

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-64961; File No. SR-FINRA-2011-026)

July 26, 2011

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Cancellation or Rescheduling Fees for Qualification Examinations and Continuing Education Sessions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 15, 2011, 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 address cancellation/rescheduling fees for qualification examinations and continuing education sessions. Specifically, the proposed rule change would (1) establish a fee for individuals who cancel or reschedule a qualification examination or Regulatory Element Continuing Education (“Regulatory Element”) session three to ten business days prior to the appointment date, and (2) add a reference to the fee for individuals who fail to timely appear for a scheduled Regulatory Element session or who cancel or reschedule such a session within two business days prior to the appointment date.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 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

As discussed in further detail below, the proposed rule change amends Section 4(c) of Schedule A to the FINRA By-Laws to (1) establish a fee for individuals who cancel or reschedule a qualification examination or Regulatory Element session three to ten business days prior to the appointment date, and (2) add a reference to the fee for individuals who fail to timely appear for a scheduled Regulatory Element session or who cancel or reschedule such a session within two business days prior to the appointment date.

Three- to Ten-Day Cancellation/Rescheduling Fee

Pursuant to NASD Rules 1021 and 1031, any person engaged in the investment banking or securities business of a FINRA member must register with FINRA in the category of registration appropriate to the function the individual will be performing. As part of the registration process, securities professionals must pass a qualification examination to

demonstrate competence in the areas in which they will work. In addition, such individuals must complete the appropriate Regulatory Element program subsequent to their initial qualification and registration with FINRA, as set forth in NASD Rule 1120.³ The qualification examinations and Regulatory Element programs cover a broad range of subjects regarding financial markets and products, individual responsibilities, securities industry rules, and regulatory structure. FINRA develops, maintains, and delivers all qualification examinations and Regulatory Element programs for individuals who are registered or seeking registration with FINRA. FINRA also delivers examinations sponsored by the North American Securities Administrators Association, the National Futures Association, the Federal Deposit Insurance Corporation, and others. FINRA currently administers examinations and Regulatory Element programs via computer at testing centers operated by vendors under contract with FINRA.

To request and schedule an appointment for a qualification examination, a FINRA member must file a Form U4 (Uniform Application for Securities Industry Registration or Transfer) through the Central Registration Depository (“Web CRD[®]”).⁴ After the request is processed, a scheduling window will be posted on Web CRD. For Regulatory Element programs, registered persons in covered registration categories will automatically become enrolled for the requisite program on the second anniversary of their initial securities registration and every three years thereafter. Once an individual or an individual’s firm receives the

³ The SEC has approved the adoption of NASD Rule 1120 (Continuing Education Requirements) as FINRA Rule 1250 (Continuing Education Requirements) in the consolidated FINRA rulebook with certain changes. See Securities Exchange Act Release No. 64687 (June 16, 2011), 76 FR 36586 (June 22, 2011) (Order Approving SR-FINRA-2011-013). FINRA will issue a Regulatory Notice announcing the effective date of FINRA Rule 1250 in the near future.

⁴ Individuals who are not employed or associated with a FINRA member must file a Form U10 (Uniform Examination Request for Non-FINRA candidates) with FINRA to schedule an examination.

enrollment notification for an examination or Regulatory Element session, the individual may then contact a FINRA authorized testing center to schedule an appointment.

After an examination or Regulatory Element session has been scheduled, an individual may cancel or reschedule the appointment by contacting the testing center. Currently, FINRA does not impose a fee for cancelling or rescheduling an appointment if it is done by noon two business days before the scheduled appointment. FINRA charges a cancellation fee equal to the examination or Regulatory Element session fee if this deadline is not met, if an individual does not appear for an appointment, or if an individual arrives so late for an appointment that the examination or Regulatory Element session cannot begin without disrupting the testing center's schedule.⁵

FINRA has determined that individuals who cancel or reschedule an appointment more than two business days before the scheduled appointment date also place an administrative burden on test-delivery vendors and degrade the efficiency of test center resource utilization. To discourage such behavior, FINRA is proposing to implement a fee for individuals who cancel or reschedule a qualification examination or Regulatory Element session within three to ten business days of a scheduled appointment date.⁶ The amount of the proposed fee would be one-half of the fee of the examination or Regulatory Element session being cancelled or rescheduled.⁷ FINRA believes that this fee will help to control the overall costs associated with

⁵ Further information about the cancellation policy can be found on FINRA's website at <http://www.finra.org/Industry/Compliance/Registration/QualificationsExams/RegisteredReps/Qualifications/P120071>.

⁶ The cancellation/rescheduling fee will be assessed for the qualification examinations set forth in Section 4(c) of Schedule A to the FINRA By-Laws and all Regulatory Element programs. In addition, depending on the terms of agreement, the fee also may apply for those qualification examinations that FINRA delivers for other entities.

⁷ The fee must be paid at the time of cancellation or rescheduling. In those circumstances where the fee is not paid in a timely manner, FINRA, instead, will assess a fee equal to

the delivery of examinations and Regulatory Element programs and the resultant examination and Regulatory Element session fees charged to individuals for examinations and Regulatory Element programs.

Continuing Education Failure to Timely Appear/Late Cancellation or Rescheduling Fee

As previously mentioned, FINRA assesses a fee equal to the examination or Regulatory Element session fee to individuals who fail to timely appear for an appointment or who cancel or reschedule an examination or Regulatory Element session within two business days of the scheduled appointment date.⁸ Although Section 4(c) of Schedule A to the FINRA By-Laws currently sets forth this fee for qualification examinations, it does not set forth the fee with respect to the Regulatory Element program. Consequently, FINRA is proposing to amend Section 4(c) of Schedule A to the FINRA By-Laws to add a reference to this Regulatory Element program fee. The proposed rule change would also specifically reference the time period for which this fee applies (i.e., within two business days prior to the appointment date).

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 1, 2011.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,⁹ in general, and with Section 15A(b)(5) of the Act,¹⁰ in particular, in that it

the examination or Regulatory Element session fee if the individual does not appear for the scheduled appointment.

⁸ FINRA considers an individual who fails to cancel or reschedule an examination or Regulatory Element session by noon two business days before the scheduled appointment to have failed timely to cancel or reschedule the appointment under Section 4(c)(2) of Schedule A to the FINRA By-Laws. See supra note 7.

⁹ 15 U.S.C. 78o-3(b)(5).

¹⁰ Id.

provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which FINRA operates or controls. FINRA believes that it is an equitable allocation to assess a fee on those individuals who cancel a qualification examination or Regulatory Element session within three to ten business days of a scheduled appointment date, because such behavior places an administrative burden on test-delivery vendors and degrades the efficiency of test center resource utilization. FINRA further believes that the amount of the fee, which is one-half of the current fee for individuals who fail to appear for a scheduled appointment or who cancel/reschedule an appointment within two business days of a scheduled appointment date, is reasonable because it will help to control the overall costs associated with the delivery of examinations and Regulatory Element programs while also recognizing the lesser burden that results from those individuals who provide additional notice by cancelling/rescheduling an appointment three to ten business days before the scheduled appointment date. FINRA further believes that the amount of the fee is reasonable because it will dissuade individuals from cancelling or rescheduling an appointment three to ten business days before the scheduled appointment date.

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.

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 Act¹¹ and paragraph (f)(2) of Rule 19b-4 thereunder.¹² 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:

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-2011-026 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2011-026. 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

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(2).

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 10:00 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 publicly available. All submissions should refer

to File Number SR-FINRA-2011-026 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.¹³

Elizabeth M. Murphy
Secretary

¹³ 17 CFR 200.30-3(a)(12).