

**Attachment to *Regulatory Notice 11-33***

Below is the text of the new FINRA rules.

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**1200. REGISTRATION AND QUALIFICATION**

**1230. Registration Categories**

**(a) Definition of Principal and Principal Registration Categories**

(1) through (11) Reserved.

**(b) Definition of Representative and Representative Registration Categories**

(1) through (5) Reserved.

**(6) Operations Professional**

**(A) Covered Persons**

Each of the following persons shall be required to register with FINRA as an Operations Professional:

(i) Senior management with direct responsibility over the covered functions in paragraph (b)(6)(B) of this Rule;

(ii) Any person designated by senior management specified in paragraph (b)(6)(A)(i) of this Rule as a supervisor, manager or other person responsible for approving or authorizing work, including work of other persons, in direct furtherance of each of the covered functions in paragraph (b)(6)(B) of this Rule, as applicable, provided that there is sufficient designation of such persons by senior management to address each of the applicable covered functions; and

(iii) Persons with the authority or discretion materially to commit a member's capital in direct furtherance of the covered functions in

paragraph (b)(6)(B) of this Rule or to commit a member to any material contract or agreement (written or oral) in direct furtherance of the covered functions in paragraph (b)(6)(B) of this Rule.

**(B) Covered Functions**

- (i) Client on-boarding (customer account data and document maintenance);
- (ii) Collection, maintenance, re-investment (*i.e.*, sweeps) and disbursement of funds;
- (iii) Receipt and delivery of securities and funds, account transfers;
- (iv) Bank, custody, depository and firm account management and reconciliation;
- (v) Settlement, fail control, buy ins, segregation, possession and control;
- (vi) Trade confirmation and account statements;
- (vii) Margin;
- (viii) Stock loan/securities lending;
- (ix) Prime brokerage (services to other broker-dealers and financial institutions);
- (x) Approval of pricing models used for valuations;
- (xi) Financial control, including general ledger and treasury;
- (xii) Contributing to the process of preparing and filing financial regulatory reports;

(xiii) Defining and approving business requirements for sales and trading systems and any other systems related to the covered functions, and validation that these systems meet such business requirements;

(xiv) Defining and approving business security requirements and policies for information technology, including, but not limited to, systems and data, in connection with the covered functions;

(xv) Defining and approving information entitlement policies in connection with the covered functions; and

(xvi) Posting entries to a member's books and records in connection with the covered functions to ensure integrity and compliance with the federal securities laws and regulations and FINRA rules.

**(C) Qualification Examination**

Subject to the exception in paragraph (b)(6)(D) of this Rule, any person who is required to register as an Operations Professional shall pass the Operations Professional qualification examination before such registration may become effective.

**(D) Exception**

(i) Any person who is registered with FINRA as an Investment Company Products/Variable Contracts Representative, General Securities Representative, United Kingdom Securities Representative or Canada Securities Representative, Registered Options Principal, General Securities Sales Supervisor, Compliance Officer, Supervisory Analyst, General Securities Principal, Investment Company Products/Variable

Products Principal, Financial and Operations Principal, Introducing Broker-Dealer Financial and Operations Principal, Municipal Fund Securities Limited Principal or Municipal Securities Principal, and any person who has been registered in one of these categories within the two years immediately prior to registering as an Operations Professional, shall be qualified to register as an Operations Professional without passing the Operations Professional qualification examination, provided that such registration is not revoked pursuant to Rules 8310 or 8320, suspended or otherwise deemed inactive.

(ii) The staff may accept as an alternative to the Operations Professional qualification examination requirement in paragraph (b)(6)(C) of this Rule any domestic or foreign qualification if it determines that acceptance of such alternative qualification is consistent with the purposes of this Rule, the protection of investors, and the public interest.

**(E) Implementation**

(i) Any person who is required to register as an Operations Professional as of [insert the effective date of the rule] shall request registration as an Operations Professional via Form U4 in CRD within 60 days after [insert the effective date of the rule]. Any person who is required to register as an Operations Professional as of [insert the effective date of the rule] and must pass the Operations Professional qualification examination (or an eligible qualification examination listed in paragraph (b)(6)(D) of this Rule) to qualify for Operations Professional registration

shall be allowed a period of 12 months beginning on [insert the effective date of the proposed rule] to pass such qualifying examination, during which time such person may function as an Operations Professional.

(ii) Any person who is required to register as an Operations Professional after [insert the effective date of the rule] shall register as an Operations Professional and, if applicable, pass the Operations Professional qualification examination (or an eligible qualification examination listed in paragraph (b)(6)(D) of this Rule) prior to engaging in any activities that would require such registration; provided, however, any such person who must pass the Operations Professional qualification examination (or an eligible qualification examination listed in paragraph (b)(6)(D) of this Rule) to qualify for Operations Professional registration shall be allowed a period of 120 days beginning on the date such person requests Operations Professional registration to pass such qualifying examination, during which time such person may function as an Operations Professional.

(7) through (14) Reserved.

