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[NASD Manual & Notices to Members] -- --NASD MANUAL &NOTICES TO MEMBERS --CONDUCT RULES [2000-3410]--2300. TRANSACTIONS WITH CUSTOMERS--2360. Approval Procedures for Day-Trading Accounts



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2360. Approval Procedures for « Day-Trading » Accounts

(a) No member that is promoting a « day-trading » strategy, directly or indirectly, shall open an account for or on behalf of a non-institutional customer, unless, prior to opening the account, the member has furnished to the customer the risk disclosure statement set forth in [Rule 2361](#) and has:

- (1) approved the customer's account for a « day-trading » strategy in accordance with the procedures set forth in paragraph (b) and prepared a record setting forth the basis on which the member has approved the customer's account; or
- (2) received from the customer a written agreement that the customer does not intend to use the account for the purpose of engaging in a « day-trading » strategy, except that the member may not rely on such agreement if the member knows that the customer intends to use the account for the purpose of engaging in a « day-trading » strategy.

(b) In order to approve a customer's account for a « day-trading » strategy, a member shall have reasonable grounds for believing that the « day-trading » strategy is appropriate for the customer. In making this determination, the member shall exercise reasonable diligence to ascertain the essential facts relative to the customer, including:

- (1) Investment objectives;
- (2) Investment and trading experience and knowledge (e.g., number of years, size, frequency of transactions);
- (3) Financial situation, including: estimated annual income from all sources, estimated net worth (exclusive of family residence), and estimated liquid net worth (cash, securities, other);
- (4) Tax status;
- (5) Employment status (name of employer, self-employed or retired);
- (6) Marital status and number of dependants; and
- (7) Age.

(c) If a member that is promoting a « day-trading » strategy opens an account for a non-institutional customer in reliance on a written agreement from the customer pursuant to paragraph (a)(2) and, following the opening of the account, knows that the customer is using the account for a « day-trading » strategy, then the member shall be required to approve the customer's account for a « day-trading » strategy in accordance with paragraph (a)(1) as soon as practicable, but in no event later than 10 days following that

date that such member knows that the customer is using the account for such a strategy.

(d) Any record or written statement prepared or obtained by a member pursuant to this rule shall be preserved in accordance with Rule 3110(a).

(e) For purposes of this rule, the term "« day-trading » strategy" means an overall trading characterized by the regular transmission by a customer of intra-day orders to effect both purchase and sale transactions in the same day security or securities.

(f) For purposes of this rule, the term "non-institutional customer" means a customer that does not qualify as an "institutional account" under Rule 3110(c)(4).

(g) A firm will not be deemed to be "promoting a « day-trading » strategy" for purposes of this rule solely by its engaging in the following activities:

- (1) Promoting efficient execution services or lower execution costs based on multiple trades;
- (2) Providing general investment research or advertising the high quality or prompt availability of such general research; and
- (3) Having a Web site that provides general financial information or news or that allows the multiple entry of intra-day purchases and sales of the same securities.

[Adopted by SR-NASD-99-41 eff. Oct. 16, 2000.]

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