March 2010

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

Regulatory Notice 10-14

Trade Reporting and Compliance Engine (TRACE)

SEC Approves Access to Historic TRACE Data and Related Fees

Effective Date: March 31, 2010

Executive Summary

Effective March 31, 2010, the public will have access to Historic TRACE Data, and fees for professional users of Historic TRACE Data will go into effect.[1]

The text of the amendments is available in Attachment B at *www.finra.org/notices/10-14*.

Questions regarding this *Notice* should be directed to:

- Ola Persson, Director, Transparency Services, at (212) 858-4796; or
- Elliot R. Levine, Associate Vice President and Counsel, Transparency Services, at (202) 728-8405.

For inquiries regarding how to access Historic TRACE Data, please contact TRACE Data Services at (888) 507-3665.

Background & Discussion

Transaction-level information on publicly traded TRACE-Eligible Securities is available in real-time as the transactions are reported to TRACE (TRACE Market Data). However, transaction-level information is not available in TRACE Market Data, or otherwise publicly available, if such information is not disseminated as provided in Rule 6750(b).[2]

March 2010

Notice Type

- Rule Amendment

Suggested Routing

- Compliance
- Fixed Income
- Legal
- Operations
- Research
- Systems
- Trading

Key Topic(s)

- Fees
- Historic TRACE Data

Referenced Rules & Notices

- FINRA Rule 6750(b)
- FINRA Rule 7730
- Securities Act Rule 144A

Financial Industry Regulatory Authority

Currently, for each transaction the data released as TRACE Market Data includes, among other fields:

- bond identifiers (FINRA symbol and CUSIP number);
- date/time - execution time for current day's transactions, execution date and time for as/of trades and reversals;
- price;
- yield;
- quantity, subject to certain volume limits or caps[3];
- contra-party type (customer or dealer) & buy or sell side indicator (in TRACE Market Data, only the sell side of an inter-dealer report is subject to dissemination);
- various modifiers, indicators (*e.g.*, the trade was executed at a special price; the settlement does not follow market convention) and administrative messages.

The fees FINRA charges for TRACE data are set forth in Rule 7730. FINRA makes the real-time TRACE Market Data available to professional users for a fee, while Non-Professionals have access to transaction-level data at no charge at *www.finra.org/marketdata* and other publicly accessible Web sites.[4]

Historic TRACE Data

FINRA believes that it is important to provide access to historical transaction-level data, particularly for research purposes. Effective March 31, 2010, transaction-level data for transactions in all TRACE-Eligible Securities reported to TRACE since July 1, 2002, except Rule 144A transactions, will be made available as Historic TRACE Data. Historic TRACE Data will include transactions that, at the time of reporting, were not subject to dissemination, such as Non-Investment Grade corporate bond transactions. (As a group, such transactions were reported to TRACE as of July 1, 2002, but were only later subject to dissemination.) Also, Historic TRACE Data will include certain transaction-level information—such as actual trade volume (or size)—that currently is not publicly available for larger transactions.

The release of Historic TRACE Data is subject to the following protocols:

- transaction data must have aged at least 18 months before FINRA will include it in Historic TRACE Data. For example, when historic data becomes available on March 31, 2010, TRACE corporate bond transaction data from 2009 will not be available at that time, because the data was captured and created less than 18 months ago.
- Historic TRACE Data will not include the identity of any broker-dealer that is a party to a transaction.

The data elements and fields that FINRA will include in Historic TRACE Data for each transaction are set forth in Attachment A. Additional information regarding the fields is available in "Historic TRACE Data: Enhanced Historical Time and Sales – Trade Record File Layout" in the technical specifications at *www.finra.org/trace/historicaldata*.

FINRA may change the fields and data elements of Historic TRACE Data to respond to user needs, improve the usefulness of the data or foster the extensive use of such data in research on the bond markets. FINRA will notify firms and other data users of any changes to Historic TRACE Data in a *Regulatory Notice* (or an equivalent publication).

Fees

In Rule 7730(d)(1), FINRA incorporates fees for Historic TRACE Data that apply to financial services professionals, such as broker-dealers and data vendors, and to Non-Professionals. Corporate bond TRACE-Eligible Security transactions will be organized and sold as the Historic Corporate Bond Data Set. After transactions in Agency Debt Securities have been reported to TRACE for more than 18 months, FINRA will organize and sell the aged transactions in Agency Debt Securities as the Historic Agency Data Set.[5] Fees are payable per data set. Under Rule 7730(d)(1)(B), fees for Historic TRACE Data are reduced for qualifying tax-exempt organizations.

FINRA also will respond to ad-hoc requests for Historic TRACE Data from Non-Professionals—that is, individuals who are not affiliated with or engaged in financial services as defined in Rule 7730(f)(1)(A) through (C) who intend to receive and use the information solely for their personal, non-commercial use. Under Rule 7730(d)(2), if FINRA charges Non-Professionals a fee, it will be limited to cover the administrative and operational costs of responding to such requests.

Historic TRACE Data will be available, and the amendments to Rule 7730 will become effective, on March 31, 2010.

Endnotes

1 *See* Securities Exchange Act Release No. 61012 (November 16, 2009), 74 FR 61189 (November 23, 2009) (Order Approving File No. SR-FINRA-2007-006).

2 Currently, under Rule 6750(b), transaction-level information is not disseminated for a transaction in a TRACE-Eligible Security that is: (1) effected pursuant to Securities Act Rule 144A (a Rule 144A transaction); and (2) a transfer of proprietary securities positions between a member and another member or non-member broker-dealer where the transfer (a) is effected in connection with a merger of one broker-dealer with the other broker-dealer or a direct or indirect acquisition of one broker-dealer by the other broker-dealer or the other broker-dealer's parent company, and (b) is not in furtherance of a trading or investment strategy.

3 Currently, under TRACE dissemination protocols, FINRA does not make publicly available in TRACE Market Data or otherwise the actual number of bonds traded in Investment Grade debt if the par value of a transaction exceeds $5 million and in Non-Investment Grade debt if the par value of a transaction exceeds $1 million. "Investment Grade" and "Non-Investment Grade" are defined for purposes of the Rule 6700 Series in Rule 6710(h) and Rule 6710(i), respectively.

