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## 3000. RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS, EMPLOYEES, AND OTHERS' EMPLOYEES

### 3100. BOOKS AND RECORDS, AND FINANCIAL CONDITION

#### 3140. Approval of Change in Exempt Status Under SEC Rule 15c3-3

(a) Application — For the purposes of this Rule, the term "member" shall be limited to any member of the Association who is subject to SEC Rule 15c3-3 and is not designated to another self-regulatory organization by the Commission for financial responsibility pursuant to Section 17 of the Act and SEC Rule 17d-1 promulgated thereunder. Further, the term shall not be applicable to any member that is subject to Section 402.2(c) of the rules of the Treasury Department.

(b) A member operating pursuant to any exemptive provision as contained in subparagraph (k) of SEC Rule 15c3-3 under the Act (Rule 15c3-3), shall not change its method of doing business in a manner which will change its exemptive status from that governed by subparagraph (k)(1) or (k)(2)(ii) to that governed by subparagraph (k)(2)(i); or from subparagraph (k)(1), (k)(2)(i) or (k)(2)(ii) to a fully computing firm that is subject to all provisions of Rule 15c3-3; or commence operations that will disqualify it for continued exemption under Rule 15c3-3 without first having obtained the prior written approval of the Association.

(c) In making the determination as to whether to approve, deny in whole or in part an application made pursuant to paragraph (b), the Association staff shall consider among other things the type of business in which the member is engaged, the training, experience and qualifications of persons associated with the member, the member's procedures for safeguarding customer funds and securities, the member's overall financial and operational condition and any other information deemed relevant in the particular circumstances and the time these measures would remain in effect.

#### ***Cross Reference—***

[Rule 2261](#), *Disclosure of Financial Condition*

Amended by SR-NASD-99-76 eff. Sept. 11, 2000  
Amended by SR-NASD-95-39 eff. Oct. 10, 1996  
Adopted eff. Nov. 7, 1985

**Selected Notice:** [00-56](#).

#### 3150. Reporting Requirements for Clearing Firms

(a) Each member that is a clearing firm or self-clearing firm shall be required to report to NASD in such format as NASD may require, prescribed data pertaining to the member and any member broker-dealer for which it clears. A clearing firm or self-clearing firm may enter into an agreement with a third party pursuant to which the third party agrees to fulfill the obligations of a clearing firm or self-clearing firm under this Rule. Notwithstanding the existence of such an agreement, each clearing firm or self-clearing firm remains responsible for complying with the requirements of this Rule.

(b) Each member that is a clearing firm is required to report prescribed data to NASD under this Rule in such a manner as to enable NASD to distinguish between data pertaining to all proprietary and customer accounts of an introducing member and data pertaining to all proprietary and customer accounts of any member for which the introducing member is acting as an intermediary in obtaining clearing services from a clearing firm. The reporting requirements of this paragraph (b) shall apply to the proprietary and customer accounts of members that have established an intermediary clearing arrangement with an introducing member on or after February 20, 2006.

(c) Pursuant to the [Rule 9600](#) Series, NASD may in exceptional and unusual circumstances, taking into consideration all relevant factors, exempt a member or class of members unconditionally or on specified terms from any or all of the provisions of this Rule that it deems appropriate.

Amended by SR-NASD-2005-058 eff. Feb. 20, 2006.  
Amended by SR-NASD-2004-014 eff. Feb. 20, 2004.  
Adopted by SR-NASD-2001-19 eff. Dec. 10, 2001.

**Selected Notice:** [01-84](#), [04-24](#), [05-72](#).

**IM-3150. Exemptive Relief**

(a) Upon written request for exemptive relief pursuant to the [Rule 9600](#) Series, NASD generally will grant an exemption from the reporting requirements of [Rule 3150](#) to a self-clearing firm that:

(1) derives, on an annualized basis, at least 85 percent of its revenue from transactions in fixed income securities;

(2) conducts an institutional business that settles transactions on an RVP/DVP basis, provided that such exemption from reporting shall apply only with respect to such institutional business unless NASD determines that any other remaining business otherwise qualifies for an exemption under this [IM-3150](#) or is *de minimis* in nature; or

(3) does not execute transactions for customers or otherwise hold customer accounts or act as an introducing broker with respect to customer accounts (e.g., that engages solely in proprietary trading, or that conducts business only with other broker-dealers or any other non-customer counter-parties).

(b) Upon written request for exemptive relief pursuant to the [Rule 9600](#) Series, NASD also generally will grant an exemption to a clearing firm with respect to one or more of the introducing firms for which it clears if the introducing firm meets one of the above-stated grounds for exemptive relief.

(c) Any self-clearing firm that, due to a change in the facts pertaining to the operation and nature of its business or the operation and nature of the business of a firm for which it clears, as applicable, no longer qualifies for an exemption previously granted by NASD from the reporting requirements of [Rule 3150](#) must promptly report such change in circumstances to NASD, Department of Member Regulation, and commence compliance with the reporting requirements of [Rule 3150](#).

Adopted by SR-NASD-2004-014 eff. Feb. 20, 2004.

**Selected Notice:** [04-24](#).