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FEB 23 2005

OFFICE OF THE SECRETARY

February 17, 2005

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

Re: Comment on File No. SR-NASD-2004-171.

Dear Mr. Katz:

We appreciate this opportunity to comment on the proposal, which would require certain language to appear on all customer statements. We are especially grateful to the Commission for allowing comment at this time, since NASD gave Members no opportunity to do so before sending this proposal to the Commission.

We believe the NASD's proposal for certain language to appear on customer statements is unnecessary, does not enhance or extend a customer's right to contest errors or discrepancies in his account, is inconsistent with rules applying to other financial institutions carrying accounts for the public, could lead to needless customer concern and confusion, and imposes an unnecessary regulatory burden on the industry. Our reasoning is described below.

1. The proposal is unnecessary.

We believe that customers already understand that, if an error on a statement (whether from a bank, broker/dealer, public utility, or otherwise) is detected, they should contact the issuer of the statement and, if the matter is not immediately resolved, follow up with a written notice. In the absence of evidence to the contrary, we think it is unreasonable to imagine that customers do not understand the need to have errors corrected.

2. The proposal does not enhance or extend the customer's right to contest errors.

Nothing in the proposal makes it easier or otherwise enhances the customer's right or ability to have errors corrected. A customer always has the right to contest an error; the only circumstances where he might not, (i.e. the argument advanced with regard to forced liquidation) is addressed in (3) below.

3. The proposal is inconsistent with rules applying to other financial institutions carrying accounts for the public.

All of NASD's arguments, if valid, would apply to an FDIC liquidation as well as to one by SIPC, but they have apparently not been found persuasive in that context.

So far as we know, neither the U.S. Treasury, the Comptroller of the Currency, the FDIC, nor any other banking regulator has such a statement-language requirement with regard to bank statements in order to protect customers should their bank be liquidated by FDIC. Recent bank statements sent to this firm, and to the writer, do not contain them. It is therefore reasonable to believe that such a requirement is not felt to be appropriate or necessary.

Given the vital nature and wide extent of the bank regulators' responsibilities, along with their long history and their demonstrated commitment to maximizing the protection of bank customers, we must concur with their evaluation of the matter. Like the banking regulators, we believe that the American

depositor, or investor, has sense enough to question any errors on an institutional statement and pursue them in writing if they are not immediately resolved.

In short, we believe it is inappropriate and unreasonable for NASD to hold broker/dealers to a higher standard than is felt necessary by the Comptroller of the Currency, the United States Treasury, the FDIC, or any other regulator with regard to banking institutions. We are puzzled as to why GAO apparently believes securities investors to be more naive and less competent than are bank depositors, especially since most investors are depositors as well.

4. The proposal could lead to customer confusion.

We believe that the proposed language might well lead to customer confusion, even to the point where an unscrupulous person or firm could use the proposed language to persuade a customer that he had lost his right to question an error which, while only now discovered, had occurred at some point in the past.

Specifically, one can easily imagine a dishonest individual or firm pointing out the language on the statement and persuading the customer that, since he had not "promptly reported" the discrepancy upon receipt of the statement, he had lost all of his rights in the matter. In a related scenario, a customer who had made a verbal report but failed to follow it up in writing could be misled in the same manner by being told that, since the statement instructed him to follow up in writing, he had lost his rights in the matter by his failure to do so.

If the NASD believes that investors are too naive to question errors at all without specific instructions, or to do so in writing, NASD must certainly accept that those same investors could be misled in the fashion described above. Honest firms will always make good an error; firms who are dishonest, which are also those where more serious discrepancies could appear, will use every means available to avoid addressing such problems, and the proposal simply gives them another such tool.

5. The proposal would impose an unnecessary financial and operational burden on the industry, and particularly on small firms.

The increase in regulatory requirements for printed information has real-world physical and financial consequences. Many firms, including our own, have in recent years been forced to increase the physical size of their customer confirmations in order to accommodate newly mandated regulatory requirements. In our case, the current form is 40% larger than that employed as recently as the mid-1990s. As additional regulatory printing requirements accumulate, customer statements will also have to grow. If additional language forces a simple one-page statement onto an additional page, printing costs will double. Given the dubious benefit of this proposal, we respectfully suggest that valuable space be reserved for disclosures that will demonstrably benefit the customer rather than simply overwhelming him with boilerplate telling him common-sense things that he already knows, such as the fact that he should contact the firm if he sees an error.

If it is truly felt necessary to exhort the customer to contact the firm when he finds an error in his account, perhaps such a statement could be included on the new account documents and as part of the numerous annual disclosures that are already being sent to him. This would partially ameliorate the costs referred to in this section.

For all of the reasons described above, we respectfully suggest that the proposal be abandoned.

Respectfully submitted,



Christopher Charles
President