
From: Dave Neuman [mailto:daveneuman@stoltlaw.com]

Sent: Wednesday, June 24, 2009 5:31 PM

To: Comments, Public

Subject: Regulatory Notice 09-25

Marcia E. Asquith

FINRA, Office of the Corporate Secretary

1735 K Street, NW

Washington, DC 20006-1506

pubcom@finra.org

RE: FINRA Proposed Changes to Suitability and Know Your Customer Rules
Regulatory Notice 09-25

Dear Ms. Asquith:

I appreciate the opportunity to comment on FINRA's proposed changes to the suitability and know your customer rules. I am attorney who concentrates his practice on representing investors in securities arbitration and litigation. I believe that there are some positive and negative aspects to the new rule, but I generally support the proposed rule change.

I believe the proposed Rules 2111 and 2090 will provide some benefits to investors. It clarifies what factors an associated person should consider when recommending an investment to a customer. I also support FINRA's decision to include both "transaction(s) or investment strateg(ies)" under proposed Rule 2111.

In addition, I support the language of the Supplementary Material for proposed Rule 2111. This material should be able to help brokers understand the different components of suitability obligations they have towards their customers.

I also support the addition of Rule 2090 and its supplementary materials. It seems obvious that broker's should have an obligation to know essential facts concerning their customers, especially in light of a broker's suitability obligations.

I think the proposed rule could be stronger and should be amended to provide better protection for investors. For one, the new rule does not discuss a broker's recommendations to hold onto a security. A recommendation to hold is almost just as important (and sometimes more important) to a customer than the decision to buy. Changes in the market conditions or the client's individual circumstances may prompt a decision to sell or hold a security. I hope FINRA will consider this issue and propose language to include suitability obligations for recommendations to hold as well (or at least make the language clearer to indicate that recommendations to hold are covered under proposed Rule 2111).

Also, I believe that the proposed rule should be broader to include suitability obligations for all transactions, not just broker recommendations. In the practical reality of today's securities brokerage industry, most brokers are more than just mere order-takers. Many brokers provide

advice to their customers about which securities to buy, sell, or hold, and many brokers hold themselves out as “financial planners.”

A broker should have the same obligations to a customer who himself or herself recommends which security to buy, sell, or hold. Brokers are often in a better position to evaluate the risks and characteristics of a given investment product than the client is. Brokers have better access to research reports, prospectuses, marketing materials, brochures, etc., than their clients, and this should prompt brokers to consider and discuss with the client the suitability of such investment. Today’s brokers should consider the suitability factors when discussing all transactions, including customer-initiated recommendations.

I do support the changes that have been made to the rules, but I think they can go further in protecting the general investing public. For these reasons, I support the adoption of these rules but ask that FINRA expand these rules. Again, I appreciate the opportunity to comment on these proposed rules.

Sincerely,

David Neuman
Stoltmann Law Offices, P.C.