

be able to be displayed and would not be deemed "holding out" for purposes of this section. Such necessary signage generally is intended to prevent confusing customers who might otherwise believe that traditional riskless investments, such as deposits, are being offered by associated persons at such offices on bank premises. In addition, other than meeting customers at these offices of convenience, all other functions of the associated person would be conducted and supervised through the designated branch office.

The proposed rule also exempts from branch office registration any location that is primarily used to engage in non-securities activities (e.g., insurance) and from which the associated person effects no more than 25 securities transactions in any one calendar year; provided that advertisements or sales literature identifying such location also set forth locations from which the associated person is directly supervised. In addition, such securities activities would be conducted through and supervised by the associated person's designated branch office.

Proposed IM-3010-1 (Standards for Reasonable Review)

Certain state securities regulators have expressed concern about their ability to cite members for violating the inspection and review standards set forth in NASD Rule 3010(c) where a registered person operates from his or her primary residence. They asked NASD staff to review the requirements of Rule 3010(c) and consider clarifying the standards.

NASD staff believes that Rule 3010(c) is an industry benchmark, imposing high standards regarding supervisory obligations and, therefore, should not be amended. As an alternative to amending Rule 3010(c), NASD is proposing new interpretive material, IM-3010-1 (Standards for Reasonable Review). Proposed IM-3010-1 emphasizes the requirement that members already have to establish reasonable supervisory procedures and conduct reviews of locations taking into consideration, among other things, the firm's size, organizational structure, scope of business activities, number and location of offices, the nature and complexity of products and services offered, the volume of business done, the number of associated persons assigned to a location, whether a location has a principal on-site, whether the office is a non-branch location, and the disciplinary history of the registered

person.¹⁴ The proposed interpretive material notes that members would be required to be especially diligent in establishing procedures and conducting reasonable reviews with respect to non-branch locations. NASD represents that the proposed interpretive material incorporates guidance previously issued on this matter by NASD.

Development of Branch Office Registration System Through CRD®

NASD operates the CRD® system pursuant to policies developed jointly with NASAA. NASD works with the Commission, NASAA, other members of the regulatory community, and member firms to establish policies and procedures reasonably designed to ensure that information submitted to and maintained on the CRD® system is accurate and complete. Currently, members with numerous offices must register with each individual state that requires registration (including annual renewals). Failure of members to timely register offices with a specific jurisdiction can result in significant sanctions; for example, in at least one jurisdiction, failure to timely register (or renew registration) can result in the possible rescission of all trades originated at that location. A uniform branch office definition would establish a broader national standard that would facilitate the development of a branch office registration system through the CRD®. NASD believes this approach would provide efficiency, clarity and cost savings to members and aid securities regulators in conducting regular examinations of such locations to further investor protections. NASD represents that members have strongly supported the use of CRD® to register branch offices because of the enormous potential time and liability savings.¹⁵

As part of the initiative, NASD expects to seek Commission approval to amend Form U-4 to require members to disclose, but not register, all non-branch

locations.¹⁶ Further, NASD expects that the system would include a requirement that a branch office list any other names ("doing business as" or "DBAs") under which it may operate.

NASD expects to develop a new branch office registration form to collect data on each branch office. The new form also would require members to designate registered representatives to specific branch offices. NASD staff expects the system would include certain efficiencies; for example, when a member enters amendments to Form U-4, the system would automatically update corresponding items on the proposed new branch office registration form and vice versa.

NASD believes that it would take up to one year to develop a centralized registration system for branch offices and expects to have the system live by mid-2004.

2. Statutory Basis

NASD believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,¹⁷ in general, and with Section 15A(b)(6) of the Act,¹⁸ in particular, which requires, among other things, that NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that a uniform definition would better serve the securities industry, regulators, and the public by creating a broader national standard that would allow for central registration of branch offices with NASD through the CRD® system. In addition, NASD represents that the proposed new interpretive material summarizes guidance previously issued on this matter by NASD.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change, as amended, would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

A version of the proposed rule change, which included the 50-business day requirement in the primary

¹⁴ NASD has filed a proposed rule change with Commission that seeks to adopt new Rule 3012 and amend other rules regarding the supervisory and supervisory control procedures of member firms. As part of such rule filing, Rule 3010(a) would be amended to provide that members must inspect (i) at least annually every office of supervisory jurisdiction and any branch office that supervises one or more branch locations; (ii) at least every three years every branch office that does not supervise one or more non-branch locations; and (iii) on a regular periodic schedule every non-branch location. The rule filing is pending. See Securities Exchange Act Release No. 48298 (August 7, 2003), 68 FR 48421 (August 13, 2003) (SR-NASD-2002-162).

¹⁵ See Item 5 below for a summary of comment letters received in response to Notice to Members 02-52 (August 2002).

¹⁶ NASD staff is working with NASAA to identify the level of activities that would trigger this reporting requirement.

¹⁷ 15 U.S.C. 78o-3.

¹⁸ 15 U.S.C. 78o-3(b)(6).