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3130. Annual Certification of Compliance and Supervisory Processes

(a) Designation of Chief Compliance Officer(s)

Each member shall designate and specifically identify to FINRA on Schedule A of Form BD one or more principals to serve as a chief compliance officer.

(b) Annual Certification Requirement

Each member shall have its chief executive officer(s) (or equivalent officer(s)) certify annually,[1] as set forth in paragraph (c), that the member has in place processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures reasonably designed to achieve compliance with applicable FINRA rules, MSRB rules and federal securities laws and regulations, and that the chief executive officer(s) has conducted one or more meetings with the chief compliance officer(s) in the preceding 12 months to discuss such processes.

(c) Certification

The certification shall state the following:

The undersigned is/are the chief executive officer(s) (or equivalent officer(s)) of (name of member corporation/partnership/sole proprietorship) (the "Member"). As required by FINRA Rule 3130(b), the undersigned make(s) the following certification:

1. The Member has in place processes to:

(A) establish, maintain and review policies and procedures reasonably designed to achieve compliance with applicable FINRA rules, MSRB rules and federal securities laws and regulations;

(B) modify such policies and procedures as business, regulatory and legislative changes and events dictate; and

(C) test the effectiveness of such policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with FINRA rules, MSRB rules and federal securities laws and regulations.

2. The undersigned chief executive officer(s) (or equivalent officer(s)) has/have conducted one or more meetings with the chief compliance officer(s) in the preceding 12 months, the subject of which satisfy the obligations set forth in FINRA Rule 3130.

3. The Member's processes, with respect to paragraph 1 above, are evidenced in a report reviewed by the chief executive officer(s) (or equivalent officer(s)), chief compliance officer(s), and such other officers as the Member may deem necessary to make this certification. The final report has been submitted to the Member's board of directors and audit committee or will be submitted to the Member's board of directors and audit committee (or equivalent bodies) at the earlier of their next scheduled meetings or within 45 days of the date of execution of this certification.

4. The undersigned chief executive officer(s) (or equivalent officer(s)) has/have consulted with the chief compliance officer(s) and other officers as applicable (referenced in paragraph 3 above) and such other employees, outside consultants, lawyers and accountants, to the extent deemed appropriate, in order to attest to the statements made in this certification.

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[1] Members must ensure that each ensuing annual certification is effected no later than on the anniversary date of the previous year's certification.

• • • Supplementary Material: ----------

.01 Designation of Co-Chief Executive Officers. A member may choose to designate a second co-chief executive officer, provided that each of the two chief executive officers must individually discharge all of the obligations set forth in Rule 3130, and each shall be held responsible for the representations in the certification as if they were the member's only chief executive officer. Designation of a co-chief executive officer pursuant to this Rule applies only for the purposes of this Rule and has no effect on any other regulatory obligation imposed on a member or its chief executive officer.

.02 Designation of Multiple Chief Compliance Officers. FINRA recognizes that compliance expertise may reside in more than one individual in firms with distinct business segments. Therefore, a member may choose to designate more than one chief compliance officer, provided that (1) each designated chief compliance officer is a principal; (2) the member precisely defines and documents the areas of primary compliance responsibility assigned to each designated chief compliance officer and makes specific provisions for which of the designated chief compliance officers has primary compliance responsibility in areas that can reasonably be expected to overlap; (3) each designated chief compliance officer satisfies all of the requirements of Rule 3130 with respect to his or her defined area of primary compliance responsibility as if that individual was the member's only chief compliance officer and (4) collectively, the designated chief compliance officers have the responsibilities and expertise that enable them to consult with the chief executive officer(s) on the totality of the subject matters required to be addressed in the certification by the chief executive officer(s) under Rule 3130. Thus, for example, a member that chooses to have multiple chief compliance officers is required to conduct one or more meetings annually between the chief executive officer(s) (or equivalent officer(s)) and each designated chief compliance officer, individually or collectively. At each such meeting, the chief executive officer (or equivalent officer) would be required to discuss with each chief compliance officer the required topics, but only as it relates to the particular chief compliance officer's defined and documented area of primary compliance responsibility.

.03 Importance of Compliance Processes. It is critical that each FINRA member understand the importance of employing comprehensive and effective compliance policies and written supervisory procedures. Compliance with applicable FINRA rules, MSRB rules and federal securities laws and regulations is the foundation of ensuring investor protection and market integrity and is essential to the efficacy of self-regulation. Consequently, the certification requirement is intended to require processes by each member to establish, maintain, review, test and modify its compliance policies and written supervisory procedures in light of the nature of its businesses and the laws and rules that are applicable thereto, and to evidence such processes in a report reviewed by the chief executive officer(s) (or equivalent officer(s)) executing the certification.

