

Conforming Version (To Conform to Release Published in the Federal Register)

## **SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Parts 240, 249, 275, and 279**

**[Release Nos. 34-57166, IA- 2695]**

**Technical Amendments to Forms MSD, MSDW, BD-N, BD, BDW, ADV, and ADV-W and to Exchange Act Rules 15b1-1, 15b3-1, 15b6-1, 15Ba2-2, 15Bc3-1, 15Ca1-1, 15Ca2-1, 15Cc1-1, and 17a-3, and Advisers Act Rules 203-1, 203-3, and 204-1**

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; technical amendments.

**SUMMARY:** The Securities and Exchange Commission (“Commission” or “SEC”) is adopting technical amendments to Form MSD and Form MSDW (the application for registration as a municipal securities dealer and the notice of withdrawal from registration as a municipal securities dealer, respectively) primarily to add the Office of Thrift Supervision to the list of agencies with which Forms MSD and MSDW must be filed. The Commission is also adopting a technical amendment to Form BD-N (the notice of registration as a broker-dealer for the purposes of trading security futures products pursuant to Section 15(b)(11) of the Securities Exchange Act of 1934 (“Exchange Act”)) to update the address of the National Futures Association. In addition, to reflect the formation of the Financial Industry Regulatory Authority, Inc. (“FINRA”), the Commission is adopting technical amendments to Forms BD and BDW (the uniform broker-dealer registration form and the uniform request for withdrawal from broker-dealer registration, respectively), related Exchange Act Rules, Forms ADV and ADV-W (the investment adviser registration form and the request for withdrawal from investment adviser registration, respectively), and related rules under the Investment Advisers Act of 1940 (“Advisers Act”).

**EFFECTIVE DATE:** January 28, 2008.

**FOR FURTHER INFORMATION CONTACT:** With respect to the amendments to Forms MSD, MSDW, BD-N, BD and BDW and rules adopted under the Exchange Act, Paula Jenson, Deputy Chief Counsel, Haimera Workie, Branch Chief, or Max Welsh, Attorney, at (202) 551-5550, Office of the Chief Counsel, Division of Trading and Markets, and, with respect to the amendments to Forms ADV and ADV-W and rules adopted under the Advisers Act, David W. Blass, Assistant Director, or Vivien Liu, Senior Counsel, at (202) 551-6787, Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549.

## **I. SUPPLEMENTARY INFORMATION**

### **A. Forms MSD and MSDW**

Form MSD is the application used by municipal securities dealers that are either banks or separately identifiable departments or divisions of banks, to register with the Commission. These entities use Form MSDW to provide notice of withdrawal from registration.<sup>1</sup> Bank municipal securities dealers use these forms both with the

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<sup>1</sup> The Commission adopted forms MSD and MSDW in October 1975 and July 1976, respectively, pursuant to Section 15B of the Exchange Act. Section 15B of the Exchange Act provides that municipal securities dealers can register and withdraw from registration under procedures developed by the Commission. See Exchange Act Release Nos. 11742 (Oct. 15, 1975) and 12602 (Jul. 7, 1976). Exchange Act Rule 15Ba2-1 requires an application for registration of a municipal securities dealer that is filed pursuant to Section 15B of the Exchange Act to be filed on Form MSD in accordance with the instructions on the form. Exchange Act Rule 15Bc3-1 requires a notice of withdrawal from registration as a municipal securities dealer to be filed pursuant to Section 15B of the Exchange Act be filed on Form MSDW in accordance with the instructions on the form.

Commission and with their “appropriate regulatory agency,” as defined in Exchange Act Section 3(a)(34).<sup>2</sup>

The Financial Services Regulatory Relief Act of 2006 (“Regulatory Relief Act”)<sup>3</sup> amended the definition of “appropriate regulatory agency” for a municipal securities dealer to include the Office of Thrift Supervision for entities that are federal savings associations, or departments or divisions of federal savings associations. The Commission is adopting technical amendments to Item K of the General Instructions of Form MSD and Item 2 of the General Instructions of Form MSDW to update the current list of agencies with which Forms MSD and MSDW must be filed to include the Office of Thrift Supervision and to update the addresses of the agencies listed on the forms.