4 The term "Non-Professional" is defined in Rule 7730(f)(1) as a natural person who uses TRACE transaction data solely for his personal, non-commercial use (and will not re-distribute such data), and is not engaged as a professional in the financial services industry (*i.e.*, is not licensed in any of the specific capacities in the financial services industry and is not otherwise engaged in financial services as specified in Rule 7730(f)(1)(A) through (C)).

The site *www.finra.org/marketdata* includes real-time TRACE data provided free of charge to Non-Professionals for personal, non-commercial use. The descriptive information includes, among other things, the bond symbol and issuer name; coupon, maturity and redemption features such as call or put options; and Moody's, S&P and/or Fitch credit ratings, if the security is rated.

Currently, FINRA also releases aggregated data regarding both disseminated and non-disseminated transactions, but in a manner that protects transaction-level non-disseminated data from being ascertained. See, *e.g.*, FINRA's TRACE Fact Book (*www.finra.org/TRACE/FactBook*) and market aggregate statistics (published daily at *www.finra.org/marketdata)*.

5 "Agency Debt Security" is defined in Rule 6710(l).

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ATTACHMENT A

HISTORIC TRACE DATA

Historic TRACE Data will include the following transaction-level information:

- bond identifier (FINRA symbol and CUSIP number);
- date/time: execution time for current day's transactions, and execution date and time for reports for as/of trades and reversals;
- price;
- yield;
- quantity (as reported and not subject to caps);
- indicators: when issued; commission; as/of; buy or sell; contra-party (dealer or customer); automatic give up (AGU); special price;
- buyer commission and seller commission;
- buyer capacity (principal or agency) and seller capacity (principal or agency);
- security type;
- dissemination flag; and
- other fields for trade status, days to settlement, additional modifiers or indicators regarding other conditions of sale or relating to reporting, and administrative messages, such as Message Sequence Number.

Additional information about the fields and data elements is available in "Historic TRACE Data: Enhanced Historical Time and Sales – Trade Record File Layout" in the Technical Specifications at *www.finra.org/trace/historicaldata*.

Regulatory Notice 10-15

Financial Responsibility

FINRA Requirements for Subordinations; Availability of New Standard Forms

March 2010

Notice Type

- Guidance

Suggested Routing

- Compliance
- Legal
- Senior Management

Key Topic(s)

- Capital Compliance
- Consolidated Rulebook
- Financial Responsibility
- Subordination Agreements

Referenced Rules & Notices

- FINRA Rule 4110(e)(1)
- NYSE Rule 313(d)
- NYSE Rule 420
- NTM 02-32
- Regulatory Notice 09-71
- SEA Rule 15c3-1
- SEA Rule 15c3-1d (Appendix D)
- SEA Rule 17a-4

Executive Summary

Firms are reminded that, pursuant to new FINRA Rule 4110(e)(1),[1] subordinated loans and notes collateralized by securities (together referred to as subordinations) must be approved by FINRA in order to receive beneficial regulatory capital treatment.[2] This *Notice* explains the requirements for all subordinations for which firms intend to receive beneficial regulatory capital treatment, including certain provisions that all such subordinations, both standard and non-standard,[3] must contain. It also describes the submission and approval process of proposed subordinations.

In addition, the Notice provides information about new, standard subordination forms (and a revised Lender's Attestation) that are available at *www.finra.org/subordinations*.[4] This *Notice* also explains how to obtain approval of proposed amendments to or renewals of previously approved subordinations.

Questions concerning this *Notice* should be directed to:

- Kris Dailey, Vice President, Risk Oversight & Operational Regulation (ROOR), at (646) 315-8434;
- Susan DeMando Scott, Associate Vice President, Financial Operations Department, at (202) 728-8411;
- Joseph Sheirer, Director & Special Counsel, ROOR, at (646) 315-8691; or
- Maria Rabinovich, Principal Counsel, ROOR, at (646) 315-8461.

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Background and Discussion

A. Regulation of Subordination Agreements

Generally, brokers and dealers use subordinations to borrow funds or securities from investors to increase their regulatory net capital. Under Securities Exchange Act (SEA) Rule 15c3-1, in order to receive beneficial regulatory capital treatment, funds or securities loaned to a broker or dealer must be subordinated to the claims of creditors pursuant to a satisfactory subordination agreement as defined under Appendix D.[5] New FINRA Rule 4110(e)(1) requires that subordinations meet such standards as FINRA may require to ensure the firm's continued financial stability and operational capability, in addition to the standards set forth in Appendix D. Any subordination entered into by a firm where it wishes to receive beneficial regulatory capital treatment must be acceptable to FINRA prior to becoming effective.

B. Required Provisions

In addition to the requirements set forth in Appendix D, FINRA requires that certain provisions be included in standard and non-standard subordinations.[6] These required provisions are based in large part on requirements and regulatory practices already used by FINRA (f/k/a NASD) and NYSE Regulation. Firms should note that FINRA may require additional terms or modifications based on the circumstances and/or provisions of a particular subordination agreement.

1. Provisions for Approval and Notification; Other Required Representations

All subordinations submitted to FINRA for approval must include provisions for FINRA approval and notification requirements, as well as certain other required representations. Specifically:

a. the agreement is not effective until approved by FINRA and executed by the parties;

b. any and all amendments to the agreement require the prior written approval of FINRA;

c. the rights and obligations of the parties under the agreement may not be transferred, sold, assigned, pledged or otherwise encumbered or disposed of, and no lien, charge or other encumbrance may be created or permitted thereon without the prior written approval of FINRA;

d. the submitted agreement represents the entire agreement and no other evidence of such agreement has been or will be executed or effective without prior written approval of FINRA;

e. FINRA will be provided written notice(s) of suspension, acceleration or any notice(s) required pursuant to the agreement or Appendix D;

f. the lender is not making or entering into the loan based on the firm's standing as a member of FINRA or in reliance on FINRA, nor is FINRA or any director, officer or employee of FINRA liable to the lender with respect to the agreement or any rights or obligations thereunder; and

g. the parties represent that the executed agreement is a legally valid and binding obligation of the parties that fully conforms to any drafts submitted to and approved by FINRA for execution.

