# Regulatory Notice 08-58

# Temporary Guarantee Program for Money Market Mutual Funds

## Guidance on Disclosure Concerning the U.S. Treasury Department's Temporary Guarantee Program for Money Market Mutual Funds

### Executive Summary

FINRA is issuing this *Notice* to provide guidance to firms regarding disclosure concerning the U.S. Treasury Department's (Treasury) temporary guarantee program for the U.S. money market mutual fund industry (Program). The Program, which was announced by the Treasury on September 19, 2008, covers the shares of a participating money market mutual fund that were owned by a beneficial shareholder as of the close of business on September 19, 2008. The Program will expire on December 18, 2008, unless extended by the Treasury.

FINRA expects a firm that refers to the Program in its communications to do so in a manner consistent with our rules. FINRA also expects a firm that receives transferred customer accounts during the time the Program is in effect to inform customers that they could lose coverage under the Program if the customers liquidate or transfer their shares in a participating money market mutual fund. Firms should review the Treasury's Web page concerning the Program for more details.[1]

Questions concerning this *Notice* should be directed to Thomas M. Selman, Executive Vice President, Regulatory Policy, at (202) 728-6977, or Joseph P. Savage, Vice President and Counsel, Investment Companies Regulation, at (240) 386-4534.

FINRA
Financial Industry Regulatory Authority

### October 2008

#### Notice Type

- Guidance

#### Suggested Routing

- Advertising
- Compliance
- Legal
- Mutual Funds
- Registered Representatives
- Senior Management

#### Key Topics

- Money Market Mutual Funds
- Temporary Guarantee Program for Money Market Mutual Funds

#### Referenced Rules & Notices

- NASD Rule 2210

## Background & Discussion

On September 19, 2008, the Treasury announced the establishment of a temporary guarantee program for the U.S. money market mutual fund industry.[2] Under the Program, the Treasury will guarantee the stable net asset value of any publicly offered eligible money market mutual fund that applies for and pays a fee to participate in the Program. All money market mutual funds that are regulated under Rule 2a-7 of the Investment Company Act of 1940, maintain a stable net asset value, and are publicly offered and registered with the Securities and Exchange Commission (SEC) are eligible to participate in the Program, provided that they elected to do so in accordance with the Treasury's requirements.

The Program provides coverage to beneficial shareholders for amounts that they held in participating money market mutual funds as of the close of business on September 19, 2008. The guarantee will be triggered if, after the close of business on September 19, 2008, a participating fund's per share net asset value falls below 99.5 percent of the stable share price. Funds whose per share net asset value dropped below 99.5 percent of the stable share price as of or before the close of business on September 19, 2008, may not participate in the Program. The Program will terminate on December 18, 2008, unless extended by the Secretary of the Treasury. In no event will the Program extend beyond September 18, 2009.[3]

The scope of coverage under the Program is limited. For example, any increase in the number of shares held in a participating fund after the close of business on September 19, 2008, or an investment in another participating fund after that date, will not be guaranteed. If an investor holds less than the level of shares originally held in the participating fund on September 19, 2008, on the date the guarantee is triggered, only the amount of shares held on that later date will be covered. In addition, if an investor closes an account where the shares were held on September 19, 2008, or transfers shares from such an account to a new account after that date, the shares will not be covered.[4]

### Member Firm Communications Concerning the Temporary Guarantee Program

Since the Program was first announced, FINRA has reviewed member firm communications that refer to the Program and its features. While FINRA does not require communications concerning money market mutual funds to discuss the Program, pursuant to NASD Rule 2210 (Communications with the Public) any reference to the Program in communications must be fair and balanced. Communications that mention the Program must describe its scope and limitations accurately, as well as its temporary nature.

Under Rule 2210 and based upon our discussions with the SEC and Treasury staffs, FINRA expects member firm communications that discuss the Program to provide in substance the following information:

- The U.S. Treasury Temporary Guarantee Program provides a guarantee to participating money market mutual fund shareholders based on the number of shares invested in the fund at the close of business on September 19, 2008.
- Any increase in the number of shares an investor holds after the close of business on September 19, 2008, will not be guaranteed.
- If a customer closes his/her account with a fund or broker-dealer, any future investment in the fund will not be guaranteed.
- If the number of shares an investor holds fluctuates over the period, the investor will be covered for either the number of shares held as of the close of business on September 19, 2008, or the current amount, whichever is less.[5]
- The Program expires on December 18, 2008, unless extended by the United States Treasury.[6]

## Transfer of Customer Brokerage Accounts

FINRA has also received inquiries from firms concerning any disclosure that should be made to brokerage customers concerning coverage by the Program when a customer transfers an account from one brokerage firm (the carrying firm) to another (the receiving firm), and the customer owns shares of a money market mutual fund that is participating in the Program. If the customer held shares on September 19, 2008, in money market mutual fund(s) that are participating in the Program, and intends to move the account to the receiving firm during the time the Program is in effect, FINRA expects the receiving firm to inform the customer that he or she could lose the benefit of the guarantee upon closure of the account with the carrying firm. The receiving firm should take reasonable steps to provide this information to the customer before he or she closes the account with the carrying firm.

FINRA recognizes that the receiving firm will not necessarily know what assets a customer holds at the carrying firm, and will not be able to provide disclosure regarding particular money market mutual funds that a customer may own. However, the receiving firm can provide general disclosure to customers regarding this issue at the time an account is transferred, perhaps on its Transfer Initiation Form (TIF) that is submitted to initiate the transfer process.

At a minimum, the disclosure should refer to the guarantee and inform customers who own shares in a money market mutual fund that is covered by the guarantee that they could lose the benefit of the guarantee in the account transfer upon closure of the account with the carrying firm or upon transfer of the shares to the receiving firm. The disclosure should recommend that any customer who has questions about a potential loss of coverage should contact the carrying firm before closing an account.

## Endnotes

1 *See http://www.treas.gov/offices/domestic-finance/key-initiatives/money-market-fund.shtml.*

2 Press Release, U.S. Department of the Treasury, "Treasury Announces Guaranty Program for Money Market Funds" (Sept. 19, 2008).

3 Press Release, U.S. Department of the Treasury, "Treasury Announces Temporary Guarantee Program for Money Market Funds" (Sept. 29, 2008).

4 Press Release, U.S. Department of the Treasury, "Frequently Asked Questions About Treasury's Temporary Guarantee Program for Money Market Funds" (Sept. 29, 2008; Media Advisory Oct. 16, 2008).

5 *Id.*

6 This disclosure may be modified to reflect a later date if the Treasury extends the Program past December 18, 2008.