

Attn: Jennifer Piorko Mitchell  
Office of the Corporate Secretary  
FINRA  
1735 K Street, NW  
Washington DC 20006-1505

January 7, 2020

RE: Regulatory Notice 19-36 Requested Comments on a proposed Rule to Limit a Registered Person from Being Named a Customer's Beneficiary or Holding a Position of Trust for on Behalf of a Customer

The proposed rule to limit a registered person from being named a customer's beneficiary is cause for concern, primarily because of the difficulty of implementing and enforcing this rule. Rules may be enacted; but in the real world, customers do not always disclose their beneficiary information on estate documents such as a living trust. The information within a living trust can also be changed or amended at any time by a trustee of that living trust without notifying the advisor.

A living trust is not a document that is intended to be made public. By its very nature, it is designed to be a private document; and a customer who is a trustee of their living trust maintains control over it as well as the disclosure of the contents within a living trust.

An advisor does not have control over the customer's living trust. Customers who create living trusts and are trustees of their living trusts usually believe they have the right to choose who they want to designate as their beneficiaries. Customers may also choose to withhold that information and not disclose it, for as long as the customer remains a trustee and maintains control over the living trust. Furthermore, customers may not know of this proposed rule; or the customer may have a trust that has already been created.

It is unjust to target the advisor as being someone responsible for the decisions a customer makes within the customer's living trust. The advisor has no control over this. It is also unjust to expect a broker-dealer to enforce this proposed rule, when the both broker-dealer and the advisor do not have the power to force a customer to disclose beneficiary information. However, that is exactly what this rule proposes to do.

How is Finra expecting to enforce this rule when the broker-dealer and the advisor have no control over the customer's decisions within a living trust; and neither has the power to force the client to disclose beneficiary information, which many clients consider to be private? Customers also have attorneys who may advise them that information contained within living trusts can remain private. If Finra has no clear answers to these questions, then how can Finra expect the customer, the advisor, and the broker-dealer to be subject to this proposed rule?

Belinda Duran  
Advisor

