

a member to [limit] *restrict* its business activities, *either by limiting or ceasing to conduct those activities*, if the Department of Member Regulation has reason to believe that [any] a condition specified in Rule 3130 or Rule 3131 exists. The notice shall specify the grounds on which such [action is being taken] *restrictions are being imposed*, the nature of the [limitations] *restrictions* to be imposed, the effective date of the *restrictions* [limitations], a fitting sanction that will be imposed if the member fails to comply with any [the] *restrictions* [limitations] set forth in the notice, and the conditions for terminating such [limitations] *restrictions*. The effective date of the [limitations] *restrictions* shall be at least seven days after the date of service of the notice. The notice also shall inform the member that it may request a hearing before the [Department of Member Regulation] *Office of Hearing Officers* under Rule 9413. The Department of Member Regulation shall serve the notice by facsimile or overnight courier.

9413. Hearing Panel Review

(a) Request for a Hearing

A member subject to a notice issued under Rule 9412 may file a written request for hearing before a Hearing Panel with the Office of Hearing Officers. The request shall state the specific grounds for withdrawing or modifying *any of the* [limitations] *restrictions* specified in the notice. The request shall be filed pursuant to Rules 9135, 9136, and 9137 within five days after service of the notice under Rule 9412. The member may withdraw its request at any time by filing a written notice with the Office of Hearing Officers pursuant to Rules 9135, 9136, and 9137. The time limits set forth herein are to be strictly construed and cannot be modified except for good cause shown.

(b) No Change

(c) Stay

Unless otherwise ordered by the NASD Board Executive Committee, the [initiation of a review under this paragraph shall stay the decision of the Department of Member Regulation or an uncontested notice until a decision constituting final action of the Association is issued] *request for a hearing shall stay the effective date of the notice*.

(d) through (h) No Change

(i) Evidence Not Admitted

Evidence that is proffered but not admitted during the hearing shall not be

part of the record, but shall be retained by the custodian of the record until the date when [the Association's] *NASD's* decision becomes final or, if applicable, upon the conclusion of any review by the Commission or the federal courts.

(j) Failure to Request Hearing

If a member does not request a hearing under paragraph (a), the [limitations] *restrictions* specified in the notice shall become effective on the date specified in the notice. Unless the Executive Committee calls the notice for review under Rule 9415, the [limitations] *restrictions* specified in the notice shall remain in effect until the Department of Member Regulation reduces or removes the [limitations] *restrictions* pursuant to Rule 9417(b).

(k) Decision

(1) Within seven days after the hearing, the Hearing Panel shall issue a written decision approving, modifying, or withdrawing the [limitations] *restrictions* specified in the notice. If the decision imposes [limitations] *restrictions*, the decision shall state the grounds for the [limitations] *restrictions*, the conditions for terminating such [limitations] *restrictions*, and provide for a fitting sanction to be imposed under Rule 9416 if the member fails to comply with the [limitations] *restrictions*. The Office of Hearing Officers shall promptly serve the decision by facsimile or overnight courier pursuant to Rules 9132 and 9134. The [limitations] *restrictions* imposed shall become effective upon service of the decision.

(2) Contents of Decision

The decision shall include:

(A) a description of the Department of Member Regulation's [decision] *notice*, including its rationale;

(B) a description of the principal issues regarding the imposition of [limitations] *restrictions* raised in the review and a statement supporting the disposition of such issues;

(C) No Change

(D) a statement of whether the Department of Member Regulation's [decision] *notice* is affirmed, modified, or reversed, and a rationale therefor; and

(E) if any *restrictions* [limitations] are imposed:

(i) a description of the [limitations] *restrictions* and a statement describing a fitting sanction that will be imposed under Rule 9416 if the member fails to comply with any of the [limitations] *restrictions*; and

(ii) the conditions for terminating the [limitations] *restrictions*.

(l) Issuance of Decision After Expiration of Call for Review Period

The Hearing Panel shall provide its proposed written decision to the NASD Board Executive Committee. The NASD Board Executive Committee may call the proceeding for review pursuant to Rule 9415. If the NASD Board Executive Committee does not call the proceeding for review, the proposed written decision of the Hearing Panel shall constitute the final action of [the Association] *NASD*.

(m) Ex Parte Communications

The prohibitions against ex parte communications in Rule 9143 shall become effective under the Rule 9410 Series when [Association] *NASD* staff has knowledge the NASD Board Executive Committee intends to review a decision on its own motion under this Rule.

9414. No change

9415. Discretionary Review by the NASD Board Executive Committee

(a) through (c) No Change

(d) Decision of NASD Board Executive Committee, Including Remand

After review, the NASD Board Executive Committee may affirm, modify, or reverse the proposed written decision of the Hearing Panel. Alternatively, the NASD Board Executive Committee may remand the proceeding with instructions. The NASD Board Executive Committee shall prepare a written decision that includes all of the elements described in Rule [9414(k)(2)] *9413(k)(2)*.

(e) Issuance of Decision

The NASD Board Executive Committee shall issue and serve its written decision on the member and the Department of Member Regulation pursuant to Rules 9132 and 9134. The decision shall be effective upon service. The decision shall constitute the final action of [the Association] *NASD*, unless the NASD Board Executive Committee remands the proceeding.

9416. Enforcement of Sanctions

(a) Order

If the Department of Member Regulation determines that a member has failed to comply with any [limitations] *restrictions* imposed by a decision or an effective notice under the Rule 9410 Series that has not been stayed, the Department of Member Regulation shall issue an order imposing the sanctions set forth in the decision or notice and specifying the effective date and time of such