2. Obligation of Firm to Reduce Business if in Suspended Repayment

FINRA requires that all subordinations submitted to FINRA for approval include provisions obligating the firm, if it enters a state of "suspended repayment" (as defined in Appendix D and the FINRA standard forms), to promptly reduce its business, consistent with the protection of its customers, to a condition whereby payments under the subordinations could be made without violating applicable requirements of Appendix D and/or FINRA rules. Firms should be aware that this required provision differs from the optional provision of paragraph (b)(8)(i) of Appendix D, which, if and when incorporated by the parties to a subordination, requires the firm to effect a rapid and orderly liquidation if the firm's obligation to pay is suspended for a period of not less than six months. A firm that is in, or has reason to believe it is about to enter, a state of suspended repayment must immediately notify its Regulatory Coordinator.

3. Repayment and Return Provisions

FINRA requires that any subordination submitted for approval include provisions obligating the lender to repay or return any amounts, collateral and/or notes received from or made by the firm in contravention of the financial requirements contained in Appendix D and/or FINRA rules, provided that the firm must make demand for recovery of such amounts or return of such collateral and/or notes within 120 calendar days from the date such improper payment or return was made. Firms should note that FINRA will not view a firm's demand for recovery (regardless of whether the demand is successful) as a defense in the event of a violation of financial responsibility or other requirements under FINRA or SEC rules.

C. Process for Submission and Approval of Proposed Subordination Agreements

1. Submission of Draft Agreements

All proposed subordination agreements, whether drafted independently by the parties or prepared using FINRA standard forms (which are discussed further in Section D of this *Notice*), must be submitted in draft form (*i.e.*, unexecuted) to the firm's Regulatory Coordinator and Regulatory Specialist, if applicable.[7]

The draft agreement must include the proposed effective date of the agreement, which should generally be at least 10 business days after the date of submission to FINRA if a standard form is used (or longer if a non-standard form is being used).[8] Firms are advised that FINRA may require the parties to cancel—and provide evidence of cancellation with respect to—proposed agreements that are submitted in executed form if FINRA finds the terms of the agreement unacceptable and the parties continue to seek beneficial regulatory capital treatment of the agreement.

2. Supporting Documentation Required

A firm seeking approval of a subordination must also submit to FINRA, concurrent with the draft agreement discussed in Section C.1 of this *Notice*, certain additional supporting documentation. Specifically:

a. a draft of the Lender's Attestation (see Section C.3 of this *Notice*);

b. if the lender is other than an individual, evidence of the lender's authority to make the loan and evidence of any signatory's authority (*e.g.*, corporate resolutions or analogous documents, trust agreement). Note, however, that where the lender is an unaffiliated bank, a resolution of the lender is generally not required;

c. documentation evidencing the source of funds that must align with the identity of the proposed lender; and

d. pro-forma financial statements of the member accounting for the proposed subordination, along with a calculation of the firm's debt-equity ratio, in accordance with paragraph (d) of SEA Rule 15c3-1.

Proposed secured demand note agreements must include details regarding the collateral to be pledged by the lender. Proposed revolving subordinated loan agreements must be accompanied by evidence that the lender meets the definition of a Qualified Lender (as that term is defined in SEC Division of Trading and Markets Interpretation /01 of SEA Rule 15c3-1d(a)(2)(v)(F) *(see Interpretations of Financial and Operational Rules at www.finra.org/finops))*.

FINRA reserves the right to request additional documentation based on the type of lender or agreement proposed. Additionally, firms should note that evidence of the completed funding of a subordination agreement is required once agreements are executed.

3. Lender's Attestation and Investor Disclosure Document

All firms seeking approval of a subordination agreement are required to submit Lender's Attestations and Investor Disclosure Documents (IDDs) (both must be signed and submitted to FINRA as part of the final documents—*see* Section C.5 of this *Notice*).[9] The Lender's Attestation contains several representations required of the lender with regard to information received by the lender from the firm, including certain financial information regarding the firm and a copy of Appendix D.

4. Amount of Time for Review

The amount of time FINRA generally needs to review a proposed subordination and the supporting documentation varies depending on the form and content of the proposed agreement, as well as the completeness of the supporting documentation provided to FINRA. Firms seeking approval for a subordination using standard FINRA forms with little or no modification should submit the draft forms and draft supporting documentation at least 10 business days in advance of the proposed effective date. Agreements prepared by the parties (*i.e.*, non-standard agreements) or agreements prepared using standard FINRA forms that contain additional provisions or substantial modification should be submitted in draft form at least 30 calendar days in advance of the proposed effective date (as such forms require substantially more detailed review by FINRA staff).[10]

5. Approval, Execution and Funding; Submission of Final Documents

Following the submission and review of all pertinent draft documentation, FINRA will advise the firm of the acceptability of the proposed subordination and supporting documentation. The firm and lender may subsequently execute the agreements and related supporting documentation on the proposed effective date stated in the draft documents. The funding of the subordination, other than a revolving subordinated loan agreement not drawn down at execution, must be accomplished on the same day as execution of the final documents. Prior notification to FINRA is required for any drawdown under a revolving subordinated loan agreement. The firm must submit to FINRA proof of funding of the subordination.

The executed documents must conform, in all respects, to any draft documents previously submitted to and approved by FINRA. Upon execution, the firm must submit a copy of the executed agreement and supporting documentation (*e.g.*, resolutions, Lender's Attestation, IDD, proof of funding), either electronically or in paper form, to FINRA, immediately after funding, but in no case later than two business days after funding is completed. Firms are responsible for maintaining original agreements in accordance with applicable recordkeeping requirements.[11] FINRA will provide firms with a written approval letter for the subordination following the receipt of all required executed documents.

6. Amending or Renewing Previously Approved Subordinations

Any amendment or renewal of a previously approved subordination, including but not limited to an extension of maturity (other than an automatic extension of maturity already included as a provision to an approved subordination), must be reviewed and approved by FINRA prior to becoming effective. FINRA will approve amendments or renewals that are consistent with the requirements of SEA Rule 15c3-1 and Appendix D and satisfy all other requirements of FINRA, as outlined in this *Notice*.

