McGladrey & Pullen, LLP
Certified Public Accountants

3600 American Blvd. West, Third Floor
Bloomington, MN 55431
O 952.835.9930
www.mcgladreypullen.com

August 26, 2011

Ms. Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: Commission File No. S7-23-11, *Broker-Dealer Reports*

Dear Ms. Murphy:

McGladrey & Pullen, LLP appreciates the opportunity to offer our comments on the proposed amendments to the broker-dealer financial reporting rule under the Securities Exchange Act of 1934 (Exchange Act Rule 17a-5) and related forms. McGladrey & Pullen is a registered public accounting firm serving registered broker-dealers and registered and non-registered investment companies. In the paragraphs that follow, we offer our overall comments and respond to certain questions set forth in the proposed rule ("SEC Proposed Rule 17a-5").

In general, we support the Commission's proposed rule. We believe the reporting amendments will improve broker-dealers' compliance with the Financial Responsibility Rules and enhance safeguarding of customer's assets. However, we offer the following comments for the Commission's consideration.

Section II. The Proposed Annual Reporting Amendments

Compliance Report

The proposed rules state that the Compliance Report would include three assertions by the broker-dealer. We have comments on one of the assertions:

Internal Control over Compliance

This assertion is dealing with whether the internal control over compliance with the Financial Responsibility Rules was effective during the most recent fiscal year such that there were no instances of material weakness. This appears to hold broker-dealers to a higher standard than public issuers subject to the Sarbanes-Oxley Act requirements related to internal control over financial reporting, where the assertion related to effectiveness is as of the end of the issuer's reporting period. We believe that if a broker-dealer, as part of its on-going operations, discovers a material weakness or an instance of material non-compliance, reports such instances pursuant to the proposed notification rules, and institutes corrective action, there should be no need for the broker-dealer to include such material weakness or instance of material non-compliance in the Compliance Report.

Proposed Exemption Report

The proposed rule states that broker-dealers that do not hold customer funds or securities would be required to file a report asserting their exemption from the requirements of Rule 15c3-3 (the 'Exemption Report') and a report from their independent public accountants that would be the result of a review of the broker-dealer's assertion that it is exempt from Rule 15c3-3. We have identified two issues and request clarification.

Proprietary Trading Firms and Investment Banking Firms

Certain broker-dealers, including those that conduct proprietary trading and engage solely in investment banking activities, do not meet the definition of the exemption requirements of SEC Rule 15c3-3(k), yet they do not have customers as defined by SEC Rule 15c3-3. In this regard, the proposal asks if there are other types of broker-dealers that would not qualify to file an Exemption Report, but based on the limited scope of their businesses, should be allowed to file a more limited report than the Compliance Report. Broker-dealers who only do proprietary trading or investment banking might be examples of the types of broker-dealers that should be allowed to file a more limited report.

SEC Rule 15c3-1 (Net Capital)

The Exemption Report only addresses the assertion about exemption from the requirements of SEC Rule 15c3-3. How does the Commission intend to assess the broker-dealer's compliance with SEC Rule 15c3-1 and the adequacy of an internal control system related thereto?

Material Non-Compliance

The proposed rule provides a definition of non-compliance – a failure by the broker-dealer to comply with any of the requirements of the Financial Responsibility Rules in all material respects. The examples provided are relatively straight forward, but we request more guidance as to the application of materiality. We believe that the proposed rules do not sufficiently define quantitative considerations, such as the mistreatment of a particular item in the net capital or reserve formula computation. Items that are materially misstated in the broker-dealer's financial statements may have no impact on its compliance with the Financial Responsibility Rules, while items that are not material to the financial statements or specific to its compliance with the Financial Responsibility Rules may be considered material non-compliance issues.

Existing practice has been for broker-dealers and their auditors to assess the impact of misstatements in the financial statements and errors in the net capital calculation and customer reserve formula computation and the sufficiency of the internal controls that could reasonably be expected to result in violations of such financial reporting rules. Specifically, is the "materiality" of the misstatement evaluated on the actual misstatement in relation to the amount of excess net capital or excess funds on deposit, or is it based on the potential misstatement?

Notification Requirements

We understand the Commission's desire to receive notifications of non-compliance with the Financial Reporting Rules on an expedited basis for the protection of investors and others. But, we feel that the existing notification processes under SEC Rule 17a-5(h)(2) are sufficient. The existing rules require the broker-dealer to provide notice to the Commission within a 24-hour period, which is consistent with the proposed rules in that the broker-dealer makes the initial assessment and assertion as to compliance.

Then, if such notice has not been submitted by the broker-dealer or if there is a disagreement with the statements contained in the notice of the broker-dealer, the auditor has the responsibility to notify the Commission pursuant to SEC Rule 17a-11.

SIPC Reports

We agree with the proposed rule that broker-dealers file SIPC Supplemental reports with only SIPC. We also agree with the proposal that the Supplemental Reports include an auditor's report prepared pursuant to agreed-upon procedures. Until the Commission approves a SIPC prescribed form, we understand the need for the reports to be filed with the Commission, the broker-dealer's DEA, and SIPC. We have two recommendations. First, until such reports are filed only with SIPC, we request that such reports be considered confidential financial information and allowed such treatment consistent with SEC Rule 17a-5(e)(3). Also, to the extent that the Commission must approve any SIPC rule proposals, we request that any proposals include guidance to broker-dealers as to definitions of revenues and other terms to eliminate inconsistent interpretations and application of the rules.

