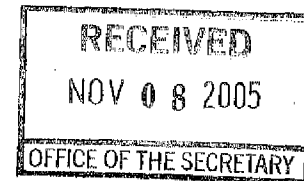




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October 4, 2005

Ms. Katherine A. England
Assistant Director
Division of Market Regulation
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-2001



Re: File No. SR-NASD-2005-084 – Proposed Rule Change Relating to NASD Rule 3012: Response to Comments

Dear Ms. England:

NASD staff has reviewed the comment letter received by the Securities and Exchange Commission (“SEC” or “Commission”) in response to SR-NASD-2005-084.¹ The response to this comment letter is provided below.

The proposed rule change to NASD Rule 3012 (Supervisory Control System) seeks to require members to notify NASD if they are relying on the “limited size and resources” exception to Rule 3012’s general supervisory requirement for conducting producing managers’ supervisory reviews. Under the proposed rule change, members must notify NASD of their initial reliance on the exception and also provide subsequent annual notification no later than the anniversary date of the previous year’s notification if they continue to rely on the exception. The proposed rule change also requires that members no longer relying on the exception provide NASD with a one-time notification within thirty (30) days of ceasing to rely on the exception. The SEC published the proposed rule change and Amendment Nos. 1 and 2 for comment in the Federal Register on August 9, 2005, and received one comment letter on the proposal from Lincoln Investment Planning, Inc. (“Lincoln”).²

Lincoln states in its comment letter that it is concerned that the proposed annual notification requirement of members’ continued reliance on Rule 3012’s “limited size and

¹ See Securities Exchange Act Release No. 52195 (August 3, 2005), 70 F.R. 46242 (August 9, 2005) (Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Amendments to the Rule Regarding Supervisory Control Systems, Rule 3012, to Require Notification of Reliance on “Limited Size and Resources” Exception).

² Letter from Lincoln Investment Planning, Inc. to Jonathan G. Katz, SEC, dated August 30, 2005.

Ms. Katherine A. England

October 3, 2005

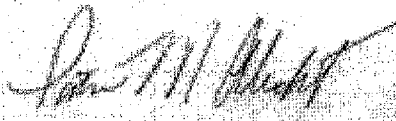
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resources" exception imposes an undue administrative burden on members by placing the burden on the member to remember the anniversary date of the initial notification of the member's reliance on the exception. Lincoln suggests, instead, that members only be required to provide an initial notification of their reliance on the exception and a subsequent notification when they cease to rely on the exception. Alternatively, Lincoln suggests that NASD incorporate the proposed notification requirement into the NASD Contact System, which includes information that members generally must review and, where necessary, update on a quarterly basis.³

NASD proposed the rule change described above in response to the mandate in the SEC's Order approving Rule 3012 that NASD notify the SEC of those members electing to rely on Rule 3012's "limited size and resources" exception.⁴ The annual notification requirement helps NASD to provide the SEC with the most accurate information possible. To aid members in completing their annual notification requirement, the electronic reporting system that NASD has designed for members to use, records and displays the date of the member's previous notification. In addition, NASD expects to provide members with reminders, electronic or otherwise, in advance of the members' anniversary date for notification of continued reliance on the exception.

NASD believes that the foregoing fully responds to material issues raised by commenters to the rule filing. If you wish to discuss this matter further, please feel free to contact me, at (202) 728-8026.

Sincerely,



Patricia M. Albrecht
Assistant General Counsel

cc: David Blass, Branch Chief, Division of Market Regulation

³ The NASD Contact System is an online data collection system that members are required to use to provide NASD with up-to-date information on the identity of members' Executive Representatives and certain other individuals who hold positions of significant responsibility within member firms. Members generally must review and, where necessary, update this information quarterly.

⁴ See Securities Exchange Act Release No. 50477 (Sept. 30, 2004), 69 FR 59972 (Oct. 6, 2004) (SR-NASD-2004-116). NASD subsequently advised its members of its intent to file the proposed rule change in the Notice to Members announcing the SEC's approval of Rule 3012. See Notice to Members 04-71 (October 2004).