Firms seeking to amend or renew an existing subordination must follow the procedures outlined above in this *Notice* for submitting documents in draft form and submitting supporting documentation. Firms and lenders should be aware that subordination agreements (or provisions in such agreements) that have matured are not eligible for amendment. As with newly proposed subordinations, firms should contact their assigned Regulatory Coordinator and Regulatory Specialist, if applicable (*see* endnote 7), regarding proposed amendments.

D. FINRA's Standard Forms

1. Types of Standard Forms

To ease the preparation and review burdens associated with subordinations, FINRA provides seven standard forms of agreements. Firms may, but are not required to, use these standard forms for proposed subordinations.

The table below provides a summary of the standard forms of subordination agreements and key characteristics of each form. Firms are encouraged to contact their assigned Regulatory Coordinator and Regulatory Specialist, if applicable (*see* endnote 7), regarding questions about which forms they should or can use given their particular circumstances.

FINRA Form	Type of Subordination	SEA Rule 15c3-1(d) Debt-Equity Treatment	Type of Lender	Maturity
SL – 31D	Cash Borrowing	Debt	Generally unrestricted	1 Year Minimum
SL – 31E	Cash Borrowing	Equity	Partner/ Stockholder	3 Year Minimum (Debt treatment in last 12 months)
SL – 31T *	Cash Borrowing	Debt (Temporary)	Generally unrestricted	45 Day Maximum
SDN – 32D	Secured Demand Note Agreement	Debt	Generally unrestricted	1 Year Minimum
SDN – 32E	Secured Demand Note Agreement	Equity	Partner/ Stockholder	3 Year Minimum (Debt treatment in last 12 months)
SDN – 32T *	Secured Demand Note Agreement	Debt (Temporary)	Generally unrestricted	45 Day Maximum
REV – 33R	Revolving Cash Borrowing	Debt	Qualified Lender	1 Year Minimum (from the end of the Credit Period)

* FINRA Forms SL – 31T and SDN – 32T are Temporary Subordination Agreements permitted under paragraph (c)(5)(i) of Appendix D. No more than three such agreements are permissible in a 12-month period, each with a stated term of no more than 45 days from the date the agreement became effective. Firms should note that such agreements are for the purpose of enabling a broker or dealer, as set forth in paragraph (c)(5)(i) of Appendix D, to participate as an underwriter of securities or for other extraordinary activities in compliance with SEA Rule 15c3-1.

2. Certain Optional Provisions in the Standard Forms

The standard forms include references to two types of optional provisions: (1) provisions that are permitted by Appendix D, but not required thereunder; and (2) optional provisions FINRA has included, which are not referenced in—and not precluded by—Appendix D. The optional provisions can be incorporated as part of the agreement if the parties mutually agree to do so.

The optional provisions have been written in a manner that requires the parties, when submitting a proposed subordination for approval, to affirmatively select and clearly indicate any optional provisions they choose to incorporate as part of their agreement. Optional provisions that are not affirmatively included are thereby excluded from the terms of the agreement. Following are examples of the optional provisions available:

a. For non-equity[12] loans only, a provision allowing the lender, for any reason, to accelerate maturity to a time no earlier than six months from the date of written notice to the firm and FINRA, with such written notice given no earlier than six months from the effective date of the agreement.

b. For non-equity[13] loans only, a provision allowing the lender to accelerate maturity based on the occurrence of Events of Acceleration or Events of Default. Such events must be clearly stated in the agreement and must be measurable, related to the business of the member, acceptable to FINRA and consistent with Appendix D limitations for such events. Parties wishing to incorporate Events of Acceleration or Events of Default in a subordination may not incorporate the lender's acceleration provision discussed in item a. above.

c. A provision allowing, subject to prior written approval of FINRA and compliance with the requirements of Appendix D and FINRA rules, the firm, at its option, to make a prepayment of its obligations after one year following the effective date of the agreement. (Note: FINRA Form REV-33R, dealing with revolving cash borrowings, includes this permissive prepayment provision as standard and also allows for permissive prepayment prior to one year from the effective date under certain conditions).

d. A provision allowing for a rapid and orderly liquidation of the firm if the payment obligations under the agreement are ever suspended for six months or more.

e. A provision providing for the automatic extension of the maturity date for an additional year if written notice to the contrary is not provided by the lender to the member firm (who must in turn notify FINRA) within certain prescribed time frames.

f. A provision providing for accrual of eligible interest for the period of the subordination (excluding the last twelve months of the subordination).

3. Modifying Standard Forms (Other Options)

Although standardized, FINRA forms may be modified prior to submission for approval. The parties to a proposed subordination may agree to incorporate the "optional rider" provision contained in each standard form. The optional rider provision allows the parties to modify the standard form and/or add any mutually agreed upon term that is not inconsistent with SEA Rule 15c3-1 or Appendix D and is acceptable to FINRA. When incorporating the optional rider provision, the parties must prepare and submit a draft rider containing the proposed terms as part of the proposed draft subordination.

E. Effect of this *Notice* on Previously Approved Agreements

This *Notice* does not affect subordinations previously approved by FINRA (f/k/a NASD) or NYSE Regulation. Agreements previously deemed to be satisfactory subordinations shall continue to be acceptable until they mature. However, any member firm wishing to amend or renew a previously approved agreement must follow the guidance set forth in this *Notice*.[14]

Endnotes

1 The current FINRA rulebook consists of: (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (Incorporated NYSE Rules) (together, the NASD Rules and Incorporated NYSE Rules are referred to as the Transitional Rulebook). While the NASD Rules generally apply to all FINRA member firms, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (Dual Members). The FINRA Rules apply to all FINRA member firms, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice 03/12/08* (Rulebook Consolidation Process).

