

## Investment Banking Representative

### SEC Approves Rule Change Creating New Limited Representative – Investment Banker Registration Category and Series 79 Investment Banking Exam

Effective Date: November 2, 2009

#### Executive Summary

Effective November 2, 2009, amendments to NASD Rules 1022 and 1032 require individuals whose activities are limited to investment banking and principals who supervise such activities to pass the new Limited Representative – Investment Banking Qualification Examination (Series 79 Exam). Individuals who are registered as a General Securities Representative (Series 7) and engage in the member firm's investment banking business as described in NASD Rule 1032(i) may "opt in" to the new registration category by May 3, 2010 (within six months of the effective date).

Frequently asked questions about registration as an investment banking representative are listed in Attachment A. The text of the rule change is set forth in Attachment B.

Questions concerning this *Notice* should be directed to:

- Philip Shaikun, Associate Vice President and Associate General Counsel, at (202) 728-8451;
- Joe McDonald, Director, Qualifications and Examinations, at (240) 386-5065; or
- Tina Freilicher, Director, Psychometrics and Qualifications, at (646) 315-8752.

#### July 2009

##### Notice Type

- Rule Amendment

##### Suggested Routing

- Compliance
- Continuing Education
- Investment Banking
- Legal
- Operations
- Registration
- Sales
- Senior Management

##### Key Topic(s)

- Continuing Education
- Investment Banking
- Qualification Examinations
- Registration
- Supervision

##### Referenced Rules & Notices

- NASD Rule 1022
- NASD Rule 1032

## Background and Discussion

NASD Rule 1032(i) requires an associated person to register with FINRA as a Limited Representative – Investment Banking (Investment Banking Representative) and pass a corresponding qualification examination if such person's activities involve:

- (1) advising on or facilitating debt or equity securities offerings through a private placement or a public offering, including but not limited to origination, underwriting, marketing, structuring, syndication, and pricing of such securities and managing the allocation and stabilization activities of such offerings, or
- (2) advising on or facilitating mergers and acquisitions, tender offers, financial restructurings, asset sales, divestitures or other corporate reorganizations or business combination transactions, including but not limited to rendering a fairness, solvency or similar opinion.

The registration category does not cover individuals whose investment banking work is limited to public (municipal) finance or direct participation programs as defined in NASD Rule 1022(e)(2). Moreover, individuals whose investment banking work is limited to effecting private securities offerings as defined in NASD Rule 1032(h)(1)(A) may continue to function in such capacity by registering as a Limited Representative – Private Securities Offerings and passing the corresponding Series 82 exam.

Individuals whose activities require registration as an Investment Banking Representative will be required to pass the Investment Banking Representative Qualification Examination (Series 79) or obtain a waiver. FINRA has developed this exam to provide a more targeted assessment of the job functions performed by the individuals that fall within the registration category. The exam will be required in lieu of the current General Securities Representative (Series 7) exam or equivalent exams<sup>1</sup> by the individuals who perform the job functions described in the new registration category. Any person whose activities go beyond those of the Investment Banking Representative registration category must separately qualify and register in the appropriate category or categories of registration attendant to such activities.

## Transition “Opt-In” Period

Beginning on the effective date of NASD Rule 1032(i) and ending May 3, 2010, six months following implementation of these requirements, registered individuals as well as new applicants whose job functions are described in Rule 1032(i) will be able to register as an Investment Banking Representative as follows:

► **Currently registered representatives who have passed the Series 7 or a Series 7-equivalent exam.**

Investment bankers who hold the Series 7 registration, as well as those who have passed and are registered with a “Series 7-equivalent exam” may opt in to the Investment Banking Representative registration,<sup>2</sup> provided that, as of the date they opt in, such individuals are engaged in investment banking activities covered by Rule 1032(i).<sup>3</sup> Those individuals who choose to opt in will retain their Series 7 or Series 7-equivalent registered representative registration in addition to the investment banking registration. After May 3, 2010, any person who wishes to engage in the specified investment banking activities will be required to pass the Series 79 Exam or obtain a waiver.

