



FINANCIAL
SERVICES
ROUNDTABLE

Via electronic mail at pubcom@finra.org

July 13, 2015

Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: FINRA Regulatory Notice 15-19, Recruitment Practices

Dear Ms. Asquith:

The Financial Services Roundtable (“FSR”)¹ respectfully submits these comments to the Financial Industry Regulatory Authority (“FINRA”) concerning its Regulatory Notice 15-19, which requests comment on proposed FINRA Rule 2271 (Educational Communication Related to Recruitment Practices and Account Transfers). FSR is pleased to comment in favor of the proposal contained in Regulatory Notice 15-19, which we believe represents a more considered approach than was previously set forth under proposed FINRA Rule 2243.²

FSR and its members support clear and concise disclosures that aid clients in understanding their accounts and the activities of their chosen brokerage firm and representatives. As discussed more fully in our comment letter concerning proposed

¹ As *advocates for a strong financial future*TM, FSR represents the largest integrated financial services companies providing banking, insurance, payment and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. FSR member companies provide fuel for America’s economic engine, accounting directly for \$92.7 trillion in managed assets, \$1.2 trillion in revenue, and 2.3 million jobs. Learn more at FSRoundtable.org.

² SEC. & EXCH. COMM’N, Notice of Filing of Proposed Rule Change to Adopt FINRA Rule 2243 (Disclosure and Reporting Obligations Related to Recruitment Practices), 79 Fed. Reg. 17592, 17593 (March 28, 2014).

Rule 2243, however, we believed that aspects of the prior proposal could have been better crafted to enhance investor comprehension and encourage best practices by FINRA member firms and representatives.

FINRA's revised approach avoids the overly-complex approach of the prior proposal.

Under the prior proposal, when a representative or the representative's new firm (the "recruiting firm") would make "first individualized contact" with a client (a "former client") whose account is with the representative's prior firm (the "former firm"), they would have been required to disclose three categories of information: (i) details about upfront and potential future compensation equaling \$100,000 or more that the representative may receive; (ii) whether the former client would incur costs, charged either by the recruiting firm or the former firm, for transferring his/her assets to the recruiting firm; and (iii) whether the former client's account contains any assets that could not be transferred to the recruiting firm. The recruiting firm would also be subject to reporting obligations to FINRA regarding the representative's compensation arrangement.

As noted in our comment letter, the prior proposal seemed overly complex, did not recognize some of the practical issues with its proposed approach, and did not provide useful or appropriate information to clients.

In contrast, Regulatory Notice 15-19 proposes the reasonably straightforward approach of a standard form disclosure statement ("Proposed Disclosure") that would be delivered to clients. FSR believes the Proposed Disclosure would provide useful information to clients, so that they can make intelligent inquiry should they so desire.

The Proposed Disclosure would include an educational component for the purposes of "highlight[ing] the potential implications of transferring assets to the recruiting firm and suggest[ing] questions the customer may want to ask to make an informed decision."³ Furthermore, the way in which firms deliver this communication would be standardized by mandating that it take place "at or shortly after the time of first contact with a customer regarding the transfer of assets to the recruiting firm."⁴ The new proposal also would permit more flexible delivery methods, including hyperlinks.⁵

FSR is concerned, however, that the Proposed Disclosure would present operational and supervisory challenges because the Proposed Disclosure would be triggered upon the new firm's attempt to *induce* a former client to transfer assets to it.

³ Regulatory Notice 15-19, May 2015.

⁴ Regulatory Notice 15-19, May 2015.

⁵ Regulatory Notice 15-19, May 2015.

The Proposed Disclosure should not be triggered based on any attempt to “induce” the former client to transfer assets to the new firm.

As proposed, the requirement to deliver the Proposed Disclosure would be triggered when the recruiting firm or its representative attempts to “induce” a former client to transfer assets to the new firm. FSR objects to the use of “induce” as a triggering event, because the term is undefined and is an imprecise word (which would be of particular concern when the transferring broker sends a tombstone announcement card).

In this regard, we note that if the *inducing* event were a phone call (or other oral contact), the Proposed Disclosure must be provided within three (3) business days. For the typical firm, it would be almost impossible to track the hundreds of telephone calls made by the transferring broker to former clients, and then ensure that the Proposed Disclosure is mailed within three (3) business days. For that reason, FSR objects to the proposed “three-business-day” requirement. We urge FINRA to require delivery of the Proposed Disclosure as part of an existing process because it would be more cost effective and efficient.

FSR notes that broker-dealers already have an existing process in place to deliver account transfer documentation. For example, distributing the Proposed Disclosure by the delivery of the account transfer documentation (the documents can be delivered in the same package), and the Proposed Disclosure could be sent with the account transfer paperwork at little added cost. By changing the triggering event, FINRA would improve operational efficiencies and ensure the delivery of the Educational Communication in a timely and cost effective manner.

Conclusion

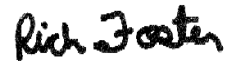
Although we support the Proposed Disclosure as modified to address the operational and supervisory challenges discussed above, FSR still has questions about the overall necessity of any additional regulatory requirements in this area in light of existing principles under, for example, FINRA Rules 2010 and 2210 as well as conflicts of interests ideas that FINRA has articulated in the past.⁶ Nevertheless, in light of the restructuring of the prior proposal into proposed Rule 2273, FSR offers its support to a final rule that addresses fully the operational and supervisory challenges we have noted in this letter.

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⁶ E.g., Report on Conflicts of Interest (Oct. 2013), available at www.finra.org/sites/default/files/Industry/p359971.pdf.

FSR appreciates the opportunity to submit comments on FINRA's request for comment about the proposed rule. If it would be helpful to discuss FSR's specific comments or general views on this issue, please contact Richard Foster at Richard.Foster@FSRoundtable.org, or Felicia Smith, Vice President and Senior Counsel for Regulatory Affairs at Felicia.Smith@FSRoundtable.org.

Sincerely Yours,

A handwritten signature in black ink that reads "Rich Foster". The signature is written in a cursive, slightly slanted style.

Richard Foster
Senior Vice President and Senior Counsel
for Regulatory and Legal Affairs

Financial Services Roundtable