



P.O. Box 15021
Albany, NY 12212-5021
(1021 Watervliet Shaker Rd., Albany 12205)
www.empirecorp.org

Christiane Gigi Hyland
Senior Vice President,
General Counsel

(518) 292-3803
800-253-0053, ext. 3803
Fax: (518) 292-3755
e-mail: ghyland@empirecorp.org

VIA E-MAIL: rule-comments@sec.gov

April 8, 2004

Jonathan G. Katz
Secretary, Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549-0609

Re: File No. SR-NASD-2003-176
Establish Rule 3013 and Interpretive Material 3013

Dear Mr. Katz:

Empire Corporate FCU appreciates the opportunity to comment on the National Association of Securities Dealers, Inc.'s (NASD) proposed rule to establish Rule 3013 and accompanying Interpretive Material (IM) 3013 regarding the designation of a Chief Compliance Officer (CCO) and annual certification of compliance policies and procedures.

Empire is proud to count as members over 1,000 credit unions. MemberTrade Financial Group, LLC (MT) is a wholly owned subsidiary of Empire and is currently registered with the both the NASD and the Commission.

The Securities and Exchange Commission (Commission) is seeking comment on the NASD's proposed rule to require each member firm to designate a CCO. The proposed rule would also require that each member firm's Chief Executive Officer (CEO) and CCO annually certify it has in place a process to establish, maintain, review, modify and test policies and procedures reasonably designed to achieve compliance with applicable NASD rules, MSRB rules and the federal securities laws. The certification would contain three representations:

1. The firm has in place processes to: a) establish and maintain and procedures reasonably designed to achieve compliance with applicable NASD rules, MSRB rules and securities laws; b) modify such policies and procedures as business, regulatory, legislative changes and events dictate and c) test the effectiveness of policies and procedures on a periodic basis, the timing and extent of which is reasonably designed to ensure continuing compliance with NASD rules, MSRB rules and federal laws;

2. The firm's processes, with respect to item 1 above, are evidenced in a report reviewed by the chief executive officer (or equivalent chief compliance officer and officers as the firm may deem necessary to make the certification. These processes at a minimum include: (a) one or more meetings between the chief executive (or equivalent officer) and the chief compliance officer to discuss the matters that are the subject certification and (b) review of the report by the firm's board of directors and audit committee; and
3. The chief executive officer (or equivalent officer), compliance officer and other officers as applicable (referenced in item 2 above) have consulted with or otherwise relied on those employees, officers, consultants, lawyers and accountants, to the extent they deem appropriate, in order to attest to the statements in the certification.

Neither Empire nor MT supports this proposal. In June 2003, NASD issued a similar proposal (Notice to Members 03-29) which sought to require firms to designate a CCO and to have the CEO and CCO of each firm certify annually to the adequacy of the firm's compliance and supervisory systems. One hundred sixty-six (166) comments were received by the NASD to the June 2003 proposal. All but six (6) of the commenters disapproved the proposal.

Empire and MT believe that the current proposal does not differ significantly from the June 2003 proposal. While the language of the current proposal requires certification to having processes in place to establish, maintain, review, modify and test policies and procedures designed to achieve compliance, the reality is that the certification places an unnecessary further burden on firms - a burden which is duplicative of existing compliance requirements under NASD rules.

While Empire and MT support the principles of promoting investor protection through improved compliance and supervisory systems, Empire and MT believe that this proposal erroneously places a firm's compliance focus and resources on reporting rather than on the substantive compliance matters that challenge all firms. Empire and MT submit that the complexity of today's environment for small firms like MT already necessitate strict adherence to stringent compliance requirements, requirements that are routinely monitored by staff and by regular NASD examinations.

Empire and MT appreciate the opportunity to comment on this important issue. If you have any questions regarding our comments, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Christiane G. Hyland". The signature is written in a cursive style with a long horizontal flourish at the bottom.

Christiane G. Hyland
Enclosure

cc: Mike Canning, Executive Director, ACCU
Bill Hall, Associate Director of Taxation & Accounting, NAFCU
Mike Carter, Regulatory Advocacy Coordinator, NYSCUL