.04 Content of Meetings Between Chief Executive Officer and Chief Compliance Officer. Included in this processes requirement is an obligation on the part of the member to conduct one or more meetings annually between the chief executive officer(s) (or equivalent officer(s)) and the chief compliance officer(s) to: (1) discuss and review the matters that are the subject of the certification; (2) discuss and review the member's compliance efforts as of the date of such meetings; and (3) identify and address significant compliance problems and plans for emerging business areas.

.05 Role of the Chief Compliance Officer. The periodic and content requirements for meetings between the chief executive officer(s) (or equivalent officer(s)) and the chief compliance officer(s), as well as the pertinent requirements of paragraphs 3 and 4 of the certification, are intended to indicate the unique and integral role of a chief compliance officer both in the discharge of certain compliance processes and reporting requirements that are the subject matter of the certification and in providing a reliable basis upon which the chief executive officer(s) can execute the certification. A chief compliance officer is a primary advisor to the member on its overall compliance scheme and the particularized rules, policies and procedures that the member adopts. This is because a chief compliance officer should have an expertise in the process of (1) gaining an understanding of the products, services or line functions that need to be the subject of written compliance policies and written supervisory procedures; (2) identifying the relevant rules, regulations, laws and standards of conduct pertaining to such products, services or line functions based on experience and/or consultation with those persons who have a technical expertise in such areas of the member's business; (3) developing, or advising other business persons charged with the obligation to develop, policies and procedures that are reasonably designed to achieve compliance with those relevant rules, regulations, laws and standards of conduct; (4) evidencing the supervision by the line managers who are responsible for the execution of compliance policies; and (5) developing programs to test compliance with the member's policies and procedures.

It is the expertise in the process of compliance that makes a chief compliance officer an indispensable party to enable the chief executive officer(s) to reach the conclusions stated in the certification. Consequently, any certification made by a chief executive officer (or equivalent officer) under circumstances where a chief compliance officer has concluded, after consultation, that there is an inadequate basis for making such certification would be, without limitation, conduct inconsistent with the observance of the high standards of commercial honor and the just and equitable principles of trade — a violation of Rule 2010. Beyond the certification requirement, it is the intention of this Rule to foster regular and significant interaction between senior management and the chief compliance officer(s) regarding the member's comprehensive compliance program.

.06 Responsibility for Compliance Functions. The chief compliance officer(s) and other compliance officers that report to the chief compliance officer(s) (as described in the sentence that immediately follows) shall perform the compliance functions contemplated by this Rule, including paragraphs 3 and 4 of the certification. Nothing in this Rule is intended to limit or discourage the participation of other employees both within and without the member's compliance department in any aspect of the member's compliance programs or processes, including those matters discussed in this Rule. However, it is understood that a chief compliance officer and, where applicable, the most senior compliance officers having primary compliance department responsibility for each of the member's business segments, will retain responsibility for the compliance functions contemplated by this Rule, including paragraphs 3 and 4 of the certification.

As may be necessary to render their views and advice, the chief compliance officer(s) and the other officers referenced in paragraph 3 of the certification who consult with the chief executive officer(s) (or equivalent officer(s)) pursuant to paragraph 4, shall, in turn, consult with other employees, officers, outside consultants, lawyers and accountants.

.07 Effect of Certification on Business Line Responsibility. The FINRA Board of Governors recognizes that supervisors with business line responsibility are accountable for the discharge of a member's compliance policies and written supervisory procedures. The signatory to the certification is certifying only as to having processes in place to establish, maintain, review, test and modify the member's written compliance and supervisory policies and procedures and the execution of this certification and any consultation rendered in connection with such certification does not by itself establish business line responsibility.

.08 Ability of Chief Compliance Officer to Hold Other Positions. The requirement to designate one or more chief compliance officers does not preclude such persons from holding any other position within the member, including the position of chief executive officer, provided that such persons can discharge the duties of a chief compliance officer in light of his or her other additional responsibilities.

.09 Members Without a Board of Directors or Audit Committee. The requirement that a member's processes include providing the report to the board of directors and audit committee (required by paragraph 3 of the certification) does not apply to members that do not utilize these types of governing bodies and committees in the conduct of their business.[2]

.10 Content of Report Documenting Processes. The report required in paragraph 3 of the certification must document the member's processes for establishing, maintaining, reviewing, testing and modifying compliance policies, that are reasonably designed to achieve compliance with applicable FINRA rules, MSRB rules and federal securities laws and regulations, and any principal designated by the member may prepare the report. The report must be produced prior to execution of the certification and be reviewed by the chief executive officer(s) (or equivalent officer(s)), chief compliance officer(s) and any other officers the member deems necessary to make the certification and must be provided to the member's board of directors and audit committee in final form either prior to execution of the certification or at the earlier of their next scheduled meetings or within 45 days of execution of the certification. The report should include the manner and frequency in which the processes are administered, as well as the identification of officers and supervisors who have responsibility for such administration. The report need not contain any conclusions produced as a result of following the processes set forth therein. The report may be combined with any other compliance report or other similar report required by any other self-regulatory organization provided that (1) such report is clearly titled in a manner indicating that it is responsive to the requirements of the certification and this Rule; (2) a member that submits a report for review in response to a FINRA request must submit the report in its entirety; and (3) the member makes such report in a timely manner, i.e., annually.

