

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65221; File No. SR-FINRA-2011-042)

August 30, 2011

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee for the Operations Professional Examination

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 August 22, 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 and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as “establishing or changing a due, fee, or other charge” under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) 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.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ The proposed rule change is related to FINRA’s recently established registration category and qualification examination requirement for Operations Professionals. See Securities Exchange Act Release No. 64687 (June 16, 2011), 76 FR 36586 (June 22, 2011) (Order Approving File No. SR-FINRA-2011-013).

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

FINRA is proposing to amend Schedule A to the FINRA By-Laws to establish a fee for the new Operations Professional Examination ("Series 99"). Specifically, the proposed rule change would amend Section 4 of Schedule A to the FINRA By-Laws to establish a fee of \$125 for a person to take the Series 99 examination. The fee is based on the costs to FINRA to develop and administer the exam.

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

On June 16, 2011, the Commission approved FINRA Rule 1230(b)(6), which establishes a registration category and qualification examination requirement for certain operations personnel – Operations Professionals.⁶ FINRA is expanding its registration

⁶ See Securities Exchange Act Release No. 64687 (June 16, 2011), 76 FR 36586 (June 22, 2011) (Order Approving File No. SR-FINRA-2011-013). In addition to

provisions to require registration of certain individuals (“covered persons”) who are engaged in, responsible for or supervising certain member operations functions (“covered functions”) to enhance the regulatory structure surrounding these areas.⁷ FINRA Rule 1230(b)(6) is intended, among other things, to increase covered persons’ awareness and knowledge that they are operating in a regulated environment designed to protect investors’ interests and the integrity of the operations of a broker-dealer.

FINRA has developed the Series 99 examination program to provide reasonable assurance that covered persons understand their professional responsibilities, including key regulatory and control themes, as well as the importance of identifying and escalating red flags that may harm a firm, its customers, the integrity of the marketplace or the public. The examination will test applicants on general securities industry knowledge and its associated regulations and rules.⁸ On August 19, 2011,[sic] FINRA filed with the

adopting FINRA Rule 1230(b)(6), the rule change adopted NASD Rule 1120 (Continuing Education Requirements) as new FINRA Rule 1250 (Continuing Education Requirements) with certain changes, including expanding the scope of “covered registered persons” subject to the Firm Element to include persons registered as Operations Professionals. See also Regulatory Notice 11-33 (July 2011).

⁷ See Regulatory Notice 11-33 (July 2011) for information regarding the implementation period for Operations Professionals subject to FINRA Rule 1230(b)(6).

⁸ FINRA Rule 1230(b)(6)(D) sets forth an exception to the Operations Professional qualification examination requirement for persons who currently hold certain registrations (each an “eligible registration”) or have held one during the two years immediately prior to registering as an Operations Professional. The exception also applies to persons who do not hold an eligible registration, but prefer an alternative to taking the Operations Professional examination. Such persons may register in an eligible registration category (subject to passing the corresponding qualification examination or obtaining a waiver) and use such registration to qualify for Operations Professional registration.

Commission the Series 99 selection specifications and content outline.⁹ The examination will be implemented on October 17, 2011.¹⁰

The proposed rule change would amend Section 4 of Schedule A to the FINRA By-Laws to establish a fee of \$125 for a person to take the Series 99 examination. The fee is based on the costs to FINRA to develop and administer the exam.¹¹

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date of the proposed rule change and corresponding FINRA Rule 1230(b)(6) will be October 17, 2011.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,¹² 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

⁹ See SR-FINRA-2011-041.

¹⁰ See Regulatory Notice 11-33 (July 2011).

¹¹ Candidates for the Series 99 examination will be able to schedule and take the examination starting on October 17, 2011. Because this is a new examination for a new registration category, FINRA will be assessing the effectiveness of the examination by, in part, evaluating the candidates' performance during the first 60 days of the administration of the examination. Therefore, candidates who take the examination within the first 60 days (between October 17, 2011 and December 16, 2011) will not receive their test results on the day that they take the examination. Instead, such candidates' firms will be notified of test results (i.e., the candidate's score and whether the candidate has passed or failed the examination) on or shortly after December 16, 2011. The test results will be posted to the Central Registration Depository system ("CRD[®] system") at that time. Candidates who fail the examination during the initial 60-day rollout will be provided an opportunity to retake the examination at no additional cost.

¹² 15 U.S.C. 78o-3(b)(5).

or controls. FINRA believes the proposed rule change is designed to accomplish these ends by equitably assessing by means of a reasonable examination fee the costs associated with developing and administering the examination program.

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 Act¹³ and paragraph (f)(2) of Rule 19b-4 thereunder.¹⁴ 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

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(2).

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-2011-042 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-2011-042. 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-2011-042 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.¹⁵

Elizabeth M. Murphy
Secretary

¹⁵ 17 CFR 200.30-3(a)(12).