••• **Supplementary Material:** -----

**.01** through **.05** Reserved.

**.06 Scope of Operations Professional Requirement.** Any person whose activities are limited to performing a function ancillary to a covered function in paragraph (b)(6)(B) of this Rule, or whose function is to serve a role that can be viewed as supportive of or advisory to the performance of a covered function in paragraph (b)(6)(B) of this Rule (e.g., internal audit, legal

or compliance personnel who review but do not have primary responsibility for any covered function), or who engages solely in clerical or ministerial activities in a covered function in paragraph (b)(6)(B) of this Rule shall not be required to register as an Operations Professional pursuant to paragraph (b)(6)(A) of this Rule. For the purpose of Rule 1230(b)(6)(A)(iii), the determination as to what constitutes “materially” or “material” is based on a member’s pre-established spending guidelines and risk management policies.

**.07** Reserved.

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## **1250. Continuing Education Requirements**

This Rule prescribes requirements regarding the continuing education of certain registered persons subsequent to their initial qualification and registration with FINRA. The requirements shall consist of a Regulatory Element and a Firm Element as set forth below.

### **(a) Regulatory Element**

#### **(1) Requirements**

No member shall permit any registered person to continue to, and no registered person shall continue to, perform duties as a registered person unless such person has complied with the requirements of paragraph (a) hereof.

Each registered person shall complete the Regulatory Element on the occurrence of their second registration anniversary date and every three years thereafter, or as otherwise prescribed by FINRA. On each occasion, the Regulatory Element must be completed within 120 days after the person's registration anniversary date. A person's initial registration date, also known as the “base date,” shall establish the cycle of anniversary dates for purposes of this Rule. The content of the Regulatory Element shall

be determined by FINRA and shall be appropriate to either the registered representative or principal status of persons subject to the Rule.

**(2) Failure to Complete**

Unless otherwise determined by FINRA, any registered persons who have not completed the Regulatory Element within the prescribed time frames will have their registrations deemed inactive until such time as the requirements of the program have been satisfied. Any person whose registration has been deemed inactive under this Rule shall cease all activities as a registered person and is prohibited from performing any duties and functioning in any capacity requiring registration. A registration that is inactive for a period of two years will be administratively terminated. A person whose registration is so terminated may reactivate the registration only by reapplying for registration and meeting the qualification requirements of the applicable provisions of Rule 1230(b)(6) and the NASD Rule 1020 and 1030 Series. FINRA may, upon application and a showing of good cause, allow for additional time for a registered person to satisfy the program requirements.

**(3) Disciplinary Actions**

Unless otherwise determined by FINRA, a registered person will be required to retake the Regulatory Element and satisfy all of its requirements in the event such person:

(A) is subject to any statutory disqualification as defined in Section 3(a)(39) of the Exchange Act;

(B) is subject to suspension or to the imposition of a fine of \$5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental

agency, securities self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding; or

(C) is ordered as a sanction in a disciplinary action to retake the Regulatory Element by any securities governmental agency or self-regulatory organization.

The retaking of the Regulatory Element shall commence with participation within 120 days of the registered person becoming subject to the statutory disqualification, in the case of (A) above, or the disciplinary action becoming final, in the case of (B) and (C) above. The date of the disciplinary action shall be treated as such person's new base date with FINRA.

#### **(4) Reassociation in a Registered Capacity**

Any registered person who has terminated association with a member and who has, within two years of the date of termination, become reassociated in a registered capacity with a member shall participate in the Regulatory Element at such intervals that may apply (second anniversary and every three years thereafter) based on the initial registration anniversary date rather than based on the date of reassociation in a registered capacity.

#### **(5) Definition of Registered Person**

For purposes of this Rule, the term “registered person” means any person registered with FINRA as a representative, principal, assistant representative or research analyst pursuant to Rule 1230(b)(6) and the NASD Rule 1020, 1030, 1040, 1050 and 1110 Series.



## **(6) In-Firm Delivery of the Regulatory Element**

Members will be permitted to administer the continuing education Regulatory Element program to their registered persons by instituting an in-firm program acceptable to FINRA.

The following procedures are required:

(A) Principal/Officer In-Charge. The firm has designated a principal to be responsible for the in-firm delivery of the Regulatory Element.

(B) Site Requirements.

(i) The location of all delivery sites will be under the control of the firm.

(ii) Delivery of Regulatory Element continuing education will take place in an environment conducive to training. (Examples: a training facility, conference room or other area dedicated to this purpose would be appropriate. Inappropriate locations would include a personal office or any location that is not or cannot be secured from traffic and interruptions.)

(iii) Where multiple delivery terminals are placed in a room, adequate separation between terminals will be maintained.

(C) Technology Requirements. The communication links and firm delivery computer hardware must comply with standards defined by FINRA or its designated vendor.

(D) Supervision.

(i) The firm's Written Supervisory Procedures must contain the procedures implemented to comply with the requirements of in-firm delivery of the Regulatory Element continuing education.

(ii) The firm's Written Supervisory Procedures must identify the principal designated pursuant to Rule 1250(a)(6)(A) and contain a list of individuals authorized by the firm to serve as proctors.

