



NASAA

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

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April 9, 2007

Barbara Z. Sweeney
NASD
Office of the Corporate Secretary
1735 K Street, NW
Washington, DC 20006-1506

VIA EMAIL TO: pubcom@nasd.com

Re: Notice to Members 07-12
Proposed Amendments to Rules 3010(g) and 2711

Dear Ms. Sweeney:

The following are the comments of the North American Securities Administrators Association, Inc. ("NASAA")¹ in response to the proposed changes to NASD Rules 3010(g) and 2711 as announced in NASD's Notice to Members 07-12 ("NtM"). After a careful review of the proposal by members of NASAA's CRD/IARD Steering Committee and Broker-Dealer Section, we have concluded that the purpose of the rule is not served by replacing a single concept with four new definitions. In summary, while we understand that as part of the consolidation between NASD and NYSE certain rules will need to be eliminated and others amended, the proposal in NtM 07-12 will likely result in a regulatory landscape that is more confusing.

In the NtM, NASD proposes to eliminate the use of the term "Office of Supervisory Jurisdiction" ("OSJ") from NASD Rule 3010 and adopt in its place four new designations as follows: 'supervisory branch office,' 'limited supervisory branch office,' 'non supervisory branch office,' and 'non branch location.' While we understand that NASD believes this approach would simplify the current supervisory office classification and harmonize the different provisions of NASD and NYSE rules, we respectfully disagree.

First, the NASD OSJ definition has been used for decades to define NASD member branch offices that engage in specific functions. To further uniformity, over the years, various

¹ NASAA is the association of the 67 state, provincial, and territorial securities regulatory agencies of the United States, Canada, and Mexico. NASAA serves as the forum for these regulators to work with each other in an effort to protect investors at the grassroots level and to promote fair and open capital markets.

states have incorporated the NASD OSJ language into their statutes and rules.² Any efforts to unilaterally eliminate or even substantially modify the OSJ definition will negatively impact the ability of firms to comply with state statutory provisions and rules. Furthermore, the ability of the states to change these provisions is a process that may require legislative action.

Second, the proposal to restructure the classifications of various offices will require significant changes in registration forms in use and the means by which the forms are processed. As noted in the NtM, NASAA worked a number of years with NASD and the NYSE in the development of the Uniform Branch Office Definition, Form BR (Uniform Branch Office Registration Form), and the requirements for processing Form BR through the Central Registration Depository (CRD). NASAA has a first-hand understanding of the amount of programming, user testing and verification that was required to implement branch office processing in CRD. The Rule 3010(g) amendments proposed by NASD would, at a minimum, require changes to Form BR Section 2 (Registration/Notice Filing/Type of Office) and Section 6 (NYSE Branch Information). These form changes will necessitate, in turn, changes to the CRD system programming to accommodate the form changes. NASAA suggests that NASD perform a basic cost/benefit analysis to determine if the time, effort and monetary expense justify the changes proposed in the NtM in light of other regulatory demands committing for limited CRD resources.

Third, in addition to the impact on forms currently in use, NASAA is concerned as to how this proposal will affect current efforts to revise other forms such as Forms BD, BDW, U4, U5, U6 and their related Disclosure Reporting Pages (DRPs). NASAA and NASD have worked together and made significant progress on revisions to these forms and we are concerned that this proposal will hamper further progress on this project. At a minimum, the revisions to these forms should be finalized before any discussion on the OSJ issue commences.

Fourth, as noted earlier, the NASD OSJ definition is decades old and firms have developed internal supervisory systems, procedures, and monitoring software to ensure compliance with current registration and compliance standards. If these changes are effected, firms will have to make modifications to these structures and prepare new filings for submission to the CRD.

In conclusion, if the purpose of the proposed amendments to Rule 3010(g) is to align NASD and NYSE rules in order to streamline regulation, we suggest that NASD consider a different approach than the one suggested in the NtM. Specifically, NASD should simply consider amending the current NASD OSJ definition to exclude an office that solely reviews research reports. This change would accomplish the goals as stated in the NtM while minimizing potential negative impacts.

We believe the issues we have raised above are substantial and urge NASD to consider the alternative we have suggested. However, should NASD decide to move forward with the proposal then we encourage such action be undertaken in consultation with state regulators for

² See for example, Florida Rule 69W-600.004(3)(a).; Hawaii Admin. Rules §16-38-1; Oklahoma General Procedures of the Securities Comm'n §660:11-5-2.

the purpose of minimizing any confusion that may result from the implementation of the new definitions and further the goal of uniformity.

We appreciate the opportunity to comment on the proposal. Should you have any questions regarding our comments, please feel free to contact Matthew Neubert, Chair, NASAA Broker-Dealer Section or Melanie Lubin, Chair, NASAA CRD/IARD Steering Committee for further discussion.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. P. Borg', with a stylized flourish at the end.

Joseph P. Borg
NASAA President
Director, Alabama Securities Commission