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IM-3011-1. Independent Testing Requirements

(a) All members should undertake more frequent testing than required if circumstances warrant.

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(b) Independent testing, pursuant to [Rule 3011\(c\)](#), must be conducted by a designated person with a working knowledge of applicable requirements under the Bank Secrecy Act and its implementing regulations.

(c) Independent testing may not be conducted by:

- (1) a person who performs the functions being tested,
- (2) the designated anti-money laundering compliance person, or
- (3) a person who reports to a person described in either (1) or (2) above, except that a member may allow the test to be conducted by a person who reports to a person described in (1) or (2) above if all four of the following conditions are met:
 - (A) the member has no other qualified internal personnel to conduct the test;
 - (B) the member establishes written policies and procedures to address conflicts that may arise from allowing the test to be conducted by a person who reports to the person(s) whose activities he or she is testing (e.g., anti-retaliation procedures);
 - (C) to the extent possible, the person conducting the test reports the results of the test to a person at the member who is senior to the persons described in (1) or (2) above; and
 - (D) the member must document its rationale, which must be reasonable, for determining that it has no other alternative than to comply in the manner set forth in the exception to this paragraph (3). In addition, if the person does not report the results consistent with (C) above, the member must document a reasonable explanation for not doing so.

Adopted by SR-NASD-2005-066 eff. Mar. 6, 2006.

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