Jennifer Piorko Mitchell
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1735 K Street, NW
Washington, DC 20006-1506

Re: Comment on Proposed Rule 4111

Dear Ms. Mitchell:

I respectfully share my comments to Rule 4111 proposal. I believe this rule needs to be completely rethought. It puts the livelihoods of good hard-working people at risk for the wrong reasons. The criteria of this rule are discriminatory and punitive against innocent brokers and small firms. To label a firm as proposed will hurt such a firm from a reputational standpoint, hurt their ability to grow and give it a stigma that will certainly be used unfairly against them in litigation. This will force small firms to put up monies for liabilities that don't exist and force firms to terminate persons for reasons that serve no purpose.

Because a firm has resources to dilute their concentration of brokers that fall into these criteria doesn't mitigate risk of misconduct. This is completely unfair and geared to benefit larger firms. Because a firm has a number of representatives that don't meet the criteria doesn't negate the fact these representatives exist. This shouldn't bring immunity to a firm from the rule. A firm can create a training program or hire a significant number of new representatives with no disclosures and potentially escape this categorization. If a small firm wanted to accomplish this it will have to allocate a significant budget away from supervision and move it to new broker hiring.

The focus should continue to be on the supervisory system over such brokers. Firms with a high percentage of representatives from disciplined firms or a number of disclosures are under constant audit. They are constantly improving their systems as a result. These firms are constantly being identified by risk metrics of FINRA which lead to constant never-ending audits, inquiry and scrutiny. Small firms are constantly proving audit after audit the viability of their supervisory systems. Some of these small firms that would meet the criteria have better supervisory systems than firms which wouldn't be selected. It seems counterproductive to me. The audit cycle is much more frequent on these firms. Now this proposed rule wants to force firms which are already spending enormous amounts of their budgets towards supervision to put up additional money for potential claims that don't even exist. That is unfair and unreasonable. What about the firms that are already spending significant capital to pay premiums to maintain errors and omissions insurance? That should resolve the concern of unpaid arbitrations which appears to be a major motivation behind this proposal.

The criteria to begin with is completely unfair. The rule will force firms to terminate brokers who may ultimately land at firms that are audited less frequently. That is counterproductive. This

rule as is does not mitigate misconduct. I don't see any way it accomplishes that objective. It will force firm management to push quality and compliant representatives out of their firms.

There is a systemic problem in the industry starting with the disclosure and arbitration system and how it leads to unfair circumstances and an increase in disclosures for industry representatives and small firm owners.

America has more litigation than the rest of the world combined. The securities industry is the only industry in which a broker or member has to report every part of their business or personal history for the rest of the public to review, judge, and take advantage of. To label a broker or a firm as a risk for non-compliance for a disclosure or a series of disclosures over $15,000 is unfair. This is evidence of a clear disconnect between the persons proposing this rule and the real-life challenges the members face from disclosure system abuses, complaints and/or disputes. I am a believer in the need for transparency, However, the current disclosure and arbitration systems are broken and lead to more disclosures and more litigation. If this rule is looked at from the perspective of the members it would be realized that a disclosure or event over $15,000 is not an indicator of misconduct. It results from a reasoned decision to cut down on costs. An arbitration against a member costs the member FINRA arbitration fees. It costs on average between $4,000 and $7,000 in FINRA fees just to get sued. Then the member will have to pay an attorney a retainer between $10,000- $20,000 just to start a defense whether the case is valid or frivolous. To get a frivolous case expunged you have to first arbitrate and then go to court and spend at least another $7,500. Even a frivolous case filed costs the member significantly more money than $15,000 to the member just to defend. To say this $15,000 should be a marker to categorize a broker and a firm into such a detrimental category is unreasonable.

