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May 15, 2017

VIA E-MAIL

Jennifer Piorko Mitchell
The Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: **Special Notice: Engagement Initiative (March 21, 2017)**

Dear Ms. Mitchell:

Murphy & McGonigle commends FINRA for seeking comment in the Special Notice published on March 21, 2017, regarding potential enhancements to its programs for engagement with its members, the public, and other interested parties, in fulfilling FINRA's self-regulatory responsibilities. We very much appreciate the opportunity to comment on an area that has a significant impact on many of our clients.

Among other things, the Special Notice lists 16 advisory committees and 6 ad hoc committees that "provide feedback on rule proposals, regulatory initiatives and industry issues."¹ The committees are comprised of varying numbers of member firm personnel, non-industry persons, subject matter experts, and others. We note, however, that there is no committee specifically focused on FINRA enforcement activities.

FINRA has been allocated the responsibility to appropriately discipline its members for violations of, inter alia, the securities laws and its own rules.² FINRA has stated: "One of FINRA's top priorities is to advance investor confidence in the securities markets through vigorous, fair and effective enforcement of FINRA and MSRB rules, and federal securities laws and rules."³ In fulfilling this responsibility, FINRA conducts a vigorous enforcement program.⁴ Elements of the

¹ Special Notice at 5-9.

² See, e.g., Section 15A(b)(7) and (8) of the Securities Exchange Act of 1934.

³ FINRA, "Enforcement," available at <http://www.finra.org/industry/enforcement>.

⁴ See, e.g., FINRA, "Monthly and Quarterly Disciplinary Actions," available at <http://www.finra.org/industry/disciplinary-actions>.



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program include Sanctions Guidelines for taking disciplinary action, which includes the imposition of monetary fines.⁵ As FINRA has reported: “In 2016, FINRA brought 1,434 disciplinary actions against registered individuals and firms, and levied \$176.3 million in fines. As a result, FINRA expelled 24 firms from the securities industry. We also suspended 26 firms and 727 brokers, as well as barring 517 individuals from associating with FINRA-regulated firms. In addition, FINRA ordered \$27.9 million in restitution to harmed investors.”⁶

In light of its substantial and essential involvement in enforcement activity as a self-regulatory organization, and the impact of the enforcement program on member firms, we recommend that the FINRA Board establish an Enforcement Advisory Committee, composed principally of senior representatives of member firms. This committee would be tasked with advising FINRA on, among other things, enforcement trends, including whether legal positions taken in enforcement matters are consistent with FINRA’s rules and industry practices; disciplinary procedures; the effectiveness and consistency of sanctions, including the calculation and proportionality of fines; and firms’ cooperation and the impact that has on sanctions.

Thank you for the opportunity to participate in this important FINRA initiative. We would be happy to discuss our recommendation in greater detail if it would be helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry E. Bergmann", with a long horizontal flourish extending to the right.

Larry E. Bergmann

⁵ FINRA, “Sanctions Guidelines,” available at <http://www.finra.org/industry/sanction-guidelines>. See also, FINRA, “Fines Policy,” available at <http://www.finra.org/industry/fines-policy>.

⁶ FINRA, “Enforcement,” supra.