



**FIRST ASSET  
FINANCIAL Inc.**  
Member SIPC • FINRA

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September 19, 2016

Dear FINRA,

Under the proposed 3220.(c).(02) it is stated that the “Gifts must be valued at the higher of cost or market value...” The “market value” in this rule is totally unnecessary and it is difficult to imagine a reason for it, except for an examiner to use it as a “gotcha” in an exam. Firms are not in the business of keeping current with the “market value” of gifts and the firm’s time is better spent elsewhere. It is difficult for a firm to “prove” the market value of gifts. Should they keep abreast of high quality steak prices to be assured that the Omaha Steak sent to a customer is at “cost or market value”? Regulators should be realistic in their demands and strike the “or market value” from 3220.(c).(02).

In regard to Regulatory Notice 16-29, comments were requested to items 1-11 on pages 10 & 11 of the Notice. Please find the comments below.

1. The proposed amendments would increase the gift limit under FINRA Rule 3220 and proposed FINRA Rule 3221 to \$175. What risks, if any, might arise to customers by raising the gift limit?  
A. If the gift was too large, it might unduly influence a customer. Should FINRA increase the limit to \$175? **A. NO, it should be greater.** If not, what, if any, would be an appropriate limit?  
**A. The absolute minimum should be \$225 and preferably \$275. The cost of entertainment (sporting tickets, concerts, restaurants, hired cars, parking, etc.) has grown far faster than inflation since 1992 when the level was last set. If this rule is not changed for another 23 years, future cost increases need to be taken into consideration as well, hence the \$275 recommendation. FINRA needs to look forward as well as backwards on the issue.**
2. The Gifts Rule applies to gifts a member firm or its associated persons give and not to gifts the member firm or its associated persons receive. Should the Gifts Rule apply to gifts received as well as gifts given? **A. No Logic often evades regulators. It is logical that one could not control the value of a gift given. Also an attempt to influence through a gift given to a member firm or associated person would be highly unlikely! How would “good will” with customers be increased by giving back a gift if it exceeded a rule they were not aware of?**
3. The Gifts Rule does not apply to gifts a member firm gives to its own employees or from a member firm’s employee to his or her individual retail clients or customers. Should the Gifts Rule apply to gifts a member firm gives to its own employees or from a member firm’s employee to his or her individual retail clients or customers? **A. NO Please explain. A. This is a “gray” area and could be considered employee compensation. FINRA should not limit or regulate employee compensation.**
4. FINRA is proposing a \$50 de minimis threshold below which member firms would not have to keep records of gifts given or received. Is a \$50 de minimis threshold appropriate? **A. NO** Should the threshold be higher or lower or should FINRA not include a de minimis threshold? **A. It should be higher. The gift level of \$100 should be used rather than \$50. Record keeping is expensive due to employee time and diligence from associated persons that must be given as well. Associated persons should not have to report any expenditure of under \$100 for record keeping purposes. If this rule is not changed for another 23 years, future cost increases need to be taken into consideration as well, hence the \$100 recommendation.**

5. To what extent would FINRA's proposal to no longer allow product-specific internal sales contests for non-cash compensation impact member firms? **A. No Comment** In what ways, if any, could it potentially impact customers? **A. No Comment** Is FINRA's proposed approach to internal sales contests for non-cash compensation appropriate? **A. No Comment** Please explain. **A. No Comment**
6. Commenters have said that restricting entertainment at training sessions paid for by offerors is logically inconsistent with the rule's business entertainment approach. Should the requirements for training and education meetings allow entertainment that complies with the limitations on business entertainment provided by members? **A. No, absolutely not. Most often these are "group events" and the costs are difficult to determine on an individual basis for the set limitation. Again, this would be regulatory overreach to "micro manage" a group endeavor. If FINRA went as far as our phone provider does at rate hearings for the cost of a serviceman (hourly wage, pension benefits, cost of amortization of his truck, tools, health insurance, portion of supervisors time used, etc.) they could easily prove violation of the gifts rule with even the cheapest hotel food and drink!**
7. Are the proposed recordkeeping requirements appropriately tailored to obtain information that would be relevant for purposes of monitoring for compliance with the proposed rules? **A. Again, this appears to be a "micro-managing" approach to the record keeping required. It is overly detailed and will require considerable time by a firm to produce such a record with many required entries.**
8. What are the estimated costs of drafting policies and procedures to comply with proposed Rule 3222 relating to business entertainment? **A. If you consider the advisor's time and the staff time it could be no less than \$75 per hour and probably considerably more. I do not know how many hours would be involved, particularly for #6. The compliance burden placed on firms by FINRA is never lighter, but always increasing.**
9. How would the consolidation of the rules governing gifts, gratuities and non-cash compensation in this proposal simplify compliance? **A. It would allow location of most of the gifts, gratuities & non-cash compensation to be in one section of the rules.** What impact would it have on the costs of compliance? **A. The impact of having the rules in one location would not affect the costs much, but the rules themselves with increase the cost of compliance.**
10. What economic impact, if any, would be associated with the extension of the rules governing non-cash compensation to all securities? **A. It is difficult to assess, but no doubt, it would cost firms MORE for additional compliance costs!**
11. Are there any expected economic impacts associated with the proposed rules not discussed in this Notice? **A. YES** What are they and what are the estimates of those impacts? **A. Again, attempting to determine "market value" of gifts will cause unknown expense, depending on the difficulty of determining the market and the frequency of checking the "market value" of a gift. The amount of detail required by the proposal appears to be greater than the current rules, thus demanding more time and effort on behalf of staff and advisors.**

To summarize my comments on Regulatory Notice 16-29:

- should increase the gifts limit to \$275 or, at a minimum \$225
- should increase the *diminimus* amount to \$100
- the requirement for “market value” assessment of gifts should be stricken in its entirety and the cost basis only should be used in computing the value of any gift or gratuity for record keeping purposes
- Relax the detailed record keeping requirements
- should not involve employee gifts
- should eliminate the idea of a requirement entirely for entertainment at training sessions & educational meetings of advisors or employees

Please consider the above and the changes suggested prior to finalizing the rule.

Sincerely,



Robert L. Hamman  
President & Chief Compliance Officer  
Current Member of FINRA District IV Committee  
Member of the Rules Advisory Committee (RAC)