

We strongly believe that FINRA should incorporate the NYSE 435(5) qualification when the rumor is circulated by the public media. When clients have holdings in stocks that are the subject of rumors and those rumors are being reported by widely circulated public media, it may be incumbent on a registered representative to inform his client to the nature of the rumor. This is especially true if the rumor has had an impact on the market price of the security. Once the public media distributes the existence of a rumor, it is a news event as long as the registered representative places it in prospective. The salesperson should be allowed to alert clients to the reported rumor, highlight to their client that although the public media has circulated the rumor, there is no confirmation that the rumor is accurate. Regulators monitoring unusual market movements will be able to learn of the widely circulated public media pronouncements via various internet search engines and they do not need to rely on members having to file specific reports of the event.

Larry Kimmel
Director of Compliance
Depfa First Albany Securities LLC
444 Madison Avenue, Suite 400
New York, N.Y. 10022
tel: 212-461-9483 fax: 212-461-9460