

  
 DIVISION OF  
 MARKET REGULATION

November 9, 1987

The Honorable John Paul Hammerschmidt.  
 Congress of the United States  
 House of Representatives  
 Washington, D.C. 20515

PUBLIC AVAILABILITY DATE: 12-09-87  
 ACT SECTION RULE  
 1934 15(c) 15c3- 1

Dear Congressman Hammerschmidt:

You have forwarded us a letter from your constituent, Ms. Esther C. Sutton, concerning borrowing money from a broker-dealer to establish an IRA. Specifically, Mrs. Sutton asks whether it is possible for an individual to go to a broker-dealer, open a margin account, borrow money from the margin account, and then place the borrowed money in a self-directed IRA account.

We believe that the only applicable federal securities rules are those promulgated by the Board of Governors of the Federal Reserve Board as Regulation T. Regulation T ("Reg T") (12 C.F.R. §220), governs the extension and maintenance of credit by brokers and dealers for the purchase and carrying of securities. Under Reg T, an individual ("customer") may open a margin account with a broker-dealer, deposit "margin securities" (as defined by Reg T) into the margin account, and then borrow up to a specified amount depending on the type of security (17 C.F.R. §220.18). In the case of an equity security which meets the definition of a "margin security" (12 C.F.R. §220.2(o)), the customer may borrow up to fifty percent of the current market value of the security.

This borrowed money may be withdrawn from the margin account and deposited into a cash account which might be an IRA account. For example, Customer opens a margin account with Broker-dealer and places 100 shares of ABC stock, a margin equity security, into the account. ABC has a current market value of fifty dollars per share. Pursuant to Reg T, Broker-dealer may extend credit of up to fifty percent of the current market value of each security position held in the

The Honorable John Paul Hammerschmidt  
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margin account. Therefore, Customer may borrow from Broker-Dealer through the margin account up to two thousand five hundred dollars.

If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

*Michael A. Macchiaroli*

Michael A. Macchiaroli  
Assistant Director

Enclosures

Congress of the United States

House of Representatives

Washington, D.C.

August 14, 19 87

Mr. Peter S. Kiernan  
Legislative Counsel  
Securities and Exchange Commission  
Washington, D.C. 20549

Sir:

The attached communication  
is sent for your consideration.  
Please investigate the statements  
contained therein and forward me  
the necessary information for re-  
ply; returning the enclosed corre-  
spondence with your answer.

THANK YOU

Yours truly,

(SIGNED)

JOHN PAUL HAMMERSCHMIDT M. C.  
Third - Arkansas

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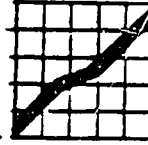
Legislative Affairs  
Office of the Chairman

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FINANCIAL MANAGEMENT, INC.

000062

AUG 5 1987



July 30, 1987

The Honorable John Paul Hamerschmidt  
U S House of Representatives  
Washington, DC 20515

Dear Congressman Hamerschmidt;

My name is Esther C. Sutton. I reside in Rogers, Arkansas and was very pleased to see you in person at the official dedication of the US Highway 71 relocation project.

I am enclosing a copy of a letter which I mailed to both SEC and EASD for clarification on a matter concerning borrowing money from a broker in a margin account and transferring the borrowed money immediately to open an IRA account and have received no answer. It is a question that I was asked quite often by clients and I had always understood that one COULD NOT borrow from a broker to establish an IRA.

Thank you for all the kind help you and your staff have given me in the past.

Sincerely,

Esther C. Sutton CFP

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April 13, 1987

NASD  
1735 K Street, N.W.  
Washington, D. C. 20006

Dear Sirs:

I need clarification on the following issue.

A client wishing to open a self directed IRA account must have cash or borrow the cash from a bank before opening the account. Or is it possible to go to the broker open a margin account to buy securities; put the borrowed cash in a self directed IRA and then buy securities?

Will appreciate your clarification on this matter.

Sincerely,

Esther C. Sutton CFP

cc/ SEC

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JOHN PAUL HAMMERSCHMIDT

THIRD DISTRICT, ARKANSAS

000064

HOME ADDRESS:  
ROGERS, ARKANSAS

WASHINGTON ADDRESS:  
2207 RAYBURN BUILDING  
WASHINGTON, DC 20515  
PHONE: 225-4301

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

COMMITTEES.  
PUBLIC WORKS AND  
TRANSPORTATION

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QUALITY-TRAINING CENTER  
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BANKING MEMBER  
EMPLOYMENT, PENSION AND  
INSURANCE

SELECT COMMITTEE ON AGING

IDENTIFICATION  
BANKING AND CONSUMER  
INTERESTS—BANKING MEMBER

August 14, 1987

Ms. Esther C. Sutton CFP  
Financial Management, Inc.  
114 North 34th Street Sundance Plaza  
Rogers, Arkansas 72756

Dear Ms. Sutton:

Thanks for letting me know of the question you have about the legality of borrowing from a broker to establish an IRA.

Please know that inquiry is being made with Securities and Exchange Commission officials to request any written information they might be in a position to offer on this matter and that I will be back with you just as soon as possible.

Let me say in closing, Ms. Sutton, that it was a great pleasure for me to have been at the Highway 71 dedication.

With all best wishes,

Sincerely yours,

(SIGNED) JOHN PAUL HAMMERSCHMIDT

JOHN PAUL HAMMERSCHMIDT

Member of Congress

JPH/egs

Transcribed from dictation

bc: Securities and Exchange Commission ✓

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