3260(c))

Proposed FINRA Rule 3260(c) provides that notwithstanding the requirements of proposed FINRA Rule 3260(a) members may, subject to certain conditions, exercise time or price discretion, effect bulk exchanges at net asset value of money market mutual funds using negative response letters (consistent with the conditions set forth in current NASD Rule 2510(d)(2)), effect redemptions of money market mutual funds for payment of securities purchases and effect transactions to satisfy an indebtedness to the member.

➤ Duration of Limited Time or Price Discretion

In light of inquiries from members regarding the duration of an oral authorization for time or price discretion, FINRA proposes to clarify that notwithstanding the requirements of proposed FINRA Rule 3260(a) members may exercise: (1) time or price discretion given by a customer *during* a normal trading session, provided that such discretion is only valid during that session; or (2) time or price discretion given by a customer *after the close* of a normal trading session, provided that such discretion is only valid during the next normal trading session. Such limited time or price discretion may be given orally by a customer. The proposed change has no impact on the duration of good-'til-canceled orders for institutional accounts (as set forth in current NASD Rule 2510(d)(1)).

➤ Redemptions of Money Market Funds for Payment of Securities Purchases and Transactions to Satisfy Indebtedness to the Member

As discussed above, transactions involving automatic money market fund redemption programs are subject to specific conditions, including the requirement that customers be given written notice specifically informing them of such programs. Additionally, FINRA believes that members and their customers should be provided the flexibility to enter into written agreements that allow certain transactions by members to satisfy an indebtedness to them (such as to satisfy margin requirements).

Therefore, the proposed rule clarifies that notwithstanding the requirements of proposed FINRA Rule 3260(a) a member may effect redemptions of money market funds for payment of securities purchases or effect transactions to satisfy an indebtedness to the member (*e.g.*, margin requirements), provided that such redemptions or transactions are permitted by a prior signed, written agreement between the member and customer that prominently discloses the terms of such arrangements. However, the proposed rule provides that any provisions in such agreement allowing the use of negative response letters remain subject to applicable FINRA rules and federal securities laws governing the use of such letters.

D. Addition of Supplementary Material (Proposed FINRA Rules 3260.01 and .02)

FINRA proposes adding supplementary material to:

- Clarify that the requirements of paragraphs (a) and (c) of proposed FINRA Rule 3260 relating to transactions by member firms and their associated persons apply only to the extent member firms may maintain broker-dealer discretionary accounts or otherwise exercise broker-dealer discretion in an account as permitted under the federal securities laws. This proposed change is designed to make these requirements self-limiting, as there are currently SEC rulemaking proposals pending that address the ability of broker-dealers to maintain discretionary accounts or otherwise exercise broker-dealer discretion in an account;[15] and

- Require that customers' prior written authorizations, records denoting acceptance of accounts and written agreements between member firms and customers be preserved for at least six years after the date that such records are updated and that the last update to such records, or the original records if there are no updates, be preserved for at least six years after the date the account is closed. The proposed six-year retention period is consistent with the record retention period for similar customer account records under the proposed consolidated FINRA rules governing books and records and under the Exchange Act.[16] Further, the proposed rule requires that member firms preserve records relating to the approval of discretionary orders for the period of time and accessibility specified in SEA Rule 17a-4(b), which is for at least three years. The proposed three-year retention period is consistent with the record retention period for order tickets under the Exchange Act.

FINRA proposes to delete NYSE Rule 408 and Rule Interpretation 408 as these provisions are substantially similar to proposed FINRA Rule 3260, otherwise incorporated as described above, rendered obsolete by the approach reflected in proposed FINRA Rule 3260, or addressed by other rules as described above.

Endnotes

1 The current FINRA rulebook consists of: (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (Incorporated NYSE Rules) (together, the NASD Rules and Incorporated NYSE Rules are referred to as the Transitional Rulebook). While the NASD Rules generally apply to all FINRA member firms, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (Dual Members). The FINRA Rules apply to all FINRA member firms, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice 3/12/08* (Rulebook Consolidation Process).

2 FINRA will not edit personal identifying information, such as names or email addresses, from submissions. Persons should submit only information that they wish to make publicly available. *See Notice to Members (NTM) 03-73* (November 2003) (NASD Announces Online Availability of Comments) for more information.

3 Section 19 of the Securities Exchange Act of 1934 (Exchange Act or SEA) permits certain limited types of proposed rule changes to take effect upon filing with the SEC. The SEC has the authority to summarily abrogate these types of rule changes within 60 days of filing. *See* Exchange Act Section 19 and rules thereunder.

4 This proposal excludes product-specific discretionary account requirements such as set forth in FINRA Rules 2354 (Discretionary Accounts), 2360(b)(18) (Discretionary Accounts) and 2370(b)(18) (Discretionary Accounts), which have been adopted as part of FINRA's set of consolidated rules addressing index warrants, options and security futures, respectively. See Exchange Act Release No. 58932 (November 12, 2008), 73 FR 69696 (November 19, 2008) (Order Granting Accelerated Approval; File No. SR-FINRA-2008-032). This proposal also excludes certain recordkeeping requirements relating to discretionary accounts (current NASD Rule 3110(c)(3) (Customer Account Information)) that are being addressed as part of the proposed changes to the consolidated FINRA rules governing books and records. *See Regulatory Notice 08-25* (May 2008) (Proposed Consolidated FINRA Rules Governing Books and Records Requirements).

Additionally, this proposal excludes NASD IM-2310-2(b)(4)(A)(ii) (Discretionary Accounts) (relating to fair dealing with customers), NASD Rules 2720(l) (Discretionary Accounts) (relating to transactions in securities issued by a member or an affiliate of a member or by a company with which a member has a conflict of interest) and 2810(b)(2)(C) (Suitability) (relating to direct participation programs) and FINRA Rule 5110(f)(2)(K)(ii) (Prohibited Arrangements) (relating to underwriting terms and arrangements). Some of these other provisions relating to discretionary accounts and transactions are more restrictive, but generally consistent with NASD Rule 2510.

