September 27, 2011

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

Re: SR-FINRA-2009-028; Amendment No.1 to Proposed Rule Change to Adopt FINRA Rule 2231 (Customer Account Statements)

Dear Ms. Murphy:

Wachtel & Co Inc. is a small self-clearing broker dealer. We submit this comment with respect to the portion of the above proposal that mandates provision of monthly customer statements.

In brief, we believe it extremely important that FINRA respond more fully to the industry comments, and in particular, to the suggested alternative that clients be allowed to choose whether statements be provided to them on a monthly or quarterly basis. This alternative broadly responds to the benefits sought by FINRA, in a far more cost-effective manner than the original proposal or recent amendment. More importantly, the alternative would preserve the substantial benefit perceived by many clients of NOT being invited to review their accounts on a more frequent basis, which benefits go well beyond the cost of print and mail. Forcing millions of customers to receive statements which are neither requested by them nor in their interest to receive cannot possibly meet the required standard of promoting efficiency or customer welfare. These points are elaborated below.

As a preliminary matter, we agree with other comments that the analysis provided by FINRA backing up its proposal is exceedingly weak. FINRA suggests that monthly statements better reflect industry practice because "a number of firms" send them currently. However, the comments demonstrate that many firms-- including industry leaders--do not undertake such a practice and/or honor the wishes of those clients requesting only quarterly statements. Significantly, FINRA does not express understanding of the reasons (discussed below) that this preference is observed. FINRA also notes that monthly statements will allow customers to review their statements for errors. There is no suggestion that this benefit--somewhat more prompt corrections of speculative possible errors-- provides more than a trivial benefit to weigh against substantial and increasing costs. At our firm, for example, we have maintained essentially zero statement errors for at least a decade; accordingly, we feel confident that FINRA's proposal will constitute nothing but a dead weight loss for both the firm and its clients. Moreover, even granting the possibility of a benefit for some, surely customers are in the best position to determine the frequency of review which is warranted for their own personal account on the basis of their experience and relationship with their broker. Further, we believe the reason that many customers do not (and should not) seek frequent account reviews goes to the heart of the investment process and carries significance well beyond the consideration of possible errors.

For years, experts in the field of behavioral finance have noted that most investors tend to be too short-term oriented in their approach. There is a tendency to trade excessively, buy at tops and sell at bottoms, and generally overreact to market volatility. Partly as a result of these behaviors, the country faces a retirement crisis: funds set aside for long-term goals have not earned a market return because of emotionally driven decisions. In an effort to avoid this costly and destructive human tendency, we counsel long-term investors to avoid frequent review of account values, to help tune out the noise of short term market fluctuations. We strongly believe that many will wish to continue on this path--and actively desire to avoid monthly statements. Forcing them to do otherwise is tantamount to inviting someone on a diet to constantly walk past a bakery. It would set up a serious mismatch between much of the professional advice coming from our industry and our practice of reporting. Required monthly statements is the exact opposite of the signal we should be sending to clients.

In short, we believe the negative effect of FINRA's proposal could go well beyond the effect a bad cost-benefit trade off. It has the potential for serious harm, undercutting the message of long-term investing that the country desperately needs. Of course, individuals vary widely in experience and desires, so we support client choice in the frequency of statements. While a rule requiring this option appears superfluous in a our highly competitive industry, we would have no objection should such a proposal be set forth.

Again, forcing clients to receive statements that they do not desire, which will likely produce emotional decisions that undercut long term objectives, is antithetical to both efficiency and client welfare. Accordingly, this well-intentioned proposal does not meet the standard for FINRA regulation required by law. Amendment 1 should be withdrawn and the proposal reevaluated in light of this and other comments.

Sincerely yours,

Bonnie K Wachtel, CEO