

Regulatory Notice

08-67

Qualification Examination Waiver and Series 16 Experience Acceptability Requests

FINRA Announces Electronic Filing Process For Qualification Examination Waiver Requests and Series 16 Experience Acceptability Requests

Effective Date: January 16, 2009

Executive Summary

Effective January 16, 2009, member firms must submit all qualification examination waiver requests and Series 16 experience acceptability requests electronically through the FINRA Firm Gateway. This new process will replace the current paper-based submission format and, for Dual Member firms, the electronic submissions via the Electronic Filing Platform (EFP).

To facilitate the transition, beginning December 1, 2008, member firms may begin submitting qualification examination waiver requests and Series 16 experience acceptability requests electronically via the Firm Gateway. Member firms' Web CRD Primary Account Administrators will receive (or may apply for) entitlement privileges to give the firm's registration and/or compliance personnel the ability to file requests for qualification examination waivers and Series 16 experience acceptability through the Firm Gateway.

Questions concerning this *Notice* should be directed to Joe McDonald, Associate Director, Testing and Continuing Education Department, at (240) 386-5065.

November 2008

Notice Type

- Guidance

Suggested Routing

- Compliance
- Legal
- Operations
- Registration
- Senior Management
- Technology

Key Topic(s)

- Electronic Filing Platform
- FINRA Firm Gateway
- Qualification Examination Waiver Requests
- Registration
- Series 16 Experience Acceptability Requests

Referenced Rules & Notices

- NYSE Rule 344
- NYSE Rule 345
- NASD Rule 1000 Series
- NASD Rule 1070(d)
- NASD Rule 9600 Series

Background & Discussion

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 demonstrate competence in each area in which they intend to work. NASD Rules and Incorporated NYSE Rules set forth the registration and qualification requirements for FINRA firms.¹

Examination Waiver Requests

The NASD Rule 1000 Series specifies, among other things, registration and qualification requirements for registered representatives and principals associated with firms. NASD Rule 1070(d) authorizes FINRA, pursuant to the NASD Rule 9600 Series,² in exceptional cases and where good cause is shown, to waive qualification examinations (as specified in the NASD Rule 1000 Series) and accept other standards as evidence of an applicant's qualification for registration.³

With respect to Dual Members, Incorporated NYSE Rule 345 (and its Interpretation) also specifies certain registration and qualification requirements applicable to such members. Similar to NASD Rule 1070(d), Incorporated NYSE Rule 345.15 authorizes FINRA to waive the examination requirement for a candidate for registration, where good cause is shown. While FINRA generally considers requests for examination waivers by Dual Members pursuant to NASD Rule 1070(d), FINRA applies Incorporated NYSE Rule 345.15 when considering requests by Dual Members for waivers of examinations not specified by NASD Rules.⁴

Series 16 Experience Acceptability Requests

Incorporated NYSE Rule 344 (and its Interpretation) requires candidates for the registration category of "supervisory analyst" to take and pass the Series 16 examination and present evidence of three years of appropriate experience, as described in Incorporated NYSE Rule 344.11 and Interpretation 344/03. Currently, firms submit Series 16 experience acceptability requests to FINRA on behalf of "supervisory analyst" candidates to provide evidence of such experience.

New Electronic Filing Process Through FINRA Firm Gateway

Before the consolidation of NASD and the member regulation, enforcement and arbitration functions of the New York Stock Exchange into FINRA, NASD member firms submitted examination waiver requests on behalf of an applicant through a paper-based process, by sending a letter to NASD.⁵ NYSE member firms submitted examination waiver requests and Series 16 experience acceptability requests via the NYSE's EFP system. Since the consolidation, most examination waiver requests by FINRA member firms (including Dual Members) have been submitted to FINRA

through the paper-based process. However, Dual Members have continued to submit certain requests (*i.e.*, Series 7A, Series 14, Series 14A, Series 21 and Series 25 waivers and Series 16 experience acceptability requests) through the EFP.

Effective January 16, 2009, FINRA will require that member firms submit all requests for qualification examination waivers and Series 16 experience acceptability requests through the Firm Gateway,⁶ a tool that provides consolidated access to FINRA regulatory and filing applications.

To facilitate the transition to the Firm Gateway process, beginning December 1, 2008, FINRA will begin accepting electronic examination waiver and Series 16 experience acceptability requests via the Firm Gateway at <https://firms.finra.org/examwaivers>. Firms will use one online form to submit examination waiver requests and a second online form to request Series 16 experience acceptability. The new process will replace both the paper-based submission process and the EFP system.

