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Monday, May 12, 2008

United States
Securities and Exchange Commission
Attn: Nancy M. Morris, Secretary,
100 F Street, NE,
Washington, DC 20549-1090

Re: SEC Proposed Rule S7-06-08 (amendments to Regulation S-P).

Dear Ms. Morris,

Askar Corp. wishes to compliment SEC for its commitment to addressing the important topic of protecting customer confidential, nonpublic personal information ("NPI") and Askar Corp. respectfully offers these general comments on SEC's proposed Amendment to Reg S-P.

OVERVIEW.

At first blush, SEC's proposed Amendment to Reg S-P appears to be comprehensive and on point to address SEC's three chief concerns as articulated on page nine of the proposed rule: (1) Recent take-over of online brokerage accounts, (2) Foreign Nationals pump-and-dump schemes, and (3) Phishing scams in which identity thieves direct customer traffic to imposter sites to steal information. SEC is right to assume an assertive posture to address these very troubling issues, and while no system or rule can insure or guarantee against an online data breach, on balance the new rule will likely shore up current protections firms provide to their customers in this area. It is important to note, however, that the issues SEC targets with this new rule, *i.e.*, (1) though (3) above, primarily, if not exclusively, relate to client directed, or at least, client accessible, online (brokerage) accounts.

RISK-BASED ASSESSMENT:

NOT "LARGE" V. "SMALL" ENTITIES, BUT WHETHER OR THE EXTENT TO WHICH FIRMS ALLOW CUSTOMERS AND REPRESENTATIVES ACCESS TO ONLINE BROKERAGE ACCOUNTS OR INTERNAL SYSTEMS, *I.E.*, BUSINESS MODEL RISK.

The question Askar Corp. would like to address in its comments is whether the new rule should apply to all broker dealers, across the board, regardless of size, structure, product offerings or operational systems, without exception.

In a reasonable attempt to tackle this question, SEC directly addresses in Section G., *Significant Alternatives*, the potential concerns or objections “small entities” might raise should SEC require them to employ the same requirements as large entities. SEC claims that “Small entities are as vulnerable as large ones to the types of data security breach incidents we are trying to address” (page 87). Askar Corp. agrees with that statement, but only to the extent small entities operate and offer the same or similar types of services to their clients, such as online brokerage or remote access to internal systems. So while SEC cogently argues that the new rule should apply to small entities, Askar Corp. believes SEC answers the wrong question. To be truer to SEC’s stated goals of addressing “online” attacks, Askar Corp. believes that generally speaking, entity size is immaterial. Rather, what is critical is whether entities or firms, regardless of size, offer online brokerage accounts or online access to their internal systems. This appears to be the fairer standard by which to evaluate or distinguish firms since large and small firms alike operate differently, and the systems and operations they employ will inherently subject firms and their customers to different risks and vulnerabilities.

Askar Corp. is committed to protecting its customers NPI, and employs not only policies and procedures in which to address this topic, but also chooses to operate in such a way as to mitigate, if not practically eliminate the potential for the types of security breaches SEC wishes to address with this new rule. Askar Corp. does not offer “online brokerage accounts” to its customers. Moreover, Askar Corp. does not allow remote, online or web access to its intranet or databases that store its customers’ NPI to its customers or representatives.

Hence, a rule that requires firms such as ours, large or small, to comply with the same requirements of firms with different business models that contain these specific, targeted risks, appears to miss-the-mark and be overbroad in its application, while offering our customers little, if any additional protection. Accordingly, to the extent firms, such as Askar Corp., have already addressed this important potential threat by restricting services they offer in the marketplace, SEC should not effectively penalize them by requiring them to perform functions, tests and verifications, and incur the associated costs to address potential security breaches of systems they do not employ or public access they do not allow.

“LIMITED SCOPE OF SERVICES” EXCEPTION.

