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June 19, 2017

**Via e-mail: [pubcom@finra.org](mailto:pubcom@finra.org)**

Ms. Jennifer Piorko Mitchell  
Vice President and Deputy Corporate Secretary  
Office of the Corporate Secretary  
FINRA  
1735 K Street, NW  
Washington, DC 20006-1506

**Re: FINRA Special Notice: Engagement Initiative – FINRA Requests Comment on Potential Enhancements to Certain Engagement Programs**

Dear Ms. Mitchell:

Wells Fargo Advisors (“WFA”) appreciates the opportunity to comment on the Financial Industry Regulatory Authority’s (“FINRA”) Special Notice: Engagement Initiative (“Special Notice”) which requests feedback on FINRA’s current engagement programs.<sup>1</sup>

WFA is a dually registered broker-dealer and investment advisor that administers approximately \$1.5 trillion in client assets. We employ approximately 18,836 registered representatives in branch offices in all 50 states across the country.<sup>2</sup> WFA and its affiliates help millions of customers of varying means and investment needs obtain the advice and guidance they need to achieve their financial goals.

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<sup>1</sup> FINRA Special Notice: Engagement Initiative – FINRA Requests Comment on Potential Enhancements to Certain Engagement Programs (March 21, 2017); *available at*: [http://www.finra.org/sites/default/files/notice\\_doc\\_file\\_ref/Special-Notice-032117.pdf](http://www.finra.org/sites/default/files/notice_doc_file_ref/Special-Notice-032117.pdf).

<sup>2</sup> “Wells Fargo Advisors” is the trade name for Wells Fargo Clearing Services, LLC (“WFCS”), a dually-registered broker-dealer and investment adviser, member FINRA/SIPC, and a separate non-bank affiliate of Wells Fargo & Co. “First Clearing” is the trade name for WFCS’s clearing business, providing services to unaffiliated introducing broker-dealers. WFCS is affiliated with Wells Fargo Advisor Financial Network (“FiNet”), a broker-dealer also providing advisory and brokerage services. For the ease of this discussion, this letter will use WFA to refer to all of these brokerage operations.

## **I. INTRODUCTION**

WFA applauds FINRA's initiative to evaluate various aspects of its operations and programs and seek input from member firms on ways to further enhance its mission of investor protection and market integrity. We believe this is a particularly opportune time to undertake an evaluation of FINRA's regulatory engagement programs.

A lot has changed in the marketplace, in the regulatory environment and at FINRA itself in the last ten years. Over that time period, the aggregate level of regulation of the financial securities markets has dramatically increased. In addition, new innovative financial service models and products have been developed and offered to the public. Since FINRA's formation in 2007, significant new responsibilities have fallen under its purview, such as assuming regulatory responsibilities for many securities exchanges. Moreover, FINRA's governance structure has changed from that of a membership dominated Board of Governors (the "Board") to one dominated by independent directors.

We believe these changes in the financial services industry and the regulatory environment present an opportunity for FINRA to re-examine how best to fulfill its mission to protect investors and maintain market integrity. While FINRA has built a strong foundation over these past ten years, we include recommendations in this letter on how FINRA can provide stakeholders with greater insight and information about FINRA's activities that will create greater transparency and dialogue.

## **II. DISCUSSION**

### **A. FINRA Should Establish and Publish a Strategic Plan**

FINRA has launched a number of effective programs over the last ten years that have improved investor protections. For example, FINRA's senior investor initiatives have been a shining success. However, even these successful and worthy endeavors compete with other initiatives for finite FINRA resources. Consequently, we recommend FINRA establish and publish a five-year strategic plan setting forth FINRA's strategic goals as well as the anticipated actions for achieving those goals.

Currently, stakeholders evaluate the merit of FINRA initiatives and projects on an individual basis. However, stakeholders cannot credibly provide informed input on whether "FINRA is focusing on the right issues, establishing the right standards, and dedicating resources to the right areas to best protect investors"<sup>3</sup> without understanding FINRA's strategic plan to address those issues. A public strategic plan would provide stakeholders a context in which to evaluate particular rulemakings, initiatives and projects.

