

Alerts

Broker-Dealer Compliance Update

Related Attorneys

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02/14/2013

On February 14, 2013, in order to be consistent with FINRA Rule 2210 and to permit General Securities Sales Supervisors to approve most types of retail communications, FINRA filed a notice with the SEC to amend NASD Rule 2210 (g) and NASD IM-1022-2.

Under the current regulations, General Securities Sales Supervisors are prohibited from approving "advertisements" as defined in NASD Rule 2210, but are permitted to approve "sales" literature relating to most types of securities.¹ FINRA now realizes the distinction between "sales literature" and "advertisements" is obsolete in today's environment. FINRA Rule 2210 merges the definitions of "sales literature" and "advertisements" into a single category, now referred to as "retail communications." By definition, a "retail communication" is any written communication, including electronic, that is distributed or made available to more than 35 retail investors within a 30-day period.² The proposed amendment will affect broker-dealers in that it will now consider information contained in an email blast to prospective customers and information on a firm's website as "retail communication," and they will be treated the same.

The intent of this amendment is to streamline the compliance process of broker-dealers for approving communications with investors. FINRA has requested that its proposed amendment to NASD Rule 2210(g) become effective 30 days from the date it was filed with the SEC.

1 General Securities Sales Supervisors cannot approve sales literature relating to options and securities futures unless additional registrations or qualifications are satisfied.

2 See FINRA Rule 2210(a)(5)