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June 13, 2008

Financial Industry Regulatory Authority
Office of the Corporate Secretary
1735 K Street, NW
Washington, DC 20006-1506
Attn: Ms. Marcia E. Asquith

Via Electronic Mail

Re: Regulatory Notice 08-24 (Supervision and Supervisory Controls)

Ladies and Gentlemen:

Prudential Financial, Inc. ("Prudential Financial")¹ appreciates this opportunity to comment on the above-referenced proposal, particularly the provisions that will apply to the supervision of dual employees of member firms and banks.² In general, Prudential Financial strongly supports FINRA's goal of creating a consolidated FINRA rulebook and this Proposal is a laudable step towards that goal. We believe, however, that certain aspects of the Proposal should be revised to provide needed supervisory flexibility to asset management businesses, such as PIM, that are affiliated with limited purpose broker-dealers and banks. In particular, we respectfully request that FINRA broaden the definition of "supervised bank affiliate" in proposed Rule 3110(b)(3)(B)(v) to include investment advisers registered with the Securities and Exchange Commission ("SEC").

DISCUSSION

Under the Proposal, current NASD Rule 3040 (Outside Business Activities) would be replaced by FINRA Rule 3110(b)(3) (Supervision of Outside Securities Activities). FINRA Rule

¹ Prudential Financial, Inc. (NYSE:PRU), through its asset management business, Prudential Investment Management ("PIM"), offers a range of investment management services to institutional and retail clients around the world, through specialized investment advisers with strong market positions in each asset class—equity, fixed income, private fixed income, real estate and commercial mortgages. As of December 31, 2007, PIM managed approximately \$438 billion in assets under management, of which 40% was for institutional clients that include corporations, public funds, Taft-Hartley plans, insurance companies, foundations and endowments. PIM has been a Top 20 institutional asset manager for more than 20 years (source: Pensions and Investments). PIM's advised investment products include U.S. mutual funds, offshore retail funds, hedge funds, collateralized debt obligations and private funds investing in real estate, private equity, commercial mortgages and private debt securities.

² FINRA Regulatory Notice 08-24 (May 2008) (the "Proposal").

3110(b)(3) would generally require an associated person of a FINRA member firm to obtain such member firm's prior written approval before engaging in any outside investment banking or securities business and, if such approval is granted, the outside activity must be supervised by the member firm. To address the concerns surrounding the functional regulation of banks and broker-dealers, FINRA also proposes to except bank-related securities activities of a dual employee from the general obligation of member firm supervision, provided that such securities activities fall within any of the statutory or regulatory exemptions for banks from registration as a broker or dealer. Specifically, proposed Rule 3110(b)(3)(B)(ii) provides that a member firm need not supervise the bank-related securities activities of a dual employee if the member has written assurances that the bank or a "supervised bank affiliate" will: (a) have a comprehensive view of the dual employee's securities activities; (b) employ policies and procedures reasonably designed to achieve compliance with the antifraud provisions of the federal securities laws; and (c) give prompt notice to the member firm of any dual employee's violation of such policies and procedures. "Supervised bank affiliate" would be defined under Rule 3110(b)(3)(B)(v) to mean a bank affiliate that is subject to consolidated supervision by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Director of the Office of Thrift Supervision (collectively, the "Federal Banking Regulators").

Although we support the flexibility of the Proposal relative to current NASD Rule 3040, we believe that the definition of "supervised bank affiliate" in Proposed Rule 3110(b)(3)(B)(v) should be broadened to include other bank affiliates that are subject to a federal regulatory framework enabling them to satisfy the conditions of the proposed rule. In particular, Prudential Financial believes that investment advisers, as defined under Section 202(a)(11) of the Investment Advisers Act of 1940 ("Advisers Act"), registered with and examined by the SEC are well positioned to employ policies and procedures reasonably designed to achieve compliance with the antifraud provisions of the federal securities laws. Indeed, investment advisers, who are subject to the explicit general antifraud provision of Advisers Act Section 206,³ may be more familiar with the antifraud provisions of the federal securities laws than other bank affiliates subject to consolidated supervision by one of the Federal Banking Regulators. Moreover, Advisers Act Rule 206(4)-7 requires each registered investment adviser to adopt and implement policies and procedures reasonably designed to prevent or detect and correct violations of the Advisers Act by the adviser and its supervised persons.⁴ Thus, registered investment advisers have extensive experience in establishing supervisory policies and procedures reasonably designed to achieve compliance with applicable antifraud provisions.

