

December 24, 2009

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

Re: Notice 09-63 - Proposed FINRA Rules Governing Discretionary Accounts and Transactions

Dear Ms. Asquith:

Scottrade, Inc. (“Scottrade”) appreciates the opportunity to comment on FINRA’s proposal to adopt a new rule - FINRA Rule 3260(b) – to regulate orders entered by agents that are not registered representatives of the broker-dealer. Scottrade supports the concept that customer third-party agent relationships should be documented. However, we oppose proposed Rule 3260(b) as drafted. We believe that the rule could create situations where a trade could be deemed unauthorized merely because the form of the customer’s authorization does not meet the specifications of the proposed rule. For example, husband maintains an online brokerage account, shares his account login credentials with his wife and authorizes her to make a trade on his behalf in the account. The husband clearly authorized the trade, but the proposed rule would make the trade unauthorized if the broker-dealer does not have a written trade authorization document in its files. Scottrade believes the rule should be redrafted so that authorized activity will not become unauthorized for FINRA purposes merely because of form. Following on the theme of form, missing documentation or an undated authorization should not form the sole basis for concluding that an order is unauthorized. Rather, the determination whether a trade is unauthorized should be determined by the facts and circumstances surrounding the trade, including whether the customer believes that he or she authorized the agent.

We thank you for your consideration of our comments. If we can be of any assistance, please do not hesitate to contact me.

Sincerely,

Andrew C. Small
General Counsel