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Endnotes continued

5 For convenience, the Incorporated NYSE Rules are referred to as the NYSE Rules.

6 *See infra* note 9.

7 *See* Staff Interpretive Memo, dated May 15, 2008 (allowing use of the negative response process to designate an alternative money market sweep fund when the existing sweep fund closes with inadequate notice to permit a member to provide the 30-day prior notice required under Rule 2510(d)(2)(D)); Letter from Patricia Albrecht, Assistant General Counsel, NASD, to George T. Simon, Foley & Lardner, LLP, dated January 26, 2005 (allowing use of the negative response process to complete the transfer of customer funds from one money market mutual fund to another notwithstanding that proceeds were held as free credit balances for an intervening period between redemption and reinvestment). This proposal does not alter the existing guidance.

8 *See also* NYSE Rule Interpretation 408/02 (Identification of Discretionary Orders) (which addresses the marking of order tickets with a specific series of numbers or symbols for purposes of identifying orders entered on a discretionary basis).

9 NYSE Rule 408.11 defines the term "institutional account" to mean the account of: (1) a bank; (2) a savings association; (3) an insurance company; (4) a registered investment company; (5) a state or a political subdivision; (6) a pension or profit sharing plan, subject to ERISA, with more than $25 million in total assets under management, or of a federal agency or political subdivision; (7) any person that has a net worth of at least $45 million and financial assets of at least $40 million; or (8) an SEC registered investment adviser.

NASD Rule 3110(c)(4) defines the term "institutional account" to mean the account of: (1) a bank; (2) a savings and loan association; (3) an insurance company; (4) a registered investment company; (5) an SEC registered investment adviser or a state registered investment adviser; or (6) a person with total assets of at least $50 million.

10 The Incorporated NYSE Rules relating to Senior Registered Options Principals were deleted as part of a prior rule change. *See* Exchange Act Release No. 58932 (November 12, 2008), 73 FR 69696 (November 19, 2008) (Order Granting Accelerated Approval; File No. SR-FINRA-2008-032). The FINRA consolidated rules relating to index warrants require that a Registered Options Principal frequently review such discretionary accounts and that any member that does not utilize computerized surveillance tools for the frequent and appropriate review of discretionary activity establish and implement procedures to require specific Registered Options Principals who have been designated to review discretionary accounts to approve and initial each discretionary order on the day entered. *See* FINRA Rules 2354 and 2360(b)(18)(A).

Endnotes continued

11 FINRA issued similar guidance in 1983. *See NTM 83-70* (December 1983) (Automatic Money Market Fund Redemptions).

12 *See Regulatory Notice 08-25* (May 2008).

13 FINRA is proposing to delete the requirement of Rule 3110(c)(3)(B) to record the date that the discretionary authority was granted as part of the proposed changes to the consolidated FINRA rules governing books and records. *See Regulatory Notice 08-25* (May 2008). FINRA believes that it is more appropriate to reposition this requirement into proposed FINRA Rule 3260.

14 *See also* SEA Rule 17a-3(a)(17)(ii) (which requires that, for each discretionary account with a natural person, members maintain a record containing the dated signature of the customer granting authorization).

15 In 2005, the SEC adopted Rule 202(a)(11)-1 under the Advisers Act, a principal purpose of which was to deem broker-dealers offering "fee-based brokerage accounts" not subject to the Advisers Act. Rule 202(a)(11)-1 also included several interpretive positions regarding Advisers Act Section 202(a)(11)(C), including a provision that any account over which a broker-dealer exercises investment discretion (other than on a temporary or limited basis) is subject to the Advisers Act. In March 2007, Rule 202(a)(11)-1 was vacated. *See Financial Planning Association v. SEC*, 482 F.3d 481 (D.C. Cir. 2007). In September 2007, the SEC re-proposed its interpretive positions for comment, including the provision regarding the application of the Advisers Act to discretionary accounts. *See* Investment Advisers Act Release No. 2652 (September 24, 2007), 72 FR 55126 (September 28, 2007) (Interpretive Rule Under the Advisers Act Affecting Broker-Dealers).

16 *See Regulatory Notice 08-25* (May 2008). However, FINRA notes that currently members are required to preserve account records evidencing the granting of discretionary authority with respect to accounts of non-natural persons for only three years. *Compare* SEA Rule 17a-4(b)(6), *with* SEA Rule 17a-3(a)(17)(ii), *and* SEA Rule 17a-4(e)(5) (which requires a six-year retention period with respect to similar records for a discretionary account with a natural person).

Attachment A

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

* * * * *

Text of Proposed New FINRA Rule

(Marked to Show Changes from NASD Rule 2510; NASD Rule 2510 and NYSE Rule 408 (and Its Interpretation) to Be Deleted in Their Entirety from the Transitional Rulebook)

* * * * *

[2510]3260. Discretionary Accounts and Transactions

(a) [Excessive] Transactions by Members and Their Associated Persons

No member or associated person of the member shall exercise any discretionary power in a customer's account unless such customer has given a dated prior written authorization to exercise discretionary power to a named, natural person or persons and the account has been accepted in writing by a partner, an officer or a manager, other than the person vested with discretionary power, designated by the member denoting that the account has been accepted in accordance with the member's policies and procedures for acceptance of discretionary accounts. No such member or associated person shall effect with or for [any] such [customer's] account [in respect to which such member or his agent or employee is vested with any discretionary power] any transactions of purchase or sale [which] that are excessive in size or frequency in view of the financial resources and character of such account. A partner, an officer or a manager, other than the person vested with discretionary power, designated by the member shall approve promptly in writing each discretionary order entered in such discretionary accounts and shall review such discretionary accounts at frequent intervals in order to detect and prevent transactions that are excessive in size or frequency in view of the financial resources and character of the account.

