



PlanMember Securities Corporation

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18 June 2009

Office of the Corporate Secretary-Admin.

JUN 22 2009

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street NW
Washington DC 20006-1506

FINRA
Notice to Members

Re: FINRA's Proposed Rule Governing Suitability and Know-Your-Customer Obligations

Dear Ms. Asquith:

Thank you for the opportunity to comment on the Proposed Rule Governing Suitability and Know-Your-Customer Obligations ("Proposed Rule"). This particular Proposal has far reaching affects on our clients, our registered representatives and your member firms and deserves careful consideration.

PlanMember Securities Corporation (PSEC) is an SEC registered broker-dealer and investment advisor and member of FINRA, providing retirement plan products and services. For over 20 years, the company has been a 403(b) industry leader in personalized retirement planning and investment advisory services. The PSEC sales force is comprised of approximately 350 independent registered representatives, qualified as investment adviser solicitors and operates across 50 states. While PSEC is the broker-dealer of record on greater than 90,000 accounts and is the investment adviser on more than 33,000 accounts, the registered representatives have built long-standing relationships with their clients.

First of all, we oppose FINRA's Effort to Expand Suitability Requirements to Non-Security Investment Products or Services. State and federal authorities already closely regulate the sale of insurance products, investment advisory services, and other products and services. FINRA's suggestion that its suitability rule should apply to these activities would result in redundant, conflicting, contradictory regulatory requirements that do not advance the goal of investor protection. As a result, we oppose FINRA's suggestion that it expand the suitability obligations to all recommendations of investment products, services, and strategies made in connection with a firm's business, regardless of whether the recommendations involve securities.

As for the Expansion of Suitability Criteria to Include Portfolio Level Concerns, a client's investment time horizon, liquidity needs, and risk tolerance are important considerations. As such, we would expect FINRA to not only appreciate suitability at the portfolio level, but also at the transaction level as well. A recommendation at the transaction level may not appear to be suitable in and of itself, but when one factors in the client's overall portfolio, the recommended transaction can then be seen as part of a fully diversified portfolio that meets the client's overall suitability parameters. We respectfully request that FINRA consider all unintended consequences for investors and member firms alike as it submits its final Proposed Rule.

We oppose the Expansion of the Suitability Review to Information Known by the Broker-Dealer. Independent financial advisors operate their own small businesses in communities throughout the country. They can compete with other financial advisors who are registered with the same broker-dealer. As a result, it is quite possible for an independent broker-dealer's records to include information about a client that was collected by one financial advisor, but unknown to the client's current financial advisor. The

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Proposed Rule would require member firms to engage in a search through all of their internal client databases, files, and documentation along with the records of their affiliated financial advisors to determine if there is other relevant suitability information "known by" the firm. And, perhaps as an unintended consequence not considered, we believe that this will be overly burdensome on the suitability review process. Under the Proposed Rule, we imagine that the suitability review principal will have to factor in all referenced information, which would significantly delay the processing of a client transaction – especially for firms that are still paper-based. We believe this requirement is simply unworkable, is unlikely to result in a significant improvement in investor protection, and would cause unnecessary delays in processing securities transactions. We, therefore, oppose this aspect of the Proposed Rule.

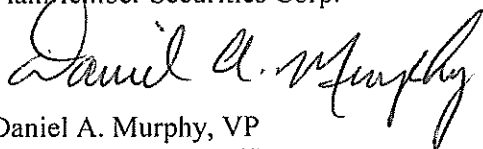
We also feel that the Proposed Rule is offered prematurely – FINRA is currently engaged in the process of integrating the existing NASD and NYSE rules into a consolidated rulebook. This is an important project with wide-reaching implications. It is, however, only one small part of the current debate surrounding the financial services regulatory structure. An important issue in this debate is the standard of care owed by a financial advisor to a client. The resolution of this debate has the potential to make the Proposed Rule a moot point. As a result, we urge FINRA to delay this Rule Proposal while we await clarity on the broader standard of care issue. Such an approach will help reduce the cost and confusion inherent in making two significant and fundamental changes to this foundational principle.

To summarize, while independent financial advisors are accustomed to gathering detailed information from their clients and making suitable securities transaction recommendations based on this information, the Proposed Rule's requirements are of concern for three important reasons. First, by expanding the suitability criteria, the Proposed Rule greatly expands the opportunities for plaintiff's counsel and regulators to second-guess a representative's recommendations, and possibly the Principal's approval of the recommendation, with the benefit of hindsight. Second, we believe that suitability is best judged from an examination of the transaction as part of an overall portfolio strategy. However, we are concerned that the Proposed Rule would not provide the proper context to be accounted for as it is currently drafted. Lastly, the Proposed Rule's requirement that recommendations be based on information about the client known to the broker-dealer or associated person would appear to require a transaction-by-transaction review of all customer databases, files, forms and records of the firm and representatives registered with it for information potentially relevant to the suitability determination. We believe this requirement is burdensome, unworkable and unreasonable.

Again, we appreciate the opportunity to comment on this very important issue that stands before the industry. Please contact me should you have questions or require any additional information.

Sincerely,

PlanMember Securities Corp.

A handwritten signature in dark ink, reading "Daniel A. Murphy". The signature is fluid and cursive, with the first name "Daniel" being the most prominent part.

Daniel A. Murphy, VP
Chief Compliance Officer