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June 5, 2009

Marcia E. Asquith

Office of the Corporate Secretary

FINRA

1735 K Street, N.W.

Washington, D.C. 2006-1500

**Re: Comments on Proposed FINRA Rule 3210
(Personal Securities Transactions for or by Associated Persons)**

Dear Ms. Asquith:

The National Society of Compliance Professionals ("NSCP") appreciates the opportunity to comment on the proposed Rule 3210 ("Proposed Rule") by the Financial Industry Regulatory Authority ("FINRA").

The Proposed Rule is of considerable interest to NSCP and its members. NSCP is the largest organization in the securities industry serving compliance professionals exclusively, through education, certification (CSCP), publications, and consultation forums. Since the founding in 1987, NSCP membership has grown to over 1700 members including compliance professionals at broker-dealers, investment advisers, banks, insurance companies, and hedge funds. The diversity of our membership allows the NSCP to represent a large variety of perspectives in the financial services industry.

As an initial matter, NSCP commends FINRA for addressing the effectiveness of current rules intended to help employing firms prevent improper trading activities by their associated persons. NSCP understands that FINRA seeks not only to combine and streamline certain provisions of NASD Rule 3050 and Incorporated NYSE Rule 407, but also to adopt additional requirements to promote more effective oversight of the personal trading activities of associated persons of FINRA member firms. In that regard, the practical application and effectiveness of the rule provisions contained in proposed FINRA Rule 3210 (the "Proposal") must be carefully considered, as FINRA has commendably undertaken to do.

Upon review and discussion of the Proposal, we have identified three areas requiring additional clarification or modification, specifically, (1) the notice requirements of the proposal, (2) the definition of "personal financial interest," and (3) the practicality of the employer member obtaining records of closed accounts from the executing member.

Prior Written Consent Requirement

Proposed Rule 3210(a) is based on NYSE Rule 407:

“Proposed 3210(a) No person associated with a member shall, without the prior written consent of the member (“employer member”), open or otherwise establish at another member firm other than the employer member (“executing member”), or at any other financial institution, any account in which securities transactions can be effected and in which such associated person has a personal financial interest. As a condition to such prior written consent, the employer member must instruct the associated person to have the executing member provide duplicate account statements and confirmations to the employer member.”

Notice Requirement: In our view there is little or no difference in risk associated with the opening of an outside brokerage account by an incumbent associated person or a new hire. Consequently, our recommendation for the provisions of Proposed 3210(a) would be to impose on all associated persons a 15-day notice requirement from the date the account is opened, analogous to the 15-day notice requirement imposed on new hires, for purposes of consistency and ease in administration.

Personal Financial Interest: As clarifying language from NYSE Rule 407 was deleted in the crafting of the Proposal, there is a need for clarification on what is meant by “Personal Financial Interest.” [See Notice 09.22 footnote 9.] For example, would an account in the name of an associated person’s spouse, over which the associated person has no control, be considered an account in which the associated person has a personal financial interest? This issue raises serious concerns in that the spouse might refuse to share his / her statements with the broker (akin to similar Rule 8210 issues). Similarly, how would this test come into play with respect to beneficiary / trust accounts? Finally, should FINRA view the Proposal to cover accounts in which the associated person has a financial interest but does not have effective control, we question the enforceability of such a view. A FINRA member firm has neither authority over nor the right to compel delivery of the private information of non-associated persons even if the associated person has a financial interest in such an account.

Notification by the Associated Person

Proposed 3210(b) Any associated person, prior to opening or otherwise establishing an account pursuant to paragraph (a) of this Rule, shall notify in writing the executing member, or other financial institution, of his or her association with the employer member and shall state in such notice that he or she has a personal financial interest in the account.

Personal Financial Interest: Please see our comments under Proposed 3210(a) above for clarification of the phrase “personal financial interest.”

Obligations of the Executing Member

Proposed Rule 3210(c) When an executing member has actual notice that an associated person of an employer member has a personal financial interest in any account opened or otherwise established at the executing member, such executing member shall not execute any securities transactions in that account unless it has obtained the employer member's prior written consent. In addition, such executing member shall promptly obtain and implement an instruction from the associated person directing that duplicate account statements and confirmations be provided to the employer member.

No comment.

