

July 19, 2007

Barbara Z. Sweeney
Office of Corporate Secretary
NASD
Washington, D.C.

Dear Ms. Sweeney,

The following comments are submitted in response to NTM 07-27 ("Notice").

I wish to voice my serious objection to the rule in its currently proposed form.

I suggest that all members be informed by the NASD as to exactly what percentage of the total membership was targeted in enforcement actions regarding private securities of members in the past twelve months, and a summary of the outcome of each case. This would help indicate whether a new rule, one that places additional filing and audit burdens on the entire membership, is necessary. The NASD should also provide a reasonable estimate of the cost of the additional filing and audit burden. It appears to this commentor, after reading the Notice, that the percentage of firms engaging in potential violations of this nature was very small, indeed, only a tiny fraction of the entire membership.

In general, we, as an organization, both regulator and regulated, have to resist the urge to make a new rule, each time a tiny percentage of the membership engages in potentially violative activity. In an open and free society, one can never prevent a small group of citizens from violating rules. No matter how far-reaching and intelligent our rule makers and enforcement officials may be, a few people will always be able to slip through the cracks. Indeed, if they have found a way to violate the current rule, you may be relatively certain they will find a way to violate the new rule.

Good regulation is not about preventing every violation; it is about sound response. In the aftermath of the September 11th terrorist attacks, the U.S. targeted Afghanistan, not all Muslim countries. Did we bomb Germany because one terrorist lived there for a period of time? If a few firms violate the law, by all means punish them for this. To put a new rule in place, one that places a burden on all firms engaging in the issuance of private securities, is not, in the opinion of this commentor, a wise use of the NASD's or the industry's resources.

Specifically:

- If a member is not in the business of conducting private placements for issuers, and conducts only private placements of its own securities from time to time, this is purely a corporate matter of the member, and the offering should be entirely exempt from the requirements of the rule.
- If a member issues its private securities only to accredited investors and specifically excludes

non-accredited investors from its private placement, the offering should be entirely exempt from the requirements of the rule. Accredited investors are capable of reviewing PPMs and other due diligence material and are considered savvy enough to make their own decisions. Despite the spectacular falls of many hedge funds in recent years, there is no regulation of this segment of the industry because they accept investment from only accredited investors (even though the reality is that behind many of the pension funds that invest in hedge funds, there are millions of investors who are not accredited).

- Where as I strongly support the idea that at least 85% of investment should be used in the business, I don't believe the NASD should carve this into a rule. There may be situations where savvy, accredited investors see an opportunity for high return in an offering where the sales remuneration or other "not in the business" expenses are greater than 15%. They would be forced to pass on the opportunity under the new rule (as proposed). Indeed, in the hedge fund world, the standard fee is a small percentage of assets, in the 1%-2% range, plus 20% of profits. Yet, some managers command a higher fee and upto 50% of profits. We live in a free economy -- if an accredited investor wants to pay a commission of 20% or more in the hope of a high return, there should not be a rule that would stop them from doing so.

- I am opposed to the filing requirement, both initial and subsequent, of the proposed rule, as well as the requirement to make a PPM part of a member audit. I see no productive purpose in burdening compliant members with these additional burdens.

- If the rule is ultimately passed, I support one that is narrowly confined to offerings that may possibly include non-accredited investors. These investors may not be savvy enough to make their own investment decisions, and potentially need some protection.

Very truly yours,

Neville Golvala
CEO
ChoiceTrade