(b) [Authorization and Acceptance of Account] Transactions by Agents of Customers

No member or [registered representative] associated person of the member shall [exercise any discretionary power in a customer's account] accept orders for a customer's account from a person other than the customer unless such customer has given a dated prior written authorization to exercise discretionary power to such person

[a stated individual or individuals and the account has been accepted by the member, as evidenced in writing by the member or the partner, officer or manager, duly designated by the member, in accordance with Rule 3010].

[(c) Approval and Review of Transactions]

[The member or the person duly designated shall approve promptly in writing each discretionary order entered and shall review all discretionary accounts at frequent intervals in order to detect and prevent transactions which are excessive in size or frequency in view of the financial resources and character of the account.]

([d]c) [Exceptions] Specific Discretionary Activities; Extent Permissible

[This Rule](1) Notwithstanding the requirements of paragraph (a) of this Rule, [shall not apply to:] members may:

[(1)](A)(i) Exercise discretion as to [the price at which or] the time or price [when] of execution of an order [given by a customer] for the purchase or sale of a definite dollar amount or quantity of a specified security [shall be executed] given by a customer:

a. during a normal trading session, provided that such time or price discretion shall be in effect only until the end of that normal trading session [, except that the authority to exercise time and price discretion will be considered to be in effect only until the end of the business day on which the customer granted such discretion, absent a specific, written contrary indication signed and dated by the customer.]; or

b. after a normal trading session, provided that such time or price discretion shall be in effect only during the next normal trading session; or

(ii) Exercise discretion as [This limitation shall not apply] to time [and] or price [discretion exercised in] for an institutional account, as defined in NASD Rule 3110(c)(4), pursuant to valid [G]good-[T]'til[l]-[C]cance[l]led instructions issued on a "not-held" basis.

Any exercise of time [and] or price discretion must be reflected on the order ticket[;].

[(2)](B) Effect bulk exchanges at net asset value of money market mutual funds ("funds") utilizing negative response letters, provided:

[(A)](i) The bulk exchange is limited to situations involving mergers and acquisitions of funds, changes of clearing members and exchanges of funds used in sweep accounts;

[(B)](ii) The negative response letter contains a tabular comparison of the nature and amount of the fees charged by each fund;

[(C)](iii) The negative response letter contains a comparative description of the investment objectives of each fund and a prospectus of the fund to be purchased; and

[(D)](iv) The negative response feature will not be activated until at least 30 days after the date on which the letter was mailed.

(C) Effect redemptions of funds for payment of securities purchases or effect transactions to satisfy an indebtedness to the member (e.g., margin requirements), provided that such redemptions or transactions are permitted by a prior signed, written agreement between the member and customer that prominently discloses the terms of any such arrangement. Any provision in such agreement allowing for the use of negative response letters shall be applicable only to the extent permitted by FINRA rules and the federal securities laws.

• • • Supplementary Material: ————————

.01 Compliance With Federal Securities Laws Governing Discretionary Accounts and Transactions. The requirements of paragraphs (a) and (c) of this Rule shall apply only to the extent members may maintain broker-dealer discretionary accounts or otherwise exercise broker-dealer discretion in an account as permitted under the federal securities laws.

.02 Record Retention. For purposes of this Rule, members shall preserve customers' prior written authorizations, records denoting acceptance of accounts and written agreements between members and customers that subsequently are updated for at least six years after the date that they are updated. Members shall preserve the last update to such records, or the original records if there are no updates, for at least six years after the date the account is closed. For purposes of paragraph (a) of this Rule, members shall preserve records relating to the approval of discretionary orders for the period of time and accessibility specified in SEA Rule 17a-4(b).

* * * * *

Regulatory Notice 09-64

Customer Assets

Verification of Instructions to Transmit or Withdraw Assets from Customer Accounts

November 2009

Notice Type

- Guidance

Suggested Routing

- Compliance
- Legal
- Operations
- Senior Management

Key Topic(s)

- Internal Controls
- Letters of Authorization
- Supervisory Procedures
- Transmittal/Withdrawal of Customer Assets

Referenced Rules & Notices

- Information Notice 3/12/08
- NASD Rule 3012
- NYSE Rule 342.23
- NYSE Rule 401

Executive Summary

As part of their duty to safeguard customer assets and to meet their supervisory obligations, FINRA firms must have and enforce policies and procedures governing the withdrawal or transmittal of funds or other assets from customer accounts.[1] Among other things, the policies and procedures should be reasonably designed to review and monitor all instructions to transmit or withdraw assets from customer accounts, including instructions from an investment adviser or other third party purporting to act on behalf of the customer. FINRA firms are required to test and verify their procedures for adequacy and to update them when necessary.

Questions concerning this *Notice* should be addressed to:

- Mike Rufino, Senior Vice President and Deputy, Member Regulation, at (212) 858-4487; or
- Patricia Albrecht, Assistant General Counsel, Office of General Counsel, at (202) 728-8026.

Background and Discussion

Recently, several cases involving the misappropriation of customer assets have highlighted the importance of having adequate procedures for verifying the validity of instructions to transmit or withdraw securities or other assets from customer accounts. In some cases, an employee of the firm committed a fraud; in others, outside investment advisers or other third parties purported to be acting on behalf of the customer. A number of the cases involved forged letters of authorization. In some, employees concealed their misconduct by diverting customers' genuine account statements to a post office box or address under the employee's control, and replacing them with fabricated statements.

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Policies and Procedures

NASD Rule 3012 (Supervisory Control System)[2] and Incorporated NYSE Rule 401 (Business Conduct) require all firms to establish, maintain and enforce written supervisory control policies and procedures that, among other things, include procedures that are reasonably designed to review and monitor the transmittal of funds (*e.g.*, wires or checks) or securities:

- from customer accounts to third-party accounts (*i.e.*, a transmittal that would result in a change of beneficial ownership);
- from customer accounts to outside entities (*e.g.*, banks, investment companies);
- from customer accounts to locations other than a customer's primary residence (*e.g.*, post office box, "in care of" accounts, alternate address); and
- between customers and registered representatives (including the hand-delivery of checks).

