

residence exception, was published for comment in NASD Notice to Members 02-52 (August 2002) ("NtM 02-52"). The text of the proposed rule change is available at the principal office of NASD, and at the Commission. NASD sought comment on whether the proposed uniform definition would: (1) Provide clarity on when a location is required to be registered as a branch office; (2) provide a cost savings to firms as a result of centralized registration of locations through the CRD® system; (3) minimize regulatory compliance burdens; (4) significantly affect the number of locations that a firm is required to register; and (5) adequately address evolving business practices based on technological innovations. Additionally, NASD sought comment on whether the proposed exceptions to the branch office were appropriate.

NtM 02-52 provided members and other interested parties with a checklist of seven questions that they could use to respond to the request for comment in addition to, or in lieu of, sending written comments. NASD noted that the checklist did not cover all aspects of the proposal, and it encouraged commenters to provide written comments, as necessary. NASD extended the comment period from September 20, 2002 to October 21, 2002 and received a total of 137 comments in response to NtM 02-52. A list of commenters and copies of the comment letters received in response to NtM 02-52 is available at the principal office of NASD, and at the Commission.

NASD represents that seventy-eight of the 137 responses to NtM 02-52 consisted solely of written comments (*i.e.*, did not complete the checklist of seven questions provided). The remaining 59 commenters responded to the checklist either in whole or in part. A significant percentage of the commenters identified themselves as member firms or registered representatives associated with NASD member firms. NASD represents that an overwhelming number of the commenters favored the creation of a uniform definition of the term "branch office" that would permit centralized registration of locations through CRD®. NASD has summarized the key comments below.

An overwhelming majority of the commenters were in favor of NASD providing centralized registration of branch offices through the CRD® system.¹⁹ Commenters stated that a

uniform definition of branch office would greatly simplify their compliance obligations and that a uniform method of registering locations through CRD® would be welcome.²⁰ One commenter said that the current environment in which they are required to track numerous state definitions of "branch office," fill out different forms to register locations as branch offices, comply with varying supervisory requirements for such offices and spend significant amounts of administrative time and energy complying is a very frustrating process and that the present situation is in dire need of immediate change.²¹ However, numerous commenters expressed concern that a central registration system, while an improvement, could be too costly.

Commenters expressed concern about the impact of the proposed definition on the supervisory systems of their firms and related registration costs.²² Commenters stated that the proposed definition would significantly increase registration fees and supervisory obligations of members.²³ Several commenters stated that the proposed definition would cause offices currently registered as branch offices to become OSJs since NASD Rule 3010(g)(1)(G) defines an OSJ as any office that supervises the activities of persons

comment letter, dated September 13, 2002; B. Riley & Co. comment letter, dated September 10, 2002; BB&T Investment Services, Inc. comment letter, dated September 18, 2002; Carillon Investments, Inc. comment letter, dated September 16, 2002; Empire Securities Corporation of Southern California comment letter, dated September 17, 2002; GWR Investments, Inc. comment letter, dated October 25, 2002; Investment Centers of America, Inc. comment letter, dated August 30, 2002; Lesko Securities, Inc. comment letter, dated September 18, 2002; Packerland Brokerage Services, Inc. comment letter, dated September 9, 2002; Paradigm Equities, Inc. comment letter, dated October 18, 2002; Presidio Financial Services, Inc. comment letter, dated October 3, 2002; Private Portfolio, Inc. comment letter, dated August 22, 2002; Raikie Financial Group, Inc. comment letter, dated September 9, 2002; Securian Financial Services, Inc. comment letter, dated September 6, 2002; and Triad Advisors, Inc. comment letter, dated September 20, 2002.

²⁰ See, *e.g.*, Associated Securities Corp. comment letter dated September 13, 2002; Horace Mann Investors, Inc. comment letter, dated September 20, 2002; Securian Financial Services, Inc. comment letter, dated September 6, 2002; and T. Rowe Price Investment Securities, Inc. comment letter, dated September 19, 2002.

²¹ See The O.N. Equity Sales Company comment letter, dated October 21, 2002.

²² See, *e.g.*, Mission Securities comment letter, dated September 17, 2002; and Oak Tree Securities comment letter, dated September 20, 2002.

²³ See, *e.g.*, Lesko Securities, Inc. comment letter, dated September 18, 2002; National Planning Holdings, Inc. comment letter, dated September 3, 2002; National Association of Independent Broker/Dealers comment letter, dated September 7, 2002; and Transamerica Financial Advisors comment letter, dated September 16, 2002.

associated with other branch offices. Supervisors at these new OSJs would have to become registered principals.²⁴ Other commenters noted that smaller offices in smaller communities may elect to shut down their securities business and restrict themselves to related fields in which they may now be involved, such as insurance and tax preparation—this would mean less access to the financial system for people in these communities.²⁵

In addition, commenters were concerned that the proposed definition would significantly increase the number of branch offices they would have to register. Commenters stated that they have between 0 and 225 branch offices currently registered but could have between 0 and 3,400 registered branch offices under the proposed uniform definition (based on a proposed definition that includes a 50-business day restriction in the primary residence exception). One commenter stated that with such definition, the firm would go from 1 to 700 registered branch offices.²⁶ A second commenter stated that they would go from 658 registered branch offices to over 1,000 registered branch offices if the proposed definition is applied to its unregistered offices and residential offices.²⁷

Several commenters stated that any costs savings resulting from centralized registration of branch offices through CRD® would be greatly outweighed by the substantial increases in costs caused by having to register hundreds of remote locations as branch offices.²⁸ Commenters generally were concerned that the proposed branch office definition (including the 50-business day limitation in the primary residence exception) would greatly increase their costs. These increased costs would include NASD and state registration fees, state corporation income tax filings, Fidelity bond coverage premiums, personnel time and travel expenses for inspections, and the hiring of more staff for supervision. A few commenters offered cost increase estimates ranging from \$3,000 to \$450,000 and elaborated on the reasons

²⁴ See, *e.g.*, Granite Securities, LLC comment letter, dated September 20, 2002; Equity Services, Inc. comment letter, dated September 19, 2002; and Lincoln Financial Advisors, Corp. comment letter, dated October 17, 2002.

²⁵ See, *e.g.*, AM&M Investment Brokers comment letter, dated September 23, 2002.

²⁶ See Horace Mann Investors, Inc. comment letter, dated September 20, 2002.

²⁷ See Lincoln Financial Services, Inc. comment letter, dated October 17, 2002.

²⁸ See, *e.g.*, Transamerica Financial Advisors comment letter, dated September 16, 2002; and Horace Mann Investors, Inc. comment letter, dated September 20, 2002.

¹⁹ See, *e.g.*, Allmerica Financial comment letter, dated August 28, 2002; Assist Investment Management Co., Inc. comment letter, dated October 18, 2002; Anderson LeNeave & Co.