The FINRA broker check system is for public awareness. Predatory law firms are now violating FINRA terms of service of the broker check and disclosure system and using it for commercial purposes. If a person googles a brokerage firm, he or she will find more advertisements to sue the firm, and a statement that these law firms are "investigating" the firm/representatives, than you will see information about the broker dealer itself you are trying to find information about. These firms use aggressive tactics and know how expensive and difficult the arbitration system is for members and they exploit it so they can extract a settlement. Many claimant's attorneys work on contingency – yet members and brokers have to pay retainers and pay by the hour. It should be a no surprise to anyone why so many representatives have an increase in claims filed which settle for litigation costs which is substantially higher than $15,000. $15,000 is not an appropriate benchmark given the costs of litigation. **Disclosures of this nature are not evidence of risk for misconduct and should not be labeled as such.**

Just because a claim gets filed doesn't mean it should have any merit and place a bias against a representative. Pending arbitrations shouldn't be considered in a vacuum to infer liability to a firm and a resulting restricted deposit. Just because a claim is made doesn't mean a firm should put aside their needed capital when there is an abundance of frivolous cases. This is why firms have insurance policies.

A 20-year veteran representative who has conducted business with several hundred, if not thousands of customers and has 6 disclosures on their license doesn't mean this poses a risk for future misconduct. I believe regulatory actions for sales practice violations are more relevant.

6. Expelled firm representatives.

To label a firm as restricted because they hire a concentration of brokers from an expelled firm is unfair. Especially because the expulsion of their previous firm is more than likely caused by conduct of control persons behind a closed door and not from the brokers who had nothing to do with or any knowledge of the violation. This certainly should not add a risk metric to their new firm. Activities and failures at a previous firm made by management shouldn't follow innocent brokers in a way that will adversely affect their lives and the lives of the new firm owners when the new firm has its own supervisory systems and procedures. The firm should be judged for its own procedures to keep in compliance with rules and regulations. A representative's past firm history does not make the representatives more likely to engage in bad behavior.

For example: a firm gets expelled for penny stock liquidations. Why would FINRA propose labelling a broker a heightened risk because the owners made a bad decision and the broker had nothing to do with the conduct. In this example this broker who never transacted a penny stock in his 20-year career is not higher risk for misconduct. This rule will categorize this person for potential termination even though the representative did not have any violations within their own independent business that related to the firm going out of business. FINRA does thorough investigations and disciplines individuals who are responsible for violations. The proposal to consider individuals from expelled firms does not make the industry any safer. It's a punitive move against small firms and innocent brokers with limited resources. It benefits the larger firm rosters.

There are many firms with brokers with high concentrations of disclosures which have good systems in place for supervision. They are able to demonstrate the ability to supervise as evidenced by the constant audits they endure. Now staff wants to punish and potentially dismantle small firms. FINRA should not label the firm for anything other than what its control persons have done and should not label the individual broker for anything but the individuals' own conduct. This entire rule is misguided. Forcing firms to reduce staff and causing brokers to uproot their lives to move firms will be the ultimate result which does nothing for the industry and does nothing to increase customer protection. The concern over unpaid arbitrations can be overcome with an errors and omissions policy.

One-time opportunity (if available) is suspect. If available? Not sure what that means but it sounds like an option for staff to make a discretionary decision, if wanted, at any given time significantly affecting an organization. The proposed rule itself will cause major adjustments in a firm's operations since the firm won't be able to sustain a restricted firm deposit for liabilities that may not ever occur. If a firm decides to try to work with staff and make adjustments to their business and they make changes that somehow aren't good enough, the door shouldn't be closed on it. If a firm works expeditiously, it shouldn't be limited to one-time opportunity or else. It

shouldn’t be of the nature of a dictatorship. Firms should be given several opportunities or a reasonable time period to work with Staff to accomplish a major adjustment.

In closing, I am for regulation and rules that make sense to ultimately be fair to the investor but also the industry members. I believe this rule need to be rethought to accomplish the goals it seeks to address. The way this proposal is now is unfair to small firms.

In closing my suggested changes are as follows:

Criteria of Representatives from expelled firms should be removed in its entirety.

A firm with an errors and omissions insurance policy should be exempt.

Pending matters should be removed.

Customer complaints settled for $15,000 or more should be changed to $100,000 or, at the very least $75,000.

The one-time opportunity should be changed to a time frame with multiple consults and an expedited appeal process available without the restrictions in place until the outcome.

Respectfully

Damian Maggio