The policies and procedures a firm establishes under these rules must include "a means or method of customer confirmation, notification or follow up that can be documented."[3] NASD Rule 3012 further provides that a firm must identify in its written supervisory control procedures any of these activities it does not engage in and document that additional supervisory policies and procedures for such activities must be in place before the firm can engage in them.[4]

These rules apply to both clearing and introducing firms. While firms may allocate responsibility for complying with particular requirements between the clearing and introducing firms, both firms must have policies and procedures in place to ensure that their respective responsibilities are met. For example, the firms may agree that the introducing firm is responsible for verifying a customer's identity. However, the clearing firm must still have adequate policies and procedures to review and monitor disbursements it makes to third-party accounts, outside entities or an address other than the customer's primary address. A firm's procedures should also specify how instructions to withdraw or transmit assets may be conveyed, including which employees of the introducing firm are authorized to transmit instructions to the clearing firm on the customer's behalf, and both firms are responsible for ensuring that their employees follow their respective procedures.

Additionally, a firm's policies and procedures should include procedures that are reasonably designed to, among other things:

- Verify that any third party who purports to be acting on behalf of a customer, including any family member, third-party investment advisor or money manager, has been authorized by the customer to take the action in question. Typically, this requires firms to verify that a valid power of attorney has been executed by the customer and that actions taken by the third party are within the scope of the authority conveyed.
- Verify the identity of a person who appears in person to receive assets and who claims to be the customer.
- Adequately document the steps taken to verify the information listed above and maintain that documentation in accordance with applicable books and records requirements.
- Identify and respond to red flags or suspicious activity.

If a firm's procedures require heightened review of certain transmittal instructions based on dollar amount thresholds, firms should also be aware that firm employees or third-party investment advisers can learn of the threshold amounts and try to "fly under the radar" by submitting multiple instructions for lesser amounts. Therefore, firms should take steps to address this risk, including, to the extent possible, limiting dissemination of information about the threshold triggers.

While firms' procedures must be designed to detect and respond to unusual or suspicious activity, firms must also take into account that fraudulent activity can often flourish when employees fall into a sense of familiarity or routine that can be exploited either by other employees or third parties. Therefore, firms must train their employees to follow all applicable policies and procedures rigorously, even in what appear to be routine situations. Moreover, a firm's policies and procedures should include random sampling and testing of even routine transfers and withdrawals. This helps to verify that employees follow agreed upon procedures and helps deter improper conduct. In addition, firms should closely monitor the use of standing instructions, including standing letters of authorization. Parameters for the instructions should be clear and the authorization kept current.

Firms that use automated systems to help monitor transmittals and withdrawals must have adequate means to test and review the effectiveness of such systems just as they must monitor manual systems. Firms should also periodically review and assess the adequacy of their automated supervisory systems and procedures, which can become outdated or ineffective for a variety of reasons, including business growth, consolidation, new technologies, as well as changes in the size, volume and/or frequency of transmittals. Firms are also reminded to make certain that each employee's access to relevant systems is limited strictly to what is appropriate for the employee's function within the firm.

Questions to Consider

Given the recent number of cases involving fraudulent letters of authorization and other forms of transmittal requests, FINRA urges firms to review the adequacy of their current policies and procedures to verify the validity of such requests. As they do so, firms may find the following questions helpful:

- What types of transmittals does the firm accept?
- Do the firm's policies and procedures adequately address all types of permitted transmittals, as well as FINRA's requirements that firm's have procedures specifically designed to review and monitor these transmittals?
- How are transmittals identified on the firm's books and records, and what exception reports are used to monitor them? Is there any type of transmittal that is not included in exception reports?
- Does the person(s) responsible for reviewing transmittals have a means to review all transmittals regardless of the form in which they are submitted?
- If standing letters of authorization are permitted, are there limits on their use? Do they expire after a specified period of time? Are transfers made pursuant to standing letters of authorization subject to heightened scrutiny?
- Is there a tracking and/or reconciliation process for transmittals?
- Do the firm's procedures adequately address risks associated with the various ways it allows transmittal requests to be communicated (telephone, fax, email, notarized letter)?
- Are there clear guidelines for employees regarding letters of authorization and have they been communicated effectively? Do these guidelines allow exceptions, and if so, how are they documented?
- Is there a separate system to follow up and review the letter of authorization process, and is the level of testing adequate? Are all types of transmittals, based on dollar amount or format, potentially subject to independent verification and testing?
- Do testing procedures include representative samples of transaction types, volumes and dollar amounts?
- If procedures include thresholds or parameters to identify transmittals subject to heightened supervision or additional testing, are the parameters adequate given the current transaction volume and average dollar size? Can parties circumvent the parameters by using multiple, smaller transfers that are designed to "fly under the radar"?

- Do any non-employees have access and/or authority over part of the transmittal process (such as signature verification at an introducing broker)? What types of tests are used to ensure that access and authority is properly limited?
- Are there adequate and clearly communicated escalation procedures for bringing red flags or suspicious activity to senior management's attention?

For more information, please listen to FINRA's compliance podcast, which highlights strong practices based on a survey of a sample of FINRA firms. The podcast, "Letters of Authorization," was published on January 21, 2009, and is available at *www.finra.org/podcasts*.

Endnotes

1 This *Notice* does not apply to account transfers made pursuant to ACATS or FINRA Rule 11870.

2 The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (Incorporated NYSE Rules) (together, the NASD Rules and Incorporated NYSE Rules are referred to as the Transitional Rulebook).While the NASD Rules generally apply to all FINRA member firms, the Incorporated NYSE Rules apply only to those member firms of FINRA that are also members of the NYSE (Dual Members). The FINRA Rules apply to all FINRA member firms, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice 3/12/08* (Rulebook Consolidation Process).

