

**TREECE FINANCIAL SERVICES CORP**

**6800 West Central Avenue, Unit G1, Toledo, Ohio 43617-1135**

**Phone: 419-843-7744**

**800-624-5597**

**Fax 419-843-7742**

**E-Mail [dock@treeceinvestments.com](mailto:dock@treeceinvestments.com)**

**[ben@treeceinvestments.com](mailto:ben@treeceinvestments.com)**

February 27, 2020

Reference: Regulatory Notice 20-02  
Rule 4530 Review

To Whom It May Concern,

First and foremost, we thank you for affording member firms the opportunity to comment on FINRA Rule 4530. As a member firm, we believe that feedback and comment from member firms and FINRA's attention to comments from said firms, is an integral part of the relationship between the investment community and regulators. Hopefully, our specific comments will shed light on how the implementation of this rule in its current form, despite the best of intentions from FINRA, leads to complications and problems with member firms.

Rule 4530, to be frank, is a rule that is unclear. While reporting and disclosure are adequately stated in 4530(a), 4530(d) required reporting remains unclear.

Rule 4530(d) supposedly allows for advisors a certain level of discretion and judgement as to whether or not a comment from a client would fall under reporting requirements for Rule 4530, specifically in the case of a firm like ours, Problem Code 23 filings pertaining to the poor performance of a mutual fund.

Advisors should have the latitude to determine whether or not a comment from a client is reportable.

For example, the statement from a client, "I sure wish the fund were up more over the last 12 months," as opposed to "Why am I in this fund when it has been down so much," are two very different comments from clients, however Rule 4530(d) does not discern the difference between these comments whatsoever.

As a member firm, we need clarification. Without a set guideline for what specifically is and is not reportable, we are left to the judgement of FINRA examiners and left at the whims of their judgement which is a dangerous regulatory state for any industry. Member firms cannot be left in the dark and subjected to the vast individual interpretations that may exist between differing examiners.

This lack of clarification also leads to confusion amongst other regulatory bodies. For example, the State of Ohio Division of Securities during a recent examination recently informed us that, while they admit that they do not know nor enforce FINRA rules, that they interpret ALL 4530 filings to be of the same magnitude, despite the fact that 4530(d) filings are kept by FINRA for statistical purposes and do not meet the disclosure threshold.

This lack of communication and clarification between FINRA and other regulatory bodies presents an issue for member firms with their interactions with other regulatory bodies. FINRA has a duty to be 100% unequivocally clear in their interpretations of FINRA Rules and their various subsections, and communicate those interpretations to other regulatory bodies and agencies, especially if state agencies and other regulatory bodies are going to use FINRA rules as a basis for their examinations, otherwise those other regulatory bodies and agencies will continue to implement their own interpretations that are not true to the spirit of FINRA's rulemaking process.

In short, FINRA must clarify the difference between, for example, 4530(a) and 4530(d) and how they are interpreted and treated by FINRA, as well as the intent behind each of those subsections of the rule.

In addition to providing clear communication to member firms, the public, and other regulatory bodies and agencies regarding the interpretation and intention of rules like FINRA Rule 4530, it is our opinion that FINRA should preclude other regulatory bodies from using FINRA's rules as a basis for their own regulatory oversight until the examiners are well versed in FINRA's rules and interpretations, which cannot happen unless FINRA steps up and engages these regulatory bodies and agencies proactively to provide them with those interpretations, intentions and education.

We thank you for taking the time to read our thoughts, we certainly hope that our comments will echo those of other member firms and that FINRA will work both internally and with other regulatory entities to provide an environment of effective regulation focused on compliance, not on punitive action based on misguided interpretations.

Sincerely,

A handwritten signature in black ink, appearing to read "Dock D. Treece", with a long horizontal flourish extending to the right.

Dock D. Treece  
President