January 16, 2015

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

Ms. Asquith:

Thank you for the opportunity to comment on proposed amendments to Rule 2232 that would require mark-up disclosure for retail size transactions where the purchase and sale of the security occur on the same day. Despite repeated denials and claims to the contrary, regulators truly believe that retail investors are paying too much for fixed income securities. Consequently, in an effort to provide investors information similar to that received on agency equity transactions, regulators have long sought a method of requiring disclosure related to what have heretofore been described as "riskless" principal transactions in fixed income securities. This desire usually manifested itself in proposals requiring markup disclosures for "riskless" principal transactions, which were always defined as transactions that clearly contained risk. The current proposal is an improvement in at least that regard as it does not attempt to define a lynchpin term as something it is not.

I would be tilting at windmills if I were to devote any more time to besmirching the idea of requiring dealers to disclose the price at which inventory was acquired. That ship has sailed. Nevertheless, there are still a number of issues with the current proposal that need to be addressed in order to ensure that the information provided to investors is accurate and educational, and does not represent a burden that falls unequally on certain broker-dealers.

First, the proposed amendments do not address issues raised by the sale of securities out of new issues at the public offering price. If a security is purchased at the public offering price on the day of issue, the amount of profit earned by the syndicate or selling group member should be irrelevant to the client acquiring the security. By rule, the public offering price is no respecter of the nature of a particular purchaser, unless the purchaser is a broker-dealer. Furthermore, calculating the exact amount of profit attributable to the sale is complicated by the nature of syndicate roles and the amount of the members' profits attributable to investment banking activity. The Board should consider including an exemption in the proposed amendments that would not require a broker-dealer to disclose "mark-up" on transactions in new issues executed at the public offering price on the date of the issue's sale.

Also, in order to achieve the Board's stated intentions, the proposed amendments should address transactions that represent principal value of $100,000 or less in addition to those that involve 100 bonds or $100,000 par value or less. Transactions in zero coupon bonds with par value well in excess of $100,000 have principal amounts traded well below $100,000. A transaction involving $250,000 par value of a zero coupon bond maturing in 30 years, priced to yield 6.00 percent would only involve about $42,000. I believe that the Board would consider this to be a retail size transaction. Far be it from me to advocate expansion of the applicability of an undesirable regulation; however, I believe that this was drafting oversight that the Board would want to correct. Additionally, if not corrected there would likely be a considerable increase in activity in zero coupon bonds in an effort to avoid the new requirements.

The proposal could result in an increase in prices paid by retail investors in general, since there will be more than a small chance that more than a few dealers will require that retail size sales to customers will not be permitted until the opening of business on the day following the purchase of the bonds. In instances where the dealer has acquired a block larger than "retail size", institutional clients will have access to inventory prior to the inventory being offered to retail clients. The result being that retail clients will only see inventory that did not represent value to institutional clients that were offered the security on the previous day. This might not be solely the result of larger dealers utilizing capital to avoid disclosure requirements. There will be some small dealers that may be forced to adopt this policy because they cannot afford the expense involved in programming the information necessary to accurately disclose the required information.

The request for comment inquires as to whether or not an alternate definition of reference price would be preferable to the definition proposed. Any definition of the reference price that would require a dealer to go outside the universe of its own trades would unnecessarily increase the cost associated with what will already be a burdensome task. Furthermore, the definition needs to be very clear in how price and mark-up are defined, so that an investor knows exactly what is represented by the amount of mark-up disclosed and can be confident that that amount is calculated in the same manner regardless of the client's counterparty. The idea of a *de minimis* exception holds promise, particularly if the *de minimis* amount is a flat dollar amount rather than a per bond figure.

Research has certainly revealed that the average retail customer is being charged fixed income mark-ups that regulators find unpalatable. It is difficult to determine which of a number of factors including investor apathy, which this proposal is designed to address, is centrally responsible. However, it is quite likely that firms that are charging mark-ups that regulators find generally unpalatable (although certainly not excessive) will not be deterred by the proposal. There are steps that could have been taken to improve investor education without requiring sellers to disclose the cost of their inventory on a confirmation.

I do not believe that the proposal will accomplish the goal that the Board has established. However, I am reminded of an old friend who would not eat mushrooms because he refused to eat anything the sun killed: it is difficult to oppose bringing sunlight to anything. Unfortunately, I do not believe that light of this nature will open many eyes, and will create unnecessary confusion and unintended consequences if some of the issues I have raised are not addressed.

Sincerely,

Chris Melton
Executive Vice President
Coastal Securities