

# FOREFIELD INC.

THE ADVISOR'S MOST TRUSTED ADVISOR

November 18, 2009

Office of the Corporate Secretary-Admin.

Marcia E. Asquith  
Senior Vice President and Corporate Secretary  
Office of the Corporate Secretary  
FINRA  
1735 K Street, NW  
Washington, DC 20006-1500

NOV 23 2009

FINRA  
Notice to Members

**Re: Request for Comments on Proposed New Rules Governing Communications with the Public (FINRA Regulatory Notice 09-55)**

Dear Ms. Asquith,

We submit this letter in response to FINRA's request for comments on its proposed new rules governing communications with the public and amending Rules 2210 and 2211 as outlined in FINRA Regulatory Notice 09-55.

As a leading provider of high-quality educational print and electronic communications materials for financial services firms to use with their institutional and retail customers, Forefield Inc. is concerned with ensuring that these rules both protect the investing public and provide for the ability to communicate important information on a timely basis. Forefield does not create, sell, market, or otherwise have a financial stake in any individual exchange-traded or private securities. We do not create communications regarding individual or proprietary securities. As our communications materials must be capable of being used by a wide variety of financial services professionals at a variety of levels, all materials are generic and educational in nature and do not address or promote the specific performance, history, or characteristics of any particular investment product, security, investment company, or insurance policy.

We strongly support the provisions of Proposed Rule 2210(b)(1)(C), which maintains the current exception from the principal approval requirements for retail communications that have been filed with FINRA by another firm and that were found to meet applicable standards.

However, we are concerned that there seems to be no provision in the Proposed Rule for generic market summaries that previously fell under the category of correspondence. For example, we publish a weekly market summary called Market Week, which includes a brief review of key financial-related events as well as week-end closing market data on various broad-based indices (e.g. the Russell 2000, S&P 500) and benchmark interest rates, such as the Federal funds target rate and the 10-year Treasury note yield. A copy of Market Week is attached for your review.

Pursuant to FINRA Rule 2211(a)(1) a qualifying market letter may be considered correspondence rather than sales literature if it is distributed by a member to (1) current retail customers and (2) fewer than 25 prospective retail customers within a 30-day calendar period. After reviewing FINRA Regulatory Notice 09-55, it is our understanding that under the Proposed Rule 2210, market letters, such as the example we have presented, will no longer be considered correspondence if they are distributed to more than 25 retail investors. Including market letters in the definition of retail communications would put them on the same footing as sales literature and advertisements that promote specific products and securities.

We do not feel a generic market summary such as Market Week, which discusses no specific securities and makes no investment recommendations, warrants the same type of stringent review process required of sales literature or advertising. In our opinion, this is particularly true when such a market summary has been prepared independently of any individual member firm, and no member firm can alter the content to promote its own interests.

Requiring that market letters be filed with FINRA's Advertising Regulation Department would essentially eliminate the ability to provide a timely weekly market summary. Even under a best-case scenario (a 5-day expedited FINRA review), it would be impossible to guarantee the publication of a weekly market letter prior to the following week's data becoming available. As a result, retail investors would be receiving information that was already outdated.

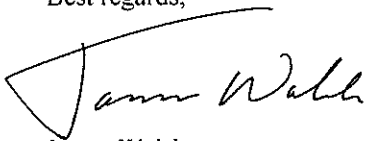
We would like to suggest that the Proposed Rule exclude from the filing requirement generic market letters that are produced by an independent third party and that meet the definition of "market letter" as outlined in existing rules. Such a definition could provide the market letter exemption only for factual discussions of broad-based indices (for example, daily closing data) and/or review of or unbiased or objective commentary on publicly reported economic, political, or market conditions. A generic weekly market summary under this definition could specifically exclude any specific investment recommendations, ratings and/or performance data, or performance forecasts for specific companies, market sectors, securities or investment products.

It is our belief that such generic educational communications should not be judged on the same basis as sales literature that promotes specific products, particularly when the content is widely available in many media.

Investors need independent, unbiased information about the financial markets more than ever before. Removing potential impediments to the distribution of such information would not only be in the best interests of Forefield and its clients, but in the best interests of the investor community at large.

We thank you for the opportunity to comment on the proposed rules changes and their impact on our company, our clients, and the general retail investing community. We would be happy to discuss with you any of the concerns outlined above, or any other issues that might be helpful in finalizing the revised rules. Please do not hesitate to contact Editor-in-Chief James Walsh (508-630-1125) or President Bill Davenport (508-630-1139) if we can be of any help in thinking these matters through.

Best regards,

A handwritten signature in black ink that reads "James Walsh". The signature is written in a cursive style with a large, sweeping initial "J".

James Walsh

Editor in Chief  
Forefield, Incorporated  
33 Boston Post Road West, Suite 190  
Marlborough, MA 01752

[jwalsh@forefield.com](mailto:jwalsh@forefield.com)  
(508) 630-1125

## Market Week: November 16, 2009

### The Markets

After rising 500 points over six days and hitting a level not seen since the day after last year's vice presidential debate, the Dow slipped a bit but still managed to stay above 10,000. The S&P 500 once again bumped its head against the 1100 mark, but couldn't quite break through.

Market/Index	2008 Close	Prior Week	As of 11/13/09	Week Change	YTD Change
DJIA	8776.39	10023.42	10270.47	2.46%	17.02%
NASDAQ	1577.03	2112.44	2167.88	2.62%	37.47%
S&P 500	903.25	1069.30	1093.48	2.26%	21.06%
Russell 2000	499.45	580.35	586.28	1.02%	17.39%
Global Dow	1526.21	1903.30	1950.46	2.48%	27.80%
Fed. Funds	.25%	.25%	.25%	0 bps	0 bps
10-year Treasuries	2.24%	3.50%	3.43%	-7 bps	119 bps

### Last Week's Headlines

- An October Federal Reserve Board survey of bank lending officers showed that overall, credit continues to tighten for both small businesses and households. Approximately 45% of the banks surveyed reported making fewer commercial and industrial loans. And roughly half said that between now and February, they expect to reduce credit limits, raise required minimum credit scores, and/or increase annual fees for prime borrowers (for nonprime borrowers, the percentage planning such steps was even higher).
- U.S. exports rose 2.9% in September, but imports rose twice as much. The U.S. trade deficit, now \$36.5 billion, is 18.2% higher than in August, and the trade deficit with China alone is at a year-long high.
- In other deficit-related news, President Obama and Treasury Secretary Geithner both worked overtime to try to reassure Asian nations that the U.S. recognizes the global need for a strong dollar and will work to reduce the trade deficit as the economy begins to recover.
- The European Union's economy followed that of the U.S. in growing during the third quarter. The 0.4% growth was the first positive figure since the first quarter of 2008.
- The Reuters/University of Michigan survey of consumer confidence hit its lowest level in three months, dropping from 70.6 in October to 66. And unfortunately, respondents' expectations for their prospects a year from now weren't much better. In October, the consumer expectations reading was 81; in November, it fell to 67--the lowest level since April.

### Eye on the Week Ahead

October retail sales may suggest what's in store for the holiday shopping season. Investors will keep a watchful eye on inflation data, and options expirations at week's end could bring volatility.

Key data releases: Retail sales (11/16); wholesale inflation, industrial production (11/17); consumer inflation,