

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59757; File No. SR-FINRA-2009-006)

April 13, 2009

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change Relating to a New Limited Representative Registration Category for Investment Banking Professionals

I. Introduction

On February 17, 2009, the Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)), filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt NASD Rule 1032(i), which defines a new limited registration category for investment banking professionals, and sets forth the registration requirements for principals who supervise investment banking activities. The proposed rule change was published for comment in the Federal Register on March 10, 2009.³ The Commission received six comment letters regarding the proposal.⁴ This order approves the proposed rule change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59484 (March 2, 2009); 74 FR 10317 (“Notice”).

⁴ See letters from Gregory M. LeNeave, Anderson LeNeave & Co., dated March 12, 2009 (“Anderson LeNeave Letter”); Bryan Emerson, Managing Member, Starlight Investments, LLC, dated March 17, 2009 (“Starlight Investments Letter”); Michael B. Ribet, Member of the Board of Directors, Midwest Business Brokers and Intermediaries Association, to Elizabeth M. Murphy, Secretary, Commission, dated March 27, 2009 (“MBBI Letter”); Michael Adhikari, Advisory Board President, Alliance of Merger & Acquisitions Advisors, to Elizabeth M. Murphy, Secretary, Commission, dated March 30, 2009 (“AM&AA Letter”); Brian A. Wendler, President, Institute of Certified Business Counselors, to Elizabeth M. Murphy, Secretary, Commission, dated March 31, 2009 (“ICBC Letter”); and Daniel E. Hall, Chairman, The M&A Source, to Elizabeth M. Murphy, Secretary, Commission, dated March 31, 2009 (“M&A Source Letter”).

II. Description of the Proposed Rule Change

Any person associated with a member firm who is engaged in the securities business of the firm must register with FINRA. As part of the registration process, securities professionals must pass a qualification examination to determine competence in each area in which they intend to work. FINRA has developed examinations and administers examinations developed by other self-regulatory organizations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge.

Pursuant to NASD Rule 1032, a person who functions as a registered representative must pass the General Securities Representative (Series 7) examination or certain equivalent examinations, unless the person's activities are so limited as to qualify him for a limited representative category which has an examination associated with it. The proposed rule, NASD Rule 1032(i), creates a new limited representative category—Limited Representative-Investment Banking—which will have an examination tailored for associated persons whose activities are limited to investment banking.⁵ The proposed rule change also sets forth the registration requirements for principals who supervise investment banking activities.

III. Summary of Comments

The Commission received letters from six commenters in response to the proposed rule change.⁶ All of the commenters supported the proposal.⁷ The commenters commended

⁵ FINRA is in the process of developing an accompanying qualification examination that will provide a more targeted assessment of the job functions performed by the individuals that would fall within the proposed registration category. The examination itself, including the content outline and test specifications, and fees associated with it will be the subject of a separate proposed rule change.

⁶ Supra note 4.

⁷ Four of the six commenters raised the issue of a proposal previously made to the Division of Trading & Markets (the "Division") that would create a federal registration exemption and simplified system of regulation for merger and acquisition intermediaries. See

FINRA's acknowledgment of the specialized obligations of investment banking professionals. One commenter noted that this new category of limited registration will allow investment banking employees to become better trained in the rules and regulations applicable to the profession.⁸

IV. Discussion and Commission's Findings

After careful consideration of the proposal and the comments submitted, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.⁹ In particular, the Commission finds that the proposed rule change is consistent with Section 15A(g)(3) of the Act,¹⁰ which requires FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. The Commission believes that the proposal is consistent with the provisions of the Act noted above because it allows FINRA members to more efficiently allocate resources in order to better train their specialized personnel, which should result in improved compliance by principals and the employees they supervise.

AM&AA Letter; ICBC Letter; M&A Source Letter; MBB Letter. The proposal is not germane to this proposed rule change and is being considered separately by the Division.

⁸ See Starlight Investments Letter.

⁹ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78q-3(g)(3).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-FINRA-2009-006) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Florence E. Harmon
Deputy Secretary

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).