

MAY 25 '05 AM 8:39 BOARD

Snyder, Diane L

From: alexander [alexander@labs.net]
Sent: Tuesday, May 24, 2005 3:08 PM
To: \_Regulatory Comments
Subject: Jim Alexander Comments on Proposed IRPS (Sales on nondeposit investments)

Thank you for allowing comment on the Proposed IRPS (Sales on nondeposit Investments). We are in the process of sorting through our own contracts and would offer the following comments to assist in bringing greater clarification to the matter.

I would offer a definitions page for the following:

- Third party brokerage arrangement (Is this a networking agreement as defined by the NASD, a simple contract, between what parties, etc.?)
CUSO (Can this be an individual?)
Dual employee (Who is it and how is this established?)
Broker (Registered Representative?)
Brokerage Firm (Broker/Dealer?)
Feel free to add more

In the supplemental information (introduction) to the proposed IRPS on pages 4 and 5, it is unclear as to what is required at a minimum. For example, is it required that a networking agreement (contract) exist between the credit union and the Broker/Dealer in all cases. NASD Rule 2350 implies the existence of such an agreement. Language at the bottom of page four implies the existence of such an arrangement, but does not require such. At the top of page five you address third party brokerage arrangement as either bilateral or multilateral. Both arrangements involve a credit union and a broker (an individual I assume). The multilateral arrangement involves an unregistered CUSO. Neither arrangement addressed the Broker/Dealer (brokerage firm). Are you saying that a contract between the credit union and the broker dealer (brokerage firm) does not have to exist?

The sentence on page 5 that says, "The SEC expects a CUSO to register as a broker..." may be misleading. A broker is a person. We use the language synonymously with the term registered representative.

Is the CUSO to register as a broker or as a licensed brokerage firm? Because in the next sentence you reference the "brokerage firm".

Let's go back to the same language and view it from two different perspectives. I am a dual employee. I am paid by the credit union for my services a Vice President and under a networking arrangement the credit union receives all of my non-security generated income. Do I fit in the shoes well as a registered broker or does what is said at the top of page five change in anyway because I am a dual employee? Can I be a CUSO and a dual employee at the same time? If I am an independent broker not employed by the credit union, it seems to read differently.

In the middle of page five, "The federal credit union may bring a third party vendor, the broker, to its members..." Is the third party being described the brokerage firm, the broker or can it be both?

To the IRPS, on page 15, you state the SEC Requirement: "The credit union must have a written contract with any broker that offers brokerage services on the credit union's premises." Again, are we referring to an individual (the broker better known as a registered representative) or the brokerage firm? The paragraph following this statement does not bring clarity to the question.

On page 18, under the description of the relative responsibilities of the credit union and the brokerage firm, you have a "must" between the credit union and the brokerage firm in certain language being in the contract. However, it's still undetermined as to whether a contract needs to exist between the credit union and the brokerage firm.

On page 21 regarding dual employees, it is almost implied that brokered dual employees have a casual role in their involvement with the credit union. I am a CPA and CFP® and the Vice President of the credit union. I also do financial planning and fee-based asset management. I do perform commission level sales periodically. The statement, "The duties performed for the credit union should not bring the employee into contact with members that might also purchase non-deposit investments." This may be an impossibility for some such as myself. As Vice President of the credit union and also as a financial planner, I am continually advising people on refinance of loans, laddering certificates of deposit,

liquidity needs, transfer of assets from one institution to another. I am also a vital PR person for the credit union and people approach me knowing that I serve in both capacities. I have a complex practice. Realize that for some credit unions, instead of adhering to a separation of duties, but adhering to a separation of who we see and wait upon, may be an impossibility.

Will the proposed regulation allow a dual employee with a brokerage practice to pay rent to the credit union and to keep all of the income operating under the one rental contract and to also have the second contract between the brokerage firm and the broker, without there existing a contract between the brokerage firm and the credit union. No one has been able to answer this question for me. To restate the question, will it always be mandatory to have a networking agreement in place as NASD Rule 2350 implies between the credit union and the brokerage firm. If you were to give a speeding reply on this last question, it would be welcome.

Respectfully submitted,  
James F. Alexander, VP

**James F. Alexander, CPA, CFP®**

*Objective Financial Planning and Investment Advice*  
*Vice President - The United Federal Credit Union*  
3600 University Ave.  
Morgantown, WV 26505  
304-598-9074 direct line  
304-598-5018 fax  
304-826-6395 cell  
[alexander@labs.net](mailto:alexander@labs.net)

*Securities and Investment Advisory Services offered through Allegheny Investments, Ltd., 3000 McKnight East Drive, Pittsburgh, PA, 1523, 800-899-3880*  
*Member NASD/SIPC*

**Confidentiality Note:** This message is intended for use only by the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy. Thank you.