3 *See* NASD Rule 3012(a)(2(B) and Incorporated NYSE Rule 401(b) (requiring procedures as part of a a firm's internal control requirements prescribed under Incorporated NYSE Rule 342.23).

4 *See* NASD Rule 3012(a)(2)(B). Incorporated NYSE Rule 401 does not have a comparable provision.

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Regulatory Notice 09-65

Non-Traditional Exchange Traded Funds (ETFs)

FINRA Delays the Effective Date for Increased Margin Requirements for Options on Leveraged ETFs and Day-Trading Requirements for Leveraged ETFs

New Effective Date: April 30, 2010

November 2009

Notice Type

- Special Alert

Suggested Routing

- Compliance
- Legal
- Margin Department
- Operations
- Regulatory Reporting
- Risk Management
- Senior Management

Key Topics

- Leveraged ETFs
- Margin Requirements
- Uncovered Options on Leveraged ETFs

Referenced Rules & Notices

- NASD Rule 2520
- NYSE Rule 431
- Regulatory Notice 09-53

Executive Summary

In August 2009, FINRA issued Regulatory Notice 09-53 (Non-Traditional ETFs), announcing increased customer margin requirements for leveraged ETFs and uncovered options overlying leveraged ETFs effective December 1, 2009. To accommodate ongoing changes in options symbology and other systems-related concerns, FINRA is deferring the effective date for increased customer margin for uncovered options overlying leveraged ETFs, as well as the application of day-trading margin requirements for leveraged ETFs to April 30, 2010. Firms should be aware, however, that the increased maintenance margin for leveraged ETFs will take effect as originally scheduled on December 1, 2009.

Questions concerning 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

As noted in *Regulatory Notice 09-53*, NASD Rule 2520(f)(8)(A) and Incorporated NYSE Rule 431(f)(8)(A) permit FINRA—in response to market conditions—to prescribe higher initial and maintenance margin requirements. In view of the increased volatility of leveraged ETFs compared to their non-leveraged counterparts, FINRA announced higher maintenance margin levels for leveraged ETFs and uncovered options overlying leveraged ETFs.

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In general, the margin requirements have increased by a factor commensurate with the leverage of the ETF or underlying ETF in the case of an option.

FINRA is deferring the increased maintenance margin requirements for options overlying leveraged ETFs and the day-trading margin requirements with respect to leveraged ETFs until April 30, 2010. While FINRA is committed to increasing these margin requirements, it also is mindful of the fact that listed options markets are in the final stages of a wholesale overhaul of the method of identifying exchange-traded options contracts.[1] The Options Symbology Initiative requires broker-dealers to redesign their systems to accommodate this new symbology and is expected to be completed on February 12, 2010.

To allow firms to devote the necessary resources to meet this deadline, FINRA is deferring the implementation of the increased maintenance margin requirements for *options* overlying leveraged ETFs until April 30, 2010. FINRA also is deferring the implementation of the day-trading margin requirements until April 30, 2010, as such calculations also may incorporate options overlying leveraged ETFs. **Firms should be aware, however, that the increased maintenance margin for leveraged ETFs will take effect as originally scheduled on December 1, 2009.**

Member firms are reminded to review *Regulatory Notice 09-53*, which discusses the increased maintenance margin requirements in detail.

Other Leveraged Products

In *Regulatory Notice 09-53*, FINRA advised firms to assess the adequacy of maintenance requirements for all securities that contain inherent leverage, such as leveraged mutual funds, and to increase requirements where appropriate. FINRA notes that this statement applies to security futures that have leveraged ETFs as the underlying security as well as any other securities that contain leverage or are linked to a leveraged product.

Endnote

1 *See Regulatory Notices 09-18* (EBS Submissions Following Implementation of the Option Symbology Initiative) and *09-47* (New Large Options Positions Report (LOPR) Requirements Due to Implementation of Options Symbology Initiative).

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Regulatory Notice 09-66

FINRA BrokerCheck

SEC Approves Changes to FINRA's BrokerCheck Disclosure Rule to Retain and Make Publicly Available Information About Final Regulatory Actions Against Former Brokers

Effective Date: November 30, 2009

Executive Summary

Beginning November 30, 2009, information concerning final regulatory actions against brokers—as well as certain administrative information (*e.g.*, employment and registration history) and information about qualification examinations, if available, and the broker's most recently submitted comment, if any—will be permanently available in BrokerCheck,® regardless of when they were employed in the securities industry.

The text of the amendments to FINRA Rule 8312 (FINRA BrokerCheck Disclosure)[1] is set forth in Attachment A.

Questions concerning this *Notice* should be directed to:

- Richard E. Pullano, Associate Vice President and Chief Counsel, Registration and Disclosure, at (240) 386-4821; or
- Stan Macel, Assistant General Counsel, Office of General Counsel, at (202) 728-8056.

Background & Discussion

FINRA Rule 8312 governs the information FINRA releases to the public via BrokerCheck. FINRA established BrokerCheck (then known as the Public Disclosure Program) in 1988 to provide the public with information on the professional background, business practices, and conduct of FINRA member firms and their associated persons. Via BrokerCheck, FINRA releases to the public certain information reported on uniform registration

November 2009

Notice Type

- Rule Amendment

Suggested Routing

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

Key Topics

- BrokerCheck
- Central Registration Depository
- Form U4
- Form U5
- Form U6
- Regulatory Action Disclosure Questions

Referenced Rules & Notices

- FINRA Rule 8312

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forms to the Central Registration Depository (CRD® or CRD System).[2] The primary purpose of BrokerCheck is to help investors make informed choices about the individuals and firms with which they may wish to do business.

