



September 30, 2011

VIA ELECTRONIC MAIL (rule-comments@sec.gov)

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: Release No. 34-65222; File No. SR-FINRA- 2011-041; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt the Selection Specifications and Study Outline for the Operations Professional Examination Program

Dear Ms. Murphy:

The Compliance and Regulatory Policy Committee of the Securities Industry and Financial Markets Association (“SIFMA”)¹ appreciates the opportunity to comment on the referenced rule filing, through which FINRA has filed with the Securities and Exchange Commission (“SEC”) for immediate effectiveness the selection specifications and content outline for the Operations Professional (“Series 99”) examination program.² The Series 99 was filed in connection with FINRA Rule 1230(b)(6), a new representative registration category and qualification examination requirement for certain operations and other personnel.³ The exam was developed to “provide reasonable assurance that covered persons understand their professional responsibilities, including key regulatory and control

¹ The Securities Industry and Financial Markets Association (“SIFMA”) brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA’s mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (“GFMA”). For more information, visit www.sifma.org.

² Securities Exchange Act Release No. 65222 (August 30, 2011), 76 *Federal Register* 55443 (September 7, 2011) (hereinafter, the “Exam Notice”).

³ Rule 1230(b)(6) was approved by the SEC in June 2011. See Securities Exchange Act Release No. 64687 (June 16, 2011) 76 *Federal Register* 36586 (June 22, 2011).

themes, as well as the importance of identifying and escalating *red flags* that may harm a firm, its customers, the integrity of the marketplace or the public.”⁴ (Emphasis added.)

As an initial matter, SIFMA would like to emphasize its strong support for FINRA’s long-standing practice of including member firm representatives on its qualification examination committees, which help develop and validate exam content outlines, test questions and the distribution of test questions. Including industry representatives on the exam committees brings a practical, “real world” perspective to the process and the end product. We also note that, in the case of the Series 99, the content outline seems very much in line with the stated content themes – the three main sections of the exam are Basic Knowledge Associated with the Securities Industry, Basic Knowledge Associated with Broker-Dealer Operations and Professional Conduct and Ethical Considerations.

We are concerned, however, that the industry professionals who were involved in developing the Series 99 exam may have had such a depth of specialized operational expertise that, in some cases, the level of detail in certain questions in the exam question bank is overly granular and the exam questions do not sufficiently emphasize the importance of identifying and escalating red flags relating to the covered functions.

Accordingly, SIFMA respectfully requests that FINRA revisit the test question bank as soon as possible to confirm that the questions support the stated purpose of the exam, which is to assess “broad understanding and basic knowledge” in the covered functions. Indeed, we are concerned that the more the questions test a specific detail of a particular requirement, the less “thematic” the questions become and the greater the risk that the goals of the exam will not be met.

By way of several examples, we believe that answering the following questions (from the list of sample questions attached to the content outline) correctly would require a level of specialized knowledge that most Operations Professionals within Operations, Technology, and Finance are unlikely to possess, unless working directly in the relevant specific functional area, and, therefore, should be refined to be made more general or omitted from the question bank.

Question 7:

Which of the following events would NOT require an adjustment to the total cost basis of a stock?

- (A) Spin off
- (B) Return of capital

⁴ Exam Notice at 55444.

- (C) Stock dividend
- (D) Stock split

Question 12:

A customer purchased 300 shares of XYZ at \$40 in his individual account. The customer dies and on the date of the customer's death, the price of the position is \$52. The position is willed to the customer's son and subsequently sold at \$54. What is the per share cost basis of the position?

- (A) \$26
- (B) \$40
- (C) \$52
- (D) \$54

Question 21:

The ex-dividend date for a cash dividend is:

- (A) The second business day preceding the record date
- (B) The fifth business day preceding the record date
- (C) Two business days after the record date
- (D) Five business days after the record date

Question 22:

Which of the following is a valid reason for an ACATS transfer to be rejected by the delivering firm?

- (A) Customer's date of birth is incorrect
- (B) A medallion signature guarantee is not provided
- (C) The delivering firm requires verbal confirmation from the customer
- (D) The account title is not identical at the delivering and receiving firms

In addition, we understand that test preparation courses for the Series 99 are not yet broadly available across the FINRA membership and that broadly rolling out such courses will take some time. We appreciate FINRA's intention to assess the effectiveness of the new exam during the first 60 days and delay making pass/fail determinations for such early test takers until on or after December 16, 2011.⁵ However, we remain concerned about the ability of certain "Day 2" Operations Professionals to fully prepare for the exam and pass

⁵ See FINRA Regulatory Notice 11-42 at page 3.

within the allotted 120-day period after registration.⁶ Accordingly, SIFMA respectfully requests that FINRA issue a Regulatory Notice interpreting FINRA Rule 1230(b)(6)(E)(ii) to permit such "Day 2" Operations Professionals to delay registration until December 17, 2011. This modest extension of the registration requirement for Day 2 Operations Professionals would provide additional time for securities training vendors to fully develop their test preparation courses and for member firms to implement and make available such training to their personnel.

To reiterate, SIFMA very much appreciates the opportunity for FINRA member firm representatives to participate in the exam development process. Our comments above are designed to be constructive and to help FINRA as it rolls out the new exam.

We would be pleased to discuss our comments on the Series 99 in greater detail with the SEC and its staff. If you have any questions or require further information, please contact Jim McHale at (202) 962-7386 or jmchale@sifma.org.

Very truly yours,



John Polanin
Co-Chair, Compliance and
Regulatory Policy Committee 2011



Claire Santaniello
Co-Chair, Compliance and
Regulatory Policy Committee 2011

cc: Mr. Marc Menchel
Ms. Patrice Gliniecki
Ms. Patricia Albrecht

⁶ For example, a new employee who begins work on October 18, 2011 and who is required to register as an Operations Professional (and is not excepted from the exam requirement under Rule 1230(b)(6)(D)) may well not have access to test preparation materials for some time, but presumably would need to pass the exam within 120 days or cease functioning in the capacity for which he or she was hired.