► **New Investment Banking Representative Candidates**

During the six-month transition period, FINRA will permit new Limited Representative – Investment Banking candidates to take either the Series 7 Exam, Series 7-equivalent exam (if eligible) or Series 79 Exam. Those who choose to take and pass the Series 7 Exam or Series 7-equivalent exam may then opt in to the Investment Banking Representative registration.

## Training Program Exception

Rule 1032 provides an exception for member firms that operate training programs in which certain new employees are exposed to the firm’s various business lines by rotating among departments, including investment banking. Specifically, Rule 1032(i) does not require an employee placed in such program to register as an Investment Banking Representative for a period of up to six months from the time the employee first engages in activities that otherwise would trigger the requirement to register as an Investment Banking Representative. This exception is available for up to two years after the employee commences the training program. Firms that wish to avail themselves of this exception are required to maintain documents evidencing the details of the training program and identifying the program participants who engage in activities that otherwise would require registration as an Investment Banking Representative and the date on which such participants commenced such activities.

## Principals

The Series 79 Exam will be added to the list of representative exams that satisfy the prerequisite requirement for the General Securities Principal exam (Series 24). Note that the scope of the general securities principal's supervisory responsibility will be determined by the representative-level exam passed. Individuals who wish to act as a general securities principal for activities requiring registration under Rule 1032(i) must obtain the Investment Banking Representative registration—either by opting in or passing the Series 79 Exam—and also pass the General Securities Principal exam. Such individuals will be limited to acting as a general securities principal for the investment banking activities covered by Rule 1032(i). Individuals who wish to function in the capacity of general principal for broader securities-related activities must take another appropriate qualification examination, such as the Series 7 or Series 7-equivalent exam, in addition to the General Securities Principal exam.

Individuals currently functioning as a general securities principal supervising investment banking activities as described in Rule 1032(i) have the same six-month period during which they may opt in to the Investment Banking Representative registration. Those individuals who choose to opt in will retain their Series 7 or Series 7-equivalent registered representative registration in addition to the Investment Banking Representative registration. After the end of the opt-in period, individuals who wish function as a general securities principal overseeing investment banking activities covered by the rule change will be required to pass the Series 79 Exam to function as a general securities principal supervising investment banking activities pursuant to Rules 1022 and 1032(i).

## Exam Content

The qualification exam consists of 175 multiple-choice questions. Candidates are allowed 300 minutes (five hours) to take the exam. Candidates will receive an informational breakdown of their performance on each section of the exam, along with their overall score and pass/fail status at the completion of the exam session.

A content outline that provides a comprehensive guide to the topics covered on the examination and is intended to familiarize candidates with the range of subjects covered by the examination is available at [www.finra.org/brokerqualifications/series79](http://www.finra.org/brokerqualifications/series79). Firms may wish to use the content outline to structure or prepare training material, develop lecture notes and seminar programs, and as a training aide for the candidates. The examination questions are distributed among four major functions reflecting the

overall knowledge, skills and abilities required of an investment banker. Detail on the content of each of these four major job functions, the tasks associated with the job functions and the knowledge necessary to perform the tasks is included in the text of the content outline. The allocation of test questions among the four major functions is described below:

| Section | Description  | Number of Questions |
|---------|--|---------------------|
| 1       | Collection, Analysis and Evaluation of Data  | 75                  |
| 2       | Underwriting/New Financing Transactions, Types of Offerings and Registration Of Securities | 43                  |
| 3       | Mergers and Acquisitions, Tender Offers and Financial Restructuring Transactions           | 34                  |
| 4       | General Securities Industry Regulations  | 23                  |
|         | Total  | 175                 |

The questions used in the examination will be updated to reflect the most current interpretations of the rules and regulations on which they are based. Questions on new rules will be added to the pool of questions for this examination within a reasonable time period of the effective dates of those rules. Questions on rescinded rules will be deleted promptly from the pool of questions. Candidates will be asked questions only pertaining to rules that are effective at the time they take the exam.