2 FINRA Rule 4110(e)(1), which went into effect on February 8, 2010, as part of the new, consolidated financial responsibility rules, requires that subordinations meet standards set by FINRA in addition to those set forth in SEA Rule 15c3-1d (referred to as Appendix D of SEA Rule 15c3-1, the SEC's net capital rule). Appendix D authorizes FINRA to establish additional requirements deemed necessary or appropriate. For more information about the new financial responsibility rules, *see Regulatory Notice 09-71* (SEC Approves Consolidated FINRA Rules Governing Financial Responsibility) (December 2009). *See also* Exchange Act Release No. 60933 (November 4, 2009), 74 FR 58334 (November 12, 2009) (Order Granting Approval to Proposed Rule Change; File No. SR-FINRA-2008-067);

continued

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Endnotes continued

Exchange Act Release No. 61408 (January 22, 2010), 75 FR 4596 (January 28, 2010) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-FINRA-2010-004); and Exchange Act Release No. 61513 (February 12, 2010), 75 FR 7532 (February 19, 2010) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-FINRA-2010-008).

3 Generally, standard subordinations are those that utilize the standard forms provided by FINRA and/or certain optional provisions as discussed within this *Notice*. Non-standard subordinations are agreements drafted independently by the parties. Firms are not required to use the standard forms.

4 The new forms replace the forms previously made available to FINRA member firms (they were not accessible online).

5 A subordination agreement must be a satisfactory subordination agreement as set forth in Appendix D in order that the respective amounts may be included in the firm's net capital. *See, e.g.*, Rule 15c3-1(c)(2).

6 Firms should note that FINRA will not view the possible unenforceability of an agreement under the laws of any jurisdiction or a contracting party's failure to perform as a defense in the event of a member's violation of financial responsibility or other requirements under FINRA or SEC rules.

7 If a firm is assigned to the Risk Oversight and Operational Regulation (ROOR) Department of FINRA, the documentation and information pertaining to proposed or amended subordination agreements must also be submitted to the firm's assigned Regulatory Specialist in ROOR, in addition to its Regulatory Coordinator. Firms may submit draft agreements and supporting documentation via email to the required staff person(s).

8 In exigent circumstances, FINRA will undertake to expedite the review and approval of proposed subordination agreements.

9 This is new for Dual Members, which, historically, have been required to submit an opinion of counsel pursuant to Incorporated NYSE Rules 420 and 313(d), both of which have been deleted in connection with the adoption of the new, consolidated financial responsibility rules. See note 2. For background regarding IDDs, *see Notice to Members 02-32* (Subordinated Loan Agreements) (June 2002).

10 *See* note 8.

11 *See, e.g.*, SEA Rule 17a-4.

12 *See* paragraph (d) of SEA Rule 15c3-1.

13 *See* note 12.

14 *See also* Section C.6 of this *Notice*.

Election Notice

District Elections

FINRA Announces Election Results for District Committees, District Nominating Committees

March 29, 2010

Suggested Routing

- Compliance
- Legal
- Operations
- Registration
- Senior Management

Executive Summary

This *Election Notice* announces the newly elected District Committee and District Nominating Committee members. Each of the candidates nominated by the District Nominating Committees has been duly elected to terms beginning on June 1, 2010.[1] The newly elected District Committee members will serve three-year terms and the newly elected District Nominating Committee members will serve one-year terms.[2]

The names of the new district committee members and the specific terms to which they were elected are listed in Attachment A.

Questions concerning this *Notice* may be directed to Marcia E. Asquith, Senior Vice President and Corporate Secretary, at (202) 728- 8949 or *CorporateSecretary@finra.org*.

Endnotes

1 No additional candidates came forward to contest the election of the District Nominating Committee nominees. Pursuant to Section 8.19 of FINRA Regulation's By-Laws, in an uncontested election the candidates nominated by the District Nominating Committees shall be considered elected.

2 Some District Committee members were elected to fill existing vacancies and therefore may serve less than a three-year term, as indicated on Attachment A.

FINRA
Financial Industry Regulatory Authority

Attachment A—Newly Elected District Committee and District Nominating Committee Members

District 1

Northern California (the counties of Monterey, San Benito, Fresno and Inyo, and the remainder of the state north or west of such counties), northern Nevada (the counties of Esmeralda and Nye, and the remainder of the state north or west of such counties) and Hawaii

Christian A. Zrull, District Director

One Montgomery Street, Suite 2100, San Francisco, CA 94104 (415) 217-1100
(415) 956-1931 fax

District Committee Members Elected to Terms Expiring May 31, 2013

Joseph F. Helmer	Caldwell Securities, Incorporated	Sausalito, CA
Stephen C. Rogers	RFS Partners	San Francisco, CA
David G. McClurg	McClurg Capital Corporation	San Rafael, CA

District Committee Members Elected to Terms Expiring May 31, 2012

Douglas C. Heske	Nollenberger Capital Partners, Inc.	San Francisco, CA

District Committee Members Elected to Terms Expiring May 31, 2011

Susan Katherine Campbell	Protected Investors of America	Oakland, CA

Alternate District Committee Member

Peter A. Sigal	Charles Schwab & Co., Inc.	San Francisco, CA

District Nominating Committee Members Elected to Terms Expiring May 31, 2011

James H. Williams	Financial Telesis	San Rafael, CA
Leonard Berry	Backstrom McCarley Berry & Co., LLC	San Francisco, CA
Robert Angle	White Pacific Securities, Inc.	San Francisco, CA
Edward M. Stephens	FSC Securities Corporation	Santa Rosa, CA
Francis X. Roche, II	RBC Capital Markets Corp.	San Francisco, CA

Alternate District Nominating Committee Member

Kevin T. Kitchin	Wells Fargo Advisors, LLC	San Francisco, CA

District 2

Southern California (that part of the state south or east of the counties of Monterey, San Benito, Fresno and Inyo), southern Nevada (that part of the state south or east of the counties of Esmeralda and Nye) and the former U.S. Trust Territories

David A. Greene, District Director

300 South Grand Avenue, Suite 1600, Los Angeles, CA 90071-3126 (213) 613-2634
(213) 613-2601 fax

District Committee Members Elected to Terms Expiring May 31, 2013

Bardea C. Huppert	Farmers Financial Solutions, LLC	Agoura Hills, CA
Timothy U. Morton	WBB Securities, LLC	San Diego, CA
Maureen M. Maloney	Grubb & Ellis Securities, Inc.	Santa Ana, CA