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[2] As a part of their process, members must have the report reviewed by their governing bodies and committees that serve similar functions in lieu of a board of directors and audit committee.

Amended by SR-FINRA-2008-057 eff. Dec. 15, 2008.
Amended by SR-FINRA-2008-030 eff. Dec. 15, 2008.
Amended by SR-NASD-2007-049 eff. July 16, 2007.
Amended by SR-NASD-2005-121 eff. Oct. 14, 2005.
Adopted by SR-NASD-2003-176 eff. Dec. 1, 2004.

Selected Notices: 04-79, 07-32, 08-57.

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3160. Networking Arrangements Between Members and Financial Institutions

(a) Standards for Member Conduct

Except as otherwise provided in this Rule, a member that is a party to a networking arrangement under which the member conducts broker-dealer services on or off the premises of a financial institution is subject to the following requirements:

(1) Setting

A member that conducts broker-dealer services on the premises of a financial institution shall:

(A) be clearly identified as the person providing broker-dealer services and shall distinguish its broker-dealer services from the services of the financial institution;

(B) conduct its broker-dealer services in an area that displays clearly the member's name; and

(C) to the extent practicable, maintain its broker-dealer services in a location physically separate from the routine retail deposit-taking activities of the financial institution.

(2) Networking Agreements

(A) Networking arrangements between a member and a financial institution shall be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements and include all broker-dealer obligations, as applicable, set forth in Rule 701 of SEC Regulation R. Independent of their contractual obligations, members shall comply with all broker-dealer obligations, as applicable, under Rule 701 of SEC Regulation R.

(B) The member shall ensure that the written agreement stipulates that supervisory personnel of the member and representatives of the SEC and FINRA will be permitted access to the financial institution's premises where the member conducts broker-dealer services, as applicable, in order to inspect the books and records and other relevant information maintained by the member with respect to its broker-dealer services.

(3) Customer Disclosure

(A) At or prior to the time that a customer account is opened by a member that is a party to a networking arrangement, the member shall disclose in writing to each customer that the broker-dealer services are being provided by the member and not by the financial institution, and that the securities products purchased or sold in a transaction are:

(i) not insured by the Federal Deposit Insurance Corporation ("FDIC");

(ii) not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and

(iii) subject to investment risks, including possible loss of the principal invested.

(B) The disclosures required by paragraph (a)(3)(A) of this Rule also shall be made orally by a member that is a party to a networking arrangement for any customer account opened on the premises of a financial institution.

(4) Communications with the Public

(A) All member confirmations and account statements shall indicate clearly that the broker-dealer services are being provided by the member.

(B) Retail communications, including material published, or designed for use, in radio or television

broadcasts, Automated Teller Machine ("ATM") screens, billboards, signs, posters and brochures, that announce the location of a financial institution where broker-dealer services are provided by the member or promote the name or services of the financial institution or that are distributed by the member on the premises of a financial institution or at such other location where the financial institution is present or represented shall include the disclosures required by paragraph (a)(3) of this Rule. The following legend may be used to provide these disclosures in retail communications, provided that such disclosures are displayed in a conspicuous manner:

- Not FDIC Insured
- No Bank Guarantee
- May Lose Value

(C) As long as the omission of the disclosures required by paragraph (a)(4)(B) of this Rule would not cause the retail communications to be misleading in light of the context in which the material is presented, such disclosures are not required with respect to messages contained in:

(i) radio broadcasts of 30 seconds or less;

(ii) electronic signs, including billboard-type signs that are electronic, time and temperature signs and ticker tape signs, but excluding messages contained in such media as television, online services or ATMs; and

(iii) signs, such as banners and posters, when used only as location indicators.

(5) Notifications of Terminations

A member shall promptly notify the financial institution if any associated person of the member who is employed by the financial institution is terminated for cause by the member.

(b) Definitions

For purposes of this Rule, the following terms shall have the meanings specified below:

(1) "Financial institution" shall mean federal and state-chartered banks, savings and loan associations, savings banks, credit unions, and the service corporations of such institutions required by law.