The test is administered as a closed-book exam. Severe penalties are imposed on candidates who cheat on FINRA-administered examinations. The proctor will provide scratch paper, an exhibits book and a *basic electronic calculator* to candidates. These items must be returned to the proctor at the end of the session.

The Investment Banking Representative Qualification Examination will be administered at test centers operated by Pearson VUE and Prometric professional testing center networks. Appointments to take the examinations can be scheduled through either network:

- Pearson Professional Centers: contact Pearson VUE Registration Center at **(866) 396-6273 (toll free)**, or **(952) 681-3873 (toll number)**.
- Prometric Testing Centers: contact Prometric's National Call Center at **(800) 578-6273 (toll free)** or go to [www.2test.com](http://www.2test.com) for Web-based scheduling.

## Registration Procedures

A Uniform Application for Securities Industry Registration or Transfer Form (Form U4) must be submitted to FINRA via Web CRD in order to register an individual as an Investment Banking Representative. For persons already registered with a firm who currently hold the Series 7 or Series 7-equivalent registration and who are opting in to the Investment Banking Representative registration category, the firm need only submit an amended Form U4 to request the Limited Representative—Investment Banking registration.

For new employees, a firm must submit a full Form U4 application to request the registration and any other documents required for registration. The exam fee is \$265; the registration fee for new applicants is \$85.

For new Investment Banking Representative candidates who choose to first take the Series 7 Exam or Series 7-equivalent exam during the opt-in period and then opt in to the Investment Banking Representative registration, the firm must first submit a Form U4 to request the General Securities Representative or Series 7-equivalent registration. Once the candidate has passed the Series 7 Exam or Series 7-equivalent exam, the firm may then submit an amended Form U4 to request the Limited Representative—Investment Banking Representative registration.

## Effective Date

The registration and qualification requirements for Investment Banking Representatives will become effective November 2, 2009. The six-month opt-in period will begin November 2, 2009, and end May 3, 2010.

## Endnotes

1. The “Series 7 equivalent exams” and registrations are the Limited Representative—Corporate Securities (Series 62), the United Kingdom (Series 17) or Canada (Series 37/38) Modules of the Series 7. pass the Limited Representative—Corporate Securities Series 62 exam, Limited Registered Representative Series 17 exam and Canada Modules of the Series 7 exam Series 37/38 exams are “CS,” “IE” and “CD/CN,” respectively.
2. The Web CRD registration position code for individuals who pass the Investment Banking Representative Series 79 Exam is “IB.” The registration position codes for individuals who
3. No associated persons of a firm will be eligible to opt in unless the firm’s current Form BD indicates that the firm engages in investment banking activities.

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## Attachment A

### FAQ About Registration as an Investment Banking Representative

#### General

- Q 1: If I currently hold a Series 7 registration and am engaged in investment banking activities, must I take the Series 79 Exam to engage in a member firm's investment banking business?**
- A 1: No, provided you opt in by May 3, 2010. Current Series 7 or Series 7-equivalent registered representatives who function in the firm's investment banking business as described in NASD Rule 1032(i) may opt in to the Investment Banking Representative position without having to take the Series 79 Exam for a period of six months after implementation of the registration category. Such persons also will be able to retain their Series 7 or Series 7 equivalent registration.
- Q 2: How do I opt in to the new investment banker registration category?**
- A 2: For persons registered with a firm who currently hold the Series 7 or Series 7-equivalent registration and who function in the firm's investment banking business as described in NASD Rule 1032(i), the person's firm need only submit an amended Form U4 to request the Limited Representative – Investment Banking registration. The submission must be made during the six-month opt-in period (November 2, 2009 – May 3, 2010). The Form U4 will not reflect the new registration category until the start of the opt-in period.
- Q 3: My firm has not yet developed a training program for the Series 79 Exam. Will I have to take the Series 79 Exam once it is implemented in order to get the Investment Banking Representative registration?**
- A 3: No, during the six-month transition period (November 2, 2009 – May 3, 2010), new Investment Banking Representative candidates who are in the process of qualifying for the new Investment Banking Representative registration category can take either the Series 79, the Series 7 or a Series 7-equivalent exam. A candidate who takes and passes the Series 7 Exam or Series 7-equivalent exam could then opt in to the Investment Banking Representative registration.
- Q 4: I plan on taking the Series 79 Exam to qualify for the Investment Banking Representative registration. If in the future I move into a different position within my firm, such as retail sales, will I need to take the Series 7 Exam?**
- A 4: Yes. The Series 79 Exam will qualify an Investment Banking Representative for only those activities covered under Rule 1032(i). If the representative engages in activities not covered by the Investment Banking Representative registration, such as retail or institutional sales, the representative will need to take the appropriate qualification exam, such as the Series 7 or Series 7-equivalent exam.