B. Form BD-N

Form BD-N is used to provide notice of registration as a broker-dealer for purposes of trading security futures products pursuant to Section 15(b)(11) of the Exchange Act. The Form is filed with the National Futures Association (“NFA”), as the

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<sup>2</sup> For example, Instruction K of Form MSD currently provides:

“Form MSD must be filed in triplicate with the Securities and Exchange Commission, Washington, D.C. 20549. The execution page of each copy shall contain an original manual signature. In addition, an original signed copy of the Form must be filed with the applicant’s appropriate regulatory agency, determined in accordance with Section 3(a)(34) of the Act. Applicants which are national banks, or department or divisions of such banks, must file Form MSD with the Comptroller of the Currency, Washington D.C. 20219; applicants which are state member banks of the Federal Reserve System, or departments or divisions of such banks, must file Form MSD with the Federal Reserve Board, Washington, D.C. 20551; applicants which are banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), or departments or divisions of such banks, must file Form MSD with the Federal Deposit Insurance Corporation, Washington, D.C. 20429.”

See also Instruction 2 of Form MSDW.

<sup>3</sup> Pub. L. No. 109-351, 120 Stat. 1966 (2006).

Commission's designated agent.<sup>4</sup> During December 2007, the NFA moved from its prior address to 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606. The Commission is adopting a technical amendment to Instruction 4 of Form BD-N to reflect the new address of the NFA.

C. Forms BD and BDW

Broker-dealers use Forms BD and BDW to register with the Commission and to withdraw from registration, respectively.<sup>5</sup> The Commission is adopting technical amendments to reflect the formation of FINRA as a result of the consolidation of the National Association of Securities Dealers, Inc. ("NASD") with NYSE Regulation, Inc., a wholly-owned subsidiary of New York Stock Exchange LLC.<sup>6</sup> Specifically, the Commission is amending Forms BD and BDW to replace references to NASD with references to FINRA. The Commission is also amending Item 5 of the General Instructions to Form BD and the Federal Information Law and Requirements section of Form BDW to add Section 15B of the Exchange Act to the list of statutory references authorizing the Commission to collect information on the forms to correctly reflect the Commission's authority.

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<sup>4</sup> See Instruction 4 of Form BD-N.

<sup>5</sup> Section 15(b) of the Exchange Act provides that broker-dealers can register and withdraw from registration under procedures developed by the Commission. Exchange Act Rule 15b1-1 requires that an application for registration of a broker or dealer that is filed pursuant to Section 15(b) of the Exchange Act be filed on Form BD in accordance with the instructions on the form. Exchange Act Rule 15b6-1 requires that a notice of withdrawal from registration as a broker or dealer filed pursuant to Section 15(b) of the Exchange Act be filed on Form BDW in accordance with the instructions on the form.

Forms BD and BDW are uniform forms that also are used to register and deregister with states, to become members, and to withdraw from membership with SROs.

<sup>6</sup> See Exchange Act Rel. No. 56145 (Jul. 26, 2007), 72 FR 42190 (Aug. 1, 2007).

- D. Exchange Act Rules 15b1-1, 15b3-1, 15b6-1, 15Ba2-2, 15Bc3-1, 15Ca1-1, 15Ca2-1, 15Cc1-1, and 17a-3

The Commission is adopting technical amendments to replace references to NASD with references to FINRA in Exchange Act Rules 15b1-1, 15b3-1, 15b6-1, 15Ba2-2, 15Bc3-1, 15Ca1-1, 15Ca2-1, 15Cc1-1, and 17a-3. The names of other self-regulatory organizations in Exchange Act Rule 15b6-1 are also being updated. In addition, paragraph (c) of Rule 15b3-1, paragraph (e) of Rule 15Ba2-2 and paragraph (c) of Rule 15Ca2-1 contain temporary re-filing instructions that are now obsolete. The Commission is adopting technical amendments to delete these paragraphs from these rules.