Compliance Date and Transition Period

The Commission is proposing that the rule be effective for annual reports filed for fiscal years ending December 31, 2011. The PCAOB's recently proposed attestation standards and auditing standard are stipulating an effective date for fiscal years ending after September 15, 2012. Such PCAOB proposed rules effectively supplement and further define the implementation of SEC Proposed Rule 17a-5. We recommend that the effective date of the proposed rule be aligned with the effective date of the PCAOB's proposed standards.

Section III. The Proposed Access to Audit Documentation Amendments

These amendments are proposed to facilitate and enhance the Commission's examination of broker-dealers.

We note that the Commission believes it is appropriate to limit the proposed requirements to broker-dealers that maintain customer accounts funds and securities or self-custody their proprietary securities. There are several broker-dealers that conduct proprietary trading and investment banking activities that may or may not be exempt under SEC Rule 15c3-3, as described above. We recommend that the Commission define or clarify the types of broker-dealers that would be subject to the proposed rule.

Section IV. The Proposed Form Custody Amendments

The amendments are proposed to enhance the oversight of the custody function of broker-dealers and are designed to provide greater information to the Commission regarding the custody function at broker-dealers and their compliance with requirements relating to custody of customer and non-customer assets. The principal concern of the Commission is how such assets are maintained.

We understand that the proposal, in describing Form Custody Items 3.A and 3.B, refers to the term "customer" and refers to the definition thereof in Rule 15c3-3 and a reference that persons that are not "customers" include accountholders that are the general partner, director, or principal officer of the broker-dealer or are themselves broker-dealers.

We recommend that there be consideration to expand this reporting requirement to include proprietary positions of registered broker-dealers or to expand the definition of non-customers to explicitly include such positions. Broker-dealers that conduct proprietary trading often have significant holdings that we believe merit the review of regulators – including the Commission and the Financial Stability Oversight Council in its monitoring of systemic risk to the financial markets.

The proposed rule asks whether the identities of all custodians, as opposed to, or in addition to, describing the types of custodians should be provided. We believe that the Commission and the DEA would find it useful to know the identities of the custodians, and whether any are affiliated with the reporting broker-dealer, which is consistent with the information requested in Form Custody Item 8.C and with the proposed File No. S7-05-11 (Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF).

In discussing Form Custody Item 4, the proposal suggests using the Form BD definition of the term, "affiliate", which specifies that ownership of 25% or more of the common stock of the broker-dealer introducing accounts to the broker-dealer submitting the Form Custody. Perhaps the definition should be refined to include common ownership situations (as is done in discussing Form Custody Item 9), and possibly lower the threshold for affiliation to 20% to be consistent with the significant influence presumption for equity method accounting.

Section V. Additional Amendments to Rule 17a-5

The Commission has proposed the filing of the annual reports with SIPC to obviate any claim of lack of proper standing in a case where SIPC seeks to recover money damages from auditing firms. This is appropriate if SIPC uses them to reconcile the annual reports with the SIPC-7 agreed upon procedures report or otherwise places reliance on them.

Confidentiality of Annual Reports

Presently, the accountant's report on material inadequacies has not been bound with the separate Statement of Financial Condition which has been considered "Public" information. We recommend that consistent with that treatment, the Compliance Report or the Exemption Report, as appropriate (and the corresponding Examination Report and Review Report), also not be bound with the Statement of Financial Condition bound report and the filing of such reports be given confidential treatment. We also suggest that the Commission provide guidance as to when, if ever, these reports would be public information.

Section VII. Economic Analysis

The Commission has estimated some potential costs incurred by a broker-dealer to comply with the proposed rule amendments and has requested comments on all aspects of the cost-benefit analysis.

One significant additional cost that has not been estimated is the change from generally accepted auditing standards (GAAS) to standards promulgated by the PCAOB. Although the Commission is not proposing an assessment of internal control over the financial reporting (Section 404 of the Sarbanes-Oxley Act), there are significant differences in these audit standards. For example, the engagement quality review requirement in PCAOB Auditing Standard 7 (Engagement Quality Review) is not required

by GAAS. In addition, as PCAOB standards continue to evolve, these differences may become more significant in the future.

We recommend that the Commission attempt to estimate this additional cost or, at a minimum, highlight that there are significant differences that should be discussed with auditors as quickly as possible.

Section X. Statutory Authority and Text of the Proposed Amendments

The proposed wording, as printed, for amendments to Section 240.17a-11 still use the old term, material inadequacy, and should be modified to reflect the new term, an instance of "material non-compliance".

Other Matters

As a result of the issuance of these proposed rules and the subsequently released PCAOB proposed rules (Release No. 2011-4 and Release No. 2011-5), we highlight the fact that the AICPA Audit and Accounting Guide for Brokers and Dealers in Securities will require significant modifications. We recommend that the AICPA be allowed sufficient time to adequately respond to these changes and that the Commission allocate appropriate resources to assist with such updates.

We would be pleased to respond to any questions you may have concerning our comments. Please direct any questions to John Hague (312-634-3354) or Bruce Webb (515-281-9240).

Sincerely,

McGladrey & Pullen, LLP

McGladrey & Pullen, LLP