- Q 5:** I currently have a Series 7 registration. If I do not opt in to the Investment Banking Representative registration during the opt-in period, but subsequently decide to become an investment banker, must I take the Series 79 Exam to get the Investment Banking Representative registration?
- A 5:** Yes. FINRA is providing a grace period of six months for Series 7 or Series 7-equivalent representatives who function in the member firm's investment banking business as described in NASD Rule 1032(i) to opt in to the Investment Banking Representative registration position. After May 3, 2010, persons who seek Investment Banking Representative registration will need to take and pass the Series 79 Exam, regardless of whether or not they have a Series 7 or Series 7-equivalent registration.
- Q 6:** I work at a small investment banking firm and engage in activities ranging from investment banking to institutional and retail sales. I have a Series 7 registration. How will this new exam and registration category affect me?
- A 6:** If you opt-in to the Investment Banking Representative registration position within the designated time period, you will have both the General Securities Representative and Investment Banking Representative registrations. Therefore, you would be able to engage in activities covered in both registration categories.
- Q 7:** I own a small investment banking firm and have employees that engage in activities ranging from investment banking to institutional and retail sales. These employees have a Series 7 registration. If I hire a new employee after the end of the opt-in period, how will this new exam and registration category affect this employee?
- A 7:** If the new employee engages in activities that fall into both the General Securities Representative and Investment Banking Representative registration categories, then he or she will need to take and pass both the Series 7 and Series 79 Exams.
- Q 8:** Will I be able to register as agent with a state after passing the Series 63 Exam if I have the Investment Banking Representative registration?
- A 8:** Yes (provided all of the other state requirements are met).
- Q 9:** Currently, for a candidate to qualify to register as agent and investment adviser with a state with the Series 66 Exam in lieu of the Series 63 and 65 Exams, the Series 7 Exam is required. Will the Series 79 Exam also allow me to qualify in those capacities with the Series 66 Exam?
- A 9:** No. States will continue to require the Series 7 Exam for use with the Series 66 Exam.



### Test Administration

**Q 10:** Since the Series 79 Exam is a five-hour test, will I be allowed to take a break during the session?

A 10: The Series 79 Exam must be taken in one continuous, five-hour session. Candidates are permitted to take an unscheduled break during the exam session. However, the test clock will not stop while the candidate takes a break.

**Q 11:** Will I be allowed to use my own calculator during the exam session?

A 11: No. Series 79 Exam candidates are only allowed to use a basic electronic calculator provided by the testing center.

### Principals

**Q 12:** I am currently a General Securities Principal supervising investment bankers. Do I need to opt in to the Investment Banking Representative position?

A 12: Yes. However, if you do not opt in prior to the end of the opt-in period, you will need to take and pass the Series 79 Exam in order to continue supervising Investment Banking Representatives.

**Q 13:** I plan on taking the Series 79 Exam. In the future, will I be able to qualify for the General Securities Principal registration category by taking and passing the Series 24 exam?

A 13: Yes, the Series 79 Exam will meet the prerequisite for taking the Series 24 Exam. However, such persons will be limited to acting as a general principal for investment banking-related activities and will need to take and pass another qualification examination, such as the Series 7 or Series 7 equivalent exam, to act as a general securities principal for broader securities-related activities.