(2) "Networking arrangement" shall mean a contractual or other written agreement between a member and a financial institution under which the member offers broker-dealer services on or off the premises of the financial institution.

(3) "Broker-dealer services" shall mean investment banking or securities business as defined in Article I of the FINRA By-Laws.

Amended by SR-FINRA-2013-001 eff. Feb. 4, 2013.
Amended by SR-FINRA-2010-023 eff. June 14, 2010.
Amended by SR-FINRA-2009-047 eff. June 14, 2010.
Adopted by SR-NASD-95-63 eff. Feb. 15, 1998.

Selected Notices: 94-94, 96-3, 97-26, 97-89, 10-21.

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3200. RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS

3220. Influencing or Rewarding Employees of Others

(a) No member or person associated with a member shall, directly or indirectly, give or permit to be given anything of value, including gratuities, in excess of one hundred dollars per individual per year to any person, principal, proprietor, employee, agent or representative of another person where such payment or gratuity is in relation to the business of the employer of the recipient of the payment or gratuity. A gift of any kind is considered a gratuity.

(b) This Rule shall not apply to contracts of employment with or to compensation for services rendered by persons enumerated in paragraph (a) provided that there is in existence prior to the time of employment or before the services are rendered, a written agreement between the member and the person who is to be employed to perform such services. Such agreement shall include the nature of the proposed employment, the amount of the proposed compensation, and the written consent of such person's employer or principal.

(c) A separate record of all payments or gratuities in any amount known to the member, the employment agreement referred to in paragraph (b) and any employment compensation paid as a result thereof shall be retained by the member for the period specified by SEA Rule 17a-4.

Amended by SR-FINRA-2008-027 eff. Dec. 15, 2008.
Amended by SR-NASD-92-40 eff. Dec. 28, 1992.
Amended by SR-NASD-84-8 eff. June 20, 1984.
Amended eff. Sept. 1, 1969.

Selected Notices: 82-44, 93-8, 08-57.

3230. Telemarketing

(a) General Telemarketing Requirements

No member or person associated with a member shall initiate any outbound telephone call to:

(1) Time of Day Restriction

Any residence of a person before the hour of 8 a.m. or after 9 p.m. (local time at the called party's location), unless

(A) the member has an established business relationship with the person pursuant to paragraph (m)(12)(A),

(B) the member has received that person's prior express invitation or permission, or

(C) the person called is a broker or dealer;

(2) Firm-Specific Do-Not-Call List

Any person that previously has stated that he or she does not wish to receive an outbound telephone call made by or on behalf of the member; or

(3) National Do-Not-Call List

Any person who has registered his or her telephone number on the Federal Trade Commission's national do-not-call registry.

(b) National Do-Not-Call List Exceptions

A member making outbound telephone calls will not be liable for violating paragraph (a)(3) if:

(1) Established Business Relationship Exception

The member has an established business relationship with the recipient of the call. A person's request to be placed on the firm-specific do-not-call list terminates the established business relationship exception to that national do-not-call list provision for that member even if the person continues to do business with the member;

(2) Prior Express Written Consent Exception

The member has obtained the person's prior express invitation or permission. Such permission must be evidenced by a signed, written agreement (which may be obtained electronically under the E-Sign Act) between the person and member which states that the person agrees to be contacted by the member and includes the telephone number to which the calls may be placed; or

(3) Personal Relationship Exception

The associated person making the call has a personal relationship with the recipient of the call.

(c) Safe Harbor Provision

A member or person associated with a member making outbound telephone calls will not be liable for violating paragraph (a)(3) if the member or person associated with a member demonstrates that the violation is the result of an error and that as part of the member's routine business practice, it meets the following standards:

(1) Written procedures. The member has established and implemented written procedures to comply with the national do-not-call rules;

(2) Training of personnel. The member has trained its personnel, and any entity assisting in its compliance, in procedures established pursuant to the national do-not-call rules;

(3) Recording. The member has maintained and recorded a list of telephone numbers that it may not contact; and

(4) Accessing the national do-not-call database. The member uses a process to prevent outbound telephone calls to any telephone number on any list established pursuant to the do-not-call rules, employing a version of the national do-not-call registry obtained from the administrator of the registry no more than 31 days prior to the date any call is made, and maintains records documenting this process.

(d) Procedures

Prior to engaging in telemarketing, a member must institute procedures to comply with paragraph (a). Such procedures must meet the following minimum standards:

(1) Written policy. Members must have a written policy for maintaining a do-not-call list.

(2) Training of personnel engaged in telemarketing. Personnel engaged in any aspect of telemarketing must be informed and trained in the existence and use of the do-not-call list.

