



Securities Industry Association

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August 30, 2002

Barbara Z. Sweeney
NASD
Office of Corporate Secretary
1735 K Street NW
Washington, DC 20006-1500

Re: NTM 02-44, Application of Rule 2711 to Small Firms

Dear Ms. Sweeney:

Thank you for giving the Securities Industry Association the opportunity to comment on whether the NASD should grant regulatory relief from NASD Rule 2711 for small firms. SIA applauds the NASD for posing this important question, which has been largely overlooked to date in rulemaking concerning securities analyst objectivity.

Many of our member firms are better positioned than we are to respond to many of the questions raised in NTM 02-44, such as how the nature or extent of conflicts of interest for smaller firms compares to that faced by larger firms, or what specific procedures smaller firms have adopted to deal with such conflicts. Instead, we will make two observations that NTM 02-44 does not address.

First, the NTM does not consider the potential consequences of Rule 2711 for many smaller public companies. In its current form, Rule 2711 may make it difficult for all but the largest securities firms to provide research services, because only they will be able to bear the compliance costs of the rule. Often a smaller public company depends on small "home town" or niche broker-dealers to provide coverage for its securities. One of the long-run unintended effects of Rule 2711 may be to harm these smaller public companies because smaller broker-dealers will cease providing research.

Second, if some relief for smaller firms is provided, the most important place to provide such relief would be from the requirements in Rule 2711(b)(3)(B) that legal and compliance personnel intermediate communications between the research department and investment banking department, and the requirement in Rule 2711(c)(2)(C) that legal and compliance personnel authorize any change in a draft research report after its review by the subject company. A firm that employs a small number of research analysts, faced with the need to hire and train new personnel to monitor a wide range of communications, may conclude that its research function is no longer cost justified. The NASD recognized the disproportionately great impact of this part of the Rule on smaller firms by delaying the effective date for the rule for some of those firms until November

6, 2002.¹ We encourage the NASD to go further and consider codifying a reasonable degree of regulatory relief for small firms.

Thank you for giving SIA this opportunity to comment on providing regulatory relief from Rule 2711 for smaller broker-dealers. If you have any questions about this letter, please contact the undersigned, or George Kramer, Vice President and Associate General Counsel, at 202-296-9410, or by e-mail to gkramer@sia.com or skaswell@sia.com.

Sincerely,

Stuart J. Kaswell
Senior Vice President and General Counsel

Cc: Chairman Harvey L. Pitt, U.S. Securities and Exchange Commission
Commissioner Paul S. Atkins, U.S. Securities and Exchange Commission
Commissioner Roel C. Campos, U.S. Securities and Exchange Commission
Commissioner Cynthia A. Glassman, U.S. Securities and Exchange Commission
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Annette Nazareth, Director, Division of Market Regulation, U.S. Securities and Exchange Commission
Alan Beller, Director, Division of Corporation Finance, U.S. Securities and Exchange Commission
Giovanni P. Prezioso, General Counsel, U.S. Securities and Exchange Commission
James A. Brigagliano, Assistant Director, Trading Practices, Division of Market Regulation, U.S. Securities and Exchange Commission

¹ See http://www.nasdr.com/pdf-text/rf02_87.pdf.