

NASD publishes initial proposal to change conflict of interest rules relating to underwriting of public offerings in the United States

Charles S. Gittleman; Russell D. Sacks

[+ Author & Article Information](#)

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Purpose

This paper aims to describe the NASD's recent proposal modifying NASD Rule 2720, the rule by which underwriting can be conducted where the underwriter and the issuer have a "conflict of interest" as defined by the rules.

Design/methodology/approach

Summarizes and analyzes the proposal.

Findings

On September 14, 2006, the National Association of Securities Dealers, Inc. ("NASD") published for initial comment proposed amendments to Conduct Rule 2720 (the "Rule") relating to conflicts of interest that occur between underwriters and issuers in the context of securities distributions (the "Proposal"). The Proposal substantially changes the Rule, and, as such, adjusts certain aspects of the underwriting process including: where the underwriter and the issuer are affiliates; where the underwriter or its affiliates (including venture capital and private equity arms) have an ownership interest in the issuer; and where the purpose of the securities offering is to repay debt owed to the underwriter or its affiliates.

Practical implications

NASD-member broker-dealers may seek to monitor the state of the Proposal in order to ensure that firm policies and procedures are consistent with future changes to the Rule. NASD members will also want to consider how the Proposal signals NASD's changes in thinking in respect of how they approach conflicts of interest in their own businesses.

Originality/value

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