For all examination waiver requests and Series 16 experience acceptability requests, firms must submit a Uniform Application for Securities Industry Registration or Transfer (Form U4) electronically via the Central Registration Depository (CRD®) system at least **one business day** prior to submitting such requests via the Firm Gateway. The Form U4 must request an open examination window for each examination requested waived and each Series 16 experience acceptability request.

The new process will require the same information currently required for qualification examination waivers and Series 16 experience acceptability submissions, and will allow firms to attach supporting documentation to such requests.

For qualification examination waiver requests, the member firm must provide:

- a. Applicant's CRD Number;
- b. Qualification examination(s) for which the waiver is being requested;
- c. Reason for the waiver request; and
- d. Documentation supporting the waiver request.

For Series 16 experience acceptability requests, the member firm must provide:

- a. Applicant's CRD Number;
- b. Statement on applicant's experience;
- c. Whether applicant is a Chartered Financial Analyst; and
- d. Whether applicant intends to take Part 1, Part 2 or both parts of the Series 16 examination.

FINRA will continue to convey decisions on waiver requests to firms in writing, along with a courtesy telephone call.

Entitlements

By December 1, 2008, each firm's primary account administrator for Web CRD will be automatically granted waiver submission entitlement privileges. Account administrators that do not have entitlement privileges can request them by submitting a FINRA Account Administrator Entitlement Form (AAEF) for Web CRD (see www.finra.org/entitlements). Account administrators may give entitlement privileges to individuals in their organizations who require access to the waiver and Series 16 experience acceptability forms by setting privileges for them through the FINRA Entitlement Account Management Tool. If a member firm employee requires access to the waiver and Series 16 experience acceptability forms but does not know his or her firm's account administrator(s), the employee can call FINRA's Gateway Call Center at (301) 869-6699 to find out the name of the firm's account administrator(s).

Two types of entitlement privileges may be granted: (1) Create/Submit and (2) Manager. A user with the Create/Submit privilege will be able to complete and submit examination waiver and Series 16 experience acceptability requests. A Manager will be able to complete and submit examination waiver and Series 16 experience acceptability requests and, in addition, view waiver and Series 16 experience acceptability requests submitted by other users within the firm.

Transition Schedule

The transition of all examination waiver and Series 16 experience acceptability requests to Firm Gateway will occur as follows:

- **December 1, 2008** – Firms can begin to submit waiver and Series 16 experience acceptability requests through Firm Gateway.
- **December 19, 2008** – Last day for Dual Member firms to submit waiver and Series 16 experience acceptability requests through EFP.
- **January 15, 2009** – Last day to submit paper-based waiver and Series 16 experience acceptability requests.
- **January 16, 2009** – All examination waiver and Series 16 experience acceptability requests must be made through the Firm Gateway.

Endnotes

- 1 The current FINRA rulebook includes, in addition to FINRA Rules, (1) NASD Rules and (2) rules incorporated from NYSE (Incorporated NYSE Rules), together referred to as the Transitional Rulebook. While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (Dual Members). For more information about the rulebook consolidation process, see *FINRA Information Notice 03/12/08* (Rulebook Consolidation Process).
- 2 The SEC recently approved the adoption of new FINRA Rules, including the adoption of the NASD Rule 9600 Series as the FINRA Rule 9600 Series without substantive change. See Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (Order Approving Proposed Rule Change; File Nos. SR-FINRA-2008-021; SR-FINRA-2008-022; SR-FINRA-2008-26; SR-FINRA-2008-028 and SR-FINRA-2008-029). The FINRA Rule 9600 Series will take effect on December 15, 2008. See *Regulatory Notice 08-57* (October 2008).
- 3 The NASD Rule 9600 Series also sets forth an appeal process for denials of waiver requests submitted pursuant to NASD Rule 1070.
- 4 Specifically, FINRA considers requests for waivers of the Series 7A, Series 14, Series 14A, Series 21 and Series 25 examinations pursuant to Incorporated NYSE Rule 345.15. The procedures set forth in the NASD Rule 9600 Series, including applicable appeal processes, do not apply to waivers considered pursuant to the Incorporated NYSE Rules.
- 5 FINRA provides guidelines on the qualification examination waiver process on its Web site. For FINRA's Qualification Examination Waiver Guidelines, see www.finra.org/brokerqualifications/waiverguidelines.
- 6 NASD Rule 3170 provides that each member shall be required to file with FINRA, or otherwise submit to FINRA, in such electronic format as FINRA may require, all regulatory notices or other documents required to be filed or otherwise submitted to FINRA, as specified by FINRA.