(3) Recording, disclosure of do-not-call requests. If a member receives a request from a person not to receive calls from that member, the member must record the request and place the person's name, if provided, and telephone number on the firm's do-not-call list at the time the request is made. Members must honor a person's do-not-call request within a reasonable time from the date such request is made. This period may not exceed 30 days from the date of such request. If such requests are recorded or maintained by a party other than the member on whose behalf the outbound telephone call is made, the member on whose behalf the outbound telephone call is made will be liable for any failures to honor the do-not-call request.

(4) Identification of sellers and telemarketers. A member or person associated with a member making an outbound telephone call must provide the called party with the name of the individual caller, the name of the member, an address or telephone number at which the member may be contacted, and that the purpose of the call is to solicit the purchase of securities or related service. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges.

(5) Affiliated persons or entities. In the absence of a specific request by the person to the contrary, a person's do-not-call request shall apply to the member making the call, and will not apply to affiliated entities unless the consumer

reasonably would expect them to be included given the identification of the caller and the product being advertised.

(6) Maintenance of do-not-call lists. A member making outbound telephone calls must maintain a record of a person's request not to receive further calls.

(e) Wireless Communications

The provisions set forth in this Rule are applicable to members and persons associated with a member making outbound telephone calls to wireless telephone numbers.

(f) Outsourcing Telemarketing

If a member uses another appropriately registered or licensed entity or person to perform telemarketing services on its behalf, the member remains responsible for ensuring compliance with all provisions contained in this Rule.

(g) Caller Identification Information

(1) Any member that engages in telemarketing, as defined in paragraph (m)(20) of this Rule, must transmit or cause to be transmitted the telephone number, and, when made available by the member's telephone carrier, the name of the member, to any caller identification service in use by a recipient of an outbound telephone call.

(2) The telephone number so provided must permit any person to make a do-not-call request during regular business hours.

(3) Any member that engages in telemarketing, as defined in paragraph (m)(20) of this Rule, is prohibited from blocking the transmission of caller identification information.

(h) Unencrypted Consumer Account Numbers

No member or person associated with a member shall disclose or receive, for consideration, unencrypted consumer account numbers for use in telemarketing. The term “unencrypted” means not only complete, visible account numbers, whether provided in lists or singly, but also encrypted information with a key to its decryption. This paragraph shall not apply to the disclosure or receipt of a customer's billing information to process a payment pursuant to a telemarketing transaction.

(i) Submission of Billing Information

For any telemarketing transaction, a member or person associated with a member must obtain the express informed consent of the person to be charged and to be charged using the identified account.

(1) In any telemarketing transaction involving preacquired account information and a free-to-pay conversion feature, the member or person associated with a member must:

(A) obtain from the customer, at a minimum, the last four digits of the account number to be charged;

(B) obtain from the customer an express agreement to be charged and to be charged using the account number pursuant to paragraph (i)(1)(A); and

(C) make and maintain an audio recording of the entire telemarketing transaction.

(2) In any other telemarketing transaction involving preacquired account information not described in paragraph (i)(1), the member or person associated with a member must:

(A) identify the account to be charged with sufficient specificity for the customer to understand what account will be charged; and

(B) obtain from the customer an express agreement to be charged and to be charged using the account number identified pursuant to paragraph (i)(2)(A).

(j) Abandoned Calls

(1) No member or person associated with a member shall “abandon” any outbound telephone call. An outbound telephone call is “abandoned” if a person answers it and the call is not connected to a person associated with a member within two seconds of the person's completed greeting.

(2) A member or person associated with a member shall not be liable for violating paragraph (j)(1) if:

(A) the member or person associated with a member employs technology that ensures abandonment of no more than three percent of all outbound telephone calls answered by a person, measured over the duration of a single calling campaign, if less than 30 days, or separately over each successive 30-day period or portion thereof that the campaign continues;

(B) the member or person associated with a member, for each outbound telephone call placed, allows the telephone to ring for at least 15 seconds or four rings before disconnecting an unanswered call;

(C) whenever a person associated with a member is not available to speak with the person answering the outbound telephone call within two seconds after the person's completed greeting, the member or person associated with a member promptly plays a recorded message that states the name and telephone number of the member or person associated with the member on whose behalf the call was placed; and

(D) the member retains records establishing compliance with paragraph (j)(2).

