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2000. BUSINESS CONDUCT

2300. TRANSACTIONS WITH CUSTOMERS

2340. Customer Account Statements

(a) General

Except as otherwise provided by paragraph (b), each general securities member shall, with a frequency of not less than once every calendar quarter, send a statement of account ("account statement") containing a description of any securities positions, money balances, or account activity to each customer whose account had a security position, money balance, or account activity during the period since the last such statement was sent to the customer. In addition, each general securities member shall include in the account statement a statement that advises the customer to report promptly any inaccuracy or discrepancy in that person's account to his or her brokerage firm. (In cases where the customer's account is serviced by both an introducing and clearing firm, each general securities member must include in the advisory a reference that such reports be made to both firms.) Such statement also shall advise the customer that any oral communications should be re-confirmed in writing to further protect the customer's rights, including rights under the Securities Investor Protection Act (SIPA).

(b) Delivery Versus Payment/Receive Versus Payment (DVP/RVP) Accounts

Quarterly account statements need not be sent to a customer pursuant to paragraph (a) of this Rule if:

- (1) the customer's account is carried solely for the purpose of execution on a DVP/RVP basis;
- (2) all transactions effected for the account are done on a DVP/RVP basis in conformity with [Rule 11860](#);
- (3) the account does not show security or money positions at the end of the quarter (provided, however that positions of a temporary nature, such as those arising from fails to receive or deliver, errors, questioned trades, dividend or bond interest entries and other similar transactions, shall not be deemed security or money positions for the purpose of this paragraph (b));
- (4) the customer consents to the suspension of such statements in writing. The member must maintain such consents in a manner consistent with [Rule 3110](#) and SEC Rule 17a-4;
- (5) the member undertakes to provide any particular statement or statements to the customer promptly upon request; and
- (6) the member undertakes to promptly reinstate the delivery of such statements to the customer upon request.

Nothing in this Rule shall be seen to qualify or condition the obligations of a member under SEC Rule 15c3-2 concerning quarterly notices of free credit balances on statements.

(c) DPP and Unlisted REIT Securities

A general securities member shall include in a customer account statement a per share estimated value of a direct participation program (DPP) or unlisted real estate investment trust (REIT) security, developed in a manner reasonably designed to ensure that the per share estimated value is reliable, and the disclosures in paragraph (c)(2) as applicable.

- (1) For purposes of this paragraph (c), a per share estimated value for a DPP or REIT security will be deemed to have been developed in a manner reasonably designed to ensure that it is reliable if the member uses one of the following per share estimated value methodologies.

(A) Net Investment

At any time before 150 days following the second anniversary of breaking escrow, the member may include a per share estimated value reflecting the "net investment" disclosed in the issuer's most recent periodic or current report ("Issuer Report"). "Net investment" shall be based on the "amount available for investment" percentage in the "Estimated Use of Proceeds" section of the offering prospectus or, where "amount available for investment" is not provided, another equivalent disclosure that reflects the estimated percentage deduction from the aggregate dollar amount of securities registered for sale to the public of sales commissions, dealer manager fees, and estimated issuer offering and organization expenses. When the issuer provides a range of amounts available for investment, the member may use the maximum offering percentage unless the member has reason to believe that such percentage is unreliable, in which case the member shall use the minimum offering percentage.

(B) Appraised Value

At any time, the member may include a per share estimated value reflecting an appraised valuation disclosed in the Issuer Report, which, in the case of DPPs subject to the Investment Company Act of 1940 ("1940 Act"), shall be consistent with the valuation requirements of the 1940 Act and the rules thereunder or, in the case of all other DPPs and REITs, shall be:

(i) based on valuations of the assets and liabilities of the DPP or REIT performed at least annually, by, or with the material assistance or confirmation of, a third-party valuation expert or service; and

(ii) derived from a methodology that conforms to standard industry practice.

(2) Disclosures

(A) An account statement that provides a "net investment" per share estimated value for a DPP or REIT security under paragraph (c)(1)(A) shall disclose, if applicable, prominently and in proximity to disclosure of distributions and the per share estimated value the following statements: "IMPORTANT—Part of your distribution includes a return of capital. Any distribution that represents a return of capital reduces the estimated per share value shown on your account statement."

(B) Any account statement that provides a per share estimated value for a DPP or REIT security shall disclose that the DPP or REIT securities are not listed on a national securities exchange, are generally illiquid and that, even if a customer is able to sell the securities, the price received may be less than the per share estimated value provided in the account statement.

