

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76190; File No. SR-FINRA-2015-039)

OCTOBER 19, 2015

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Series 28 Examination Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “SEA”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 13, 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. FINRA has designated the proposed rule change as “constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule” under Section 19(b)(3)(A)(i) of the Act³ and Rule 19b-4(f)(1) thereunder,⁴ which renders the proposal effective upon receipt of this filing by the Commission. 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 filing revisions to the content outline and selection specifications for the Introducing Broker-Dealer Financial and Operations Principal (Series 28)

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).

examination program.⁵ The proposed revisions update the material to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by an Introducing Broker-Dealer Financial and Operations Principal. In addition, FINRA is proposing to make changes to the format of the content outline. FINRA is not proposing any textual changes to the By-Laws, Schedules to the By-Laws or Rules of FINRA.

The revised content outline is attached.⁶ The Series 28 selection specifications have been submitted to the Commission under separate cover with a request for confidential treatment pursuant to SEA Rule 24b-2.⁷

The text of the proposed rule change is available on FINRA's website at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

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

⁵ FINRA also is proposing corresponding revisions to the Series 28 question bank. FINRA is submitting this filing for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(1) thereunder, and is not filing the question bank. See Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000. The question bank is available for SEC review.

⁶ The Commission notes that the content outline is attached to the filing, not to this Notice.

⁷ 17 CFR 240.24b-2.

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

Section 15A(g)(3) of the Act⁸ authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has developed examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge, consistent with applicable registration requirements under FINRA rules. FINRA periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

NASD Rule 1022(c)(1) requires that every member that is subject to the requirements of SEA Rule 15c3-1,⁹ other than a member operating pursuant to SEA Rule 15c3-1(a)(1)(ii),¹⁰ SEA Rule 15c3-1(a)(2)(i)¹¹ or SEA Rule 15c3-1(a)(8),¹² shall designate

⁸ 15 U.S.C. 78o-3(g)(3).

⁹ 17 CFR 240.15c3-1. SEA Rule 15c3-1 is the SEC's net capital rule for brokers and dealers.

¹⁰ 17 CFR 240.15c3-1(a)(1)(ii). SEA Rule 15c3-1(a)(1)(ii) addresses net capital requirements for brokers or dealers that elect not to be subject to the Aggregate Indebtedness Standard of paragraph (a)(1)(i) under Rule 15c3-1.

¹¹ 17 CFR 240.15c3-1(a)(2)(i). SEA Rule 15c3-1(a)(2)(i) addresses net capital requirements for brokers or dealers that carry customer accounts.

¹² 17 CFR 240.15c3-1(a)(8). SEA Rule 15c3-1(a)(8) addresses net capital requirements for municipal securities brokers' brokers, as defined under the rule.

as Introducing Broker-Dealer Financial and Operations Principal¹³ those persons associated with it, at least one of whom shall be its chief financial officer, who perform the duties described in paragraph (c)(2) of the rule. The rule provides that each person associated with a member who performs such duties shall be required to register as an Introducing Broker-Dealer Financial and Operations Principal with FINRA and shall pass an appropriate qualification examination before such registration may become effective. Paragraph (b)(2) of the rule provides that the term Introducing Broker-Dealer Financial and Operations Principal shall mean a person associated with a member whose duties include:

- final approval and responsibilities for the accuracy of financial reports submitted to any duly established securities industry regulatory body;
- final preparation of such reports;
- supervision of individuals who assist in the preparation of such reports;
- supervision of and responsibility for individuals who are involved in the actual maintenance of the member's books and records from which such reports are derived;
- supervision and/or performance of the member's responsibilities under all financial responsibility rules promulgated pursuant to the provisions of the Act;

¹³ The term "Limited Principal—Introducing Broker/Dealer Financial and Operations" as set forth in NASD Rule 1022(c) is referred to as "Introducing Broker-Dealer Financial and Operations Principal" for purposes of this filing. The term "principal" is defined in NASD Rule 1021(b) (Definition of Principal).

- overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the member's back office operations; or
- any other matter involving the financial and operational management of the member.

