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Via Electronic Filing

Ms. Florence Harmon
Acting Secretary
United States Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Release No. 34–58648; File No. SR–FINRA–2008–044
Proposed Rule Change to Amend NASD Rules 2210 and 2211 and Incorporated NYSE Rule 472 to Address the Supervision of Market Letters

Dear Ms. Harmon:

The Cornell Securities Law Clinic (the "Clinic") welcomes the opportunity to comment in support of the above-referenced rule proposal (the "Rule Proposal"). The Clinic is a Cornell Law School curricular offering in which second and third-year law students have the opportunity to provide representation of public investors and public education as to investment fraud in the largely rural "Southern Tier" region of upstate New York. *See* http://securities.lawschool.cornell.edu.

The Rule Proposal seeks to amend NASD Rules 2210 and 2211 and Incorporated NYSE Rule 472 to allow for more timely distribution of certain communications with investors. The amendments would exclude "market letters" from pre-approval requirements when distributed to only institutional investors or to a limited number of retail investors. The Clinic supports the effort to provide more timely market information to this subset of investors while retaining review and supervisory procedures mandated under Rule 3010 and enhancing consistency across NASD and NYSE rules.

The communications that would qualify for exemption from pre-approval under the Rule Proposal are limited by content and distribution. "Market letters" would be redefined specifically as those exceptions to the definition of "research report." The exceptions are generally communications that relate to broad market and sector information, as distinguished from research reports and other communications that are more akin to sales literature and require pre-approval. Further, market letters sent only to institutional investors or those sent to (1) at least one existing retail customer (with whom the firm presumably has an established relationship) and (2) fewer than 25 prospective retail customers within any 30 calendar day period, would be exempt. The limitations on market letters sent to retail customers bring them into the definition of "correspondence," which generally does not require approval prior to distribution under the current rules. However, as correspondence, these market letters would be subject to supervisory and review requirements under Rule 3010(d).

The benefits of the Rule Proposal include more timely dissemination of market information to institutional and retail investors, and enhanced consistency between the NASD and NYSE Rules. The ability of firms to deliver information on a more timely basis represents value to the investing public. This value is even more pronounced in times of highly volatile markets, as are now being experienced.

In addition, the Rule Proposal would help ensure clarity and consistency within the NASD and NYSE rules. "Market letters" would be clearly and consistently defined in both rules. The Rule Proposal would also resolve inconsistencies in the treatment of communications with institutional investors. Currently, NASD Rule 2210 segregates communications sent only to institutional investors and excludes such materials from pre-approval requirements. However, Incorporated NYSE Rule 472 makes no such distinction and currently requires pre-approval for market letters and sales literature generally. Under the Rule Proposal, market letters sent to only institutional investors and those sent to retail investors that would not be considered "sales literature" would not require pre-approval under both NASD and NYSE rules.

The clinic greatly appreciates the opportunity to comment on this Rule Proposal. The Clinic generally supports the Rule Proposal given the expected benefits of more timely distribution of market information to investors and enhanced consistency of the NASD and NYSE Rules. We strongly support the retention of oversight requirements under NASD Rule 3010 for all correspondence.

Respectfully submitted,

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