



Illinois Department of Insurance

PAT QUINN
Governor

MICHAEL T. McRAITH
Director

June 29, 2009

Via Electronic Mail

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

RE: Proposed Consolidated FINRA Rules Governing Suitability and Know-Your-Customer Obligations

Dear Ms. Asquith:

The Illinois Department of Insurance (IDOI) welcomes this opportunity to comment on FINRA's Regulatory Notice 09-25 regarding the above-referenced proposed FINRA Rules. In particular, IDOI wishes to address FINRA's request for comment on expansion of suitability obligations to all recommendations of investment products, services, and strategies made in connection with a FINRA member firm's business, regardless of whether the recommendations involve securities.

The current economic crisis illustrates that the rigors of state-based insurance regulation protect consumers from the collapses that echo through other financial sectors. State regulators oversee an insurance market that is by far the largest and most profitable in the world.

Simply because an individual retains a dual license, *e.g.* insurance and securities, does not render that individual subject to dual regulation on each transaction. FINRA does, of course, license broker dealers and other parties to securities transactions. FINRA, however, does not have the authority to regulate the conduct of professionals involved with matters unrelated to securities. Neither the Securities Exchange Act of 1934 (the Act) nor FINRA by-laws contemplate FINRA regulation of individuals engaged in transactions unrelated to the business of securities. *See, e.g.,* 15 U.S.C. §78o-3(g) (prohibiting membership in a registered securities association by any person who is not a registered broker or dealer); FINRA By-Laws, Article III, §1 (restricting eligibility for membership to registered brokers or dealers "authorized to transact, and whose regular course of business consists in actually transacting, any branch of the investment banking or securities business."). Accordingly, any attempt by FINRA to regulate activities not related to the field of securities would likely fail to obtain approval by the SEC and should be avoided. *See* 15 U.S.C. §78s(b)(2) (stating that the SEC shall only approve a proposed self-regulatory rule if it is consistent with the requirements of the Act).

Further, even if FINRA improvidently extended a suitability rule to affect the business of insurance, FINRA members would still be bound by any and all applicable state insurance regulations. *See, e.g.,* NASD Notice 98-86 (reminding members that variable contracts are insurance contracts subject to

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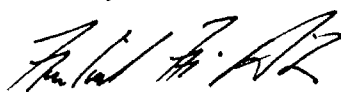
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regulation under state law and that an individual who sells a variable contract must be registered with the SEC, state insurance regulator, and NASD). The resulting unnecessary and duplicative regulation by FINRA of the sale of insurance products would not only burden your members but also detract from the effective supervision of insurance products already afforded by state insurance regulators. FINRA's suitability rule-making should be limited to oversight of securities and thereby exclude indexed annuities and other insurance products.

IDOI supports stringent suitability standards and enforcement for insurance products. We also support coordinated and mutually supportive interaction between functional regulators, particularly those with overlapping responsibility. To be clear, we appreciate and value a constructive working relationship with other functional regulators, including FINRA, and look forward to enhancing that collaboration.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael T. McRaith", written in a cursive style.

Michael T. McRaith