

To:

1) ProFunds:

ProFunds,  
P.O. Box 182800,  
Columbus, OH 43218-2800

**Attention: John Hosty**

2) SEC:

U.S. Securities and Exchange Commission  
Office of Investor Education and Advocacy  
100 F Street, N.E.  
Washington, DC 20549-0213

**Reference: HO::~00388080::~HO**

**Attention: Rebecca Marquigny**

From:

SALIL V GANGAL  
3553 Sunnydays Ln,  
Santa Clara, CA, 95051

**Subject: "Federal Register" text of Broker's responsibility of Written Confirmation**

**SEC Ref: HO::~00388080~::HO**

Attention: (a) **Rebecca Marquigny** (of SEC)

(a) **John Hosty** (of Profunds)

Hello,

On May 14, 2014, I wrote letter urging broker ProFunds to comply 100% with the Law/Rule/Code for 100% of the time. This was in response to verbal communication about their **intention to stop complying** when the written confirmations become "excessive", as was communicated to me by John Hosty on May 13, 2014 over the phone.

The "Federal Register" has text that describes Broker's responsibility regarding the confirmation of sale. Providing "specific shares identification" on 1099-B **does not** relieve the broker of the responsibility of giving written confirmation of "taxpayer's specific identification" in a **reasonable time**. Here's the excerpt from the "Federal Register".

*ii. Confirmation of Sales*

The proposed regulations retained the rule that brokers or other agents must supply written confirmation of a taxpayer's specific identification following a sale or transfer. A commentator stated that the final regulations should eliminate this requirement and opined that the Form 1099-B, "Proceeds From Broker and Barter Exchange Transactions," provides a sufficient confirmation of the transaction. Alternatively, the commentator suggested eliminating the confirmation requirement if the stock was identified by standing order. Another commentator suggested that a periodic customer account statement should qualify as a written confirmation.

In the words at Federal Register, the broker "**must** supply written confirmation of a **taxpayer's specific identification** following a sale or transfer". This **final regulation** given in the first sentence overrules the comments about "1099-B" and also comments about "standing-order".

<https://www.federalregister.gov/articles/2010/10/18/2010-25504/basis-reporting-by-securities-brokers-and-basis-determination-for-stock#h-34>

The taxpayer's specification always will be done by stating (a) Purchase Date (b) Number of Shares (c) Purchase Price, of the shares that the taxpayer wants the broker to sell, which is indicated in IRS Publication 550; Page 46. Here's a hypothetical scenario where the taxpayer (myself) is buying at different times at different prices and acquiring different number of shares:

Amount Invested	Date of purchase	Share Price	Shares Purchased
\$1,000	10-Jan-2014	\$15.10	66.225
\$1,000	10-Feb-2014	\$15.30	65.359
\$1,000	10-Mar-2014	\$15.50	64.516

And hypothetically the taxpayer (myself) may call the broker on 10-Apr-2014, and ask the broker to sell 120 shares and give "specification" as to **exactly which shares** I want the broker to sell as below:

Sell **40** shares out of 66.225 shares purchased on **10-Jan-2014** at price **\$15.10**  
Sell **40** shares out of 65.359 shares purchased on **10-Feb-2014** at price **\$15.30**  
Sell **40** shares out of 64.516 shares purchased on **10-Mar-2014** at price **\$15.50**  
Which is a total of 120 shares

Now, per the text given at Federal Register, the broker must send the taxpayer (myself) a **written** confirmation in a **reasonable time**, that includes **taxpayer's specification** of the shares sold.

So I have following requests.

**My request to ProFunds:**

Please let me (and SEC) know if ProFunds is committing to comply with Publication 550; Page 46; Point #2, **unconditionally**, and **100% of the time**. If ProFunds wants to intentionally stop complying, then please let me (and SEC) know exactly when ProFunds plans to stop complying. (This essentially is a repeat of my earlier request.)

**My request to SEC:**

If ProFunds is openly declaring their intent to stop complying with IRS Publication 550, despite the explanation given at "Federal Register", then I urge the SEC to take appropriate action against the broker ProFunds. I'm no lawyer, but I believe if SEC were to take **proactive** action, perhaps via a **cease-and-desist** letter, to prevent this broker from intentionally stopping compliance, then it will be very helpful.

Thanks.

\_\_\_\_\_ ( May 17, 2014 )

SALIL V GANGAL