NASD Rule 1022(c)(3) provides that, except as set forth in NASD Rule 1021(c),¹⁴ a person designated pursuant to the provisions of NASD Rule 1022(c)(1) shall not be required to take the Introducing Broker-Dealer Financial and Operations Principal examination and shall be qualified for registration as such if the person is qualified to be registered or is registered as a Financial and Operations Principal as defined in NASD Rule 1022(b)(2).¹⁵

NASD Rule 1022(c)(4) provides that a person registered solely as an Introducing Broker-Dealer Financial and Operations Principal shall not be qualified to function in a principal capacity with responsibility over any area of business activity not described in paragraph (c)(2) of the rule. The rule provides that such person shall not be qualified to function in a principal capacity at a member unless the member operates under paragraph (c)(1) of the rule.

¹⁴ NASD Rule 1021(c) addresses requirements for examination on lapse of registration.

¹⁵ For purposes of this filing, the term "Financial and Operations Principal" is used interchangeably with the term "Limited Principal—Financial and Operations" as set forth in NASD Rule 1022(b). Rule 1022(b)(2) sets forth the duties of a Financial and Operations Principal. See SR-FINRA-2015-038 (establishing revisions to the content outline and selection specifications for the Financial and Operations Principal (Series 27) examination program).

In consultation with a committee of industry representatives, FINRA recently undertook a review of the Series 28 examination program. As a result of this review, FINRA is proposing to make revisions to the content outline to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by an Introducing Broker-Dealer Financial and Operations Principal. FINRA also is proposing to make changes to the format of the content outline.

Current Outline

The current content outline is divided into five sections. The following are the five sections and the number of questions associated with each of the sections, denoted Section 1 through Section 5:

1. Keeping And Preservation of Records and Broker-Dealer Financial Reporting Requirements, 16 questions;
2. Net Capital Requirements, 36 questions;
3. Customer Protection, 10 questions;
4. Uniform Practice Rules, 5 questions; and
5. Other Relevant Regulations and Interpretations, 28 questions.

Each section also includes the applicable laws, rules and regulations associated with that section. The current outline also includes a preface (addressing, among other things, the purpose, administration and scoring of the examination), sample questions and reference materials.

Proposed Revisions

To develop the revised outline, FINRA conducted a job analysis study of

Introducing Broker-Dealer Financial and Operations Principals, which included the use of a survey. The study provided detailed information regarding the day-to-day roles, responsibilities and job functions of Introducing Broker-Dealer Financial and Operations Principals. As a result, FINRA is proposing to revise the structure of the outline as described below to include functions and associated tasks that reflect the day-to-day activities of an Introducing Broker-Dealer Financial and Operations Principal.

Specifically, FINRA is proposing to divide the content outline into four major job functions that are performed by an Introducing Broker-Dealer Financial and Operations Principal. The following are the four major job functions, denoted Function 1 through Function 4, with the associated number of questions:

Function 1: Financial Reporting, 16 questions;

Function 2: Operations, General Securities Industry Regulations, and Preservation of Books and Records, 30 questions;

Function 3: Net Capital, 31 questions; and

Function 4: Customer Protection, Funding and Cash Management, 18 questions.

As noted above, each major job function includes an assigned number of questions. FINRA determined the number of questions for each function based on the results of the job analysis study. Thus, compared to the existing outline, the allocation of questions in the revised outline more closely reflects the current day-to-day activities of an Introducing Broker-Dealer Financial and Operations Principal.

Each function also includes specific tasks describing activities associated with performing that function. There are five tasks (1.1 – 1.5) associated with Function 1; three tasks (2.1 – 2.3) associated with Function 2; seven tasks (3.1 – 3.7) associated with

Function 3; and three tasks (4.1 – 4.3) associated with Function 4.¹⁶ By way of example, one such task (Task 2.2) is prepare and preserve financial records to ensure accuracy and completeness of internal financial documents.¹⁷ Further, the outline lists the knowledge required to perform each function and associated tasks (e.g., general ledger and sub-ledgers).¹⁸ In addition, where applicable, the outline lists the laws, rules and regulations a candidate is expected to know to perform each function and associated tasks. These include the applicable FINRA Rules (e.g., FINRA Rule 4160), NASD Rules (e.g., NASD Rule 2340) and SEC rules (e.g., SEA Rule 17a-4).¹⁹