It seems appropriate and on point for SEC to ask firms that offer “online brokerage services” to their customers to test those procedures and as necessary, amend them to address deficiencies, improvements, *etc.*, as these firms appear to have both the attendant risks associated with their business models—and the financial resources—to accommodate the new requirements. In other words, firms which offer a full suite of online services to their customers already enjoy a competitive advantage compared to firms that do not offer these services, so the extent to which there are costs involved in implementing the new rule, those firms might consider those costs a form of “membership dues” to continue to be in the “online services” club. Alternatively, firms which choose to limit their exposure to virulent internet or web based attacks by simply not offering online services would be further disadvantaged if SEC required them to incur

these “membership responsibilities and dues” for a club to which they choose not to belong.

In the spirit of SEC’s endorsed and promulgated “Risk-Based” Standard, and in acknowledgment of SEC and FINRA’s existing “Limited Size and Resources” exception on other matters, Askar Corp. encourages SEC to apply a risk-based analysis to this topic as well and create a similar exception, perhaps a “Limited Scope of Services” exception for firms, large or small, which purposefully choose to operate with business models that do not offer customers “online brokerage accounts,” or advisors remote or internet access to their internal systems.

ECONOMIC REALITIES.

Askar Corp. believes that because SEC’s new rule is fundamentally focused on firms’ online services offerings and problems, SEC should create an exception for firms like Askar Corp., which choose to limit their exposure by not offering these services. That said, the reality is that mainly smaller firms would fall into this category as costs are not an unimportant consideration in a firm’s decision of which services to offer.

Well over half of the approximately 6,000 brokerage firms FINRA oversees are by FINRA’s definition, “small,” *i.e.*, affiliating 150 or fewer registered individuals. With only 60 affiliated persons, Askar Corp., and most other small broker dealers, must operate on extremely tight budgets and very thin margins to remain competitive by maximizing commission payouts to attract and keep successful independent registered representatives. And though compliance costs already continue to escalate each year, when those costs rise due to the implementation of seemingly unnecessary requirements that fail to provide meaningful additional protection for our customers, it seems prudent to pause to earnestly consider the purpose of the rule and ascertain whether in its application, it asks the right things of the right players.

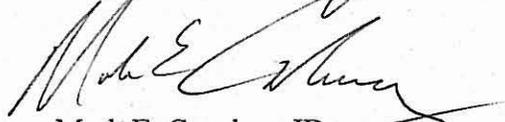
Consequently, if the proposed rule requirements to test and verify systems should apply to Askar Corp., they appear to be both overbroad and miss-the-mark since Askar Corp. systems are not accessible via the internet and are not subject to the same category of risks of other, primarily larger broker dealers with more sophisticated business models which host firm customer information online, and or on their own internal systems which their advisers can access remotely.

CONCLUSION.

This rule, as with any law, is the result of extremely qualified drafters attempting to the best of their abilities to address a specific situation or problem by providing objective and written standards to govern the conduct of the applicable actors. As with any proposed new rule aimed at business practices of an existing industry, it is likely to have varying degrees of applicability to existing parties. Rulemaking bodies have long relied on established, time-tested and equitable principles to address a given rule’s inapplicability to specific parties, which include concepts such as “grandfathering” or creating exception categories, *e.g.*, “Limited Size and Resources.” Askar Corp. believes that SEC should consider adopting this kind of analysis and evaluation regarding implementation of the proposed rule.

Sound statutory interpretation principles suggest that when one's conduct may be in technical violation of the letter of the law, to the extent one's conduct actually furthers or achieves the goal of the law in an even more effective manner than the drafters may have contemplated, *i.e.*, obeys the spirit of the law, no enforcement action should be taken. In essence, one should not be penalized for exercising even greater caution than the law calls for. For firms that currently choose to steer clear of the risks involved in offering online services to their customers, Askar Corp. cordially encourages SEC to consider "grandfathering" or excepting them from having to abide by these new requirements as their decision to not offer online services is tantamount to exercising even greater caution than the new requirements would impose, and is likely the most effective way to prevent online attacks and protect their customers' NPI.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark E. Czuchry, JD". The signature is fluid and cursive, with a large, stylized initial "M".

Mark E. Czuchry, JD
Chief Compliance Officer