Securities Industry Association
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March 9, 2005

Via Electronic and Regular Mail
Jonathan G. Katz
Secretary
U.S. Securities & Exchange Commission
450 Fifth Street, NW
Washington, D.C. 20549

Re: Amendments to Rule 2340 (Customer Account Statements)
(Release No. 34–51181; File No. SR–NASD– 2004–171)

Dear Mr. Katz:

The Self Regulation and Supervisory Practices Committee of the Securities Industry Association ("SIA")[1] appreciates the opportunity to comment on the above referenced proposal ("Rule Proposal"), which would amend NASD Rule 2340 to require that customer account statements include a statement that advises each customer to promptly report any inaccuracy or discrepancy in that person's account to his or her brokerage firm and clearing firm (where these are different firms) and to re-confirm any oral communications in writing. SIA supports the Rule Proposal and recommends below one addition to the rule change in order to ensure regulatory consistency.

As noted in the proposing release, on May 25, 2001, the U.S. General Accounting Office ("GAO") issued *Securities Investor Protection: Steps Needed to Better Disclose SIPC Policies to Investors* (GAO-01-653). In that report, the GAO made recommendations to SEC and the Securities Investor Protection Corporation ("SIPC") about ways to improve the information available to the public about SIPC and the Securities Investor Protection Act ("SIPA"). Among other things, the GAO recommended that self-regulatory organizations ("SROs") explore actions to include information on periodic statements or trade confirmations to inform investors that they should document any unauthorized trading in writing. The GAO deems this to be important because, in the event a firm goes into SIPC liquidation, SIPC and the trustee generally will assume that the firm's records are accurate unless the customer is able to prove otherwise.

In the interest of customer service, many firms currently include language in customer account statements advising customers to immediately report to the firm any discrepancies in balances or positions. These advisories, however, may not necessarily direct customers to do so in writing, nor are they required to be included on the statements.

[1] The Securities Industry Association brings together the shared interests of nearly 600 securities firms to accomplish common goals. SIA's primary mission is to build and maintain public trust and confidence in the securities markets. At its core: Commitment to Clarity, a commitment to openness and understanding as the guiding principles for all interactions between investors and the firms that serve them. SIA members (including investment banks, broker-dealers, and mutual fund companies) are active in all U.S. and foreign markets and in all phases of corporate and public finance. The U.S. securities industry employs 790,600 individuals, and its personnel manage the accounts of nearly 93-million investors directly and indirectly through corporate, thrift, and pension plans. In 2003, the industry generated $213 billion in domestic revenue and an estimated $283 billion in global revenues. (More information about SIA is available at: www.sia.com.)

SIA is pleased to support the Rule Proposal, since the proposed disclosures would become mandatory for all firms, which we believe is fully consistent with good business practices. In addition, making such disclosures in a uniform manner would heighten customer awareness regarding information reflected in their statements, thereby further protecting investor rights, including those under SIPA.

Notably, the NYSE filed with the SEC a similar proposal.[2] While it mirrors the Rule Proposal in most respects, the NYSE's filing also includes an additional provision allowing institutional customers who conduct a Delivery versus Payment ("DVP") and Receive versus Payment ("RVP") business to opt out of receiving statements so long as certain conditions are met.[3] In the interests of regulatory consistency between NYSE and NASD rules, SIA believes that NASD should include a similar provision allowing institutional customers who conduct a DVP/RVP business to opt out of receiving account statements. The NYSE stated, and SIA agrees, that DVP/RVP customers, which are primarily institutional customers, prefer confirmations and trade runs because such records provide critical transactional information on a more timely, T+1 basis, rather than voluminous quarterly statements, which generally do not reflect any cash balances or securities positions at the end of the quarter. If the SEC approves the NYSE proposal, institutional customers of NASD member firms conducting a DVP/RVP business would, nonetheless, not be able to opt out of receiving account statements because members and member organizations would still be required to provide account statements under NASD rules. Thus, we respectfully request that NASD modify the Rule Proposal accordingly.

We thank you for the opportunity to comment. Any questions regarding this letter may be directed to the undersigned or Amal Aly, SIA Vice President and Associate General Counsel, at (212) 618-0568.

Very truly yours,

John Polanin, Jr.
Chairman
SIA Self Regulation and Supervisory
Practices Committee

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[2] *See* File No. SR-NYSE-2005-09 (January 14, 2005). In this filing, the NYSE also proposes to require that members and member organizations advise all new customers, in writing, at the opening of an account, and all customers at least once each year that they may obtain information about SIPC, including the SIPC Brochure, by contacting SIPC, and to provide such customers with SIPC's telephone number and Web site address. NASD has filed a separate proposal to require that members and member organizations provide this information to customers. *See* File No. SR-NASD-2005-005 (January 18, 2005). Neither the NYSE nor NASD proposals have been published for Notice and Comment.

[3] Under the NYSE proposal, the following conditions must be met for a customer to opt out of receiving statements: (1) the customer's account must be carried solely for the purpose of execution on a DVP/RVP basis; (2) all transactions in the account must be done on a DVP/RVP basis; (3) the account must not show security or cash positions at the end of the quarter; and (4) the customer consents to not receiving statements in writing. *See* File No. SR-NYSE-2005-09.