Cornell University
Law School

Lawyers in the Best Sense

WILLIAM A. JACOBSON
Associate Clinical Professor of Law

Myron Taylor Hall
Ithaca, New York 14853-4901
T: (607) 255-8293
F: (607) 255-3269
E: waj2@cornell.edu

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Via Electronic Filing

Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Release No. 34-66910; File No. S7-08-07 (Amendments to Financial Responsibility Rules for Broker-Dealers)

Dear Ms. Murphy:

The Cornell Securities Law Clinic ("Clinic") welcomes the opportunity to submit comments on the amendments proposed by the Securities and Exchange Commission ("SEC") to the net capital, customer protection, books and records, and notification rules for broker-dealers under the Securities Exchange Act of 1934 ("Proposal"). The Clinic is a Cornell Law School curricular offering in which law students provide representation to public investors and public education as to investment fraud in the largely rural "Southern Tier" region of upstate New York. For more information, please see http://securities.lawschool.cornell.edu.

The Clinic supports the goal of the Proposal to increase the financial responsibility of broker-dealers. Without taking a position on the more technical aspects of the Proposal, the Clinic submits the following comments in support of five of the proposed amendments on which the SEC requested comment, along with suggestions to enhance protections for public investors.

I. Including Proprietary Accounts of Broker-Dealers in the Calculation of Reserve Funds Will Protect Investors

Investors should benefit from the proposed amendments to Rules 15c3-1, 15c3-3, and 15c3-3a requiring broker-dealers that carry proprietary accounts of other broker-dealers ("PAB accounts") to maintain reserve funds to cover claims arising out of those PAB accounts. Rule 15c3-3 currently excludes PAB accounts in calculations of the amount reserved for customers. When an insolvent broker-dealer is liquidated under the Securities Investor Protection Act of 1970 ("SIPA"), however, PAB accountholders are paid like other customers. Requiring broker-dealers to reserve funds for PAB accounts in addition to customer accounts would therefore help ensure that adequate funds exist to protect customer assets in the event a carrying broker-dealer

becomes insolvent. This change harmonizes Rule 15c3-3 with SIPA and reduces the financial burden on the Securities Investor Protection Commission ("SIPC") to act as a safety net for customers in SIPA liquidation proceedings.

The Clinic takes no position on the proposed amendments to allow these reserve funds to be composed of money market funds, except to reiterate the concerns expressed by SIPC in its comments to the original Proposal. In particular, economic developments since 2007 have highlighted the potential risk of liquidity issues associated with money market funds.

II. The Clinic Supports Requirements that Broker-Dealers Notify Customers and Obtain Consent Before Changing how Customers' Free Credit Balances Are Used

Broker-dealers often use the free credit balances on customer accounts by transferring or "sweeping" them into money market funds or interest-bearing bank accounts. Broker-dealers should have the flexibility to change the sweep option on a customer's account from one of these products to another if one offers greater interest or stability. However, customers should have some input in this decision because a change could expose them to not only different interest-earning potential, but also different risks. If the broker-dealer becomes insolvent, for example, SIPA protects customer securities up to $500,000, while the Federal Deposit Insurance Corporation guarantees bank deposits only up to $100,000. Securities also involve a risk of lost principal.

The Clinic agrees that investors should be free to make informed decisions about how to use their assets. Accordingly, the Clinic supports a requirement under Rule 15c3-3 that broker-dealers notify customers and obtain customer consent before changing the sweep option on customers' accounts. To facilitate an informed decision, the disclosure should explain the risks and implications of the change in plain language and provide a method for customers to opt out.

III. The Clinic Supports the Proposed Amendment Requiring Broker-Dealers to Inform the SEC of Heavy Reliance on So-Called Repo Transactions

A proposed amendment to Rule 17a-11 would require broker-dealers to notify the SEC when their involvement in securities lending and repurchase/reverse repurchase or "repo" transactions exceeds a specified leverage threshold as a function of net capital. This notification could serve as an early warning if a firm is approaching insolvency. Although the Clinic does not express an opinion on whether the specific threshold proposed is appropriate, the Clinic generally supports efforts to protect customers from broker-dealers who recklessly rely on excessively leveraged transactions.

IV. The Proposed Requirement that Broker-Dealers Document Their Risk Management Procedures Is a Positive Step that Should Be Expanded

Proposed amendments to Rules 17a-3 and 17a-4 would require broker-dealers meeting certain capital requirements to document their risk management procedures and store them for three years after they are no longer in effect. Encouraging corporate responsibility is a laudable

goal, but this requirement would apply to only about 500 of the largest firms by the SEC's 2007 estimate. Moreover, the amendments would not actually require firms to create or implement risk management procedures, nor do they specify any criteria such procedures must meet. The Clinic thus encourages the SEC to consider strengthening this requirement in terms of both its scope and applicability. Additionally, given the minimal cost of electronic storage, the Clinic sees no reason why the retention period could not be extended beyond three years.

V. The Clinic Supports the Proposed Amendment Prohibiting Insolvent Broker-Dealers from Conducting a Securities Business

The proposed amendment to Rule 15c3-1 requiring that broker-dealers cease securities business activities if certain insolvency events such as bankruptcy occur makes sense as a means to protect customers. Because a firm that cannot engage in its business is unlikely to be able to return to solvency, however, customer assets could still be at risk under this requirement.

Conclusion

The Clinic appreciates the opportunity to provide input on the SEC's Proposal. For the foregoing reasons, the Clinic submits this comment letter in support of the Proposal to the extent it provides increased protection for public investors.

Respectfully submitted,

William A. Jacobson

William A. Jacobson, Esq.
Associate Clinical Professor, Cornell Law School
Director, Cornell Securities Law Clinic

Connor McCormick

Conor McCormick
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