Alternate District Committee Member

Cynthia M. Aragon	FAT Securities, LLC	West Hollywood, CA

District Nominating Committee Members Elected to Terms Expiring May 31, 2011

M. LaRae Bakerink	WBB Securities, LLC	San Diego, CA
Steven K. Klein	Farmers Financial Solutions, LLC	Agoura Hills, CA
Craig Watanabe	Penniall & Associates, Inc.	Pasadena, CA
Ismael Manzanares, Jr.	Higgins Capital Management, Inc.	San Diego, CA
Kevin K. Hull	Grubb & Ellis Securities, Inc.	Santa Ana, CA

District 3

Arizona, Colorado, New Mexico, Utah and Wyoming

Joseph M. McCarthy, Senior Vice President and Regional Director, West Region

4600 S. Syracuse Street, Suite 1400, Denver, CO 80237 (303) 446-3100
(303) 620-9450 fax

Alaska, Idaho, Montana, Oregon and Washington

Gerald J. Dougherty, Deputy Director

601 Union Street, Suite 1616, Seattle, WA 98101-2327 (206) 624-0790
(206) 623-2518 fax

District Committee Member Elected to Terms Expiring May 31, 2013

Robert B.Joki	ING Financial Partners, Inc.	Mountlake Terrace, WA
Alfred P. Reeves, III	Affiliated Funding & Europa Securities	Denver, CO
Edward K. Riley	E.K. Riley Investments, LLC	Seattle, WA

Alternate District Committee Member

Daniel E. Wright	Jackson National Life	Denver, CO

District Nominating Committee Member Elected to for Terms Expiring May 31, 2011

Russell R. Diachok	Geneos Wealth Management, Inc.	Centennial, CO
David J. Director	McAdams Wright Ragen, Inc.	Seattle, WA
Chester J. Hebert	Colorado Financial Service Corp.	Centennial, CO
Steven S. Iversen	Foothill Securities, Inc.	Albuquerque, NM
Douglas W. Schriner	Harrison Douglas, Inc.	Aurora, CO

Alternate District Nominating Committee Member

Jodee Brubaker-Rager	Geneos Wealth Management, Inc.	Centennial, CO

District 4

Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota and South Dakota

Thomas D. Clough, Associate Vice President and District Director

120 W. 12th Street, Suite 800, Kansas City, MO 64105 (816) 421-5700
(816) 421-5029 fax

District Committee Member Elected to Terms Expiring May 31, 2013

William Yates	TD Ameritrade Clearing, Inc.	Bellevue, NE
Craig Markham	Walnut Street Securities, Inc.	St. Louis, MO
Allen Cole	Benjamin F. Edwards & Company, Inc.	Clayton, MO

Alternate District Committee Member

Michael Lenzmeier	Agency Trading Group, Inc.	Wayzata, MN

District Nominating Committee Member Elected to Terms Expiring May 31, 2011

Richard Link	Edward Jones	St. Louis, MO
Robert E. Hillard	Arlington Securities, Inc.	St. Louis, MO
Timothy Lyle	Broker-Dealer Financial Services Corp.	Johnston, IA
Andrew Small	Scottrade, Inc.	St. Louis, MO
Patricia Bartholomew	Craig-Hallum Capital Group LLC	Minneapolis, MN

District 5

Alabama, Arkansas, Louisiana, Mississippi, Oklahoma and Tennessee

Keith E. Hinrichs, District Director

1100 Poydras Street, Energy Centre, Suite 850
New Orleans, LA 70163-0802

(504) 522-6527
(504) 522-4077 fax

District Committee Member Elected to Terms Expiring May 31, 2013

James D. Alger	Delta Trust Investments, Inc.	Little Rock, AR
Martin F. Shea, Jr.	Vining Sparks	Memphis, TN
Raymond A. Thompson	Dorsey & Company, Inc.	New Orleans, LA

Alternate District Committee Member

J. David Coker	Coker & Palmer	Jackson, MS

District Nominating Committee Member Elected to Terms Expiring May 31, 2011

J. French Hill	Delta Trust Investments, Inc.	Little Rock, AR
Philip J. Dorsey	Dorsey & Company, Inc.	New Orleans, LA
James T. Ritt	Morgan Keegan & Co., Inc.	Memphis, TN
Tom R. Steele	Equitable Advisors, Inc.	Nashville, TN
Gary K. Wunderlich, Jr.	Wunderlich Securities, Inc.	Memphis, TN

Alternate District Nominating Committee Member

Robert Keenan	St. Bernard Financial Services, Inc.	Russellville, AR

District 6

Texas

Erin C. Vocke, District Director

12801 N. Central Expressway, Suite 1050, Dallas, TX 75243 (972) 701-8554
(972) 716-7646 fax

District Committee Member Elected to Terms Expiring May 31, 2013

John P. Dennis, III	Woodrock Securities, L.P.	Houston, TX
Robert A. Estrada	Estrada Hinojosa & Company, Inc.	Dallas, TX
Jacob D. Palmer	SWBC Investment Services, LLC	San Antonio, TX

District Committee Member Elected to Terms Expiring May 31, 2012

Daniel C. Dooley	Maplewood Investment Advisors, Inc.	Dallas, TX

Alternate District Committee Member

Terry R. Pender	Raymond James Financial Services, Inc.	Plano, TX

District Nominating Committee Member Elected to Terms Expiring May 31, 2011

Cynthia E. Besek	Maplewood Investment Advisors, Inc.	Dallas, TX
Kennard (Ken) R. George	VSR Financial Services, Inc.	Dripping Springs, TX
Alan K. Goldfarb	Weaver Tidwell Capital, LLC.	Dallas, TX
Brent T. Johnson	Multi-Financial Securities Corporation	Houston, TX
Fenner R. Weller, Jr.	Weller Anderson & Company, Ltd	Houston, TX

Alternate District Nominating Committee Member

Sennett Kirk, III	Kirk Securities Corporation	Denton, TX

District 7

Georgia, North Carolina and South Carolina
Daniel J. Stefek, Associate Vice President and District Director

One Securities Centre
Suite 500, 3490 Piedmont Road, NE, Atlanta, GA 30305
(404) 239-6100
(404) 237-9290 fax

