

June 11, 2009

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

VIA E-MAIL

Re: File No. SR-FINRA-2009-028 -- Proposed Rule Change to Adopt FINRA Rule 2231 (Customer Account Statements) in the Consolidated FINRA Rule Book

Dear Ms. Murphy:

I am writing to you today on behalf of the College Savings Foundation ("CSF"). CSF is a 501(c)(6) organization dedicated to the advancement of 529 college savings programs. CSF's mission is to help American families achieve their education savings goals by working with public policy makers, media representatives and financial services industry executives in support of education savings programs. CSF's members include many of the country's leading financial services firms, and collectively manage more than \$40 billion in savings-type qualified tuition programs, representing nearly one-half of the dollars in such programs. CSF also includes associate members that are governmental and non-profit agencies and individuals who support CSF and its mission.

CSF serves the education savings industry as a central repository of information and an expert resource for its members and for representatives of state and federal government, institutions of higher education and other related organizations and associations. The primary focus of CSF is building public awareness of and providing public policy support for 529 plans - an increasingly vital college-savings vehicle.

CSF appreciates this opportunity to comment on the above-referenced proposed rule change filed by the Financial Industry Regulatory Authority, Inc. ("FINRA") with the Securities and Exchange Commission (the "Commission"). The proposed rule change would incorporate NASD Rule 2340 (Customer Account Statements), with certain changes, as FINRA Rule 2231 (the "Proposed Rule") and would delete NYSE Rule 409 (Statements of Accounts of Customers) except for paragraph (f), and certain of its related interpretations. The principal substantive change proposed by FINRA is a new requirement to provide monthly, rather than quarterly, statements of any account that had activity during the reporting period.

Under the current NASD Rule 2340, members are required to send a quarterly account statement containing a description of any securities positions, money balances or account activity to each customer whose account had a securities position, money balance or

account activity during the period since the last such statement was sent to the customer. The Proposed Rule would require a monthly statement where there is “account activity” and a quarterly statement where the account has a security position or money balance. FINRA stated in the Release that it believes the proposed monthly statement requirement better reflects industry practice and, in furtherance of its investor protection mandate, that receipt of monthly statements will allow customers to review their statements in a timely manner for errors, possible identity theft or other potential problems.

CSF’s membership includes FINRA member firms that are engaged in the 529 college savings plan business. The interests in these plans are municipal securities under the Securities Exchange Act of 1934 and are thus exempt from most of the provisions of that Act. However, to the extent that such members also engage in a general securities business, the provisions of the rule would apply. Also applicable to such members’ activities is Rule G-15 of the Municipal Securities Rulemaking Board (MSRB). The MSRB rule permits that confirmations of transactions in college savings plan transactions may be done on a quarterly, not monthly, basis provided that they are part of a regular investment program meeting the definition of “periodic municipal fund security plan”. See MSRB Rule G-15(a)(vi)(G), and G-15(a)(viii).

Adoption of Rule 2231 as currently proposed would thus create an anomaly. Consider a firm doing a general securities business and maintaining an account in which the only activity during a quarter is a series of periodic investments in a 529 college savings plan. The firm would be required under 2231 as proposed to send out statements on a monthly basis, even though MSRB rules would permit periodic reporting of the transactions via a statement sent after the end of the quarter.

The MSRB provision makes a great deal of sense. Many contributors to college saving plans contribute on a regular basis. At some firms, the majority of college savings plan transactions qualify for the provisions of G-15 permitting transactions to be confirmed on a quarterly basis. Most often these transactions are accomplished via periodic drafts on the account owner’s bank account. Such periodic activity does not seem to be of the sort that would lend itself to account security issues and/or identity theft concerns, two of the principal reasons cited by FINRA in its rule proposal.

CSF believes that the MSRB regulatory regime is well considered, and believes that Proposed Rule 2231 should be revised before adoption in a manner consistent with the current MSRB regulatory scheme. That would eliminate the anomaly described above.

CSF thanks the Commission for affording it the opportunity to comment on the Proposed Rule. If you have any questions concerning these comments, or would like to discuss our comments further, please feel free to contact me at 682-237-7775 or davidjpearlman@gmail.com.

David J. Pearlman

Chair, Regulatory Affairs Committee
College Savings Foundation