

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-75865; File No. SR-FINRA-2015-031)

September 9, 2015

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Establish An Administration and Delivery Fee for the Municipal Advisor Representative Examination (“Series 50 examination”)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 1, 2015, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend Section 4(c) of Schedule A to the FINRA By-Laws to establish an administration and delivery fee for the new Municipal Advisor Representative Examination (“Series 50 examination”).

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

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**SCHEDULE A TO THE BY-LAWS OF THE CORPORATION**

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**Section 4 – Fees**

(a) through (b) No Change.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

(c) The following fees shall be assessed to each individual who registers to take an examination as described below. These fees are in addition to the registration fee described in paragraph (b) and any other fees that the owner of an examination that FINRA administers may assess.

Series 4	Registered Options Principal	\$105
Series 6	Investment Company Products/Variable Contracts Representative	\$100
Series 7	General Securities Representative	\$305
Series 9	General Securities Sales Supervisor – Options Module	\$80
Series 10	General Securities Sales Supervisor – General Module	\$125
Series 11	Assistant Representative – Order Processing	\$80
Series 14	Compliance Official	\$350
Series 16	Supervisory Analyst	\$240
Series 17	Limited Registered Representative	\$80
Series 22	Direct Participation Programs Representative	\$100
Series 23	General Securities Principal Sales Supervisor Module	\$100
Series 24	General Securities Principal	\$120
Series 26	Investment Company Products/Variable Contracts Principal	\$100
Series 27	Financial and Operations Principal	\$120
Series 28	Introducing Broker-Dealer Financial and Operations Principal	\$100
Series 37	Canada Module of S7 (Options Required)	\$185
Series 38	Canada Module of S7 (No Options Required)	\$185
Series 39	Direct Participation Programs Principal	\$95
Series 42	Registered Options Representative	\$75

Series 50	<u>Municipal Advisor Representative</u>	\$115
Series 51	Municipal Fund Securities Limited Principal	\$105
Series 52	Municipal Securities Representative	\$130
Series 53	Municipal Securities Principal	\$115
Series 55	Limited Representative – Equity Trader	\$110
Series 62	Corporate Securities Limited Representative	\$95
Series 72	Government Securities Representative	\$110
Series 79	Investment Banking Qualification Examination	\$305
Series 82	Limited Representative – Private Securities Offering	\$95
Series 86	Research Analyst – Analysis	\$185
Series 87	Research Analyst – Regulatory	\$130
Series 99	Operations Professional	\$130

(1) through (4) No Change.

(d) through (i) No Change.

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

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

FINRA is proposing amendments to Schedule A to the FINRA By-Laws to establish an administration and delivery fee for the Series 50 examination. On February 26, 2015, the Commission approved amendments to Municipal Securities Rulemaking Board (“MSRB”) Rule G-3 to establish two new registration classifications for municipal advisors<sup>3</sup>: (1) municipal advisor representatives (i.e., those individuals who engage in municipal advisory activities); and (2) municipal advisor principals (i.e., those individuals who engage in the management, direction or supervision of the municipal advisory activities of the municipal advisor or its associated persons).<sup>4</sup> To qualify as a municipal advisor representative or municipal advisor principal, an individual must pass an appropriate qualification examination (the Series 50 examination) before his or her registration can become effective.

Because the Series 50 examination is a new examination for two new registration classifications for municipal advisors, the MSRB plans to launch a pilot test of the examination in early 2016 to validate its bank of test questions and set the passing score for the permanent examination. A permanent Series 50 examination is expected to be in place in 2016.

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<sup>3</sup> The term “municipal advisor” is defined to mean a person that: (i) provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues; or (ii) undertakes a solicitation of a municipal entity. The definition includes financial advisors, guaranteed investment contract brokers, third-party marketers, placement agents, solicitors, finders, and swap advisors that are engaged in municipal advisory activities, unless they are statutorily excluded. The definition does not include a municipal entity or an employee of a municipal entity. See 15 U.S.C. 78o-4(e)(4).

<sup>4</sup> See Securities Exchange Act Release No. 74384 (February 26, 2015), 80 FR 11706 (March 4, 2015) (Order Approving File No. SR-MSRB-2014-08).

FINRA develops, maintains and delivers all FINRA qualification examinations for individuals who are registered or seeking registration with FINRA. FINRA also administers and delivers examinations developed by the MSRB and other self-regulatory organizations.<sup>5</sup> The SEC has designated FINRA to administer and deliver the Series 50 examination for municipal advisors.<sup>6</sup>

FINRA currently administers examinations electronically through the PROCTOR<sup>®</sup> system<sup>7</sup> at testing centers operated by vendors under contract with FINRA. For qualification examinations sponsored by a FINRA client and administered by FINRA, FINRA charges an administration and delivery fee that represents either a portion of or the entire examination fee. Consistent with this practice, FINRA will charge an administration and delivery fee of \$115 for the Series 50 examination.<sup>8</sup> The proposed administration and delivery fee will offset FINRA's costs associated with the administration and delivery of the Series 50 examination and contribute

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<sup>5</sup> In this regard, the Exchange Act provides that a registered securities association shall administer required qualification examinations for municipal securities brokers and municipal securities dealers who are members of the association. See 15 U.S.C. 78o-4(c)(7)(A)(i).