³ Section 206 of the Advisers Act applies to all investment advisers and provides that it shall be unlawful for any investment adviser to, among other things: (a) employ any device, scheme, or artifice to defraud any client or prospective client; (b) engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client; or (c) engage in any act, practice, or course of business which is fraudulent, deceptive or manipulative. In this regard, it tracks fairly closely the language of Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder.

⁴ Similarly, Advisers Act Rule 204A-1 requires registered investment advisers to establish, maintain and enforce a written code of ethics that includes, among other things, provisions requiring the adviser's supervised persons to comply with applicable federal securities laws.

Furthermore, an investment adviser affiliate of a bank may be at least as well situated as the bank (or any other affiliate meeting the proposed definition of “supervised bank affiliate”) to have a comprehensive view of a dual employee’s securities activities. By way of background, Prudential Financial has several indirect subsidiaries that are broker-dealers and FINRA member firms (including Prudential Investment Management Services LLC (“PIMS”)) with limited operations (*e.g.*, distribution of retail mutual funds and placement of privately offered funds with institutional investors). In some instances, these limited broker-dealers share employees with an indirect bank subsidiary of Prudential Financial, Prudential Trust Company (“Prudential Trust”). The number of employees so shared will likely increase as the compliance date for Regulation R and the Exchange Act’s bank/broker so-called “push out” exceptions nears.⁵

Prudential Trust primarily services the client base of Prudential Financial advised by the various business lines of PIM, the asset management business comprising several SEC-registered investment advisers and indirect subsidiaries of Prudential Financial. Many of the dual employees of the PIMS broker-dealer and Prudential Trust also have responsibilities as advisory representatives of PIM. In fact, these “dual employees” are actually employees of PIM and are also officers of Prudential Trust or associated persons of the PIMS broker-dealer. The majority of their activities relate to PIM’s investment advisory services, and their activities as officers of Prudential Trust or as broker-dealer registered representatives are primarily focused on trust products of Prudential Trust or securities privately placed by the broker-dealer, respectively. Neither the limited purpose broker-dealer nor Prudential Trust currently have the supervisory and compliance controls and staff that would be needed to have a comprehensive view of the entire scope of any particular dual employee’s securities activities. As would be expected based on its size and business operations, PIM, however, maintains a much larger compliance staff and could more readily adapt its supervisory and compliance infrastructure to take a comprehensive view of the securities activities of dual employees.⁶ And because the dual employees are primarily engaged in investment advisory activities, their investment advisory business supervisors likewise are best positioned to have such a comprehensive view.

Finally, we believe that other asset managers will be similarly situated—with limited purpose broker-dealers and banks affiliated with more substantial SEC-registered investment advisers—and would benefit from a broadened definition of supervised bank affiliate that takes into account the well-established business models common in their segment of the financial services industry.

* * * *

⁵ The compliance date for Regulation R, which effectively implements the “push out” exceptions for banks from the definition of broker under Section 3(a)(4)(B) of the Exchange Act will be the first day of each bank’s respective fiscal year commencing after September 30, 2008. *See* Rule 781 of Regulation R; *see generally* Exchange Act Release No. 56,501 (Sept. 24, 2007), 72 Fed. Reg. 56,514 (Oct. 3, 2007)(adopting Regulation R).

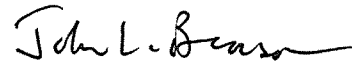
⁶ In addition, we believe that a registered investment adviser may just as easily as a bank (or any other affiliate meeting the proposed definition of “supervised bank affiliate”) satisfy the last condition of proposed Rule 3110(b)(3)(B)(ii)—*i.e.*, giving prompt notice to a member firm of any dual employee’s violation of the policies and procedures of the bank (or supervised bank affiliate).

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Again, Prudential Financial appreciates the opportunity to comment on this subject and would be pleased to discuss any of the points raised in this letter in more detail. Should you have any questions, please contact the undersigned at 973-367-3949.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Bronson". The signature is fluid and cursive, with a long horizontal stroke at the end.

John L. Bronson
Vice President & Corporate Counsel