Currently, as described in FINRA Rule 8312, BrokerCheck provides information regarding current and former member firms, as well as current associated persons and persons who were associated with a firm within the preceding two years. Starting on November 30, 2009, FINRA will expand BrokerCheck to provide public access to certain information about former associated persons, regardless of when they were associated with a firm, if they were the subject of any final regulatory action as defined in Form U4 that has been reported to CRD via a uniform registration form.[3] For these purposes, a final regulatory action as defined in Form U4 may consist of any final action—including any action that is on appeal—by the SEC, Commodity Futures Trading Commission, a federal banking agency, the National Credit Union Administration, another federal regulatory agency, a state regulatory agency, a foreign financial regulatory authority or a self-regulatory organization (as those terms are used in Form U4).[4] To illustrate, actions that are delineated in current Form U4 Questions 14C, 14D or 14E will be considered "final regulatory actions." Similarly, actions that are detailed in current Form U5 Question 7D, and have a status of "final" or "on appeal," will be considered "final regulatory actions" as such actions are also addressed in Form U4.[5]

The amendments will allow the public access to information about formerly registered persons who, although no longer in the securities industry in a registered capacity, may work in other investment-related industries or attain other positions of trust and about whom investors may wish to learn relevant disciplinary information. Specifically, FINRA will disclose through BrokerCheck information concerning any final regulatory action(s), as well as certain administrative information (*e.g.,* employment and registration history) and information about qualification examinations, if available, regarding these formerly registered individuals. FINRA also will provide the most recently submitted comment, if any, provided by the subject person, presuming the comment is in the form and in accordance with the procedures established by FINRA and relates to the information provided through BrokerCheck. The amendments will not expand access to other information that may be part of the CRD System regarding the former registered person, such as customer complaints, bankruptcies, liens, criminal events or arbitration claims.

FINRA notes that the amount and format of information made available for this expanded category of individuals will depend in part on when the individuals left the securities industry, and whether their CRD data is available in a Web-based format. FINRA expects that the public will have access to information regarding final regulatory actions, employment and registration history, qualification examinations and most recent comment for a large majority of the individuals whose information will be available on BrokerCheck as a result of the amendments.

However, two conditions apply to a small percentage of individuals whose registration with FINRA ceased prior to 1999. First, since some of these individuals' records are not currently available in a Web-based format, BrokerCheck reports about these persons cannot be generated automatically. Instead, FINRA will, as promptly as practicable, prepare such reports manually before making them available on BrokerCheck.[6] Second, for a very limited number of individuals whose records are not available in a Web-based format, not all of the administrative data and qualification information is available. In such situations, only the individual's name, information about any final regulatory action(s) and the most recent comment, if any, will be disclosed through BrokerCheck.

Endnotes

1 *See* Exchange Act Release No. 61002 (November 13, 2009), 74 FR 61193 (November 23, 2009) (Order Approving SR-FINRA-2009-050).

2 The uniform registration forms are Form BD (Uniform Application for Broker-Dealer Registration), Form BDW (Uniform Request for Broker-Dealer Withdrawal), Form U4 (Uniform Application for Securities Industry Registration or Transfer), Form U5 (Uniform Termination Notice for Securities Industry Registration) and Form U6 (Uniform Disciplinary Action Reporting Form).

3 Because the information disclosed through BrokerCheck is derived from the CRD System, BrokerCheck will only disclose information regarding regulatory actions that have been reported to CRD via a uniform registration form.

4 A final regulatory action does not include any action limited to the revocation or suspension of an individual's authorization to act as an attorney, accountant or federal contractor (current Form U4 Question 14F).

5 FINRA staff also will review responses to all Regulatory Action Disclosure questions and Disclosure Review Pages on the Forms U4 and U5 (including the predecessor questions in this area), as well as information filed on Form U6, to determine whether a former associated person is subject to a final regulatory action and should therefore be included in BrokerCheck. FINRA may disclose a final action that is reported by a regulator on a Form U6 even if that action has not been reported by an individual on a Form U4 because, for example, the individual was not registered at the time the final regulatory action was reported.

6 Once a report has been manually prepared, it will be available immediately to subsequent requesters.

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Attachment A

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

* * * * *

8000. Investigations and Sanctions

* * * * *

8300. Sanctions

* * * * *

8312. FINRA BrokerCheck Disclosure

(a) In response to a written inquiry, electronic inquiry, or telephonic inquiry via a toll-free telephone listing, FINRA shall release information regarding a current or former member[, an] <u>or current or former</u> associated person[, or a person who was associated with a member within the preceding two years,] through FINRA BrokerCheck.

(b) <u>For inquiries regarding a current or former member, a current associated person, or a person who was associated with a member within the preceding two years,</u> [E]<u>e</u>xcept as otherwise provided in paragraph ([c]<u>d</u>) below, FINRA shall release:

(1) any information reported on the most recently filed Form U4, Form U5, Form U6, Form BD, and Form BDW (collectively "Registration Forms");

(2) currently approved registrations;

(3) summary information about certain arbitration awards against a member involving a securities or commodities dispute with a public customer;

(4) the most recently submitted comment, if any, provided to FINRA by the person who is covered by BrokerCheck, in the form and in accordance with the procedures established by FINRA, for inclusion with the information provided through BrokerCheck. Only comments that relate to the information provided through BrokerCheck will be included;

(5) information as to qualifications examinations passed by the person and date passed. FINRA will not release information regarding examination scores or failed examinations;

(6) in response to telephonic inquiries via the BrokerCheck toll-free telephone listing, whether a particular member is subject to the provisions of NASD Rule 3010(b)(2) ("Taping Rule");

(7) Historic Complaints (i.e., the information last reported on Registration Forms relating to customer complaints that are more than two (2) years old and that have not been settled or adjudicated, and customer complaints, arbitrations or litigations that have been settled for an amount less than $10,000 prior to May 18, 2009 or an amount less than $15,000 on or after May 18, 2009 and are no longer reported on a Registration Form), provided that:

(A) any such matter became a Historic Complaint on or after March 19, 2007;

(B) the most recent Historic Complaint or currently reported customer complaint, arbitration or litigation is less than ten (10) years old; and

(C) the person has a total of three (3) or more currently disclosable regulatory actions, currently reported customer complaints, arbitrations or litigations, or Historic Complaints (subject to the limitation that they became a Historic Complaint on or after March 19, 2007), or any combination thereof; and

(8) the name and succession history for current or former members.

