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VIA ELECTRONIC MAIL

July13, 2015

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

Re: FINRA Regulatory Notice 15-19: Request for Comment on a Rule Proposal to Require Delivery of an Educational Communication to Customers of a Transferring Representative

Dear Ms. Asquith,

Thank you for the opportunity to comment upon the proposal of the Financial Industry Regulatory Authority (“FINRA”) to adopt FINRA Rule 2272, requiring the delivery of an educational communication to former retail customers of a transferring representative, as discussed in Regulatory Notice 15-19 (the “Proposed Rule”).

Cambridge Investment Research, Inc. (“Cambridge”) is an independent, privately owned broker-dealer located in Fairfield, Iowa. Cambridge has over 2,700 independent registered representatives throughout the country. Cambridge acts as an introducing broker-dealer and maintains relationships with two national clearing firms. Cambridge’s independent registered representatives also conduct extensive non-brokerage business directly with numerous product sponsor companies.

The proposed educational communication attached to Regulatory Notice 15-19 as Attachment B (“Proposed Educational Communication”) is titled “Issues to consider when your broker changes firms” and suggests specific questions for a customer to raise with their representative, or with an unnamed “someone” at the customer’s current firm. Cambridge supports regulatory efforts that seek to protect investors and provide meaningful disclosure. Likewise, Cambridge encourages an open dialogue between representatives and their customers.

Cambridge's concerns with the Proposed Rule and the language of the Proposed Educational Communication, as currently drafted, are outlined below.

I. THE PROPOSED EDUCATIONAL COMMUNICATION AS CURRENTLY DRAFTED MAY CAUSE UNNECESSARY INVESTOR CONFUSION OR ALARM.

Cambridge already encourages representatives to maintain an open dialogue with their customers. In addition, investor protection measures covering the majority of the issues discussed in the Proposed Educational Communication are already in place, and already occur when a representative moves to a new firm. Costs must already be disclosed to the customer and considered as part of a suitability determination. Firms are already required to have procedures in place, including supervisory procedures, specifically designed to review and evaluate investment recommendations of newly associated representatives to their existing customers relating to replacements or liquidations of certain products.

Cambridge believes the Proposed Educational Communication, as currently drafted, runs the risk of creating unnecessary customer confusion or alarm as it seems to suggest that it is the responsibility of the customer alone to police the costs and suitability related to a new investment, while calling into question the motivation of the representative in changing firms.

As currently drafted, the Proposed Educational Communication recommends that a customer should talk to their broker or "someone" at the customer's current firm about questions concerning the departed representative and why the representative decided to change firms, or about which investments are eligible for transfer to the new firm and the pricing structure at the new firm. Most, if not all, of these questions are better directed to the representative and/or the representative's new firm. As currently drafted, the Proposed Educational Communication raises the possibility of customer confusion, and worse, it raises the possibility that the customer might receive inaccurate information.

Additionally, the Proposed Educational Communication does not express any alternative, nor does it attempt to provide a balanced approach to the information provided to customers in regard to the conflict of interest scenarios described in the Proposed Educational Communication. The Proposed Educational Communication prompts the customer to ask if his or her representative has a conflict of interest based on the fact that the representative might have received some financial incentive to transfer to the new firm or will receive financial incentives to sell the new firm's in-house products. In each of these scenarios, the Proposed Educational Communication fails to discuss the possibility that financial incentives may also create a conflict of interest for the new representative assigned to the account by the current firm, if the customer chooses stays at the current firm; or that the customer's representative might actually be transferring away to a firm that does not have in-house products. Finally, the Proposed Educational Communication discusses the possibility that the new firm may offer a more limited array of investment products as compared to the current firm, without discussing the alternative possibility that the new firm may actually offer greater investment choice. Thus, due to the lack of balance in the Proposed Educational Communication, it will cause unnecessary and unfounded alarm to the representative's customers, potentially causing a false sense of distrust between the representative and his customers, and potentially causing the customers to believe that it is not in their best interests to follow their representative to a new firm.

II. INDEPENDENT REGISTERED REPRESENTATIVES ARE COMPETITIVELY DISADVANTAGED BY THE PROPOSED EDUCATION COMMUNICATION.

Independent registered representatives typically work as independent contractors who operate their own small businesses and directly own their books of business. As small business owners, independent registered representatives directly manage their client relationships with assistance from their broker-dealer. Many independent broker-dealers, like Cambridge, honor the valued relationship between departing representatives and their customers and do not attempt to solicit customers to remain at the firm. Cambridge believes this provides both representatives and customers with free choice to do what is in their respective best interests. By requiring the departing registered representative or their new firm to provide an educational communication to customers, it will place the departing representative at a competitive disadvantage by interjecting a false sense of distrust between the customers and the departing representative. Such a disclosure will likely create a very real possibility that customers may believe it is not in their best interest to follow their registered representative to a new firm even though they may not understand that by failing to do so they will be: (i) subject to similar charges and fees at their current firm; (ii) required to manage their accounts at their existing firm without a registered representative unless they locate a completely new registered representative; or (iii) required to accept a new registered representative assigned to their account with whom they have no relationship and, therefore, have no idea regarding what quality or services will be provided.

A representative's decision to leave his or her current firm does not occur in a vacuum and does not occur without considerable deliberation. Prior to moving to a new firm, the recruitment, due diligence, and planned transition of the representative typically involves months, and sometimes years, of communication between the new firm and the representative.