- E. Forms ADV and ADV-W and Advisers Act Rules 203-1, 203-3, and 204-1

Investment advisers use Form ADV to register with the Commission and Form ADV-W to withdraw from registration.<sup>7</sup> Rules 203-1, 203-3, and 204-1 of the Advisers Act address issues relating to investment adviser registration and contain references to NASD. The Commission is adopting technical amendments to these forms and rules to replace references to NASD with references to FINRA.<sup>8</sup>

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<sup>7</sup> Section 203 of the Advisers Act provides that investment advisers can register and withdraw from registration under procedures developed by the Commission. Advisers Act Rule 203-1 requires that an application for registration of an investment adviser that is filed pursuant to Section 203(c) of the Advisers Act be filed on Form ADV in accordance with the instructions on the form. Advisers Act Rule 203-2 requires that a notice of withdrawal from registration as an investment adviser pursuant to Section 203(h) of the Advisers Act be filed on Form ADV-W in accordance with the instructions on the form.

Investment advisers also use Forms ADV and ADV-W to register and withdraw from registration with states.

<sup>8</sup> Part 1B of Form ADV is required by the state securities authorities for state-registered investment advisers. It is not a Commission form. At the request of the North American Securities Administrators Association, Inc., for informational

## II. CERTAIN FINDINGS

Under the Administrative Procedure Act (“APA”), notice of proposed rulemaking is not required when the agency, for good cause, finds “that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”<sup>9</sup> The Commission is making technical amendments to Item K of the General Instructions of Form MSD and Item 2 of the General Instructions of Form MSDW in response to the addition of the Office of Thrift Supervision to the Exchange Act Section 3(a)(34) definition of “appropriate regulatory agency” for a municipal securities dealer, by the Regulatory Relief Act and to update the addresses of the agencies listed on the forms.<sup>10</sup> Because these amendments will implement this statutory change by adding the Office of Thrift Supervision to the list of entities with which forms MSD and MSDW must be filed and also update the addresses of the agencies listed on the forms, the Commission finds that the amendments are technical in nature and that publishing the amendments for comment is unnecessary.<sup>11</sup>

The Commission is also adopting technical amendments to Form BD-N to update the address of the National Futures Association. Because this amendment will conform

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purposes the Commission notes that FINRA will replace a reference to NASD in the Part 1B, Arbitration Disclosure Reporting Page (ADV).

<sup>9</sup> 5 U.S.C. 553(b).

<sup>10</sup> Pub. L. No. 109-351, 120 Stat. 1966 (2006).

<sup>11</sup> For similar reasons, the amendments do not require analysis under the Regulatory Flexibility Act or analysis of major rule status under the Small Business Regulatory Enforcement Fairness Act. See 5 U.S.C. 601(2) (for purposes of Regulatory Flexibility Act analyses, the term “rule” means any rule for which the agency publishes a general notice of proposed rulemaking); 5 U.S.C. 804(3)(C) (for purposes of Congressional review of agency rulemaking, the term “rule” does not include any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties).

the address on the form with the new physical address of the National Futures Association, the Commission finds that the amendment is technical in nature and that publishing the amendment for comment is unnecessary.<sup>12</sup>