A public strategic plan would also provide FINRA with a framework for prioritizing

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<sup>3</sup> See Remarks From the 2017 FINRA Annual Conference, Robert Cook, available at <http://www.finra.org/newsroom/speeches/051717-remarks-2017-finra-annual-conference>.

initiatives and projects, establishing staffing goals, performing long-term expense planning, setting and justifying membership dues and informing stakeholders of management priorities. In addition, a strategic plan would provide a benchmark for management accountability for achieving those goals.

For example, FINRA CEO Robert Cook outlined a number of important and noteworthy projects in his May 2017 address at the FINRA Annual Meeting, such as:

- Investing in examiner training;
- Initiating retrospective rule reviews;
- Launching the FINRA Innovation Outreach Initiative;
- Establishing the new Project Management Office and Regulatory Oversight Committee;
- Migrating to the cloud; and
- Creating a Compliance Calendar and Vendor Directory.

Placing such initiatives in the context of a strategic plan would equip stakeholders, including FINRA management, with the framework to make an informed judgment regarding their relative value and to gauge the level of success achieved.

## **B. FINRA Should Develop a Regulatory Calendar**

In general, FINRA has a robust and collaborative approach to rulemaking. FINRA takes several collaborative steps in the process of formulating new rules and uses technology to facilitate communication. For example, FINRA leverages its website to communicate rulemaking initiatives and we find the information provided to be timely and organized in a manner that is helpful to investors and informative to members. We applaud FINRA's proactive efforts in cultivating feedback during the rulemaking process.

We do, however, see an opportunity for even greater transparency into the rulemaking process. To that end, we recommend FINRA develop a regulatory calendar comprised of key rulemaking initiatives that are anticipated to be published in the coming year. This would provide stakeholders with greater insight into FINRA's priorities, facilitate more informed stakeholder input and enable better member firm strategic planning.

Such a calendar would also permit stakeholders to provide input on individual rulemaking issues while being informed about their relation to FINRA's strategic goals and their interaction with other regulations that may be proposed in the near to medium term. Stakeholders would also be able to evaluate the cumulative costs and impacts of proposed rulemakings in the aggregate. More so than any individual rulemaking, it is the cumulative compliance costs and burdens that impede efficient market dynamics. Moreover, an understanding of what rulemaking is under consideration and when such rules may be proposed or finalized will help member firms plan and invest more strategically and efficiently.

### **C. FINRA Should Make Meetings of the Board of Governors Transparent**

We recognize that FINRA has taken steps to increase transparency into its operations by publishing an agenda to disclose items to be discussed during its Board meetings. While an agenda is provided, little insight can be gleaned from the minimal information provided.

We see no reason Board meetings should not be open to the public and recommend Board meetings themselves be open to the public and webcast. Particularly sensitive topics could be addressed in confidential executive sessions. We also recommend that FINRA provide a more detailed agenda in advance of the Board meetings, thereby providing greater transparency to Board activities.

### **D. FINRA Should Continue to Leverage Their Effective Committee Structure**

In general, our experience with FINRA committees has been extremely positive. FINRA has implemented a robust committee structure designed to engage members at multiple levels. FINRA's unique position provides it with the opportunity to leverage the expertise of industry leaders, financial advisors and subject matter experts in the development of an optimal regulatory environment. WFA has been an active participant in many of these committees and we find they can be an effective way of providing member input and fostering greater collaboration between FINRA, its membership and investors. FINRA could further increase awareness of issues under consideration and engagement with its membership and investors by publishing the mission of each committee and meeting agendas in advance of the meetings.

Furthermore, the district committees offer FINRA the opportunity to obtain more field-based feedback from financial advisors that directly serve investors. Our financial advisors, FINRA and ultimately investors benefit from open dialogue on timely, relevant topics. In fact, we recommend an increase in the frequency of the meetings by adding two quarterly meetings that could occur via telephone conference in the quarters the face-to-face meetings are not scheduled. In addition, we believe district committee members would benefit from more detailed briefings on the rulemaking or other topics by FINRA, which in our view may lead to a more robust discussion of pertinent issues.

### **E. FINRA Should Continue to Utilize Their Effective Engagement and Training Programs**

WFA believes that FINRA's Member Relations provides numerous benefits to the industry. We have experienced positive interactions with Member Relations and believe it serves as a good point of contact between member firms and FINRA.

