T. ROWE PRICE INVESTMENT SERVICES, INC.

WWW.TROWEPRICE.COM

SARAH MCCAFFERTY
Vice President
Chief Compliance Officer

P.O. Box 89000
Baltimore, Maryland
21289-8220

100 East Pratt Street
Baltimore, Maryland
21202-1009

Phone 410-345-6638
Fax 410-345-6575

June 29, 2009

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

Re: FINRA Regulatory Notice 09-25

Dear Ms. Asquith:

T. Rowe Price Investment Services, Inc. ("**T. Rowe Price**") appreciates the opportunity to comment on the proposed consolidated FINRA Rules governing suitability and know-your-customer obligations.

T. Rowe Price is a registered broker/dealer under the Securities Exchange Act of 1934 and a FINRA member firm. It acts as principal distributor of the T. Rowe Price family of funds ("**Price Funds**"). The Price Funds are offered directly to retail investors as well as through financial intermediaries such as broker/dealers, insurance companies, banks and plan recordkeepers. As of March 31, 2009, the Price Funds held assets of $158.8 billion. T. Rowe Price also provides brokerage services to Price Fund shareholders and other retail customers as an introducing broker through its Brokerage Division and provides certain services to customers who hold T. Rowe Price's two proprietary no-load variable annuity products. It also serves as the distributor for Section 529 College Savings Plans issued by two states.

The Scope of the Proposed Suitability Rule. T. Rowe Price generally supports FINRA's proposal in this area. We believe it is important to codify various interpretations regarding the scope of the suitability rule, clarify what information should be gathered and used as part of a suitability analysis, and create a clear exemption for recommended transactions involving institutional customers if certain conditions are met.

FINRA has also specifically sought comment about whether it should propose expanding 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. We do not think that the suitability obligations should be expanded in this manner because we do not believe that FINRA has jurisdiction over recommendations that do not involve securities.

Know Your Customer. T. Rowe Price is concerned about the scope of the proposed Know Your Customer Rule 2090 and its accompanying Supplementary Material, under which member firms would be required to collect and maintain "essential facts," as defined by FINRA, concerning *every* customer. These "essential" facts would include the customer's financial profile and investment objectives or policy. As justification for this substantial change to existing NASD requirements, FINRA points to NYSE Rule 405(1), which it proposes to transfer into the Consolidated FINRA Rule book in modified form.

T. Rowe Price understands that NYSE Rule 405(1) was originally adopted to protect broker/dealers against poor credit risks and unauthorized transactions. In fact, NYSE Rule 405(1) and its Supplementary Materials do not specify what information a broker/dealer must collect in order to demonstrate "due diligence" except in very limited instances (*e.g.*, nonmember corporation accounts), reflecting that "essential facts" can vary depending on the customer, the account and the risk presented.

T. Rowe Price believes that FINRA is incorrectly attempting to graft suitability-type information requirements that are similar, if not identical, to those found in current Rule 2310(b) onto the more general NYSE requirement that generally does not specify what information a firm must collect about customers, orders, accounts, and authority to act for a customer. For example, we believe that the information that would be collected for "customer's financial profile" as described in the proposed Supplementary Material would be essentially the same information that would be collected for "customer's financial status" in Rule 2310(b)(1). Similarly, we feel that the information collected about a customer's "investment objectives or policy" under the proposed Supplementary Material would be essentially the same information that would be collected for "customer's investment objectives" in Rule 2310(b)(3). We believe, however, that if no recommendation is made to a customer, then each firm is in the best position to determine for itself what information it needs to collect and maintain about each of its customers and that these determinations should not be mandated by regulation.

In its release, FINRA states that each firm would be required to collect the required information so that the firm would "know" facts that FINRA has apparently deemed to be essential in helping a firm determine for itself, among other things, whether to approve the account, where to assign the account, whether to extend margin and whether the

customer has the financial ability to pay for transactions. T. Rowe Price has several concerns with this position. First, we believe that this proposed requirement and its justifications do not reflect the variety of business models in the industry. For example, T. Rowe Price does not typically assign Brokerage accounts to specific representatives, so this enumerated reason does not apply to its business.