In addition, the Commission is adopting technical amendments to Forms BD and BDW to reflect the formation of FINRA and to correctly reflect the Commission's authority to collect the information on the forms. Similarly, the Commission is adopting technical amendments to Exchange Act Rules 15b1-1, 15b3-1, 15b6-1, 15Ba2-2, 15Bc3-1, 15Ca1-1, 15Ca2-1, 15Cc1-1, and 17a-3, as well as, to Forms ADV and ADV-W, and to Advisers Act Rules 203-1, 203-3, and 204-1 to reflect the formation of FINRA. Because these amendments will replace references to NASD with references to FINRA and, in the case of Forms BD and BDW, include Section 15B of the Exchange Act in the list of statutory references authorizing the Commission to collect the information on the forms, the Commission finds that the amendments are technical in nature and that publishing the amendments for comment is unnecessary.<sup>13</sup> In addition, the Commission is deleting obsolete temporary re-filing instructions in Rules 15b3-1, 15Ba2-2 and 15Ca2-1. Because these amendments will eliminate outdated instructions that include outdated references to NASD, the Commission finds that the amendments are technical in nature and that publishing the amendments for comment is unnecessary.<sup>14</sup>

Publication of a substantive rule not less than 30 days before its effective date is required by the APA except as otherwise provided by the agency for good cause.<sup>15</sup> For

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<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> 5 U.S.C. 553(d).

the same reasons described above with respect to notice and opportunity for comment, the Commission finds that there is good cause for making the technical amendments to each of the forms and rules effective on January 17, 2008.

### **III. CONSIDERATION OF PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION**

Section 3(f) of the Exchange Act,<sup>16</sup> and Section 202(c) of the Advisers Act,<sup>17</sup> provide that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. In addition, Section 23(a)(2) of the Exchange Act requires the Commission, in adopting rules under the Exchange Act, to consider the anticompetitive effects of such rules, if any, and to refrain from adopting a rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.<sup>18</sup>

Because the amendments are limited to technical amendments, we do not anticipate that any competitive advantages or disadvantages would be created. We do not expect the amendments, as technical amendments, to have a significant effect on efficiency, or on capital formation or the capital markets resulting from any obligations imposed by the Commission.

### **IV. STATUTORY AUTHORITY**

We are adopting the technical amendments to Forms MSD, MSDW, BD, BDW, and BD-N and to Exchange Act Rules 15b1-1, 15b3-1, 15b6-1, 15Ba2-2, 15Bc3-1,

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<sup>16</sup> 15 U.S.C. 78c(f).

<sup>17</sup> 15 U.S.C. 80b-2(c).



15Ca1-1, 15Ca2-1, 15Cc1-1, and 17a-3 under the authority set forth in the Exchange Act and, in particular, Sections 3(b), 15(a), 15(b), 15B, 17(a), and 23(a) therein.<sup>19</sup> We are adopting the technical amendments to Form ADV under the authority set forth in Section 19(a) of the Securities Act of 1933,<sup>20</sup> Sections 23(a) and 28(e)(2) of the Exchange Act,<sup>21</sup> Section 319 of the Trust Indenture Act of 1939,<sup>22</sup> Section 38(a) of the Investment Company Act of 1940<sup>23</sup> and Sections 203(c)(1), 204, and 211(a) of the Advisers Act.<sup>24</sup> We are adopting the technical amendments to Form ADV-W and Advisers Act Rule 203-1 under the authority set forth in Sections 203(c)(1), 204, and 211(a) of the Advisers Act.<sup>25</sup> We are adopting the technical amendments to Advisers Act Rule 203-3 under the authority set forth in Sections 203(c)(1) and 211(a) of the Advisers Act.<sup>26</sup> We are adopting the technical amendments to Advisers Act Rule 204-1 under the authority set forth in Sections 203(c)(1) and 204 of the Advisers Act.<sup>27</sup>

## **TEXT OF FORM AMENDMENTS**

### **List of Subjects**

#### **17 CFR Parts 240 and 249**

Broker-dealers, Reporting and recordkeeping requirements, Securities.

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<sup>18</sup> 15 U.S.C. 78w(a)(2).

<sup>19</sup> 15 U.S.C. 78o(a), 78o(b), 78o-4, 78q(a), and 78w(a).

<sup>20</sup> 15 U.S.C. 77s(a).

<sup>21</sup> 15 U.S.C. 78w(a), 78bb(e)(2).