**Q 14:** I am currently a General Securities Principal in a non-investment banking firm. If I do not opt in now and then move in five years to an investment banking firm in which I will supervise investment bankers, will I need to take the Series 79 Exam?

A 14: Yes. The opt-in accommodation is available only to individuals who are currently functioning in a firm's investment banking business. A General Securities Principal who qualifies via the Series 7 or Series 7 equivalent exam cannot act as a general principal for investment banking activities. Such person would need to take and pass the Series 79 Exam to do so.

**Q 15:** I currently hold a Series 7 registration and plan to opt in to the Investment Banking Representative position. If in the future I become a General Securities Principal by passing the Series 24 Exam, will I be able to supervise other securities-related activities including investment banking activities?

A 15: Yes. If you are eligible to opt in and do so, you will be able to supervise the firm's investment banking activities upon passing the Series 24 Exam. In addition, because you also held the Series 7 position, you will be able to act as a general securities principal for broader securities-related activities.

### **Public Financing**

**Q 16:** Are public finance offerings (municipals) covered on the Series 79 Exam?

A 16: No. Individuals who work on public finance offerings will continue to take the Series 7 or Series 52 Exams.

**Q 17:** I work on both corporate and public finance offerings. I have a Series 7 registration. How will this new exam and registration category affect me?

A 17: If you opt in to the Investment Banking Representative position by May 3, 2010, you can continue to engage in all activities without taking the Series 79 Exam.

**Q 18:** I plan on taking the Series 79 Exam to qualify for the Investment Banking Representative position. If in the future I want to work on public finance offerings, will I need to take the Series 7 or Series 52 Exams?

A 18: Yes. The Series 79 Exam will qualify you for only the Investment Banking Representative position and activities covered under that registration position. If you begin to work on public finance offerings, you will need to take the Series 7 or Series 52 Exam.

### Prerequisites

**Q 19:** Aside from satisfying the prerequisite for taking the Series 24 Exam, will the Series 79 Exam meet the prerequisite for any other exams that currently require either a Series 7 or Series 7 equivalent exam?

**A 19:** No. The Series 79 Exam will not fulfill the prerequisite requirement for the following exams:

Series 4 – Registered Options Principal

Series 9/10 – General Securities Sales Supervisor

Series 23 – General Securities Principal Sales Supervisor Module

Series 26 – Investment Company Products/Variable Contracts Principal

Series 39 – Direct Participation Program Principal

Series 42 – Registered Options Representative

Series 52 – Municipal Securities Principal

Series 55 – Equity Trader Limited Representative

Series 86/87 – Research Analyst/Research Principal

### Continuing Education

**Q 20:** If I pass the Series 79 Exam and hold an Investment Banking Representative registration, will I still take the Regulatory Element S101 continuing education session?

**A 20:** Yes. A person holding an Investment Banking Representative registration will continue to take the Regulatory Element S101. However, in the future, FINRA is planning to modify the Regulatory Element to tailor it to certain types of job functions, such as investment banking.

## Attachment B

Text of Amended Rule

New language is underlined; deletions are in brackets.

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### 1022. Categories of Principal Registration

#### (a) General Securities Principal

(1) Each person associated with a member who is included within the definition of principal in Rule 1021, and each person designated as a Chief Compliance Officer on Schedule A of Form BD, shall be required to register with the Association as a General Securities Principal and shall pass an appropriate Qualification Examination before such registration may become effective unless such person's activities are so limited as to qualify such person for one or more of the limited categories of principal registration specified hereafter. A person whose activities in the investment banking or securities business are so limited is not, however, precluded from attempting to become qualified for registration as a General Securities Principal, and if qualified, may become so registered.

(A) Subject to paragraphs (a)(1)(B), (a)(2) and (a)(5), [E]each person seeking to register and qualify as a General Securities Principal must, prior to or concurrent with such registration, become registered, pursuant to the Rule 1030 Series, either as a General Securities Representative or [as] a Limited Representative-Corporate Securities.