(iii) Firm locations for delivery of the Regulatory Element continuing education will be specifically listed in the firm's Written Supervisory Procedures.

(E) Proctors.

(i) All sessions will be proctored by an authorized person during the entire Regulatory Element session. Proctors must be present in the session room or must be able to view the person(s) sitting for Regulatory Element continuing education through a window or by video monitor.

(ii) The individual responsible for proctoring at each administration will sign a certification that required procedures have been followed, that no material from Regulatory Element continuing education has been reproduced, and that no candidate received any assistance to complete the session. Such certification may be part of the sign-in log required under Rule 1250(a)(6)(F).

(iii) Individuals serving as proctors must be persons registered with an SRO and supervised by the designated principal for purposes of in-firm delivery of the Regulatory Element continuing education.

(iv) Proctors will check and verify the identification of all individuals taking Regulatory Element continuing education.

(F) Administration.

(i) All appointments will be scheduled in advance using the procedures and software specified by FINRA to communicate with FINRA's system and designated vendor.

(ii) The firm/proctor will conduct each session in accordance with the administrative appointment scheduling procedures established by FINRA or its designated vendor.

(iii) A sign-in log will be maintained at the delivery facility. Logs will contain the date of each session, the name and social security number of the individual taking the session, that required identification was checked, the sign-in time, the sign-out time, and the name of the individual proctoring the session. Such logs are required to be retained pursuant to SEA Rules 17a-3 and 17a-4.

(iv) No material will be permitted to be used for the session nor may any session-related material be removed.

(v) Delivery sites will be made available for inspection by FINRA.

(vi) Before commencing in-firm delivery of the Regulatory Element continuing education, members are required to file with their Designated Examining Authority ("DEA"), a letter of attestation (as specified below) signed by a principal executive officer or executive representative, attesting to the establishment of required procedures

addressing principal in-charge, supervision, site, technology, proctors, and administrative requirements. Letters filed with FINRA should be sent to Registration and Disclosure, Continuing Education Department, 9509 Key West Avenue, Rockville, MD 20850.

**Letter of Attestation for In-Firm Delivery of Regulatory Element Continuing Education**

[Name of member] has established procedures for delivering Regulatory Element continuing education on its premises. I have determined that these procedures are reasonably designed to comply with SRO requirements pertaining to in-firm delivery of Regulatory Element continuing education, including that such procedures have been implemented to comply with principal/officer in-charge, supervision, site, technology, proctors, and administrative requirements.

Signature

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Printed name

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Title [Must be signed by a Principal Executive Officer (or Executive Representative) of the firm]

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Date

**(7) Regulatory Element Contact Person**

Each member shall designate and identify to FINRA (by name and e-mail address) an individual or individuals responsible for receiving e-mail notifications

provided via the Central Registration Depository regarding when a registered person is approaching the end of his or her Regulatory Element time frame and when a registered person is deemed inactive due to failure to complete the requirements of the Regulatory Element program. Each member shall identify, review, and, if necessary, update the information regarding its Regulatory Element contact person(s) in the manner prescribed by NASD Rule 1160.

**(b) Firm Element**

**(1) Persons Subject to the Firm Element**

The requirements of this subparagraph shall apply to any person registered with a member who has direct contact with customers in the conduct of the member's securities sales, trading and investment banking activities, any person registered as an operations professional pursuant to Rule 1230(b)(6) or a research analyst pursuant to NASD Rule 1050, and to the immediate supervisors of such persons (collectively, "covered registered persons"). "Customer" shall mean any natural person and any organization, other than another broker or dealer, executing securities transactions with or through or receiving investment banking services from a member.

**(2) Standards for the Firm Element**

(A) Each member must maintain a continuing and current education program for its covered registered persons to enhance their securities knowledge, skill, and professionalism. At a minimum, each member shall at least annually evaluate and prioritize its training needs and develop a written training plan. The plan must take into consideration the member's size, organizational structure, and scope of business activities, as well as regulatory developments and the

performance of covered registered persons in the Regulatory Element. If a member's analysis establishes the need for supervisory training for persons with supervisory responsibilities, such training must be included in the member's training plan.

(B) Minimum Standards for Training Programs — Programs used to implement a member's training plan must be appropriate for the business of the member and, at a minimum must cover the following matters concerning securities products, services, and strategies offered by the member:

- (i) General investment features and associated risk factors;
- (ii) Suitability and sales practice considerations;
- (iii) Applicable regulatory requirements; and
- (iv) With respect to registered research analysts and their

immediate supervisors, training in ethics, professional responsibility and the requirements of NASD Rule 2711.

(C) Administration of Continuing Education Program — A member must administer its continuing education programs in accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by covered registered persons.

### **(3) Participation in the Firm Element**

Covered registered persons included in a member's plan must take all appropriate and reasonable steps to participate in continuing education programs as required by the member.

### **(4) Specific Training Requirements**

FINRA may require a member, individually or as part of a larger group, to provide specific training to its covered registered persons in such areas as FINRA deems appropriate. Such a requirement may stipulate the class of covered registered persons for which it is applicable, the time period in which the requirement must be satisfied and, where appropriate, the actual training content.

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