

ARM Association of Registration Management

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via electronic mail

June 22, 2005

Mr. Jonathan G. Katz
Secretary
United States Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

Re: File No. SR-NASD-2005-30

Dear Mr. Katz:

The Association of Registration Management¹ (“ARM”) appreciates the opportunity to comment on the proposed Uniform Branch Office Registration Application, Form BR (“form”).

As previously mentioned², ARM strongly supports the concept of a form that would enable broker-dealers to electronically register, with a single filing effected through the Central Registration Depository (“CRD”), their branch offices with NASD, NYSE and those states that require branch registration. Such a form would serve to provide all regulatory agencies with pertinent information needed to perform their mandate while at the same time would eliminate the need for industry to file multiple forms on multiple regulatory systems in filing exercises that would essentially serve to elicit the same information. In addition to eliminating redundancies, Form BR will likely improve data integrity, as clerical oversights occasionally occur when one has to make the same type of filing and reporting through various paper and electronic mediums.

ARM realizes NASD has carefully considered the comments it received following publication of *Notice to Members* 04-55. Accordingly, ARM will not restate those comments but rather will clarify some points that came to light with the latest revision to the proposed form.

¹ The Association of Registration Management is an industry association founded in 1975 that is comprised of registration managers of broker-dealers who deal with the regulatory community on matters relating to licensing and registration.

² NASD *Notice to Members* 04-55 solicited comments on the proposed Uniform Branch Office Registration Application, Form BR.

Multiple Billing Codes

ARM was pleased to note that NASD modified the proposed form in order to allow more for than one supervisor to be assigned to a single office location. In our NASD comment letter, we indicated that branch offices should be allowed to have more than one supervisor because it is not uncommon for full-service firms to have various businesses be supervised by different individuals at a single location. For example, a branch office could have a retail department and an institutional sales and trading department at the same location. Industry practice is to have such areas supervised by different individuals since the businesses—while in some respects similar—are typically vastly different in nature.

However, we neglected to point out in that comment letter that these different supervisors (those running different businesses in a single location) would likely possess different “billing codes”. Since these billing codes were designed to be unique to a single location and since one of the goals of Form BR is to link registered representatives to a specific supervisor, there will be problems with Form BR’s current proposed design.

In addition, a scenario could exist wherein a single office being managed by a single individual will have more than one billing code. Such might be the case when two branch offices are consolidated into one and a firm decides to maintain both billing codes (this scenario could occur because billing codes often serve as a prefix to customer accounts domiciled in a particular branch office). When two branch offices consolidate, a firm might simply choose to have the surviving branch office continue to utilize separate billing codes rather than changing several thousand customer account numbers.

Of course, an alternative methodology in addressing this concern would be to register the same business location *multiple* times. However, doing so would be cost-prohibitive, would constitute an administrative burden on a firm and, more importantly, would grossly distort the actual number of branch offices that a firm maintains. This, in turn, could lead to other adverse consequences.

ARM recognizes NASD expended a tremendous amount of resources in developing Form BR and also recognizes NASD seeks to launch the form later this year. In the event NASD would like to—but cannot—incorporate these suggested changes while remaining on schedule for form implementation, ARM suggests NASD maintain their rollout schedule while at the same time consider *promptly* making an enhancement that would permit multiple managers (reflecting, again, multiple businesses and billing codes) at a single branch office as well as making one that would permit a single branch office to possess multiple billing codes.

Independent Contractor Question

ARM also noted NASD has decided to remove the “Independent Contractor” question from Form BR and instead include it on Form U4, their reasoning apparently being that Form U4 would be the more appropriate location for this type of question. ARM does not disagree with NASD’s conclusion in this regard but wishes to remind them of the consequences of the introduction of new questions to Form U4. Doing so, for example, creates a tremendous operational and administrative problem for industry as firms are unable to promptly file amendments for registered personnel. Why would this be so? Every registered person in the CRD database (a universe of approximately 650,000 individuals) would, upon the introduction of a new Independent Contractor question, immediately have an *incomplete* Form U4 on file. The resulting incomplete/deficient records would consequently prevent firms from obtaining

any additional SRO or state registrations, would prevent firms from effecting exam schedulings and/or would prevent firms from effecting any other amendment (residential or branch office change, for example) on behalf of any of its registered representatives until such time when each registrant refiles an amended Form U4 that contains a response to the new question. Potentially compounding matters is NASD Rule 3080 (should NASD decide to place the question on page three of Form U4). Firms are required, in consequence of that rule, to send a notice relative to employer/employee disputes to all registered persons whenever an amendment to page three of Form U4 occurs.

ARM therefore would urge that the independent contractor question be placed in a section of Form U4 that does not require a registered representative signature so as to avoid triggering a Rule 3080 notification. Further, we urge NASD to set a “no” default to the response to that question (since it is our belief that most registered representatives are *not* independent contractors). NASD in turn may then require firms to effect, within a set period of time, a change (whether by manual or electronic—e.g., Electronic File Transfer—means) of any “no” response to a “yes” response if such change is warranted.

Signatures

Finally, while not entirely clear in Release SR-NASD-2005-30, ARM wishes to remind NASD of its position with respect to branch office registration form signatures. We believe that requiring such forms to be signed would be without precedent. Note that neither the current NYSE Branch Office Application nor the amendment of Schedule E of Form BD require signature (Schedule E does not even contain an Execution Page). Persons who are delegated responsibilities by their employing broker-dealer for such filings are granted entitlements for the involved regulatory systems (e.g., NYSE EFP and NASD CRD) and are accordingly capable of identifying the person at the member organization responsible for effecting any filing. Requiring a signature on Form BR is taking a step backwards and is tantamount to suggesting that the person submitting the filing is not accountable for the accuracy of the data contained in that filing. This begs the question: why maintain entitlements *at all* for such functionality?

Thank you for allowing ARM the opportunity to provide these additional comments on this very significant initiative. ARM once again strongly endorses the concept of a single Branch Office Registration Form.

Sincerely,

Mario DiTrapani
President