(k) Prerecorded Messages

(1) No member or person associated with a member shall initiate any outbound telephone call that delivers a prerecorded message other than a prerecorded message permitted for compliance with the call abandonment safe harbor in paragraph (j)(2)(C) unless:

(A) the member has obtained from the recipient of the call an express agreement, in writing, that:

(i) the member obtained only after a clear and conspicuous disclosure that the purpose of the agreement is to authorize the member to place prerecorded calls to such person;

(ii) the member obtained without requiring, directly or indirectly, that the agreement be executed as a condition of opening an account or purchasing any good or service;

(iii) evidences the willingness of the recipient of the call to receive calls that deliver prerecorded messages by or on behalf of a specific member; and

(iv) includes such person's telephone number and signature (which may be obtained electronically under the E-Sign Act);

(B) the member or person associated with a member allows the telephone to ring for at least 15 seconds or four rings before disconnecting an unanswered call; and within two seconds after the completed greeting of the person called, plays a prerecorded message that promptly provides the disclosures in paragraph (d)(4), followed immediately by a disclosure of one or both of the following:

(i) for a call that could be answered by a person, that the person called can use an automated interactive voice and/or keypress-activated opt-out mechanism to assert a firm-specific do-not-call request pursuant to the member's procedures instituted under paragraph (d)(3) at any time during the message. The mechanism must:

a. automatically add the number called to the member's firm-specific do-not-call list;

b. once invoked, immediately disconnect the call; and

c. be available for use at any time during the message;

(ii) for a call that could be answered by an answering machine or voicemail service, that the person called can use a toll-free telephone number to assert a firm-specific do-not-call request pursuant to the member's procedures instituted under paragraph (d)(3). The number provided must connect directly to an automated interactive voice or keypress-activated opt-out mechanism that:

a. automatically adds the number called to the member's firm-specific do-not-call list;

b. immediately thereafter disconnects the call; and

c. is accessible at any time throughout the duration of the telemarketing campaign; and

(C) the member complies with all other requirements of this Rule and other applicable federal and state laws.

(2) Any call that complies with all applicable requirements of paragraph (k) shall not be deemed to violate paragraph (j).

(l) Credit Card Laundering.

Except as expressly permitted by the applicable credit card system, no member or person associated with a member shall:.

(1) present to or deposit into, the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the member;.

(2) employ, solicit, or otherwise cause a merchant, or an employee, representative or agent of the merchant, to present to or to deposit into the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant; or.

(3) obtain access to the credit card system through the use of a business relationship or an affiliation with a merchant, when such access is not authorized by the merchant agreement or the applicable credit card system.

(m) Definitions

For purposes of this Rule:

(1) The term "account activity" shall include, but not be limited to, purchases, sales, interest credits or debits, charges or credits, dividend payments, transfer activity, securities receipts or deliveries, and/or journal entries relating to securities or funds in the possession or control of the member.

(2) The term “acquirer” means a business organization, financial institution, or an agent of a business organization or financial institution that has authority from an organization that operates or licenses a credit card system to authorize merchants to accept, transmit, or process payment by credit card through the credit card system for money, goods or services, or anything else of value.

(3) The term “billing information” means any data that enables any person to access a customer's or donor's account, for example a credit or debit card number, a brokerage, checking, or savings account number, or a mortgage loan account number.

(4) The term "broker-dealer of record" refers to the broker-dealer identified on a customer's account application for accounts held directly at a mutual fund or variable insurance product issuer.

(5) The term “caller identification service” means a service that allows a telephone subscriber to have the telephone number, and, where available, name of the calling party transmitted contemporaneously with the telephone call, and displayed on a device in or connected to the subscriber's telephone.

(6) The term “cardholder” means a person to whom a credit card is issued or who is authorized to use a credit card on behalf of or in addition to the person to whom the credit card is issued.

(7) The term “credit” means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(8) The term “credit card” means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

(9) The term “credit card sales draft” means any record or evidence of a credit card transaction.

(10) The term “credit card system” means any method or procedure used to process credit card transactions involving credit cards issued or licensed by the operator of that system.

(11) The term “customer” means any person who is or may be required to pay for goods or services offered through telemarketing.

(12) The term “established business relationship" means a relationship between a member and a person if:

(A) the person has made a financial transaction or has a security position, a money balance, or account activity with the member or at a clearing firm that provides clearing services to such member within the previous 18 months immediately preceding the date of the telemarketing call;

(B) the member is the broker-dealer of record for an account of the person within the previous 18 months immediately preceding the date of the telemarketing call; or

(C) the person has contacted the member to inquire about a product or service offered by the member within the previous three months immediately preceding the date of the telemarketing call.

A person's established business relationship with a member does not extend to the member's affiliated entities unless the person would reasonably expect them to be included. Similarly, a person's established business relationship with a member's affiliate does not extend to the member unless the person would reasonably expect the member to be included.

(13) The term “free-to-pay conversion” means, in an offer or agreement to sell or provide any goods or services, a provision under which a customer receives a product or service for free for an initial period and will incur an obligation to pay for the product or service if he or she does not take affirmative action to cancel before the end of that period.