(B) A person seeking to register and qualify as a General Securities Principal who will have supervisory responsibility over investment banking activities described in NASD Rule 1032(i)(1) must, prior to or concurrent with such registration, become registered as a Limited Representative—Investment Banking.

(C) A person who has been designated as a Chief Compliance Officer on Schedule A of Form BD for at least two years immediately prior to January 1, 2002, and who has not been subject within the last ten years to any statutory disqualification as defined in Section 3(a)(39) of the Act; a suspension; or the imposition of a fine of \$5,000 or more for violation of

any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding shall be required to register as a General Securities Principal, but shall be exempt from the requirement to pass the appropriate Qualification Examination. If such person has acted as a Chief Compliance Officer for a member whose business is limited to the solicitation, purchase and/or sale of “government securities,” as that term is defined in Section 3(a)(42)(A) of the Act, or the activities described in Rule 1022(d)(1)(A) or Rule 1022(e)(2), he or she shall be exempt from the requirement to pass the appropriate Qualification Examination only if he or she registers as a Government Securities Principal, or a Limited Principal pursuant to Rules 1022(d) or Rule 1022(e), as the case may be, and restricts his or her activities as required by such registration category. A Chief Compliance Officer who is subject to the Qualification Examination requirement shall be allowed a period of 90 calendar days following January 1, 2002, within which to pass the appropriate Qualification Examination for Principals.

(2) through (5) No change.

(b) through (h) No change.

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## 1032. Categories of Representative Registration

(a) through (h) No change.

### (i) Limited Representative-Investment Banking

(1) Each person associated with a member who is included within the definition of a representative as defined in NASD Rule 1031 shall be required to register with FINRA as a Limited Representative-Investment Banking and pass a qualification examination as specified by the Board of Governors if such person’s activities involve:

(A) advising on or facilitating debt or equity securities offerings through a private placement or a public offering, including but not limited to origination, underwriting, marketing, structuring, syndication, and pricing of such securities and managing the allocation and stabilization activities of such offerings, or

(B) advising on or facilitating mergers and acquisitions, tender offers, financial restructurings, asset sales, divestitures or other corporate reorganizations or business combination transactions, including but not limited to rendering a fairness, solvency or similar opinion.

(2) Notwithstanding the foregoing, an associated person shall not be required to register as a Limited Representative-Investment Banking if such person's activities described in paragraph (i)(1) are limited to:

(A) advising on or facilitating the placement of direct participation program securities as defined in NASD Rule 1022(e)(2);

(B) effecting private securities offerings as defined in paragraph (h)(1)(A);

or

(C) retail or institutional sales and trading activities.

(3) An associated person who participates in a new employee training program conducted by a member shall not be required to register as a Limited Representative-Investment Banking for a period of up to six months from the time the associated person first engages within the program in activities described in paragraphs (i)(1)(A) or (B), but in no event more than two years after commencing participation in the training program. This exception is conditioned upon the member maintaining records that:

(A) evidence the existence and details of the training program, including but not limited to its scope, length, eligible participants and administrator; and

(B) identify those participants whose activities otherwise would require registration as a Limited Representative-Investment Banking and the date on which each participant commenced such activities.

(4) Any person qualified solely as a Limited Representative-Investment Banking shall not be qualified to function in any area not described in paragraph (i)(1) hereof, unless such person is separately qualified and registered in the appropriate category or categories of registration.

(5) Any person who was registered with FINRA as a Limited Representative-Corporate Securities or General Securities Representative (including persons who passed the UK (Series 17) or Canada (Series 37/38) Modules of the Series 7) prior to [effective date of the proposed rule change], shall be qualified to be registered as a Limited Representative-Investment Banking without first passing the qualification examination set forth in paragraph (i)(1), provided that such person requests registration as a Limited Representative-Investment Banking within the time period prescribed by FINRA.

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