



Worldtradefinancial.com rod@worldtradefinancial.com
Member NASD/SIPC
2010 Hancock Street, San Diego, California 92110 619-325-4575 fax: 619-325-4578
Toll Free: 1-888-459-8883

March 7, 2005

{ Via: Reg Mail }
{ Via: E- Mail }

To the Secretary
Securities and Exchange Commission
450 Fifth Street, N. W.
Washington DC 20549

RE: SR NASD 2004-171

Dear Secretary Katz:

We appreciate the opportunity to comment on the above referenced proposal. I represent an NASD member firm and a member of the National Association of Independent Broker-Dealers. I recommend that the Commission look more closely at the proposal and suggest that it be modified.

Before offering those suggestions, let me say first that the broker-dealer community and in particular retail broker-dealers would likely welcome the proposal. Additional confirmation of any transaction would always be positive for broker-dealers. We also understand the basis behind proposal with the need for accuracy of account statements with respect to SIPC and any potential involvement it may have.

We have concerns, however. For the most part, transactions within the securities industry have traditionally been transacted based upon oral instructions. Such transactions are followed by written confirmation sent by the broker-dealer to the customer. Confirmations must be mailed by the following business day. Customers are required to quickly act to settle transactions. Prompt action on the part of both firm (by issuing the confirmation) and customer (by settling or disputing a transaction after receiving the confirmation) reduces market risk for both clients and broker-dealers.

The proposal is troublesome in that it now requires additional, written confirmation on the part of the customer. Those confirmations can take place at a time not specified, but after issuance of the monthly account statement. Those statements are issued typically after the settlement process described above. While the proposal may be intended to address items on the monthly statement that have not been part of the settlement process, that fact is omitted from the proposal. Our concern is that customers will have the information benefit of market activity to “put” any poor performing transactions back to broker-dealers. We would suggest that a time limit on the customer be put into place to either forward such a statement. While this would not cure the problem, it would, at least, provide some protection to the firm.

We also question the need for involvement of clearing broker-dealers. While we appreciate the need for accurate records; clearing firms are not involved with the negotiations regarding the entry of transactions. Instead, they are obligated to respond to instructions received from the introduction firm. The proposal does not specify what the clearing firms role is or would be with any disputed transactions. Our concern is that clearing firms would be obligated to become involved in the transaction, including investigating the facts and circumstances surrounding the activity. That goes far beyond the traditional, ministerial role of a clearing firm and would result in an increase in customer costs without any real benefit to the customer.

We ask that the proposal clarify:

- 1) When customers are obligated to confirm in writing their activity (such as outside of the normal trade and settlement process) and the time limit for such confirmation;
- 2) The notice requirements of the customers’ obligations to confirm their activities; and,
- 3) The role of the clearing firm in disputed activity.

Thank you for the opportunity to comment.

Sincerely,

Rod P. Michel
RPM/s
Cc:File