

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-60963; File No. SR-FINRA-2009-071)

November 6, 2009

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Increase the Session Fee for the Regulatory Element of the Continuing Education Requirements Pursuant to FINRA Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 27, 2009, Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) 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 “establishing or changing a due, fee or other charge” under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> 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 amend Section 4 of Schedule A to the FINRA By-Laws to increase the session fee for the Regulatory Element of the continuing education requirements pursuant to FINRA rules.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

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.

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

1. Purpose

NASD Rule 1120 (Continuing Education Requirements) and Incorporated NYSE Rule 345A (Continuing Education for Registered Persons) prescribe requirements regarding the continuing education of certain registered persons (referred to as the "Securities Industry Continuing Education Program" or "CE Program"). The CE Program consists of a Regulatory Element and a Firm Element. The Regulatory Element is a computer-based education program developed and administered by FINRA to help ensure that registered persons are kept current on regulatory, compliance and sales practice matters in the industry.<sup>5</sup> FINRA members currently pay \$75 each time one of their registered persons participates in the Regulatory Element.

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<sup>5</sup> The Firm Element consists of annual, member developed and administered training programs designed to keep covered registered persons current regarding securities products, services and strategies offered by the member.

Following the consolidation of NASD's and NYSE Regulation's member regulation operations and the creation of FINRA, FINRA assumed responsibility for all aspects of the CE Program and thereafter conducted a financial review and evaluation of the program's budget. Based on this assessment, FINRA has determined that an increase in the Regulatory Element session fee is necessary to cover the full costs associated with the CE Program, including costs associated with the redesign of the Regulatory Element,<sup>6</sup> and to maintain an adequate reserve for the program. Therefore, the proposed rule change would increase the Regulatory Element session fee from \$75 to \$100, effective January 4, 2010. This fee increase will coincide with the implementation of the redesigned Regulatory Element of the CE Program.

FINRA has filed the proposed rule change for immediate effectiveness. FINRA proposes to implement the proposed rule change on January 4, 2010.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,<sup>7</sup> in general, and with Section 15A(b)(5) of the Act,<sup>8</sup> in particular, in that it 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 the proposed rule change is designed to accomplish these ends by enabling

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<sup>6</sup> The redesign updates the presentation and content of the Regulatory Element to take advantage of the latest innovations in adult learning theories and technological advances. This is the first such large-scale redesign since the inception of the CE Program and should result in a significantly improved product and experience for members. FINRA will first implement the redesign of the General Program (S101) and the Series 6 Program (S106). The redesign of the Supervisors Program (S201) will be implemented at a later stage.

<sup>7</sup> 15 U.S.C. 78o-3.

<sup>8</sup> 15 U.S.C. 78o-3(b)(5).

FINRA to cover the costs associated with the CE Program while preserving adequate reserves for the maintenance and improvement of the CE 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)(ii) of the Act<sup>9</sup> and paragraph (f)(2) of Rule 19b-4 thereunder.<sup>10</sup> 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.

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](mailto:rule-comments@sec.gov). Please include File No. SR-FINRA-2009-071 on the subject line.

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

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 No. SR-FINRA-2009-071. 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 No. SR-FINRA-2009-071 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.<sup>11</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).