(c) For inquiries regarding a person who (1) was formerly associated with a member, but who has not been associated with a member within the preceding two years, and (2) was the subject of a final regulatory action as defined in Form U4 that has been reported to CRD on a Registration Form, except as provided in paragraph (d) below, FINRA shall release, to the extent available:

(1) information regarding the final regulatory action as reported on a Registration Form;

(2) administrative information, including employment history and registration history derived from information reported on a Registration Form;

(3) the most recently submitted comment, if any, provided to FINRA by the person who is covered by BrokerCheck, in the form and in accordance with the procedures established by FINRA, for inclusion with the information provided through BrokerCheck. Only comments that relate to the information provided through BrokerCheck will be included; and

(4) information as to qualifications examinations passed by the person and date passed. FINRA will not release information regarding examination scores or failed examinations.

For purposes of this paragraph (c), a final regulatory action as defined in Form U4 may include any final action, including any action that is on appeal, by the SEC, the Commodity Futures Trading Commission, a federal banking agency, the National Credit Union Administration, another federal regulatory agency, a state regulatory agency, a foreign financial regulatory authority, or a self-regulatory organization (as those terms are used in Form U4).

(d) FINRA shall not release:

(1) information reported as a Social Security number, residential history, or physical description, information that FINRA is otherwise prohibited from releasing under Federal law, or information that is provided solely for use by regulators. FINRA reserves the right to exclude, on a case-by-case basis, information that contains confidential customer information, offensive or potentially defamatory language or information that raises significant identity theft, personal safety or privacy concerns that are not outweighed by investor protection concerns;

(2) information reported on Registration Forms relating to regulatory investigations or proceedings if the reported regulatory investigation or proceeding was vacated or withdrawn by the instituting authority;

(3) "Internal Review Disclosure" information reported on Section 7 of the Form U5;

(4) "Reason for Termination" information reported on Section 3 of the Form U5;

(5) Form U5 information for fifteen (15) days following the filing of such information;

(6) the most recent information reported on a Registration Form, if:

(A) FINRA has determined that the information was reported in error by a member, regulator or other appropriate authority;

(B) the information has been determined by regulators, through amendments to the uniform Registration Forms, to be no longer relevant to securities registration or licensure, regardless of the disposition of the event or the date the event occurred;

(7) information provided on Schedule E of Form BD.

([d]e) Upon written request, FINRA may provide a compilation of information about FINRA members, subject to terms and conditions established by FINRA and after execution of a licensing agreement prepared by FINRA. FINRA may charge commercial users of such information reasonable fees as determined by FINRA. Such compilations shall consist solely of information selected by FINRA from Forms BD and BDW and shall be limited to information that is otherwise publicly available from the SEC.

• • • Supplementary Material: ----------

.01 Availability and Format of Information Regarding Persons Associated with a Member Prior to 1999. Certain types of information about some persons formerly associated with a member, but who have not been associated with a member since January 1, 1999, may not be available through BrokerCheck. Types of information that may be unavailable for these persons may include the following: administrative information (e.g., employment and registration history) and information as to qualifications examinations. In addition, FINRA may release a composite report that includes information from multiple Registration Forms for such persons.

* * * * *

Regulatory Notice 09-67

Continuing Education

Regulatory Element Continuing Education Fees to Increase

Effective Date: January 4, 2010

Executive Summary

Beginning January 4, 2010, the fee for the Regulatory Element of the continuing education requirements of FINRA rules will increase from $75 to $100.[1] The fee increase applies to all three Regulatory Element programs: the General Program (S101), the Series 6 Program (S106) and the Supervisors Program (S201). Firms that participate in in-firm delivery of the Regulatory Element will continue to receive a $3 credit to their Central Registration Depository (CRD®) account for the in-firm deliveries they make.

The text of the rule amendments is set forth in Attachment A.

Questions concerning this *Notice* should be directed to Roni Meikle, Director, Continuing Education, at (646) 315-8688.

Background & Discussion

NASD Rule 1120 (Continuing Education Requirements) and Incorporated NYSE Rule 345A (Continuing Education for Registered Persons) prescribe requirements regarding the continuing education of certain registered persons (referred to as the "Securities Industry Continuing Education Program" or "CE Program"). The CE Program consists of a Regulatory Element and a Firm Element. The Regulatory Element is a computer-based education program developed and administered by FINRA to help ensure that registered persons are kept current on regulatory, compliance and sales practice matters in the industry.[2]

November 2009

Notice Type
- Rule Amendment

Suggested Routing
- Compliance
- Continuing Education
- Legal
- Registration
- Senior Management

Key Topic(s)
- Continuing Education
- Regulatory Element Fees

Referenced Rules & Notices
- NASD Rule 1120
- NYSE Rule 345A
- Section 4 of Schedule A of the By-Laws

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The Regulatory Element session fee will increase from $75 to $100 on January 4, 2010. The fee increase is necessary to cover the costs associated with administering the CE Program, including the redesign of the Regulatory Element,[3] and to maintain an adequate reserve.

Endnotes

1 *See* Exchange Act Release No. 60963 (November 6, 2009), 74 FR 59334 (November 17, 2009) (Notice of Filing and Immediate Effectiveness of SR-FINRA-2009-071). Under Section 19(b) of the Securities Exchange Act of 1934, the Securities and Exchange Commission has the authority to summarily abrogate this type of rule change within 60 days of filing.

2 The Firm Element consists of annual, firm-developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the firm.

3 The redesign updates the presentation and content of the Regulatory Element to reflect changes in technology and adult learning theories. FINRA will implement the redesign of the General and Series 6 Programs first; the redesign of the Supervisors Program will be implemented at a later stage.

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Attachment A

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

* * * * *

SCHEDULE A TO THE BY-LAWS OF THE CORPORATION

* * * * *

Section 4 – Fees

(a) through (e) No change.