<sup>22</sup> 15 U.S.C. 77sss.

<sup>23</sup> 15 U.S.C. 80a-37(a).

<sup>24</sup> 15 U.S.C. 80b-3(c)(1), 80b-4, 80b-11(a).

<sup>25</sup> 15 U.S.C. 80b-3(c)(1), 80b-4, 80b-11(a).

<sup>26</sup> 15 U.S.C. 80b-3(c)(1), 80b-11(a).

<sup>27</sup> 15 U.S.C. 80b-3(c)(1), 80b-4.

**17 CFR Parts 275 and 279**

Investment advisers, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows:

**PART 240 – GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934**

1. The authority citation for Part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77z-3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll, 78mm, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4, 80b-11, and 7201 et seq., and 18 U.S.C. 1350, unless otherwise noted.

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2. Amend § 240.15b1-1 by revising paragraph (b) and removing the authority citation following the section to read as follows:

**§ 240.15b1-1 Application for registration of brokers or dealers.**

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(b) Every application for registration of a broker or dealer that is filed on or after January 25, 1993, shall be filed with the Central Registration Depository operated by the Financial Industry Regulatory Authority, Inc.

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3. Amend § 240.15b3-1 by revising paragraph (a) and removing paragraph (c) to read as follows:

**§ 240.15b3-1 Amendments to application.**

(a) If the information contained in any application for registration as a broker or dealer, or in any amendment thereto, is or becomes inaccurate for any reason, the broker or dealer shall promptly file with the Central Registration Depository (operated by the Financial Industry Regulatory Authority, Inc.) an amendment on Form BD correcting such information.

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4. Amend § 240.15b6-1 by revising paragraph (a) to read as follows:

**§ 240.15b6-1 Withdrawal from registration.**

(a) Notice of withdrawal from registration as a broker or dealer pursuant to Section 15(b) of the Act shall be filed on Form BDW (17 CFR 249.501a) in accordance with the instructions contained therein. Every notice of withdrawal from registration as a broker or dealer shall be filed with the Central Registration Depository (operated by the Financial Industry Regulatory Authority, Inc.) in accordance with applicable filing requirements. Prior to filing a notice of withdrawal from registration on Form BDW (17 CFR 249.501a), a broker or dealer shall amend Form BD (17 CFR 249.501) in accordance with §240.15b3-1(a) to update any inaccurate information.

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5. Amend § 240.15Ba2-2 by revising paragraph (a) and removing paragraph (e) to read as follows:

**§ 240.15Ba2-2 Application for registration of non-bank municipal securities dealers whose business is exclusively intrastate.**

(a) An application for registration, pursuant to section 15B(a) of the Act, of a municipal securities dealer who is not subject to the requirements of §240.15Ba2-1, that is filed on or after January 25, 1993, shall be filed with the Central Registration

Depository (operated by the Financial Industry Regulatory Authority, Inc.) on Form BD in accordance with the instructions contained therein.

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6. Amend § 240.15Bc3-1 by revising paragraph (b) to read as follows:

**§ 240.15Bc3-1 Withdrawal from registration of municipal securities dealers.**

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(b) Every notice of withdrawal from registration as a municipal securities dealer that is filed on Form BDW (17 CFR 249.501a) shall be filed with the Central Registration Depository (operated by the Financial Industry Regulatory Authority, Inc.) in accordance with applicable filing requirements. Every notice of withdrawal of Form MSDW (17 CFR 249.1110) shall be filed with the Commission.

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7. Amend § 240.15Ca1-1 by revising paragraph (c) to read as follows:

**§ 240.15Ca1-1 Notice of government securities broker-dealer activities.**

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(c) Any notice required pursuant to this section shall be considered filed with the Commission if it is filed with the Central Registration Depository (operated by the Financial Industry Regulatory Authority, Inc.) in accordance with applicable filing requirements.