Florida, Puerto Rico, the Canal Zone and the Virgin Islands

Mitchell C. Atkins, Vice President and District Director

Crystal Corporate Center
2500 N. Military Trail, Suite 302, Boca Raton, FL 33431
(561) 443-8000
(561) 443-7995 fax

District Committee Member Elected to Terms Expiring May 31, 2013

Leopold E. Guzman	Guzman & Company	Coral Gables, FL
W. Lawrence Key	Wells Fargo Advisors, LLC	Charlotte, NC
John T. Rhett, III	SunTrust Investment Services, Inc.	Atlanta, GA

Alternate District Committee Member

Michael S. Hill	Summit Brokerage Services	Boca Raton, FL

District Nominating Committee Member Elected to Terms Expiring May 31, 2011

Jed E. Bandes	Mutual Trust Co. of America Securities	Clearwater, FL
Susan J. Hechtlinger	SunTrust Investment Services, Inc.	Atlanta, GA
Landrum H. Henderson	Robert W. Baird & Co., Inc.	Charlotte, NC
Alan L. Maxwell	Wells Fargo Securities, LLC	Charlotte, NC
James A. Klotz	FMSBonds, Inc.	Boca Raton, FL

District 8

Illinois, Indiana, Kentucky, Michigan, Ohio and Wisconsin

Carlotta A. Romano, Senior Vice President and Regional Director, Midwest Region

55 West Monroe Street, Suite 2700, Chicago, IL 60603-5052 (312) 899-4400
(312) 899-4399 fax

District Committee Member Elected to Terms Expiring May 31, 2013

Jeffrey V. Gery	Lincoln Financial Advisors Corporation	Fort Wayne, IN
Phillip E. Gutman, Jr.	William Blair & Company, LLC	Chicago, IL
Nicholas A. Filing	OneAmerica Securities, Inc.	Indianapolis, IN

Alternate District Committee Member

Debra DeVoe	SunGard Institutional Brokerage, Inc.	Lombard, IL

District Nominating Committee Member Elected to Terms Expiring May 31, 2011

Joel Blumenschein	Freedom Investors Corp.	Brookfield, WI
Earl Clifford Oberlin, III	NRP Financial, Inc.	Bryan, OH
James M. Rogers	JJB Hilliard, WL Lyons LLC	Louisville, KY
Barbara A. Turner	The O.N. Equity Sales Company	Cincinnati, OH
Julie E. Vander Weele	Mesirow Financial, Inc.	Chicago, IL

Alternate District Nominating Committee Member

Carol Foley	Podesta & Company	Chicago, IL

District 9

New Jersey and New York (except for the counties of Nassau and Suffolk, and the five boroughs of New York City)

Gary K. Liebowitz, Senior Vice President and Regional Director, North Region

581 Main Street, 7th Floor, Woodbridge, NJ 07095 (732) 596-2025
(732) 596-2001 fax

Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia

Robert B. Kaplan, Vice President and District Director

1835 Market Street, Suite 1900, Philadelphia, PA 19103 (215) 963-1992
(215) 963-7442 fax

District Committee Member Elected to Terms Expiring May 31, 2013

Michael Carroll	Wells Fargo Advisors, LLC	Red Bank, NJ
Greg Plifka	RBC Capital Markets Corporation	Parsippany, NJ
Craig Tillotson	Hefren-Tillotson, Inc	Wexford, PA

Alternate District Committee Member

Andrew Shainberg	Pruco Securities, LLC	Newark, NJ

District Nominating Committee Member Elected to Terms Expiring May 31, 2011

Wayne Holly	Sage, Rutty & Co.	Rochester, NY
John Ivan	Janney Montgomery Scott, LLC	Philadelphia, PA
Michael Row	Pershing, LLC	Jersey City, NJ
Richard Seelaus	R. Seelaus & Co., Inc.	Summit, NJ
Thomas Wallace	Johnston, Lemon & Co., Incorporated	Washington, DC

District 10

New York (the counties of Nassau and Suffolk, and the five boroughs of New York City)

Hans L. Reich, Senior Vice President and Regional Director, New York Region

One Liberty Plaza, 49th Floor, 165 Broadway, New York, NY 10006 (212) 858-4000
(212) 858-4078 fax

District Committee Member Elected to Terms Expiring May 31, 2013

Gordon Charlop	Rosenblatt Securities, Inc.	New York, NY
Carl K. Oppenheimer	Oppenheimer & Close, Inc.	New York, NY
Alfred Petrillo	Jefferies Execution Services, Inc.	New York, NY
Richard A. Sorrentino	Collins Stewart LLC	New York, NY

District Committee Member Elected to Terms Expiring May 31, 2012

Robert Hackel	R.F. Lafferty & Co., Inc.	New York, NY
George Mandl	Mitsubishi UFJ Securities (USA) Inc.	New York, NY

Alternate District Committee Member

Andrew Collier	BOC International (USA) Inc.	New York, NY

District Nominating Committee Member Elected to Terms Expiring May 31, 2011

James A. Brodie	Dinosaur Securities, LLC	New York, NY
Kathryn G. Casparian	CIBC World Markets Corp.	New York, NY
Paul S. Ehrenstein	Zenith American Securities Corp.	New York, NY
James D. Lamke	Sanford C. Bernstein & Co. Inc.	New York, NY
Tom M. Wirtshafter	American Portfolios Financial Services, Inc.	New York, NY

Alternate District Nominating Committee Member

Raymond C. Holland, Sr.	Triad Securities Corp.	New York, NY

District 11

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont

Elizabeth F. Page, District Director

99 High Street, Suite 900, Boston MA 02110 (617) 532-3401
(617) 451-3524 fax

District Committee Member Elected to Terms Expiring May 31, 2013

Norman L. Ashkenas	Fidelity Brokerage Services	Marlborough, MA
Jonathan Goldstein	Greenwich Prime Trading Group, LLC	Stamford, CT
Lawrence F. McIntosh	USI Securities, Inc.	Glastonbury, CT

Alternate District Committee Member

John S. McPhee	Leerink Swann LLC	Boston, MA

District Nominating Committee Member Elected to Terms Expiring May 31, 2011

Michael Callaghan	Harvest Capital LLC	Wethersfield, CT
David J. Freniere	LPL Financial Corporation	Boston, MA
Moira C. Lowe	Phoenix Equity Planning Corp.	Hartford, CT
Tina Blakeley Maloney	Winslow, Evans & Crocker, Inc.	Boston, MA
Robert J. Reilly	UBS Securities, LLC	Boston, MA