Second, T. Rowe Price Brokerage already distinguishes among types of accounts, for example, in deciding what information it will require in connection with opening each type. As a result, the T. Rowe Price Brokerage margin application asks about the applicant's income, net worth, liquid net worth, occupation or source of income if retired or not currently employed, and experience in investments and with margin. We have determined that this information can be important in judging whether a margin account should be approved. We have also made the determination, however, that we do **not** need to ask for all of this information when opening a Brokerage cash account and so request information about the applicant's income and employment for those accounts. Similarly, T. Rowe Price Brokerage has put in place special approval requirements for certain types of trades based upon its own risk assessment analysis. Given the nature of its business model, we do not believe that the information described as "essential" in the proposed Supplementary Material is relevant to T. Rowe Price Brokerage's decisions regarding all of its customers' accounts.

Third, we believe that the requirement to collect this information will be burdensome and costly both to the firm and ultimately to its Brokerage customers without any resulting benefit to any of these parties. In Notice 98-47, FINRA (then NASD Regulation) extended the exemption in Rule 3110(c)(2) from collecting a customer's tax identification or Social Security number, occupation of customer and name and address of employer, and whether the customer is an associated person of another member ("**Retail Customer Information**") from just accounts in which investments were limited to transactions in money market funds that are not recommended by the member or its associated person to accounts in which investments are limited to transactions in open-end investment company shares that are not so recommended. In explaining its rationale for this amendment, NASD Regulation conceded that "[a] primary purpose of obtaining Retail Customer Information is to help a member evaluate the suitability of a recommendation." It noted that it had made the determination that "the requirement to obtain Retail Customer Information is burdensome and largely unnecessary as it applies to members who distribute directly marketed mutual funds and other unsolicited accounts that are limited to mutual fund shares and for which no recommendations are made."

In its discussion of the change, NASD Regulation stated that two of the three items of Retail Customer Information were already required by other laws or rules. Although the remaining item – the customer's occupation and the name and address of his or her

employer – can be viewed as important from a suitability viewpoint, this information is much more important to consider in making decisions about risks presented in opening and maintaining a customer's Brokerage account, and the requirement to collect Retail Customer Information continues to apply accounts of this type in which recommendations are not made. In contrast, the information that FINRA would deem "essential" about every customer – the customer's financial profile and especially the customer's investment objectives or policy – is much further removed from any business or risk assessment of the customer. In fact, as reflected by the fact that essentially the same information is required currently in Rule 2310(b), this information is completely aligned to a suitability assessment. We urge FINRA to follow the lead of its predecessor regulator and acknowledge in the proposed rule that collecting the information proposed is both burdensome and unnecessary in a broker/dealer account in which the broker/dealer or its associated persons will not make recommendations.

Finally, we are quite concerned that the very collection of the information described in the proposed Supplementary Material on an across-the-board basis might imply, incorrectly, that Brokerage will only permit a customer to execute a self-directed transaction if it has determined that the transaction is at some level appropriate for that customer based upon, for example, whatever investment objectives or policy the customer described in the account application or that the firm will conduct a post-trade review for this purpose. We clearly disclose to all of our Brokerage customers and prospective customers that the firm does not provide recommendations or advice regarding a customer's Brokerage transactions and we strongly object to being required to ask for information that is not relevant to the operation of our business and that might confuse our customers.

We believe that FINRA should continue to allow each firm to make its own judgments about what information it should collect in connection with the opening and maintenance of an account where recommendations will not be made. We strongly disagree that any firm should be required to collect "essential" facts, as determined by FINRA, regarding a customer if the firm does not make recommendations regarding transactions in that customer's account.

Authority of Person Acting on Behalf of Customer. To the extent that the requirement in proposed Rule 2090 to know and retain "the essential facts concerning ... the authority of each person acting on behalf of such customer" requires the collection and maintenance

of the information necessary to establish that such a person does in fact have appropriate authority to act for the customer, we have no objection to it, but believe it might better be incorporated into FINRA's NASD Rule 3110.

If you have any questions about T. Rowe Price's comments, please do not hesitate to contact me.

Very truly yours,

Sarah McCafferty

cc: J. Gilner, Esq.
D. Oestreicher, Esq.
Ms. M. Williams