(f) There shall be a session fee of [$75.00] $100 assessed as to each individual who is required to complete the Regulatory Element of the Continuing Education Requirements pursuant to [Rule 1120] FINRA Rules.

(g) through (h) No change.

* * * * *

Regulatory Notice 09-68

Regulatory Pricing Changes

SEC Approves Changes to the Personnel Assessment and Gross Income Assessment Fees

Effective Date: January 1, 2010

Executive Summary

The SEC has approved changes to FINRA's regulatory pricing structure as originally outlined in *Regulatory Notice 09-56* (September 2009). Effective January 1, 2010, FINRA will implement a new Personnel Assessment rate structure and a revised calculation for the Gross Income Assessment.[1]

The text of the amendments to Schedule A of the FINRA By-Laws is set forth in Attachment A.

Questions concerning this *Notice* should be directed to:

- Finance at (240) 386-5397; or
- the Office of General Counsel at (202) 728-8071.

Background and Discussion

FINRA's primary pricing structure consists of the following fees: the Personnel Assessment (PA), the Gross Income Assessment (GIA), the Trading Activity Fee and the Branch Office Assessment. These fees are used to fund FINRA's regulatory activities, including its examination and enforcement programs. The SEC has approved a rule change that restructures the PA and the GIA to allow FINRA to continue to effectively discharge its regulatory obligations in a fiscally prudent way, while reducing its vulnerability to another market downturn.

November 2009

Notice Type

- Rule Amendments

Suggested Routing

- Compliance
- Legal
- Operations
- Senior Management

Key Topic(s)

- Gross Income Assessment
- Personnel Assessment
- Regulatory Fees

Referenced Rules & Notices

- Regulatory Notice 08-19
- Regulatory Notice 09-56
- Sections 1 and 2 of Schedule A of FINRA By-Laws

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The GIA currently is assessed through a seven-tiered rate structure with a minimum GIA of $1,200. Under the current pricing structure, firms are required to pay an annual GIA as follows:

(1) $1,200 on annual gross revenue up to $1 million;

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

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

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

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

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

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

The rule change amends Schedule A of the FINRA By-Laws to assess a GIA of the greater of (1) the amount that would be the GIA based on the existing rate structure (current year GIA) or (2) a three-year average of the GIA to be calculated by adding the current-year GIA plus the GIA assessed on the firm over the previous two calendar years, divided by three. For a newer firm that has only been assessed in the prior year, FINRA will compare the current year GIA to the firm's two-year average and assess the greater amount.

Otherwise, the existing GIA rate structure and phase-in implementation through 2010 remain the same. Thus, for 2010, the current year GIA would remain subject to the cap set forth in *Regulatory Notice 08-19* (April 2008), which describes the new funding structure that resulted from the consolidation of NASD and the member regulation, enforcement and arbitration functions of NYSE Regulation into FINRA. FINRA states in the *Notice* that it will apply a 10 percent cap on any increase or decrease of a firm's 2010 current year GIA resulting from the new pricing structure implemented in January 2008.[2]

Firms should note that FINRA is committed to its practice of providing rebates to firms when revenues exceed the expenditures necessary to discharge its regulatory obligations.

The rule change also increases the PA to better align FINRA's revenues with its costs. The PA is currently assessed on a three-tiered rate structure: firms with one to five registered representatives and principals are assessed $75 for each registered person; 6 to 25 registered persons, $70 each; and 26 or more registered persons, $65 each. The rule change increases those rates to $150, $140 and $130, respectively, based on the same tiered structure.

Implementation

The rule changes are effective **January 1, 2010**.

Endnotes

1 *See* Exchange Act Release No. 61042 (November 20, 2009), 74 FR 62616 (November 30, 2009) (Order Approving SR-FINRA-2009-057).

2 The actual amount of GIA assessed in any given year—*e.g.*, the capped amount or the three-year average—will be used to calculate subsequent three-year average determinations. The caps, if applicable, would be applied to the current-year assessment and the resulting number would be used to calculate the three-year average.

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Attachment A

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

* * * * *

SCHEDULE A TO THE BY-LAWS OF THE CORPORATION

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

* * * * *

Section 1—Member Regulatory Fees

(a) through (b) No Change.

(c) Eachmember shall pay an annual Gross Income Assessment equal to the greater [total] of:

(1) the total of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * * *

Information Notice

Continuing Education

November 9, 2009

Suggested Routing

- Compliance
- Continuing Education
- Registered Representatives
- Registration
- Training

Key Topics

- Continuing Education
- Regulatory Element Program
- Series 6 and 7

Changes to the S101 and S106 Regulatory Element Continuing Education Programs

On January 4, 2010, FINRA will implement redesigned versions of the S101 and S106 Regulatory Element Programs in an effort to improve and keep the Continuing Education Program current and relevant. The S101 Regulatory Element Program (*i.e.*, the General Program) is required for all registration categories except for Series 6 or supervisory/principals. The S106 Regulatory Element Program is required for Series 6 registered persons.

Individuals who schedule an S101 or S106 session on or after January 4 will see the redesigned programs, which include new story-based cases and an updated user interface. The new programs, which have been streamlined to include only four modules, integrate topics such as ethics and business conduct, as well as compliance, registration/licensing and reporting requirements.

To help individuals become familiar with the revised programs, FINRA has made available online the related content outlines, an animated orientation and brief sample case at *www.finra.org/ce/training*.

The registration process for the S101 and S106 Regulatory Element Programs is unchanged. Individuals may continue to register online for sessions through the Pearson and Prometric test center Web sites or via telephone.

Further information about the redesigned programs, including how to register, is available at *www.finra.org/ce/training*.

Questions about this *Notice* may be directed to:

- John Kalohn, Vice President, Testing and Continuing Education, at (240) 386-5800; or
- Roni Meikle, Director, Continuing Education, at (646) 315-8688.

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