8. Amend § 240.15Ca2-1 by revising paragraph (a) and removing paragraph (c) to read as follows:

**§ 240.15Ca2-1 Application for registration as a government securities broker or government securities dealer.**

(a) An application for registration pursuant to Section 15C(a)(1)(A) of the Act, of a government securities broker or government securities dealer that is filed on or after January 25, 1993, shall be filed with the Central Registration Depository (operated by the Financial Industry Regulatory Authority, Inc.) on Form BD in accordance with the instructions contained therein.

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9. Amend § 240.15Cc1-1 by revising paragraph (a) to read as follows:

**§ 240.15Cc1-1 Withdrawal from registration of government securities brokers or government securities dealers.**

(a) Notice of withdrawal from registration as a government securities broker or government securities dealer pursuant to Section 15C(a)(1)(A) of the Act (15 U.S.C. 78o-5(a)(1)(A)) shall be filed on Form BDW (17 CFR 249.501a) in accordance with the instructions contained therein. Every notice of withdrawal from registration as a government securities broker or dealer shall be filed with the Central Registration Depository (operated by the Financial Industry Regulatory Authority, Inc.) in accordance with applicable filing requirements. Prior to filing a notice of withdrawal from registration on Form BDW (17 CFR 249.501a), a government securities broker or government securities dealer shall amend Form BD (17 CFR 249.501) in accordance with 17 CFR 400.5(a) to update any inaccurate information.

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10. Amend § 240.17a-3, the undesignated paragraph following paragraph (a)(12)(i)(H) by:

a. Revising the phrase “National Association of Securities Dealers, Inc.” to read “Financial Industry Regulatory Authority, Inc.”;

b. Revising the phrase “New York Stock Exchange, Inc., the Pacific Exchange, Inc.” to read “New York Stock Exchange LLC, NYSE Arca, Inc.”; and

c. Revising the phrase “Chicago Board Options Exchange, Inc., the Cincinnati Stock Exchange, Inc. or the International Securities Exchange” to read “Chicago Board Options Exchange, Incorporated, the National Stock Exchange, Inc. or the International Securities Exchange, LLC”.

#### **PART 249 - FORMS, SECURITIES EXCHANGE ACT OF 1934**

11. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, et seq., 7202, 7233, 7241, 7262, 7264, and 7265; and 18 U.S.C. 1350, unless otherwise noted.

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12. Form BD (referenced in § 249.501) is amended by:

a. In General Instruction A.1., second sentence, revising “the NASD” to read “FINRA”;

b. In General Instruction A.5., FEDERAL INFORMATION LAW AND REQUIREMENTS,

i. In the second sentence, revising the phrase “Sections 15, 15c,” to read “Sections 15, 15B, 15C.”;

ii. In the third sentence, revising the phrase “See 15 U.S.C. §§ 78o,” to read “See 15 U.S.C. 78o, 78o-4.”; and

iii. In the seventh sentence, revising the phrase “National Association of Securities Dealers, Inc.” to read “Financial Industry Regulatory Authority, Inc.”;

c. In Electronic Filing Instruction C.3., revising the phrase “NASAA/NASD” to read “NASAA/FINRA”;

- d. On page 2, Item 2, revising the box “NASD” to read “FINRA”;
- e. In Schedule E, Item 10, revising the phrase “NASD Rule 3010” to read “FINRA rules”;
- f. In Schedule E, Item 12, revising the phrase “the NASD” to read “FINRA”; and
- g. In the boxes following Schedule E, Item 12, revising “NASD” to read “FINRA” each time it appears.

Note: The text of Form BD does not, and these amendments will not, appear in the Code of Federal Regulations.

