

MEMO# 23866

October 9, 2009

ICI Files Comment Letter on FINRA Proposal to Require Settlement Dates on Confirmations

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TO: OPERATIONS COMMITTEE No. 21-09
BROKER/DEALER ADVISORY COMMITTEE No. 57-09
TRANSFER AGENT ADVISORY COMMITTEE No. 77-09
BANK, TRUST AND RECORDKEEPER ADVISORY COMMITTEE No. 48-09
ACCOUNTING/TREASURERS COMMITTEE No. 21-09 RE: ICI FILES COMMENT LETTER ON
FINRA PROPOSAL TO REQUIRE SETTLEMENT DATES ON CONFIRMATIONS

As we previously informed you, as part of its continuing rule consolidation project, FINRA has filed with the Securities and Exchange Commission a proposal to combine NASD Rule 2230 and NYSE Rule 409, relating to confirmations, into a new FINRA Rule 2232. [\[1\]](#) The new rule would require confirmations to be consistent with the requirements of Rule 10b-10 under the Securities Exchange Act of 1934. It would additionally require all confirmations to include the “settlement date” of the transaction. While this has never been required under FINRA’s rules, it has long been required under the NYSE’s rule.

The Institute has filed the attached comment letter with the SEC recommending that FINRA revise the proposed rule to relieve members from having to disclose the settlement date of any transaction in which the settlement date is the same date as the trade date. Alternatively, we recommend that, when the dates are the same, FINRA interpret the settlement date requirement to be satisfied if the confirmation includes the trade date without having to separately disclose the settlement date. These comments were based on information provided by members indicating that, for mutual fund shares purchased through a retail broker-dealer, the trade date may be a different date from the settlement

date and typically retail broker-dealers currently disclose the settlement date for such transactions on their confirmations. By contrast, when shares are purchased directly from a fund complex, the trade date and settlement date are the same date and, consequently, confirmations for these transactions have not typically included a settlement date. Accordingly, the Institute's recommendation is intended to maintain the status quo.

In support of our recommendation, the letter notes that, when the trade date and the settlement date are the same date, no purpose would be served by requiring separate disclosure of the settlement date. Also, as noted above, Rule 10b-10 would be incorporated into the new FINRA rule, which should ensure that investors receive meaningful information about their transactions. To require disclosure of the settlement date on confirmations that currently do not include it would impose unnecessary and costly burdens on FINRA members that, as fund underwriters, directly distribute shares to retail investors.

Tamara K. Salmon
Senior Associate Counsel

[Attachment](#)

endnotes

[1] See Institute [Memorandum](#) to Operations Committee No. 19-09, Broker/Dealer Advisory Committee No. 53-09, Transfer Agent Advisory Committee No. 72-09, Bank, Trust and Recordkeeper Advisory Committee No. 44-09, and Accounting/Treasurers Committee No. 18-09 [No. 23820], dated September 29, 2009. The Memo includes a link to the FINRA proposal and a copy of the Institute's draft comment letter.