

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59789; File No. SR-FINRA-2009-009)

April 20, 2009

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change to Adopt FINRA Rule 1122 (Filing of Misleading Information as to Membership or Registration) in the Consolidated FINRA Rulebook

On March 3, 2009, the Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)), filed with the Securities and Exchange Commission (“Commission” or “SEC”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt NASD IM-1000-1 as FINRA Rule 1122 in the consolidated FINRA rulebook (“Consolidated FINRA Rulebook”)³ without material change. The proposed rule change was published for comment in the Federal Register on March 19, 2009.⁴ The Commission received no comment letters in response to the proposed rule change. This order approves the proposed rule change.

NASD IM-1000-1 provides that the filing of membership or registration information as a Registered Representative with FINRA which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or the failure to correct such filing after notice thereof, may be deemed conduct inconsistent with just and equitable principles of trade and may be subject to disciplinary action. The proposed rule change renumbers NASD IM-1000-1 as

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The current FINRA rulebook consists of two sets of rules: (1) NASD Rules and (2) rules incorporated from NYSE (“Incorporated NYSE Rules”) (together referred to as the “Transitional Rulebook”). The Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (“Dual Members”). Dual members must also comply with NASD Rules. For more information about the rulebook consolidation process, see FINRA Information Notice, March 12, 2008 (“Rulebook Consolidation Process”).

⁴ See Securities Exchange Act Release No. 59563 (March 12, 2009), 74 FR 11792.

FINRA Rule 1122 in the Consolidated FINRA Rulebook and clarifies its applicability to members and persons associated with members by specifying that “no member or person associated with a member” shall file incomplete or misleading membership or registration information. FINRA also eliminates the reference to the filing of registration information “as a Registered Representative” to clarify that the rule applies to the filing of registration information regarding any category of registration. In addition, FINRA deletes the reference that the prohibited conduct may be deemed inconsistent with just and equitable principles of trade and subject to disciplinary action as unnecessary and to better reflect the proposed adoption of the NASD IM as a stand-alone FINRA rule.

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to a national securities association,⁵ and in particular, with Section 15A(b)(6) of the Act,⁶ which requires, among other things, that FINRA rules 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. FINRA’s adoption of NASD IM-1000-1 as FINRA Rule 1122 in the Consolidated FINRA Rulebook clarifies its applicability and provides notice to members of behavior that violates just and equitable principles of trade.

⁵ In approving this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78q-3(b)(6).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-FINRA-2009-009) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Florence E. Harmon
Deputy Secretary

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).