13. Form BDW (referenced in § 249.501a) is amended by:

- a. In General Instruction A.3., revising the phrase “the NASD” to read “FINRA”;
- b. In Partial Withdrawal C.2., revising the phrase “NASAA/NASD” to read “NASAA/FINRA”;
- c. In Explanation of Terms, under the term Investigation, first sentence, revising “NASD Regulation, Inc.” to read “FINRA” and revising “The NASD By-Laws” to read “FINRA By-Laws”;
- d. Under Federal Information Law and Requirements – SEC’s Collection of Information,
  - i. In the second sentence, revising the phrase “Sections 15, 15C,” to read “Sections 15, 15B, 15C,”;
  - ii. In the third sentence, revising the phrase “See 15 U.S.C. §§ 78o,” to read “See 15 U.S.C. 78o, 78o-4,”; and

iii. In the seventh sentence, revising the phrase “National Association of Securities Dealers, Inc.” to read “Financial Industry Regulatory Authority, Inc.”; and

e. In Item 3, revising the box “NASD” to read “FINRA”.

Note: The text of Form BDW does not, and these amendments will not, appear in the Code of Federal Regulations.

14. Form BD-N (referenced in § 249.501b) is amended by:

a. In Instruction 4, revising “200 West Madison Street, Suite 1600” to read “300 South Riverside Plaza, Suite 1800”.

Note: The text of Form BD-N does not, and these amendments will not, appear in the Code of Federal Regulations.

15. Form MSD (referenced in § 249.1100) is amended by:

a. In General Instruction K, fourth sentence,

i. Revising the phrase “Comptroller of the Currency, Washington, D.C. 20219” to read “Comptroller of the Currency, Credit & Market Risk, 250 E Street, SW, MS 9-14, Washington, D.C. 20219”;

ii. Revising the phrase “Federal Reserve Board, Washington, D.C. 20551” to read “Board of Governors of the Federal Reserve System, Market and Liquidity Risk Section, Mail Stop 185, 20th and C Streets, NW, Washington, D.C. 20551”; and

iii. Revising the phrase “Federal Deposit Insurance Corporation, Washington, D.C. 20429” to read “Federal Deposit Insurance Corporation, 550 17th St., NW, Washington, D.C. 20429; applicants which are federal savings associations, or departments or divisions of such savings associations, must file



Form MSD with the Office of Thrift Supervision, Managing Director, Examinations and Supervision Policy, 1700 G Street, NW, Washington, D.C. 20552”.

Note: The text of Form MSD does not, and these amendments will not, appear in the Code of Federal Regulations.

16. Form MSDW (referenced in § 249.1110) is amended by:

a. In General Instruction 2, fourth sentence,

i. Revising the phrase “Comptroller of the Currency, Washington, D.C. 20219” to read “Comptroller of the Currency, Credit & Market Risk, 250 E Street, SW, MS 9-14, Washington, D.C. 20219”;

ii. Revising the phrase “Federal Reserve Board, Washington, D.C. 20551” to read “Board of Governors of the Federal Reserve System, Market and Liquidity Risk Section, Mail Stop 185, 20th and C Streets, NW, Washington, D.C. 20551”;

and

iii. Revising the phrase “Federal Deposit Insurance Corporation, Washington, D.C. 20429” to read “Federal Deposit Insurance Corporation, 550 17th St., NW, Washington, D.C. 20429; applicants which are federal savings associations, or departments or divisions of such savings associations, must file Form MSDW with the Office of Thrift Supervision, Managing Director, Examinations and Supervision Policy, 1700 G Street, NW, Washington, D.C. 20552”.

Note: The text of Form MSDW does not, and these amendments will not, appear in the Code of Federal Regulations.

**PART 275 – RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940**

17. The authority citation for Part 275 continues to read, in part, as follows:

Authority: 15 U.S.C. 80b-2(a)(11)(G), 80b-2(a)(17), 80b-3, 80b-4, 80b-4a, 80b-6(4), 80b-6a, and 80b-11, unless otherwise noted.

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18. Amend § 275.203-1 by revising paragraph (d) to read as follows:

**§ 275.203-1 Application for investment adviser registration.**

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(d) Filing fees. You must pay FINRA (the operator of the IARD) a filing fee.