We further believe that FINRA successfully invests, develops and deploys effective training opportunities for the industry. One primary way this is achieved is through collaboration with the industry. For example, FINRA's E-Learning Firm Element Training Committee seeks industry input into the development of e-learning courses that FINRA makes available to firms that subscribe to their training library. Additionally, the Continuing Education

Outreach program has been a success with a good example being the transition from traditional testing centers to online testing. Making training available for completion online has been welcomed by firms as a more efficient means to deliver necessary training and testing. We are supportive of FINRA's training program and welcome additional opportunities for collaboration.

#### **F. FINRA Should Enhance Coordination Efforts and Transparency in the Examination Process**

Financial services firms may differ widely in the variety of the products and services they offer and the manner they choose to operate. We recognize this poses challenges to any regulator of the industry. The examination process serves to provide FINRA a firsthand look into member firms and WFA believes the use of an enhanced risk-based approach when conducting examinations has benefited both FINRA and its member-firms.

We encourage FINRA to continue to look for ways to increase its knowledge and understanding of the firms it regulates. For example, we recognize that one way FINRA seeks to gain a better understanding of the firms it examines is through the Risk Control Assessment Survey ("Survey") process. Firms are asked to voluntarily complete the Survey on an annual basis. The purpose of the Survey is to "better understand the risks associated with the business activities in which individual member firms engage, the products and services they sell, and the kinds of customers and counterparties with which they deal."<sup>4</sup> Over the course of the Survey's existence, it has increased in size and scope. FINRA recently went through an effort to improve the Survey by having firms provide only information that is applicable to them. We applaud the utilization of this Survey and the recent efforts to make it more effective.

We believe additional opportunities exist to increase coordination with member firms to achieve more effective and efficient results. Given that FINRA uses the Survey to better focus its examination activities, one suggestion would be to look at the timing of when the Survey is conducted. Currently, FINRA distributes the Survey to all firms at the same time regardless of when a firm may undergo an exam. The result is that the Survey may be completed months (if not a year) in advance of a firm's next examination. This unfortunate timing gap may make the Survey responses stale thereby preventing the results from being fully utilized.

Additionally, while we believe FINRA's focus and investment into modernizing its risk-based examination program has resulted in material improvements and benefits to members, we encourage FINRA to be mindful of the following examination issues including: the potential pitfalls of rule creation through the exam and enforcement process; simultaneous examinations being performed on the same or similar issues by FINRA in different regions of the country causing unnecessary overlap; and the inefficiency and high cost of overly broad information requests. These could all be avoided through more effective examination coordination.

Lastly, as with many firms, WFA anticipates the delivery of FINRA's Annual Exam Priorities Letter ("Letter").<sup>5</sup> We are supportive of the Letter's release as early as possible to

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<sup>4</sup> See FINRA, Risk Control Assessment Survey, available at: <http://www.finra.org/industry/risk-control-assessment-rca-survey>.

<sup>5</sup> See FINRA, 2017 Regulatory and Examination Priorities Letter, available at: <http://www.finra.org/industry/2017-regulatory->

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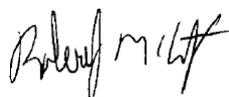
provide firms with adequate time to digest the contents. In addition, adding greater emphasis to higher priorities would be useful in providing better context to the areas of concern identified. Ultimately, we appreciate FINRA's effort in communicating its top examination concerns and find the Letter to be a useful tool.

### **III. CONCLUSION**

FINRA is tasked with the incredibly complex mission of protecting investors and maintaining market integrity. FINRA's evolution now requires greater transparency regarding its goals, objectives and activities for stakeholders to play any meaningful role or provide informed perspectives. We are confident FINRA will continue to evolve in ways that will leverage its unique role and the expertise of its member firms.

We appreciate the opportunity to express our views in regards to FINRA's Special Notice. If you would like to discuss this matter further, please feel free to contact me directly at (314) 242-3193 or robert.j.mccarthy@wellsfargoadvisors.com.

Sincerely,



Robert J. McCarthy  
Director of Regulatory Policy