



Additional Comments on 13-42

March 24, 2014

We were pleased to hear that FINRA had revised its position and is not putting our client's information at risk. If FINRA does require us to provide account trading information without the identifiers for account owners, it will actually increase the cost in providing information. Since we would have to "strip" that information from our reporting structure, it would require major software rework to provide the information without identifiers.

We believe it will still place FINRA in a liability position. Because FINRA is receiving account specific trading information, we believe a client's attorney can make the case that the client is relying on FINRA's oversight of their trading activity. Based on that reliance, if FINRA allows trading that is inappropriate they can be held liable. A case could be made by a member firm that since FINRA has the trading information and did not act on the trading activity, it had approved it by its inaction.

FINRA has recently found with Broker Check, that in providing a service or an effort to improve broker compliance, FINRA increase its exposure to the legal industry. FINRA has held an enviable position in its current indemnification from court actions. We believe that this position has been weakened by current legal challenges. FINRA has the deepest pockets, we have no doubt that FINRA will experience substantial legal expenses, much like it has with Broker Check, in defending its position. That cost will be an added burden to members.

Since a risk based exam is the current FINRA position, it may be well used to apply that review system to the whole CARDS concept. I would suggest bringing in the responders with the strongest opposition from returned comments to act as a review committee on implementing the CARDS program.

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