



ABA SECURITIES ASSOCIATION

An affiliate of the
AMERICAN BANKERS ASSOCIATION

1120 Connecticut Avenue, NW
Washington, DC 20036

202-663-5325
Fax: 202-828-4548
www.aba.com

Sarah A. Miller
General Counsel
ABA Securities Association

June 12, 2007

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

Re: File Nos. SR-NASD-2006-044 and SR-NYSE-2006-06; Release Nos. 34-55765 and 34-55766; Proposed NASD Interpretive Material IM-3060 and Proposed Rule 350A Addressing Business Entertainment; 72 Federal Register 28743 and 28534, May 22, 2007.

Dear Ms. Morris:

The ABA Securities Association (ABASA)¹ appreciates the opportunity to comment on the National Association of Securities Dealers (NASD) proposed Interpretive Material to Rule 3060 (IM-3060) and the New York Stock Exchange (NYSE) proposed Rule 350A. These principle-based proposals would prohibit any member or person associated with a member from, directly or indirectly, providing any business entertainment to a customer representative that is intended to or would reasonably cause a customer representative to act in a manner that is inconsistent with the best interests of the customer or any person to whom the customer owes a fiduciary duty. Under the proposals, a member must determine what business entertainment is acceptable, maintain detailed records on business entertainment, as well as establish policies and procedures to promote appropriate conduct and to provide for effective compliance and supervision with the member's policies. The proposals address business entertainment with "customer representatives" (i.e., agents, employees, officers, or directors of a customer, excluding family members of the customer), not with natural person customers.

¹ ABASA is a separately chartered affiliate of the American Bankers Association ("ABA") representing those holding company members of the ABA actively engaged in capital markets, investment banking and broker-dealer activities..

ABASA is particularly pleased that the self-regulatory organizations continue to provide flexibility to member firms and their associated persons in recognition of the fact that no “one-size fits all” approach is appropriate. We are also pleased that several important changes have been made to the SRO proposals that address many of the concerns we previously expressed in our letter to the NASD.² We continue to remain quite concerned, however, about the short compliance time period envisioned by the SRO proposals.

Recordkeeping: Effective Date and Customer Access

As we stated previously, regulated firms will need sufficient time after the final adoption of the SRO regulations to find, acquire, test and adopt the necessary technology to track business entertainment expenses. These new tracking and recordkeeping systems must be developed and incorporated into existing compliance systems and sufficiently tested for their accuracy. Therefore, to ensure effective integration of tracking and recordkeeping technology, we again strongly urge the SROs to give firms a minimum of one year after final adoption to comply with the interpretation.

The proposals require that firms maintain detailed records of the nature and cost of business entertainment, and make such information available to customers upon request. ABASA agrees that a client representative’s business entertainment data is important information that a client may want to review. However, we believe it would be most appropriate if the SROs were to clarify that firms may determine the means and frequency of delivering that information to requesting clients. While the proposals require that firms have policies and procedures to promptly provide the data upon a customer’s written request, the Background sections to the proposals state that firms are permitted to establish reasonable guidelines regarding a customer’s ability to request this information. We agree.

Firms should have the ability to design cost effective methods to provide the requested data on a regular but periodic basis, e.g., quarterly or semi-annually. Under this approach, firms can better manage information flow in light of confidentiality and information barrier obligations, as well as avoid duplicative requests for business entertainment information by different divisions of the same client.

In order to reduce the regulatory burdens associated with the proposed recordkeeping requirements, a de minimus exception provides that a member need not maintain records for business entertainment when the total value of the business entertainment, including all expenses associated with the business entertainment, does not exceed \$50 per day. We support the exception but request clarification as it is unclear if this de minimus exception

² See Letter from Sarah A. Miller of ABASA to Barbara Z. Sweeney of NASD (March 3, 2006).

applies on a per customer representative, per all representatives of that customer or per all customer representatives of all customers basis. We believe the SROs appropriately intended that the exception be structured on a per customer representative basis but request clarification of this point.

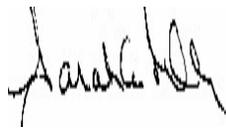
Written Policies and Procedures

The proposals provide that members must have written policies and supervisory procedures that impose either specific dollar limits on business entertainment or require advance written supervisory approval beyond specified dollar thresholds. Sufficient flexibility should be built into these policies and procedures to allow associated persons to seek approval post event should the function unexpectedly exceed the specified dollar limit. It is not implausible to posit a situation where one or several client representatives cause the associated person to exceed the firm's specified dollar limits. Not having foreseen the need to seek advance approval, the associated person could be placed in the uncomfortable position of declining to pay for the representative(s) meal or, alternatively, being forced personally to pay for the overage. Sufficient monitoring by the member firm of the associated person's entertainment practices will ensure that no abuse of the firm's written policies and procedures occurs.

Conclusion

In conclusion, ABASA appreciates the opportunity to provide comments on the amended SRO proposals. If you would like to further discuss any of our comments, please do not hesitate to contact the undersigned or Phoebe Papageorgiou at phoebep@aba.com.

Sincerely yours,



Sarah A. Miller