As noted above, FINRA also is proposing to revise the content outline to reflect changes to the laws, rules and regulations covered by the examination. Among other revisions, FINRA is proposing to revise the content outline to reflect the adoption of rules in the consolidated FINRA rulebook (e.g., NASD Rule 2430 (Charges for Services Performed) and NASD Rule 3110 (Books and Records) were adopted as FINRA Rule 2122 (Charges for Services Performed) and FINRA Rule 4510 Series (Books and Records Requirements), respectively).²⁰

FINRA is proposing similar changes to the Series 28 selection specifications and question bank.

¹⁶ See Exhibit 3a, Outline Pages 6-17. The Commission notes that all references to Exhibit 3a refer to Exhibit 3a to the proposed rule change.

¹⁷ See Exhibit 3a, Outline Page 10.

¹⁸ See Exhibit 3a, Outline Page 10.

¹⁹ See Exhibit 3a, Outline Page 10.

²⁰ See Rule Conversion Chart, available at <http://www.finra.org/Industry/Regulation/FINRARules/p085560>.

Finally, FINRA is proposing to make changes to the format of the content outline, including the preface, sample questions and reference materials. Among other changes, FINRA is proposing to: (1) add a table of contents;²¹ (2) provide more details regarding the purpose of the examination;²² (3) provide more details on the application procedures;²³ (4) provide more details on the development and maintenance of the content outline and examination;²⁴ (5) explain that the passing scores are established by FINRA staff, in consultation with a committee of industry representatives, using a standard setting procedure and that the scores are an absolute standard independent of the performance of candidates taking the examination;²⁵ and (6) note that each candidate will receive a score report at the end of the test session, which will indicate a pass or fail status and include a score profile listing the candidate's performance on each major content area covered on the examination.²⁶

The number of questions on the Series 28 examination will remain at 95 multiple-choice questions, and candidates will continue to have 120 minutes to complete the examination. Currently, a score of 70 percent is required to pass the examination. The passing score for the revised Series 28 examination will be 69 percent.

Availability of Content Outlines

²¹ See Exhibit 3a, Outline Page 2.

²² See Exhibit 3a, Outline Page 3.

²³ See Exhibit 3a, Outline Page 3.

²⁴ See Exhibit 3a, Outline Page 4.

²⁵ See Exhibit 3a, Outline Page 5.

²⁶ See Exhibit 3a, Outline Page 5.

The current Series 28 content outline is available on FINRA's website, at <http://www.finra.org/industry/qualification-exams>. The revised Series 28 content outline will replace the current content outline on FINRA's website.

FINRA is filing the proposed rule change for immediate effectiveness. FINRA proposes to implement the revised Series 28 examination program on December 14, 2015. FINRA will announce the proposed rule change and the implementation date in a Regulatory Notice.

2. Statutory Basis

FINRA believes that the proposed revisions to the Series 28 examination program are consistent with the provisions of Section 15A(b)(6) of the Act,²⁷ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,²⁸ which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. FINRA believes that the proposed revisions will further these purposes by updating the examination program to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by an Introducing Broker-Dealer Financial and Operations Principal.

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

²⁷ 15 U.S.C. 78o-3(b)(6).

²⁸ 15 U.S.C. 78o-3(g)(3).

Act. The updated examination aligns with the functions and associated tasks currently performed by an Introducing Broker-Dealer Financial and Operations Principal and tests knowledge of the most current laws, rules, regulations and skills relevant to those functions and associated tasks. As such, the proposed revisions would make the examination more efficient and effective.

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 Act²⁹ and paragraph (f)(1) of Rule 19b-4 thereunder.³⁰ 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 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:

²⁹ 15 U.S.C. 78s(b)(3)(A).

³⁰ 17 CFR 240.19b-4(f)(1).

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. Please include File Number SR-FINRA-2015-039 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Robert W. Errett, Deputy Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2015-039. 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, DC 20549, on official business days between the hours of 10 a.m. and 3 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-2015-039 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.³¹

Robert W. Errett
Deputy Secretary

³¹ 17 CFR 200.30-3(a)(12).