Alternate District Nominating Committee Member

Martin W. Courage	Barclays Capital Inc.	Boston, MA

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Information Notice

Mid-Year Rate Adjustment for Fees Paid Under Section 31 of the Exchange Act

Effective Date: April 1, 2010

March 10, 2010

Suggested Routing

- Compliance
- Legal
- Trading

Key Topics

- Section 31 Fee

Referenced Rules & Notices

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

Executive Summary

The SEC is making a mid-year rate adjustment to the fee rates applicable under Section 31 of the Securities Exchange Act of 1934. Effective April 1, 2010, the Section 31 fee rate applicable to specified securities transactions on the exchanges and in the over-the-counter markets will increase from $12.70 per million dollars to $16.90 per million dollars. This fee rate remains in place until further notice.

- **Finance-related questions should be directed to:**
  Sheila Gregory, Accounting Manager, Finance, at (240) 386-5388.
- **Legal and interpretive questions should be directed to:**
  Kathleen O'Mara, Associate General Counsel, Office of Oversight Liaison and Counsel, at (240) 386-5309.

Background and Discussion

On March 1, 2010, the Securities and Exchange Commission (SEC) announced in Fee Rate Advisory #5 for Fiscal Year (FY) 2010 that the current Section 31 Fee Rate is being increased. Specifically, effective April 1, 2010, the new Section 31 fee rate increases from $12.70 per million dollars to $16.90 per million dollars on the aggregate dollar amount of sales of specified securities transactions on the exchanges and in the over-the-counter markets.

The SEC will announce the new fee rates for FY 2011 no later than April 30, 2010. The 2011 fee rates will become effective October 1, 2010, or 30 days after the SEC's FY 2011 appropriation is enacted, whichever is later.

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

A copy of the SEC's March 1, 2010, order regarding fee rates for FY 2010 is available at *www.sec.gov/rules/other/2010/34-61605.pdf*.

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Information Notice

FINRA Entitlement Program Change

New Firm Requirement to Designate a Super Account Administrator

March 24, 2010

Suggested Routing

- Compliance
- Legal
- Operations
- Registration
- Senior Management

Key Topics

- Entitlement Program
- FINRA Systems and Applications

Executive Summary

Beginning March 29, 2010, FINRA is introducing changes to the Entitlement Program, including a new Super Account Administrator (SAA) role that will enable organizations to create account administrators and user accounts, as well as manage their own access to FINRA systems. The FINRA Entitlement Program provides authorized users a single user ID and password to access FINRA regulatory systems. See Attachment A for a list of FINRA systems and applications that participate in the Entitlement Program.

FINRA will implement the SAA role in phases from March 29, 2010, through early 2011. FINRA will notify firms via email of their SAA designation windows and provide instructions approximately six weeks prior to their designation due dates.

Questions concerning this *Notice* should be directed to Mary Ann Shaw, Director, Registration Operations, at (240) 386-4806.

Questions regarding the SAA or Entitlement Program should be directed to the Gateway Call Center at (301) 869-6699.

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Background and Discussion

Under FINRA's current Entitlement Program, firms must rely upon FINRA for the creation and maintenance of all account administrators. For instance, firms must complete and submit a form (the FINRA Account Administrator Entitlement Form (AAEF)) for each individual who will be the firm's primary or alternate account administrator and for each FINRA application that firm needs to use. Moreover, firms must make changes to existing account administrators by submitting another form (an entitlement modification form) to FINRA.

With the implementation of the SAA, firms will use just one form for both the creation and modification of an SAA account. The SAA will have the ability to create, modify and delete account administrators for the firm, as well as manage his or her own access to FINRA applications. Both the SAA and account administrators will be able to create, modify or delete user accounts. Additionally, account administrators will no longer be distinguished as a "primary" or "alternate." Individuals with existing user accounts will continue to be able to access the applications to which they are entitled.

This streamlined program requires that firms designate one SAA for each firm with an organization ID/CRD number. In the case of firms with affiliates, the same SAA may be designated for each affiliate. The SAA must be either employed by or registered with the firm and, given the scope of the SAA's responsibility for maintaining the organization's entitlement privileges to applications, FINRA recommends that the firm designate a senior member of the firm's management team. Please note that, while a service provider is not permitted to be designated as an SAA, a service provider may continue to be an account administrator for a firm.

Another major change that FINRA will incorporate into the program is an online certification process. This new process will require a firm's SAA to periodically review the firm's user accounts and certify on behalf of the firm that all designated users should retain their authorization. FINRA will notify SAAs when online certification will commence.

FINRA will transition organizations to the SAA entitlement model in phases from late March 2010 through first quarter 2011. FINRA will notify firms via email of their SAA designation windows, along with instructions and access to the SAA Entitlement Form, approximately six weeks prior to each firm's SAA designation due date. The emails will be sent to account administrators, chief compliance officers and executive representatives.

Attachment A

Firm Systems/Applications

The following FINRA systems and applications participate in the Entitlement Program:

- eAnalytics
- eFocus
- FINRA Waiver Forms
- IARD
- New Member Application (NMA)
- NYSE Rule 407A Form
- Order Audit Trail System (OATS)
- Regulation Filing Applications
  - Central Review Group Request (CRG)
  - Customer Margin Balance Form
  - Firm Clearing Arrangement Form
  - Information Request Forms
  - Reg-17a-11 Financial Notification
  - Reg-2711 – Annual Attestation of Compliance
  - Reg-3012 Claim for Exception
  - Reg-Advertising
  - Reg-Blue Sheets
  - Reg-Disclosure Events & Complaints
  - Reg-FINRA Contact System (FCS)
  - Reg-Insite Firm Data Filing
  - Reg-Market Volatility
  - Reg-Short Position Reporting
  - TRACE New Issue Form
  - TRACE Order Form
- Report Center
- REX – Regulation T & 15C3-3 Extensions
- Secure Request Manager
- Web CRD
- Web Information Request (IR)