Revocation of Employer Member's Consent

Proposed 3210.04 sets forth a new requirement for employer members. If an employer member does not receive the duplicate account statements and confirmations required pursuant to this Rule in a timely manner, the employer member shall revoke its consent to maintain the account, and shall so notify the executing member or other financial institution in writing. The employer member shall promptly obtain records from the executing member that the account was closed.

Record of Closed Account: As employer members do not have control over executing members, requiring an employer member to "...promptly obtain records from the executing member that the account was closed" is impractical. Because the trigger for the requirement that the Employer Firm revoke its consent to the existence of the outside brokerage account would be its failure to receive records from the executing member as prescribed, it is very unlikely that the Employer Firm would have the ability to compel the issuance of evidence of the account closing. For this reason we recommend the language under this section be amended to require that Employer Members attempt to obtain confirmation from the Executing Member that the account was closed.

Accounts Opened Prior to Association With an Employer Member

For the purposes of paragraphs (a) and (b) of this Rule, if the account was opened or otherwise established prior to the person's association with the employer member, the associated person, within fifteen business days of becoming so associated, shall obtain the written consent of the employer member to maintain the account and shall notify in writing the executing member or other financial institution of his or her association with the employer member and personal financial interest.

We support the concept of imposing a fixed deadline for new associated persons to notify and obtain the written consent of their new employer member firm to maintain an account at an external financial institution. We are somewhat concerned that the fifteen day deadline may be insufficient period of time for a new associated person to secure the employer member's consent, given the many competing activities and interests of a new hire. Accordingly, we would urge FINRA to give consideration to providing a longer period of time (e.g., 15 days to provide notice of an external account, and 30 days to obtain the employer member's consent). Regardless of the deadline chosen, the FINRA rule or notice of the rule's effectiveness should emphasize that the employer member has an obligation to review all new employee trading activity, even if it can only do so on a retroactive basis, from the time the new hire becomes an associated person.

Deleted Requirements

Exercising Control: Our one question about the deleted requirements section of the notice is, with respect to the removal of a reference to “exercising control,” does this mean that having investment discretion is not a requirement to having a “personal financial interest” in the account?

Requests for Comment

Concluding the Proposal, FINRA posed two specific questions for comment about the practical implications of the rule requirements.

1) What methodologies do firms currently employ to obtain information pursuant to NASD Rule 3050 or NYSE Rule 407, as applicable? Do firms collect account activity information (confirmations and statements) electronically, in hard copy or both? Should the proposed rule address such information-gathering methodologies and, if so, how?

Methodologies for Obtaining Information: We believe that FINRA should not prescribe a required medium. Firms will need the option to receive hard copy, electronic, or some combination of the two, at firm discretion. This recommendation is based on the technological diversification among member firms. Some firms restrict delivery to hard copy statements and confirmations, some firms restrict receipt to hard copy statements and confirmations, and some firms receive a combination of hard copy statements and confirmations in conjunction with data feeds directly from large brokerage firms.

2) What processes and controls do firms currently implement upon receipt of the information required under NASD Rule 3050 or NYSE Rule 407, as applicable?

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Processes and controls: A minimal list of “processes and controls” might include:

- 1) Spot checking with respect to specific securities
- 2) Sampling, using a statistically accurate testing method
- 3) More thorough review for associated persons subject to “heightened supervision” or employees with access to information on pending trading activity by the member.
- 4) Data entry / management, depending on number of transactions.
- 5) Importantly, flexibility is the key to the effective monitoring of outside brokerage accounts. Firms should be permitted and encouraged to customize their processes and controls based on, among other things, the size of the firm, types of business conducted by the firm (Research, Investment Banking, Retail, etc.), and number of employees with accounts (and the number of accounts) at an executing member.

In this Proposal, FINRA has in large measure effectively achieved its goal of promoting more effective oversight of the personal trading activities of associated persons of member firms. NSCP’s hope is that its observations here will enable FINRA to amend the Rule, and the guidance accompanying it, to facilitate the ability of member firms to effectively and efficiently achieve that oversight. We look forward to discussing the issues we have addressed in this letter with FINRA staff members, if that would be helpful. Please contact me at 860.672.0843 with any questions. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joan Hinchman', with a long horizontal flourish extending to the right.

The National Society of Compliance Professionals, Inc.

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