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NASAA

November 18, 2011

Via electronic submission to pubcom@finra.org

Ms. Marcia E. Asquith
Senior Vice President and Corporate Secretary
FINRA
1735 K Street, NW
Washington DC 20006-1506

RE: Comments in Response to Regulatory Notice 11-44

Dear Ms. Asquith:

NASAA jurisdictions review DPP offerings to assess whether disclosure is adequate and the terms are fair to investors. We support the efforts of FINRA in Regulatory Notice 11-44 and the proposed amendments to Rule 2340, which enhance all disclosures for the benefit of issuers, FINRA member firms, and investors.

The valuation of DPP securities in customer account statements is important to investors in many financial planning decisions. Investors will naturally assume that the disclosed value accurately reflects the true value of their holdings, and investors will review the valuations to assess the performance of the investment. Asset allocation decisions that include additional purchases or redemptions may be made based upon this disclosed value.

NASAA is concerned about inconsistent valuation methods by both member firms and issuers. We believe proposed Rule 2340 improves the valuation of unlisted direct participation programs or real estate investment trusts in customer accounts. We support this rule and any future measures to enhance the understanding of these valuations.

The past practice of using the standard offering price ($10 per share) as the valuation of these DPP/REIT securities for up to seven and one-half years after effectiveness (two registration statements of three year offerings plus 18 months) is a wholly inadequate method for determining the current value of these securities in customer account statements. The proposal to value the securities from the initial effective date and offering period by Rule 415(a)(5) (three years and 180 days) is supported by NASAA as a significant improvement. NASAA also supports the deduction of the organizational and offering expenses from the valuation during the offering period as an improvement over the industry practice of a constant $10 per share.

Most importantly, NASAA supports proposed Rule 2340(c)(2), which would require the member firm to not report a value if it knows or has reason to know that the value is unreliable. To enhance the quality and consistency of the valuations, NASAA encourages FINRA to provide additional guidance to member firms to comply with this provision. This would include a review of the financial statements and a US GAAP or IFRS (as allowed by law) analysis in assessing the appropriate valuation. If adopted, the FASB proposal, *Proposed Accounting Standards Update 2011-210-Real Estate-Investment Property Entities (Topic 973)*, would require a fair market value for certain real estate holdings in financial reporting. This would further support the obligation of members to exercise appropriate due diligence in reviewing the financial statements under proposed Rule 2340(c)(2).

NASAA thanks FINRA for the opportunity to provide comments on Regulatory Notice 11-44 and proposed Rule 2340.

Sincerely,

Jack E. Herstein

Jack E. Herstein
NASAA President and
Assistant Director, Nebraska Department of Banking and Finance, Bureau of Securities