



John M. Ivan
Senior Vice President
General Counsel

Office of General Counsel
1801 Market Street, 11th Floor
Philadelphia, PA 19103-1675
215.665.6086
Fax: 215.561.0762
jivan@jmsonline.com
www.jmsonline.com

August 30, 2010

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

Re: Exchange Act Release No. 62577; Investment Advisers Act Release No. 3058; File No. 4-606; Study Regarding Obligations of Brokers, Dealers, and Investment Advisers

Dear Ms. Murphy:

Janney Montgomery Scott LLC (“Janney”) appreciates the opportunity to comment on Securities Exchange Act (“**Exchange Act**”) Release No. 62577 and Investment Advisers Act (“**Advisers Act**”) Release No. 3058, in which the Securities and Exchange Commission (the “SEC” or “Commission”) requested public comment on the obligations of broker-dealers and investment advisers. Janney is focusing its comments to highlight how our business models have been designed to operate under existing investment adviser and broker-dealer regulatory systems and legal standards and to illustrate what we perceive are important factors the Commission must address in the event a harmonization of such systems and standards is later made in rulemaking.

At Janney, we have built both our broker-dealer and investment advisory business by focusing on our clients best interests. We feel our retail customers will benefit from the harmonization of the standard of conduct applied to both broker-dealers and investment advisers. The factors we feel the Commission should focus on include:

1. Preserving a wide range of investor products and services;
2. Permitting pragmatic disclosure of product features and conflicts of interest; and
3. Continuing to provide retail customers the ability to efficiently access principal transactions to meet their fixed income needs.

Janney is the largest full-service securities brokerage firm headquartered in Pennsylvania. We have nearly 1900 employees in over 100 offices across 17 states primarily in the Eastern United States. We provide advice and service to both retail and institutional investors through our Private Client and Capital Markets businesses. We serve more than



Trusted Advisors for Generations

Elizabeth M. Murphy

August 30, 2010

Page 2

350,000 retail customer accounts and over 400 institutional account relationships. Janney's core business offerings, as related to this comment letter, include financial advice and service to customers on financial planning, equity and fixed income investing, portfolio management, retirement planning, wealth management, fixed income sales and trading, and equity research and underwriting.¹ Janney's full range of investment products can be used to develop investment portfolios to meet a variety of financial objectives, risk tolerances and investment time horizons for every stage of customers' personal and professional lives. The pricing and compensation of such products cover a range of alternatives to accommodate these various factors. Janney's Financial Consultants provide a central role with the customer relationship in either providing personalized investment advice directly or managing such advice through third parties or in many cases providing customers access to execution and other services. A new standard of conduct should therefore continue to provide retail customers access to a wide range of investments and services and the choice among options in financial service provider relationships and compensation.

Janney provides its services as a dually registered broker-dealer and investment adviser. Investment advisers are retained by investors to provide advice about securities for a fee and are subject to a duty to act in the best interest of the customer and avoid or disclose material conflicts of interest. The retail customer investment adviser model is relationship-based and typically uses an assets under management based compensation scheme. Broker-dealers are retained to effect transactions in securities, which may include incidental advice, and are subject to a duty of fair dealing with the customer in accordance with industry standards and a duty to recommend only suitable investments. This model is transaction-based and generally relies on a commission, mark-up, or sales load-based compensation scheme which by rules must be fair and reasonable. Under either requirement Janney, in accordance with applicable rules and industry best practices, has always emphasized a wide variety of disclosure methods, including product feature, risk, conflict, costs and compensation. Janney therefore welcomes any new uniform standard of conduct that provides clarity to customers and promotes investor protection. The rules must, however, provide for pragmatic ways to clearly communicate the terms of a retail customer's relationship with a broker-dealer or investment adviser, including any material conflicts of interest. To allow broker-dealers to continue to offer a wide array of products and services to best meet customer needs, pragmatic disclosure

¹ Janney provides a broad array of financial services to retail customers that do not involve personalized investment advice. Janney notes the legislation reflects the concept that any uniform standard is not applied to circumstances where personalized investment advice is not provided (e.g. research, commentary, and public statements) or when investment advice is not provided at all (e.g. unsolicited trades, cash sweep services). A new standard of conduct should make clear such services would not trigger the standard of conduct.



Trusted Advisors for Generations

Elizabeth M. Murphy

August 30, 2010

Page 3

and consent should also be permitted. Pragmatic disclosure will provide retail customers the opportunity to assess whether certain categories of products or services present a conflict of interest.²

We feel the existing, complimentary standards provide Janney with the flexibility to effectively service our customers. We strongly believe a uniform fiduciary standard must preserve investor choice for customers seeking financial solutions. Different Janney customers may need the same product but want it priced differently depending on a wide variety of factors, including time horizon, tax consideration and pricing preference. The same Janney customer may have a variety of investment needs and the existing standards allow us to provide appropriate financial solutions utilizing separate accounts. For example, many of Janney's customers maintain more than one investment account. In order to provide diversification, a customer may have an equity investment advisory account managed by a professional money manager while a separate brokerage account may contain the same customer's fixed income portfolio. Janney believes that putting retail customers' interests first includes preserving the choice to select among the services and products with a range of fully disclosed pricing options that can be tailored for individual retail customer needs. We therefore strongly disagree with any consideration to the approach of simply eliminating the broker dealer exemption to the Investment Advisers Act and note that Congress specifically rejected this approach when considering alternatives to legislation.

In servicing retail customers' needs, Janney relies on fixed income inventory and execution services provided by our fixed income trading desk and to provide for the efficient and cost-effective construction of customer fixed income portfolios using principal trades. Janney specializes in municipal bonds in its geographic region and executes over 60,000 such transactions annually.³ Under current broker dealer and certain advisory rules, Janney is able to provide principal executions efficiently with its retail customers receiving full protection of fair pricing rules. Janney is concerned that as an unintended consequence of a harmonization under the standard of conduct of the Advisers Act, trade by trade disclosure and written consent will be required for broker-dealer retail customers to engage in principal trades. Products typically offered on a

² Janney has participated in and writes here to reinforce the points made in the comment letter from the Securities Industry and Financial Markets Association ("SIFMA") regarding pragmatic disclosure and client consent.

³ Janney has utilized the principal trade relief provided under Rule 206(3)-3T of the Investment Advisers Act of 1940 for its non-discretionary advisory program. In light of the Commission's decision not to extend temporary rule 206(3)-3T (which provides relief to dually registered investment advisers and broker-dealers when engaging in principal transactions with certain advisory clients) safe harbors for principal transactions are of heightened importance.



Trusted Advisors for Generations

Elizabeth M. Murphy

August 30, 2010

Page 4

principal basis include fixed income products, initial public offerings, and other underwritten offerings. Imposing trade-by-trade disclosure and consent for retail customer brokerage accounts would be exceptionally difficult to implement and would result in restricted investment options for retail customers.

Retail customers will benefit and receive enhanced protection from a harmonization and clarification of the standard of conduct that applies to both broker-dealers and investment advisers when providing personalized investment advice about securities. Preserving retail customers' access to a broad range of products and services with a range of fully disclosed pricing options must be a key element of this critical objective.

Janney looks forward to further opportunities to provide information to the Commission during the study period and the rulemaking period that will follow.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Ivan", with a long horizontal line extending to the right.

John Ivan
Senior Vice President
General Counsel