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Securities Industry and
Financial Markets Association

May 22, 2008

Via E-Mail: rule-comments@sec.gov
Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: **SR-FINRA-2008-013 (Amending NASD Rule 2220 - Options Communications with the Public)**

Dear. Ms. Morris:

The Securities Industry and Financial Markets Association ("SIFMA")[1] Equity Options Trading Committee ("Options Committee") appreciates the opportunity to comment on SR-FINRA-2008-013 relating to the Financial Industry Regulatory Authority ("FINRA") proposed amendments to NASD Rule 2220 governing Options Communications with the Public ("Proposal"). SIFMA fully endorses changes, such as this Proposal, which brings overall consistency to options communication requirements., and ties in the new supervisory structure allowed under newly approved SR-FINRA-2007-035.

The Options Committee would like to commend FINRA for taking several major steps forward in modernizing the NASD rules related to options communications. The changes which SIFMA members find particularly helpful are: (a) the elimination of the prior supervisory and FINRA pre-approval requirements for educational materials; (b) clarification of standardized verse conventional option communication requirements; and (c) the alignment of Rule 2220 with the other NASD rules governing communications. SIFMA appreciates these rule changes and encourages FINRA to take similar actions in other areas of options supervision.

[1] The Securities Industry and Financial Markets Association brings together the shared interests of more than 650 securities firms, banks and asset managers. SIFMA's mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public's trust and confidence in the markets and the industry. SIFMA works to represent its members' interests locally and globally. It has offices in New York, Washington D.C., and London and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

The Options Committee, however, would like to take the opportunity to make several points with regards to option communication and the Options Disclosure Document ("ODD") distribution requirement. Currently, the member firms must distribute the ODD to customers prior to permitting customers to trade options. It should be noted, the current practice requiring the distribution of unsolicited paper copies of the ODD is expensive for member firms (and for investors who absorb these costs), and is contrary to other paper reduction efforts currently happening in the industry. Moreover, even the distribution of electronic copies of the ODD is not without issue because the file is so large (more than a megabyte) that it may be rejected by the customer's e-mail account.

Through informal conversations with FINRA staff, SIFMA has ascertained that FINRA will permit the use of hyperlinks for distributing the ODD in certain electronic communications, and asks that FINRA confirm and specifically outline when members can use or cannot use the hyperlink version of the PDD in the anticipated Notice to Members for this Proposal. SIFMA understands that FINRA will not permit the use of hyperlinks to distribute the ODD to new options customers who have opted to receive documents electronically. SIFMA is requesting that FINRA and other self-regulatory organizations reconsider this interpretation in favor of a more consistent approach which would allow the electronic distribution to new customers by hyperlink, because of the current size of the electronic ODD file, as mentioned above. New customers would not be disadvantaged or left without the necessary information prior to trading options because the ODD would still be delivered prior to the customer's first options trade, just by hyperlink instead of the actual file.

Currently, communications to prospective customers which are not accompanied or preceded by the ODD are unnecessarily limited to general descriptions of options and cannot include projected performance figures, annualized rates of return, or names of specific securities. All customers must receive the ODD prior to trading options, so distributing the ODD prior to that point in time, is unnecessary and possibly duplicative. Prior to sending the ODD, firms are limited to sending highly generalized materials to prospective customers which have only very limited value and are generally less-informative than information generally available on the internet. For example, such materials would not include quantified rates of return on a covered call writing strategy and, therefore, would not give a prospective investor the necessary information to weigh potential investment alternatives.

In addition, SIFMA requests FINRA to further consider amendments to its rule filing; namely the removal of the requirement that the ODD "precede or accompany" options communications physically sent to prospective customers, and eliminate the requirement to deliver the full text of the ODD to prospective customers during a seminar or similar in-person meeting. Since, all customers must still receive the ODD prior to trading options; therefore, customers must receive the ODD prior to any investment in options. SIFMA proposes, that instead of receiving the full ODD, such communications should include information on how to receive the ODD either via the internet and/or an address or phone number to request the full ODD. Similarly, FINRA should permit the ODD to be made available upon request to prospective customers during a presentation or seminar.

Further, SIFMA encourages FINRA to consider a "notice-equals-delivery" standard for ODD supplements. Firms would notify customers of the availability of an ODD supplement on their monthly account statement and include information on how to receive the ODD supplement electronically or by mail. Such a standard would significantly reduce the costs to member firms of distributing the ODD. Currently, the cost of distributing the supplement on paper is roughly $1.00 or more per customer (paper, envelope, postage, and labor). Since the ODD is currently supplemented several times each year, the cost to firms to distribute the ODD supplements alone could be as much as $5.00 per year per customer. Even a separate electronic distribution of the ODD supplements is costly in that the message must be formatted and resources must be diverted to take on this effort.

Finally, as part of a separate, longer term endeavor, SIFMA will work with the Options Clearing Corporation, the Securities and Exchange Commission, and other self-regulators to revise the ODD such that it is a more manageable size and has improved educational value.

We look forward to continuing a dialogue on these important issues. If you have any questions, please call me at 202-962-7385 or email me mmacgregor@sifma.org.

Regards,

Melissa MacGregor

Melissa MacGregor
Vice President & Assistant General Counsel

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