Part of the recruitment process is determining the nature of the representative's business and whether the representative's business model fits within the business model of the new firm. The new firm also examines the extent to which the representative prefers to offer investment products for which the new firm would need to obtain a dealer or servicing agreement. If the new firm is unable or unwilling to service a product for a transferring representative's customers, investor protection measures require the new firm or the representative to advise the customer of this fact, as well as other options the customer may have, prior to recommending liquidation. The representative and the firm risk violating Rule 2111 if a representative makes a recommendation to liquidate, replace, or surrender a product without conducting a suitability analysis to determine that the recommendation is suitable based upon the customer's current financial needs and investment objections.

Finally, if an independent representative cannot service his or her customers at a new firm, the representative will likely not make a decision to change firms because doing so could put them out of business as a small business owner.

Typically, when a representative resigns from a firm, that firm sends a letter to the representative's customers stating that the representative has resigned, and that the customer should contact the firm concerning his or her account. The receipt of the letter from the representative's former firm often prompts a telephone call from the customer to the representative or to the representative's former firm, which provides the former firm with an opportunity to discuss the representative's departure and an opportunity to solicit the customer to keep his or her assets at the former firm. It's fair to say that the discussion between the former firm and the customer will likely include a discussion concerning costs the customer may incur to liquidate non-transferable assets or differences in products, services or pricing structures, and fees between the former firm and the new firm. The customer is likely also informed of issues related to transferring accounts, and is sometimes offered incentives to stay at their current firm.

Alternatively, if the representative's customer calls the new firm or calls the representative, the suitability requirements and other investor protection measures require the representative to inform the customer of any issues related to conflicts of interest, costs that will be incurred by the customer, including costs to transfer or liquidate assets and the pricing structure at the representative's new firm. Therefore, the Proposed Educational Communication adds an additional cost to the new firm in its consideration of whether to recruit certain representatives. It also undermines a representative's relationship with his or her customers, and gives the representative's former firm an additional opportunity to solicit the representative's customers, which ultimately puts the departing representative at a competitive disadvantage.

III. CONTRACTUAL RESTRICTIONS MAY HINDER COMPLIANCE WITH THE PROPOSED RULE.

Opposite of the independent registered representative business model is the employee-employer business model between registered representatives and broker-dealers. In the employee-employer model, the broker-dealer firm typically dictates all facets of the registered representative's business and claims ownership of the client relationships and book of business. Firms utilizing the employee-employer model generally prohibit departing registered representatives from soliciting customers to leave the current firm and, in some cases, have filed lawsuits against departing representatives to enforce non-compete, non-solicit, intellectual property or other restrictive covenants, in an effort to keep customers at the firm.

In this model, customers may not be informed about opportunities at alternative broker-dealer firms that may be in their best interests because their representatives are prohibited from discussing alternative broker-dealer firms which may provide better services or investment alternatives. In addition, restrictive covenants may also discourage a departing representative from providing the disclosure after contact with a customer which arguably did not involve an attempt to induce the customer to transfer to the new firm, because the Proposed Educational Disclosure itself could be perceived as evidence that the representative attempted to solicit customers in violation of non-compete, non-solicit, intellectual property or other restrictive covenants. Similarly, even if it is the customer who contacts the departing representative about transferring assets to the new firm, both the departing representative and the new firm risk being accused by the prior firm of violating restrictive covenants by providing the Proposed Educational Disclosure to the customer. Moreover, in addition to these contractual considerations, the new firm also risks scrutiny from FINRA for failing to follow the Proposed Rule if it does not provide the Proposed Educational Disclosure, even if the representative discussed the customer's request but did not "induce" the former customer to transfer assets to the new firm.

IV. TIMING ISSUES AND ADDITIONAL COSTS ASSOCIATED WITH THE PROPOSED RULE.

Cambridge further believes that the requirement to provide the disclosure no later than three business days after the first contact is too cumbersome and will not be easily tracked. Rather, Cambridge proposes that FINRA consider replacing the three business-day rule with a requirement that the disclosure be provided within a reasonable time period, which shall mean on or before the date an account is first opened at the new firm.

As proposed, Rule 2272 would require member firms to provide the Proposed Educational Disclosure to individuals who are former customers of a newly associated representative, but who are not yet (and may never be) customers of the new firm. In order to be in a position to demonstrate compliance with the proposed rule, firms will be required to keep records regarding these individuals, even if they have not opened an account with the new firm. Such record-keeping may require either new systems or the expansion of current customer relationship management systems, and firms will incur the accompanying costs.

V. With regard to FINRA's specific requests for comment, Cambridge submits the following:

1. Cambridge does not believe that there should be a requirement to affirm receipt of the Proposed Educational Communication. Such a requirement would impose unnecessary additional costs and burdens on the registered representative, the new firm, and the customer. Once provided by the new firm, a presumption that the Proposed Educational Communication has been received by the former customer should apply.

2. Cambridge believes that the time period for the requirement of such disclosure (and the accompanying affirmation of receipt, if adopted) should not be extended beyond the proposed six month period. In fact, Cambridge believes the six month period is too long given that most customers will likely communicate with the departing representative within the first few weeks after the departing representative has transferred to a new firm.

3. The scope of the Proposed Rule should not be expanded beyond former retail customers of the transferring broker as the stated purpose of the Proposed Rule is to address FINRA's concerns "that retail customers may not be aware of important factors to consider in making an informed decision whether to transfer assets to their transferring registered representative's new firm."

Thank you for your consideration of Cambridge's comments on the proposed rule.

Respectfully submitted,

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