

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60424; File No. SR-FINRA-2009-049)

August 4, 2009

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt the Selection Specifications and Study Outline for the Limited Representative – Investment Banking (“Series 79”) Examination Program

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 28, 2009, 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 “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ 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 proposing to adopt the selection specifications and content outline for the Limited Representative – Investment Banking (“Series 79”) Examination program.⁴

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ Based upon instruction from the Commission staff, FINRA is submitting SR-FINRA-2009-049 for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder, and is not filing the question bank for Commission review. See Letter from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, dated July 24, 2009. The question bank is available for Commission review.

The Series 79 examination program is proposed in connection with NASD Rule 1032(i), a new limited representative registration category for persons whose activities are limited to investment banking and principals who supervise such activities.⁵ FINRA is not proposing any textual changes to its By-Laws, Schedules to the By-Laws or rules.

A description of the Series 79 examination is included in the attached content outline.⁶ Additional information on the examination is included in the Series 79 selection specifications, which FINRA has submitted under separate cover with a request for confidential treatment to the Commission's Secretary pursuant to Rule 24b-2 under the Act.⁷

The text of the proposed rule change is available on FINRA's Web site 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.

⁵ FINRA will announce the effective date of NASD Rules 1022(a)(1)(B) and 1032(i) in the same Regulatory Notice that will announce the implementation date of the proposed rule change, and those two dates will be the same.

⁶ The Commission notes that the content outline is attached to the proposed rule change though not to this notice.

⁷ 17 CFR 240.24b-2.

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

1. Purpose

On April 13, 2009, the Commission approved NASD Rule 1032(i), which establishes a new limited representative category—Limited Representative-Investment Banking—for persons whose activities are limited to investment banking and principals who supervise such persons.⁸ More specifically, the registration category encompasses those associated persons whose activities involve: (1) advising on or facilitating debt or equity securities offerings through a private placement or a public offering, including but not limited to origination, underwriting, marketing, structuring, syndication, and pricing of such securities and managing the allocation and stabilization activities of such offerings, or (2) advising on or facilitating mergers and acquisitions, tender offers, financial restructurings, asset sales, divestitures or other corporate reorganizations or business combination transactions, including but not limited to rendering a fairness, solvency or similar opinion.

Pursuant to Section 15A(g)(3)(B) of the Act,⁹ FINRA is authorized to prescribe standards of training, experience, and competence for persons associated with FINRA members. The Series 79 examination program has been developed to ensure that persons associated with FINRA members seeking to register as investment banking representatives have attained specified levels of competence and knowledge.

Within the six-month period following the implementation of Rule 1032(i), individuals who are registered as a General Securities Representative and function in a member's investment

⁸ See Securities Exchange Act Release No. 59757 (April 13, 2009), 74 FR 18268 (April 21, 2009) (Order Approving File No. SR-FINRA-2009-006).

⁹ 15 U.S.C. 78q-3(g)(3)(B).

banking business line as described in Rule 1032(i), or act as principals supervising such persons, may opt in to the Limited Representative-Investment Banking registration category. After the six-month opt-in period, individuals who perform the job functions set out in Rule 1032(i) will be required to pass the Series 79 exam in lieu of the General Securities Representative (“Series 7”) exam (or equivalent exams), unless subject to an exception in the Rule. Any person whose activities go beyond those specified in Rule 1032(i) will be required to separately qualify and register in the appropriate category or categories of registration attendant to such activities. The registration category does not cover individuals whose investment banking work is limited to public (municipal) finance or direct participation programs as defined in NASD Rule 1022(e)(2). Moreover, individuals who are currently registered as a Limited Representative – Private Securities Offerings may continue to function in such capacity, so long as their investment banking activities remain limited to effecting private securities offerings as defined in NASD Rule 1032(h)(1)(A). Similarly, individuals who in the future wish to engage in investment banking activities limited to effecting such private securities offerings may opt to register as a Limited Representative – Private Securities Offerings and pass the corresponding Series 82 exam in lieu of the Series 79 exam.

The qualification exam consists of 175 multiple-choice questions.¹⁰ Candidates will be allowed 300 minutes to complete the exam. Candidates will be given an informational breakdown of their performance on each section, along with their overall score and pass/fail status at the completion of the exam session.

¹⁰ To ensure that new exam questions meet acceptable testing standards prior to use, each examination includes 10 additional, unidentified “pre-test” questions that do not contribute towards the candidate's score. Therefore, the exam actually consists of 185 questions, 175 of which are scored. The 10 pre-test questions are randomly distributed throughout the examination.

A content outline has been prepared to assist member firms in preparing candidates for the Investment Banking Professional Qualification Examination and is available at www.finra.org/brokerqualifications/registeredrep. The content outline describes the following four topical sections comprising the examination: (1) Collection, Analysis and Evaluation of Data (75 questions); (2) Underwriting/New Financing Transactions, Types of Offerings and Registration of Securities (43 questions); (3) Mergers and Acquisitions, Tender Offers and Financial Restructuring Transactions (34 questions); and (4) General Securities Industry Regulations (23 questions).

The selection specifications for the Series 79 examination, which FINRA has submitted under separate cover with a request for confidential treatment to the Commission's Secretary pursuant to Rule 24b-2 under the Act,¹¹ describe additional confidential information regarding the examination.

FINRA has filed the proposed rule change for immediate effectiveness. FINRA will announce the implementation date of the proposed rule change in a Regulatory Notice to be issued within 60 days of the date of effectiveness of the proposed rule change.

2. Statutory Basis

FINRA believes that the proposed Series 79 examination program is consistent with Section 15A(b)(6),¹² 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 and Section 15A(g)(3) of the Act,¹³ which authorize [sic] FINRA to prescribe standards of training, experience, and

¹¹ 17 CFR 240.24b-2.

¹² 15 U.S.C. 78o-3(b)(6).

¹³ 15 U.S.C. 78o-3(g)(3).

competence for persons associated with FINRA members. FINRA believes the proposed rule change would provide for a more targeted assessment of the competency of investment banking personnel to perform their unique job functions and, as a result, provide investors better protection.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that FINRA satisfied the five-day pre-filing notice requirement.

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-2009-049 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-2009-049. 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 Web site (<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 inspection and copying 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 available publicly. All submissions should refer to File Number SR-FINRA-2009-049 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.¹⁶

Florence E. Harmon
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).