(14) The term “merchant” means a person who is authorized under a written contract with an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution. A “charitable contribution” means any donation or gift of money or any other thing of value, for example a transfer to a pooled income fund.

(15) The term “merchant agreement” means a written contract between a merchant and an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution.

(16) The term “outbound telephone call” means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution from a donor. A “donor” means any person solicited to make a charitable contribution.

(17) The term “person” means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

(18) The term "personal relationship" means any family member, friend, or acquaintance of the person associated with a member making an outbound telephone call.

(19) The term “preacquired account information” means any information that enables a seller or telemarketer to cause a charge to be placed against a customer's or donor's account without obtaining the account number directly from the customer or donor during the telemarketing transaction pursuant to which the account will be charged.

(20) The term "telemarketing" means consisting of or relating to a plan, program, or campaign involving at least one outbound telephone call, for example cold-calling. The term does not include the solicitation of sales through the mailing of written marketing materials, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the marketing materials and during those calls takes orders only without further solicitation. For purposes of the previous sentence, the term “further solicitation” does not include providing the customer with information about, or attempting to sell, anything promoted in the same marketing materials that prompted the customer's call.

• • • Supplementary Material: ----------

.01 Compliance with Other Requirements. This Rule does not affect the obligation of any member or person associated with a member that engages in telemarketing to comply with relevant state and federal laws and rules, including but not limited to the Telemarketing and Consumer Fraud and Abuse Prevention Act codified at 15 U.S.C. 6101–6108, as amended, the Telephone Consumer Protection Act codified at 47 U.S.C. 227, and the rules of the Federal Communications Commission relating to telemarketing practices and the rights of telephone consumers codified at 47 CFR 64.1200.

Amended by SR-FINRA-2013-001 eff. Feb. 4, 2013.
Amended by SR-FINRA-2012-027 eff. July 9, 2012.
Amended by SR-FINRA-2011-059 eff. June 29, 2012.
Amended by SR-NASD-2004-174 eff. March 1, 2005.
Amended by SR-NASD-2003-131 eff. March 31, 2004.
Amended by SR-NASD-2000-12 eff. Nov. 3, 2003.
Adopted by SR-NASD-96-28 eff. Dec. 2, 1996.

Selected Notice: 04-15, 05-07, 12-17.

3240. Borrowing From or Lending to Customers

(a) Permissible Lending Arrangements; Conditions

No person associated with a member in any registered capacity may borrow money from or lend money to any customer of such person unless:

(1) the member has written procedures allowing the borrowing and lending of money between such registered persons and customers of the member;

(2) the borrowing or lending arrangement meets one of the following conditions:

(A) the customer is a member of such person's immediate family;

(B) the customer (i) is a financial institution regularly engaged in the business of providing credit, financing, or loans, or other entity or person that regularly arranges or extends credit in the ordinary course of business and (ii) is acting in the course of such business;

(C) the customer and the registered person are both registered persons of the same member;

(D) the lending arrangement is based on a personal relationship with the customer, such that the loan would not have been solicited, offered, or given had the customer and the registered person not maintained a relationship outside of the broker-customer relationship; or

(E) the lending arrangement is based on a business relationship outside of the broker-customer relationship; and

(3) the requirements of paragraph (b) of this Rule are satisfied.

(b) Notification and Approval

(1) The registered person shall notify the member of the borrowing or lending arrangements described in paragraphs (a)(2)(C), (D), and (E) above prior to entering into such arrangements and the member shall pre-approve in writing such arrangements. The registered person shall also notify the member and the member shall pre-approve in writing any modifications to such arrangements, including any extension of the duration of such arrangements.

(2) With respect to the borrowing or lending arrangements described in paragraph (a)(2)(A) above, a member's written procedures may indicate that registered persons are not required to notify the member or receive member approval either prior to or subsequent to entering into such borrowing or lending arrangements.

(3) With respect to the borrowing or lending arrangements described in paragraph (a)(2)(B) above, a member's written procedures may indicate that registered persons are not required to notify the member or receive member approval either prior to or subsequent to entering into such borrowing or lending arrangements, provided that, the loan has been made on commercial terms that the customer generally makes available to members of the general public similarly situated as to need, purpose and creditworthiness. For purposes of this subparagraph, the member may rely on the registered person's representation that the terms of the loan meet the above-described standards.

(c) Definition of Immediate Family

The term "immediate family" means parents, grandparents, mother-in-law or father-in-law, husband or wife, brother or sister, brother-in-law or sister-in-law, son-in law or daughter-in-law, children, grandchildren, cousin, aunt or uncle, or niece or nephew, and any other person whom the registered person supports, directly or indirectly, to a material extent.