(d) Definitions

For purposes of this Rule, the following terms will have the stated meanings:

(1) "account activity" includes, but is not limited to, purchases, sales, interest credits or debits, charges or credits, dividend payments, transfer activity, securities receipts or deliveries, and/or journal entries relating to securities or funds in the possession or control of the member.

(2) a "general securities member" refers to any member that conducts a general securities business and is required to calculate its net capital pursuant to the provisions of SEC Rule 15c3-1(a). Notwithstanding the foregoing definition, a member that does not carry customer accounts and does not hold customer funds or securities is exempt from the provisions of this section.

(3) "direct participation program" or "direct participation program security" refers to the publicly issued equity securities of a direct participation program as defined in FINRA [Rule 2310](#) (including limited liability companies), but does not include securities listed on a national securities exchange or any program registered as a commodity pool with the Commodity Futures Trading Commission.

(4) "real estate investment trust" or "real estate investment trust security" refers to the publicly issued equity securities of a real estate investment trust as defined in Section 856 of the Internal Revenue Code, but does not include securities listed on a national securities exchange.

(5) "annual report" means the most recent annual report of the DPP or REIT distributed to investors pursuant Section 13(a) of the Act.

(6) a "DVP/RVP account" is an arrangement whereby payment for securities purchased is made to the selling customer's agent and/or delivery of securities sold is made to the buying customer's agent in exchange for payment at time of settlement, usually in the form of cash.

(e) Exemptions

Pursuant to the [Rule 9600](#) Series, NASD may exempt any member from the provisions of this Rule for good cause shown.

Amended by SR-FINRA-2014-006 eff. April 11, 2016.
 Amended by SR-NASD-2004-171 eff. May 31, 2007.
 Amended by SR-NASD-2006-128 eff. Dec. 5, 2006.
 Amended by SR-NASD-2006-066 eff. Nov. 22, 2006.
 Amended by SR-NASD-2005-087 eff. Aug. 1, 2006.
 Amended by SR-NASD-2003-36 eff. March 12, 2003.
 Amended by SR-NASD-2000-13 eff. April 16, 2001.
 Adopted by SR-NASD-92-29 eff. Jan. 31, 1993.

Selected Notices: [92-30](#), [92-60](#), [94-96](#), [97-14](#), [01-08](#), [06-60](#), [06-68](#), [06-72](#), [15-02](#).

2500. SPECIAL ACCOUNTS

2510. Discretionary Accounts

(a) Excessive Transactions

No member shall effect with or for any customer's account in respect to which such member or his agent or employee is vested with any discretionary power any transactions of purchase or sale which are excessive in size or frequency in view of the financial resources and character of such account.

(b) Authorization and Acceptance of Account

No member or registered representative shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the member, as evidenced in writing by the member or the partner, officer or manager, duly designated by the member, in accordance with Rule 3010.

(c) Approval and Review of Transactions

The member or the person duly designated shall approve promptly in writing each discretionary order entered and shall review all discretionary accounts at frequent intervals in order to detect and prevent transactions which are excessive in size or frequency in view of the financial resources and character of the account.

(d) Exceptions

This Rule shall not apply to:

(1) discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite amount of a specified security shall be executed, except that the authority to exercise time and price discretion will be considered to be in effect only until the end of the business day on which the customer granted such discretion, absent a specific, written contrary indication signed and dated by the customer. This limitation shall not apply to time and price discretion exercised in an institutional account, as defined in [Rule 3110\(c\)\(4\)](#), pursuant to valid Good-Till-Cancelled instructions issued on a "not-held" basis. Any exercise of time and price discretion must be reflected on the order ticket;

(2) bulk exchanges at net asset value of money market mutual funds ("funds") utilizing negative response letters provided:

(A) The bulk exchange is limited to situations involving mergers and acquisitions of funds, changes of clearing members and exchanges of funds used in sweep accounts;

(B) The negative response letter contains a tabular comparison of the nature and amount of the fees charged by each fund;

(C) The negative response letter contains a comparative description of the investment objectives of each fund and a prospectus of the fund to be purchased; and

(D) The negative response feature will not be activated until at least 30 days after the date on which the letter was mailed.

Amended by SR-NASD-2002-162 and SR-NASD-2004-116 eff. Jan. 31, 2005.

Amended by SR-NASD-92-14 eff. Dec. 10, 1992.

Selected Notices: 75-33, 76-30, [91-39](#), [91-80](#), [92-25](#), [93-1](#), [04-71](#).