<sup>6</sup> See Securities Exchange Act Release No. 75714 (August 17, 2015), 80 FR 50883 (August 21, 2015) (Designation of the Financial Industry Regulatory Authority to Administer Professional Qualification Tests for Associated Persons of Registered Municipal Advisors). Section 15B(c)(7)(A)(iii) of the Exchange Act requires that the SEC or its designee administer qualification examinations for municipal advisors. The SEC previously designated FINRA to examine FINRA members' activities as registered municipal advisors and evaluate compliance by such members with federal securities laws, SEC rules and regulations, and MSRB rules applicable to municipal advisors. See Securities Exchange Act Release No. 70462 (September 23 [sic], 2013), 78 FR 67467 (November 12, 2013) (Registration of Municipal Advisors).

<sup>7</sup> PROCTOR is a computer system that is specifically designed for the administration and delivery of computer-based testing and training.

<sup>8</sup> The administration and delivery fee represents a portion of the entire examination fee when a FINRA client has established an additional fee for an examination that it sponsors. The fee to take the Series 50 examination will be \$265. Of this amount, \$115 is the FINRA administration and delivery fee, and \$150 is the development fee determined by the FINRA client, the MSRB. See MSRB Rule A-16.

to FINRA's overall revenue. The administration and delivery fee charged by FINRA for the Series 50 examination will be used, in part, to cover the fees that vendors charge FINRA for delivering qualification examinations through their networks of test delivery centers and PROCTOR system maintenance and enhancement expenses.

FINRA has filed the proposed rule change for immediate effectiveness. FINRA is proposing that the implementation date of the proposed rule change will be September 21, 2015.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,<sup>9</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

FINRA believes that the proposed rule change constitutes an equitable allocation of fees as the administration and delivery fee, in part, will be used to cover FINRA's costs in administering and delivering the examination and will be assessed only on those individuals who take the Series 50 examination. FINRA further believes that the proposed administration and delivery fee for the Series 50 examination is reasonable because it is aligned with the overall cost associated with the Series 50 examination program.

Accordingly, FINRA believes that the proposed administration and delivery fee for the Series 50 examination is equitably allocated and reasonable.

### B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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<sup>9</sup> 15 U.S.C. 78o-3(b)(5).

FINRA believes that the establishment of the administration and delivery fee for the Series 50 examination will have a limited economic impact on the industry.

FINRA would administer this examination as a service provider to the MSRB as designated by the SEC. In providing this service, FINRA is not exercising regulatory discretion and therefore is not itself imposing burdens on those individuals who may choose to sit for the examination.

FINRA does exercise discretion in establishing the administration and delivery fee. However, in establishing an administration and delivery fee of \$115 for the Series 50 examination, FINRA applied the same criteria as it does for establishing the fees for other examinations with similar characteristics related to test length and projected volume. The MSRB has indicated that approximately 3,900 individuals will be taking the examination for the initial round of testing. Based on FINRA's experience with other industry tests, FINRA projects that the annual testing volumes will be approximately five to ten percent of the total registrant volume. The administration and delivery fees may be paid by the individuals taking the examination or their associated firms. The proposed administration and delivery fee will also offset FINRA's costs associated with the administration and delivery of the Series 50 examination and contribute to FINRA's overall revenue. The Series 50 examination is anticipated to have the same number of questions (and thus seat time at test centers) as the Series 53 (Municipal Securities Principal) examination, which is sponsored by the MSRB and administered and delivered by FINRA for a fee of \$115.

Economic Impact Assessment

Need for the Rule

This proposal is in response to amendments to MSRB Rule G-3. As discussed above, the Commission approved amendments to MSRB Rule G-3 to establish two new registration classifications for municipal advisors: municipal advisor representatives and municipal advisor principals. To qualify as a municipal advisor representative or municipal advisor principal, an individual must pass an appropriate qualification examination before his or her registration can become effective. The SEC has designated FINRA to administer and deliver the examination for municipal advisors. Accordingly, FINRA needs to establish the administration and delivery fee for the examination.

#### Regulatory Objective

FINRA aims to establish an administration and delivery fee that would allow FINRA to recover its costs for providing this service and to contribute to FINRA's overall revenue.

#### Economic Baseline

The Series 50 examination is a new examination for two new registration classifications for municipal advisors established by amendments to MSRB Rule G-3. The economic impact of the amendments depends on the current classifications and qualification requirements for municipal advisor professionals engaging in or supervising municipal advisory activities. As noted above, FINRA would administer this examination as a service provider to the MSRB as designated by the SEC. Accordingly, the scope of the economic impact assessment of this proposal is limited to the impact of the establishment of the administration and delivery fee.

#### Economic Impacts

The impact of the proposed administration and delivery fee on the industry will depend on the demand for the examination. The MSRB has indicated that approximately 3,900 individuals will be taking the examination for the initial round of testing. Based on FINRA's



experience with other industry tests, FINRA projects that the anticipated annual testing volumes will be approximately five to ten percent of the total registrant volume. The administration and delivery fees may be paid by the individuals taking the examination or their associated firms.

The proposed administration and delivery fee will offset FINRA's costs associated with the administration and delivery of the Series 50 examination and contribute to FINRA's overall revenue. FINRA has based its administration and delivery fee on costs related to test delivery (which are primarily driven by the length of the testing appointment), annual testing volumes, operational support costs and a nominal margin. The pricing was also evaluated against testing programs of comparable test length, annual projected testing volumes and support services to ensure comparability. FINRA staff review revenue and expenses annually to determine if any adjustments should be made to account for changes in expenses associated with the delivery and support of all testing programs.

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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and paragraph (f)(2) of Rule 19b-4 thereunder.<sup>11</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2015-031 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2015-031. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, D.C. 20549 on official business days between the hours of 10:00 a.m.

and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2015-031, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Robert W. Errett  
Deputy Secretary

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<sup>12</sup> 17 CFR 200.30-3(a)(12).