• • • Supplementary Material: ----------

.01 Record Retention. For purposes of paragraph (b)(1) of this Rule, members shall preserve the written pre-approval for at least three years after the date that the borrowing or lending arrangement has terminated or for at least three years after the registered person's association with the member has terminated.

Amended by SR-FINRA-2009-095 eff. June 14, 2010.
Amended by SR-NASD-2004-05 eff. Feb. 18, 2004.

Adopted by SR-NASD-2003-92 eff. Nov. 10, 2003.

Selected Notice: 10-21.

3250. Designation of Accounts

No member shall carry an account on its books in the name of a person other than that of the customer, except that an account may be designated by a number or symbol, provided the member has on file a written statement signed by the customer attesting the ownership of such account.

Amended by SR-FINRA-2009-017 eff. Aug. 17, 2009.
Amended by SR-NYSE-92-04 eff. May 27, 1992.
Amended eff. March 26, 1970.

Selected Notice: 09-33.

3270. Outside Business Activities of Registered Persons

No registered person may be an employee, independent contractor, sole proprietor, officer, director or partner of another person, or be compensated, or have the reasonable expectation of compensation, from any other person as a result of any business activity outside the scope of the relationship with his or her member firm, unless he or she has provided prior written notice to the member, in such form as specified by the member. Passive investments and activities subject to the requirements of NASD Rule 3040 shall be exempted from this requirement.

• • • Supplementary Material: ----------

.01 Obligations of Member Receiving Notice. Upon receipt of a written notice under Rule 3270, a member shall consider whether the proposed activity will: (1) interfere with or otherwise compromise the registered person's responsibilities to the member and/or the member's customers or (2) be viewed by customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered. Based on the member's review of such factors, the member must evaluate the advisability of imposing specific conditions or limitations on a registered person's outside business activity, including where circumstances warrant, prohibiting the activity. A member also must evaluate the proposed activity to determine whether the activity properly is characterized as an outside business activity or whether it should be treated as an outside securities activity subject to the requirements of NASD Rule 3040. A member must keep a record of its compliance with these obligations with respect to each written notice received and must preserve this record for the period of time and accessibility specified in SEA Rule 17a-4(e)(1).

Amended by SR-FINRA-2009-042 eff. Dec. 15, 2010.
Adopted by SR-NASD-88-34 eff. Oct. 13, 1988.

Selected Notices: 88-5, 88-45, 88-86, 89-39, 90-37, 94-44, 94-93, 96-33, 01-79, 10-49.

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3300. ANTI-MONEY LAUNDERING

3310. Anti-Money Laundering Compliance Program

Each member shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the member's compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, *et seq*.), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each member's anti-money laundering program must be approved, in writing, by a member of senior management. The anti-money laundering programs required by this Rule shall, at a minimum,

(a) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;

(b) Establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(c) Provide for annual (on a calendar-year basis) independent testing for compliance to be conducted by member personnel or by a qualified outside party, unless the member does not execute transactions for customers or otherwise hold customer accounts or act as an introducing broker with respect to customer accounts (e.g., engages solely in proprietary trading or conducts business only with other broker-dealers), in which case such "independent testing" is required every two years (on a calendar-year basis);

(d) Designate and identify to FINRA (by name, title, mailing address, e-mail address, telephone number, and facsimile number) an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program (such individual or individuals must be an associated person of the member) and provide prompt notification to FINRA regarding any change in such designation(s); and

(e) Provide ongoing training for appropriate personnel.

• • • Supplementary Material: ----------

.01 Independent Testing Requirements

(a) All members should undertake more frequent testing than required if circumstances warrant.

(b) Independent testing, pursuant to Rule 3310(c), must be conducted by a designated person with a working knowledge of applicable requirements under the Bank Secrecy Act and its implementing regulations.

(c) Independent testing may not be conducted by:

(1) a person who performs the functions being tested,

(2) the designated anti-money laundering compliance person, or

(3) a person who reports to a person described in either subparagraphs (1) or (2) above.

.02 Review of Anti-Money Laundering Compliance Person Information

Each member must identify, review, and, if necessary, update the information regarding its anti-money laundering

compliance person designated pursuant to Rule 3310(d) in the manner prescribed by NASD Rule 1160.

Amended by SR-FINRA-2009-039 eff. Jan. 1, 2010.
Amended by SR-NASD-2007-034 eff. Dec. 31, 2007.
Amended by SR-NASD-2005-066 eff. Mar. 6, 2006.
Amended by SR-NASD-2002-146 eff. Oct. 22, 2002.
Adopted by SR-NASD-2002-24 eff. April 24, 2002.

Selected Notices: 02-21, 02-50, 02-78, 02-80, 03-34, 06-07, 07-42, 09-60.