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September 9, 2010

VIA WEBSITE

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

**Re: SR-FINRA-2010-039 Rule
Proposal Rule 2090 (Know-your-Customer) and Rule 2111 (Suitability)**

Dear Ms. Murphy:

I appreciate the opportunity to make comments on the proposed changes to FINRA's Consolidated Rule Book. I am an attorney whose practice is dedicated entirely to representing investors in arbitration and in state and federal court. I am also a member of the Public Investor Arbitration Bar Association (PIABA). Currently, I am a member of its Board of Directors and the organization's incoming President. Ultimately, I support the proposal, for I believe it to be a step in the right direction to codify suitability and know-your-customer standards for FINRA members; however, additional changes should be made to the proposals in order to better level the playing field in the dispute resolution forum forced upon those who want to participate in our financial markets. The proposed changes are simple and brief, so I will attempt to be so as well.

The expansion that proposed Rule 2111 adds to the current NASD Rule 2310 is greatly welcomed. By including recommended "investment strateg[ies]" in suitability determinations, FINRA is specifying that broker dealers must have a reasonable basis for the strategies recommended for the entire account rather than only for individual transactions within the account. This explicit acknowledgement of holistic suitability analysis broadens consumer protection.

Some additions and specifications, however, would benefit the FINRA Consolidated Rule Book. For example, the entirety of suitability rests on the definition of "recommend," which is not given in the current form. I suggest that any and all loopholes resulting from this lack of definition be remedied through definitional language. In this definition, FINRA should mandate that all recommendations be subject to suitability analyses. In this mandate, specific language should state that recommendations to hold particular securities, not simply to buy or sell, are covered by the rule as well. Incorporating NYSE Rule 472.40(1) into Rule 2111 would alleviate

any confusion. This addition to the proposed suitability rule better reflects current relationships between broker-dealers and public investors and would greatly benefit the public investor.

Similarly, the manner in which Proposed Rule 2090 compliments the addition of Rule 2111 is also greatly welcomed. The "Know-Your-Customer" language does much for the protection of investors in that it requires suitability considerations by broker dealers from the very onset of relations with customers; however, despite this positive result, the language should be strengthened in a very similar fashion to that of Rule 2111. As the provision is currently written, broker dealers can argue that the "Know-Your-Customer" requirements extend no further than the gathering of information. FINRA should not allow this conclusion to be reached. Language should be added stating that broker-dealers as well as financial advisors should make proactive recommendations based upon the information gathered from their clients on an ongoing basis throughout the relationship. Such clarifications, including recommendations to hold, would protect investors throughout their relationship with their financial advisors.

Once again, I would like to express my gratitude for being able to submit these comments. Overall, I support the addition of Proposed Rule 2111 and Rule 2090 to FINRA's Consolidated Rule Book.

Respectfully,

A handwritten signature in black ink, appearing to read "Peter", with a long horizontal flourish extending to the right.

Peter Mougey