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October 30, 2014

**Via e-mail: *pubcom@finra.org***

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

**RE: Regulatory Notice 14-35: Customer Account Statements – FINRA Requests Comment on a Revised Proposal to Adopt Consolidated FINRA Rule 2231 (Customer Account Statements)**

Dear Ms. Asquith:

Wells Fargo Advisors, LLC (“WFA” or the “Firm”) appreciates the opportunity to comment on the proposal by the Financial Industry Regulatory Authority (“FINRA”) to adopt consolidated FINRA Rule 2231 *Customer Account Statements*, as set forth in Regulatory Notice 14-35 (“the Proposal”).<sup>1</sup> WFA is fully supportive of FINRA’s effort to protect sensitive customer information from unauthorized disclosure. Further, WFA appreciates the changes FINRA made to its proposal to maintain the quarterly customer account statement period, which is consistent with current industry practices and rules. WFA submits this letter to outline its views regarding the Proposal.

WFA is a dually registered broker-dealer and investment advisor that administers approximately \$1.4 trillion in client assets. It employs approximately 15,189 full-service financial advisors in branch offices in all 50 states and 3,472 licensed financial specialists in

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<sup>1</sup> Regulatory Notice 14-35, FINRA Requests Comment on a Revised Proposal to Adopt Consolidated FINRA Rule 2231 (Customer Account Statements), (September 2014), <http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p600772.pdf>

6,610 retail bank branches in 39 states.<sup>2</sup> WFA is a non-bank affiliate of Wells Fargo & Company (“Wells Fargo”), whose broker-dealer and asset management affiliates comprise one of the largest retail wealth management, brokerage and retirement providers in the United States. WFA and its affiliates help millions of customers of varying means and investment needs obtain the advice and guidance they need to achieve financial goals. Furthermore, WFA offers access to a full range of investment products and services retail investors need to pursue these goals.

### **FINRA Should Reconsider the Requirement to Send Duplicate Statements to the Customer**

Supplementary Material .02 of the proposed rule would prohibit a member firm from sending account statements or other communications relating to a customer’s account to other persons or entities or in care of a person holding power of attorney over the customer’s account unless (a) the customer has provided written instructions to the firm to send such statements or other communications to such person or entity or in care of a person holding power of attorney over the customer’s account; and (b) the firm sends duplicates of such statements or other communications in accordance with this rule directly to the customer either in paper format or electronically.<sup>3</sup>

WFA strongly opposes the requirements outlined in Supplementary Material .02, as such requirements may ironically, in certain instances, increase the risk of disclosure of customer information or fraudulent activity. In circumstances when a customer has reached a diminished mental capacity and cannot manage his or her assets, a third party, typically an agent under a durable power of attorney (“POA”), will assume responsibility to manage the customer’s accounts. Similarly, in the case of a springing POA, the client is planning for such a possibility. As currently written, the proposal may prevent a springing POA from becoming operable. Unless the POA document itself serves as the written consent required in the proposal, the person designated to act in lieu of the incapacitated person would be prevented from redirecting account statements and other communications.

Furthermore, customers suffering from diminished mental capacity may be residing in assisted-living or nursing home facilities. WFA recognizes a vast majority of nursing home administrators and personnel are honest and trustworthy. Nonetheless, we believe the industry has experienced several instances where nursing home personnel were able to access customer account information from nursing home residents suffering from diminished mental capacity, resulting in the compromise of customer accounts and theft of customer assets. A growing elderly population will only increase the opportunities for such exploitation. Additionally, numerous WFA customers residing in retirement communities have simply expressed a desire to no longer receive account statements, having appointed an individual as POA to handle their

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<sup>2</sup> Wells Fargo & Company is a diversified financial services company providing banking, insurance, investments, mortgage and consumer and commercial finance across the United States of America and internationally. Wells Fargo has 275,000 team members across more than 80 businesses. Wells Fargo’s brokerage affiliates also include Wells Fargo Advisors Financial Network, LLC (“WFAFN”) and First Clearing, LLC (“FCC”), which provides clearing services to 76 correspondent clients, WFA and WFAFN. For the ease of discussion, this letter will use WFA to refer to all brokerage operations.

<sup>3</sup> FINRA Rule 2231, Supplementary Material .02, Transmission of Customer Account Statements to Other Persons, <http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/industry/p600766.pdf>

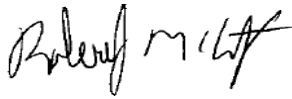
financial matters. Supplementary Material .02 would nonetheless require the Firm to send customer account statements to the client, contrary to the customer's instructions.

Based on the foregoing, WFA believes the requirements outlined in Supplementary Material .02, as currently proposed, do not benefit the customer and may actually increase risk to the customer. A requirement to send customer account statements to a client suffering from diminished mental capacity or where the client explicitly declines to receive account statements will increase the likelihood of client information being compromised, potentially resulting in the customer's financial loss. Thus, WFA opposes the requirements outlined in Supplementary Material .02.

### **Conclusion**

WFA appreciates the opportunity to comment on the Proposal and commends FINRA's efforts to evaluate proposed FINRA Rule 2231 on customer account statements. If you would like to further discuss this issue, please contact the undersigned at [robert.j.mccarthy@wellsfargoadvisors.com](mailto:robert.j.mccarthy@wellsfargoadvisors.com) or 314-955-2156.

Sincerely,



Robert J. McCarthy  
Director of Regulatory Policy