



By Electronic Mail

June 13, 2008

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

Re: Regulatory Notice 08-25
Books and Records

Dear Ms. Asquith:

Thank you for the opportunity to comment on Regulatory Notice 08-25 relating to Books and Records ("Proposal"). ING Advisors Network offers this comment letter on behalf of its four retail broker-dealers.¹ After careful review of the Proposal, we offer the following comments for FINRA's consideration.

At the outset, we would urge FINRA to refrain from considering recordkeeping requirements that are in addition to Securities and Exchange Commission rules. We believe that Rules 17a-3 and 17a-4 to the Securities Exchange Act, as amended, are sufficiently inclusive to satisfy investor protection interests. Adding additional, minor requirements to those rules creates confusion in the industry.

¹ ING Advisors Network is the marketing name for a group of retail broker-dealers with a total of over 7,500 representatives. Our representatives are independent contractors and engage in the sales of general securities and packaged products. Our broker-dealers are also registered with the Securities and Exchange Commission ("SEC") as investment advisers.

Additionally, we believe that "supplementary materials" in the books and records rule should not be used as it creates confusion. For instance, it is not clear why the definitions of "maintain" and "preserve" are not embodied in the books and records rules themselves. It is further not clear whether these definitions would apply to other FINRA rules. Inasmuch as the rules are now being rewritten, there appears to be little reason to define terms by essentially using interpretations when the definitions are easily includable in the actual rules.

4512 Customer Account Information

Proposed Rule 4512 (a)(1)(C) would require that for customer accounts the broker-dealer must maintain the "signature of the partner, officer or manager" denoting that the customer account has been accepted by the broker-dealer. We believe the language should state "evidence of approval by the person designated by the member..." for each account, rather than requiring an actual signature to allow for electronic approval of customer accounts. Additionally, the member should be able to designate someone other than a "partner, officer or manager" to approve account opening.

Proposed Rule 4512(b) states:

A member need not meet the requirements of this Rule with respect to any account that was opened pursuant to a prior FINRA rule until such time as the member updates the information for the account either in the course of the member's routine and customary business or as otherwise required by applicable laws or rules. (Emphasis added)

We do not believe that any update of information (for instance, a change of name or address) should trigger the requirement to obtain all required information. We question whether there should be a separate FINRA customer account rule in view of the SEC amendments to Rule 17a-3 of the Securities and Exchange Act of 1934, as amended (Rule 17a-3). If FINRA determines that a separate rule is necessary, then the need to update the information should track the Rule 17a-3 requirements in order to avoid confusion in the industry. Rule 17a-3 does not require updating customer information unless there has been a suitability determination. In any event, if signatures are still to be required, obtaining such signatures may not be possible when the account information record is updated years after it was opened.

4513 Records of Written Customer Complaints

Proposed Rule 4513 would require firms to keep and preserve in a separate file all written customer complaints that "relate to that office (including complaints that relate to activities supervised from that office)." (Emphasis added). The word "customer" should be inserted in the parenthetical phrase before the word "complaints" to make clear that only complaints as defined in subparagraph (b) of the proposed rule are included in the requirement. This would clarify that the proposed Rule only applies to complaints

relating to the securities business of the office and not to complaints involving other businesses conducted from the same office.

For clarity purposes, subparagraph (b) should precede proposed subparagraph (a).

We agree with the proposed language permitting the member to choose to make the customer complaints promptly available upon request. This makes sense since customer complaints frequently come into the home office

We urge FINRA to remain consistent in record retention requirements. Rather than the proposed four year retention of customer complaints, we suggest that FINRA require retention for either three or six years.

We strongly support FINRA's proposed definition of customer complaint in proposed subparagraph (b) which includes the language "authorized to act."

Conclusion

Again, we appreciate the opportunity to comment on the proposed rule changes. If there are any questions concerning these comments, please do not hesitate to contact me at 310-257-7380.

Respectfully submitted,



Kerry E. Cunningham
Head of Risk Management