

RE : File Number SR-FINRA-2009-028
Rule Change Proposal on FINRA Rule 2231

First Southwest Company ("FSC") would like to take this opportunity to comment on the proposed rule changes outlined in the Federal Register on May 21, 2009 related to FINRA Rule 2231. The rule as proposed is not consistent with current industry practices as FINRA states and does not take into account the numerous exemptions granted by the Securities and Exchange Commission ("the Commission") over the past three decades in the form of No-Action letters allowing for statements to be sent quarterly for certain accounts that have what is commonly referred to as only "passive activity" such as the posting of interest or the reinvestment of money market dividends. It is interesting that while FINRA was drafting and proposing this very rule, the Commission was simultaneously granting an exemption to the monthly statement requirement to Legg Mason in a No-Action letter dated April 7, 2009. As proposed this rule would have a number of negative consequences on the industry including:

Substantially higher costs to produce statements – This proposal would result in increased costs to FSC of in excess of \$200,000 per year. These costs will ultimately be passed along to clients. The cost to the entire industry would be staggering.

A harmful effect on the environment – If we produce more statements, we use more paper and the necessary resources to print and deliver those statements. This goes against what we are hearing from our clients and our government.

Increased opportunity for identity theft – Interestingly, this is one of the very reasons FINRA cites as wanting to enact this rule. It is hard for me to understand how mailing more statements to a customer will decrease the opportunity for identity theft when stolen mail is one of the top ways to obtain valuable client information.

This rule proposal does not take into account the numerous avenues available to customers to obtain real time account information at almost any time. Almost all firms that carry and clear customer accounts offer the ability for customers to view account positions, balances and activity on line. This service is available 24 hours a day, 365 days a year and in the case of FSC will offer real time information on customers accounts. Furthermore, firms are required to display contact information along with toll-free telephone numbers in case they would like to call and verify information and/or activity that has taken place in their accounts.

There are several other items worth noting in the proposal. The need to obtain written approval to obtain a duplicate statement seems inconsistent with the requirement for employees to send a copy of their statement to a member firm's compliance department. The information required to be displayed on the statements about the Clearing firms should be allowed to be put on the back of the statement without having to display some items on the front (that the clearing firm is a member of SIPC).

At a minimum, I would request that the Commission allow the current exemptions allowed for quarterly statements be allowed to remain. It is apparent that this rule was drafted rather hastily and this seems to be a great opportunity to have FINRA go back

and re-draft the rule taking into account all of the known exemptions granted by regulatory organizations over the years and make those part of this rule. This could provide the industry with a valuable tool by compiling all of the existing information in one concise location (the new rule). While FSC agrees with the notion that giving customers more access to account information is a good idea, we disagree that the best way to accomplish this goal is to simply mail more statements more frequently. I would be happy to visit with you on any of these topics.

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