The Commission has approved the amount of the filing fee. No portion of the filing fee is refundable. Your completed application for registration will not be accepted by FINRA, and thus will not be considered filed with the Commission, until you have paid the filing fee.

19. Amend § 275.203-3 by revising paragraph (b)(3) and the Note to paragraph (b) to read as follows:

**§ 275.203-3 Hardship exemptions.**

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(b) \*\*\*

(3) Effective date – upon approval. You are not exempt from the electronic filing requirements until and unless the Commission approves your application. If the Commission approves your application, you may submit your filings to FINRA in paper format for the period of time for which the exemption is granted.

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Note to paragraph (b): FINRA will charge you an additional fee covering its cost to convert to electronic format a filing made in reliance on a continuing hardship exemption.

20. Amend § 275.204-1 by revising paragraphs (b)(2) and (d) to read as follows:

**§ 275.204-1 Amendments to application for registration.**

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(b) \*\*\*

(2) If you have received a continuing hardship exemption under § 275.203-3, you must, when you are required to amend your Form ADV, file a complete Part 1A of Form ADV on paper with the SEC by mailing it to FINRA.

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(d) Filing fees. You must pay FINRA (the operator of the IARD) an initial filing fee when you first electronically file Part 1A of Form ADV. After you pay the initial filing fee, you must pay an annual filing fee each time you file your annual updating amendment. No portion of either fee is refundable. The Commission has approved the filing fees. Your amended Form ADV will not be accepted by FINRA, and thus will not be considered filed with the Commission, until you have paid the filing fee.

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**PART 279 -- FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940**

21. The authority citation for Part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b-1, et seq.

22. Form ADV (referenced in § 279.1) is amended by:

a. In General Instruction 1, third paragraph, revising “NASD” to read “FINRA”;

- b. In General Instruction 9,
  - i. In the first bullet, fourth sentence, revising “NASD” to read “FINRA”;
  - ii. In the second bullet, revising all references to “NASD” to read “FINRA” each time it appears; and
  - iii. In the fourth bullet, revising “NASD” to read “FINRA”;
- c. In General Instruction 10,
  - i. In the first paragraph, fourth sentence, revising “NASD” to read “FINRA”; and
  - ii. In the second paragraph, revising “NASD” to read “FINRA”;
- d. In General Instruction 14, second bullet, revising all references to “NASD” to read “FINRA” each time it appears;
- e. In General Instruction 15, first bullet under “Where you submit your paper filing depends on why you are eligible to file on paper,” revising all references to “NASD” to read “FINRA” each time it appears;
- f. Removing Glossary of Terms 23;
- g. Redesignating Glossary of Terms 11 to 22, as Glossary of Terms 12 to 23;
- h. Adding new Glossary of Terms 11;
- i. In Glossary of Terms 32, Self-Regulatory Organization or SRO, second sentence, revising “NASD” to read “FINRA”; and
- j. In Part 1A, Item 1.E., first sentence, revising “NASD’s” to read “FINRA’s”.

Note: The text of Form ADV does not, and these amendments will not, appear in the Code of Federal Regulations.

The addition of new Glossary of Terms 11 reads as follows:

Form ADV

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Glossary of Terms

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11. **FINRA’s CRD or CRD:** The Web Central Registration Depository (“CRD”) system operated by FINRA for the registration of broker-dealers and broker-dealer representatives. [Used in: Part 1A, Item 1; Form ADV-W, Item 1]

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23. Form ADV-W (referenced in § 279.2) is amended by:

- a. In Instruction 5, How should I file my Form ADV-W?, second paragraph, second sentence, revising “NASD,” to read “FINRA,”; and
- b. In Item 1.C., revising “NASD’s” to read “FINRA’s”.

Note: The text of Form ADV-W does not, and these amendments will not, appear in the Code of Federal Regulations.

By the Commission.

Nancy M. Morris  
Secretary

Dated: January 17, 2008