VIA ELECTRONIC MAIL: pubcom@finra.org

June 19, 2018

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
The Financial Industry Regulatory Authority, Inc.
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 18-13: Request for Comment on Proposed Amendments to the Quantitative Suitability Obligation Under FINRA Rule 2111

Dear Ms. Mitchell,

Cambridge Investment Research, Inc. ("Cambridge") appreciates the opportunity to comment on Regulatory Notice 18-13: Request for Comment on Proposed Amendments to the Quantitative Suitability Obligation under FINRA Rule 2111. Cambridge understands this amendment is intended to address instances of excessive trading in customer accounts.

Cambridge supports implementation of thoughtful, well-crafted, and clearly understandable rules; and commends FINRA's efforts to achieve that goal. Cambridge also supports FINRA's goal to protect the investing public and agrees that "unscrupulous brokers" should be held accountable for wrongful excessive trading. However, Cambridge believes this measure will have unintended negative consequences. As such, Cambridge does not support the removal of the requirement for FINRA to show either actual or de facto control by a registered person to prove violations of FINRA Rule 2111.

The assertion that proof of the control or de facto control element is an unnecessary barrier to proving representative misconduct is not justified. It is Cambridge's belief that the analysis given in the Regulatory Notice referred to above is based on a misguided premise; specifically that a "heavy and unnecessary burden" is placed upon investors by "asking them to admit that they lack

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sophistication or the ability to evaluate a broker's recommendation." Changing this rule based on this notion is misdirected, and it is highly problematic that a presumed lack of candor of investors regarding their sophistication would be relied upon as a sufficient justification to alter the rule. Investors' minds change, circumstances change, and investors often challenge the suitability of a series of transactions if those transactions do not result in a preferred or expected outcome.

While Cambridge does not dispute the fact FINRA may have interacted with timid and uninformed investors in its efforts to determine independent judgment, we do not believe it is reasonable to amend a rule which in turn would essentially accommodate unrestrained challenges to the investment decisions made by registered persons and their clients. Registered persons should be able to rely on the consent and instruction of their clients for any trade or series of trades suitable at the time. Removal of the control element would allow a series of recommendations, which the registered person believed to be suitable at the time, to later be deemed unsuitable in the context of the investor's recollections or revelations, and only after the series has occurred. Often, in these cases, the investor approved the transactions, and even may have directed the transactions along the way.

The control element protects registered persons from unwarranted claims of churning. The proposed change would allow for the imputation of misconduct where none had originally existed. The barrier in place today does not simply require an affirmative answer to the question of whether control "existed" within the context of those transactions. It requires an affirmative response to the more relevant question, which is whether the registered person "exercised" control over those transactions. Absent proof of control or de facto control, a chain of investor initiated and controlled transactions, even occurring outside the confines of that registered person's knowledge and control, could be used to assert a quantitative suitability violation simply because the registered person "recommended" the security. In this instance, an investor who, on his own initiative, takes a registered person's recommendation too far, would be afforded an escape for his own errant acts. Therefore, Cambridge believes a violation of the rule should be tied to a finding that the registered person attempted to manipulate the investor into engaging in unsuitable transactions. This is accomplished by a showing that the registered person had actual or de facto control over the investor's account and not simply an assessment of the facts and circumstances in "light of the customer's investment profile."

Additionally, the proposed alteration to this rule will likely result in greater litigation and increased costs of defense for member firms. By changing the rule, FINRA would open the door to allow for a strict quantitative measure of trading activity to be used as a litigation and enforcement mechanism against those registered persons who may simply be complying with investor requests or directions. While these quantitative measures are highly informative in any churning analysis, it is imperative to retain the qualitative involvement of the client. Absent any qualitative consideration of control, remorseful investors could simply crunch the numbers to figure out whether they land on the winning side of the issue. Those whose chances look good will likely take action even though the responsibility for the trades may lie on them.

Lastly, Cambridge requests FINRA wait to implement any new rules regarding suitability until the Securities and Exchange Commission's proposed "Regulation Best Interest" is finalized. Pausing to ensure continuity of rules would be extremely helpful to member firms and would allow for the employment of a uniform standard. Cambridge would be happy to further discuss any of the comments or recommendations in this letter with FINRA.

Respectfully submitted,

// Seth A. Miller

Seth A. Miller
General Counsel
Senior Vice President, Chief Risk Officer